

Digital Authoritarianism in Egypt

Digital Expression Arrests 2011-2019

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TABLE OF CONTENTS

3	Executive Summary
4	Introduction
9	Digitization and Digital Expression in Egypt
12	<i>The Threat of False News and Rumours on Social Media</i>
15	<i>The Importance of Digitization</i>
17	Legal Framework
18	<i>Penal code</i>
19	<i>Telecommunication Regulation Law of 2003 (10/2003)</i>
20	<i>Cybercrime Law of 2018 (175/2018)</i>
23	<i>Law Regulating the Press, Media, and the Supreme Council for Media Regulation of 2018 (180/2018)</i>
27	<i>Notable Case Law and Decrees</i>
32	Findings
32	<i>Methodology</i>
35	<i>Findings</i>
40	<i>Charges and Laws</i>
48	<i>State Security Prosecution</i>
52	Trends
59	Case Stories
74	Conclusion



EXECUTIVE SUMMARY

This report documents digital expression violations in Egypt from 2011 until mid-2019. The report's research is based on a dataset containing 333 cases of digital expression violations based on various forms of expression, including bloggers, digital journalists, and users of social media platforms. The collected dataset reveals a dramatic increase in digital expression arrests in 2016, with the number of arrests continuing to rise through mid-2019. "Publishing false news" is the most frequently used charge to persecute digital expression in Egypt, along with charges of "joining a banned group" and "misuse of social media." The use of a special prosecutorial body, the State Security Prosecution, to investigate digital expression cases increased dramatically in 2017 due to the establishment of a nationwide state of emergency in the spring of that year. Digital surveillance strategies used in these cases by Egyptian security authorities are technically unsophisticated, relying mostly on device seizures, observation of social media platforms, and networks of informants. Large protest events organized on platforms such as Facebook are repeatedly targeted by authorities. Mass arrests during periods of heightened political tension, the arrest of high profile figures, and arrests based on viral posts are the most notable circumstances of digital expression arrests. Finally, there is a robust and pervasive legal framework that prescribes, enables, and legitimizes the censorship and surveillance activities of Egyptian security authorities.



INTRODUCTION

Since 2013, Egypt has seen the worst human rights crackdown in the country's history. The current regime has imprisoned thousands of political activists, criminalized demonstrations, and seized control over the media landscape in a successful effort to limit genuine political discourse. Today it is nearly impossible for any alternative narrative to penetrate conventional modalities of expression. As the state continues to close physical spaces and exert control over traditional media, alternative political voices have been forced to rely on digital platforms as a means to express themselves. In response, the state has turned its attention to these platforms.

Digital rights in Egypt have been restricted by the government through a variety of mechanisms, including the deployment of new technologies to block websites, the legitimization of censorship and surveillance practices through law, and the propagation of narratives discrediting rightful digital expression. There has also been reporting about the targeting and arrest of Egyptian citizens for freedom of expression online.

Online censorship increased in 2017 when the websites of 21 independent media and political organizations were blocked inside the

country in a single day.¹ The number of blocked websites in Egypt has since surpassed 500.² Large-scale phishing attacks are also frequently launched against Egyptian civil society, with attacks documented in 2017 and 2019.³ In 2018, several new laws were passed in Egyptian parliament limiting digital expression and inhibiting the right to privacy.⁴

This report assesses the Egyptian government's response to digital expression. It considers whether the regime is indeed engaging in a crackdown on freedom of expression online and, if so, evaluates the extent to which digital expression is deliberately targeted by state authorities. It also examines the laws that legitimize controls and restrictions on digital spaces and investigates the methods used by state authorities to surveil and target digital expression.

It attempts to answer the following questions: How many digital expression violations have occurred in Egypt over the past eight years? What charges and laws are associated with digital expression cases? What type of digital expression is targeted? What digital platforms

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1 Michaelson, Ruth. 2017. "Egypt blocks access to news websites including Al-Jazeera and Mada Masr." *The Guardian*, May 25, 2017. <https://www.theguardian.com/world/2017/may/25/egypt-blocks-access-news-websites-al-jazeera-mada-masr-press-freedom>

2 Association for Freedom of Thought and Expression. "Blocked Websites List in Egypt." <https://afteegypt.org/en/blocked-websites-list>

3 Marczak, Bill, Etienne Maynier, Ramy Raoof, and John Scott-Railton. 2017. "Nile Phish." Citizen Lab, February 2, 2017. <https://citizenlab.ca/2017/02/nilephish-report/>; Amnesty International. 2019. "Phishing attacks using third-party applications against Egyptian civil society organizations." *Amnesty International*, March 6, 2019. <https://www.amnesty.org/en/latest/research/2019/03/phishing-attacks-using-third-party-applications-against-egyptian-civil-society-organizations/>

4 Association for Freedom of Thought and Expression, et al. 2018. "NGOs call for full repeal of "cybercrime" law and reform of dangerous law regulating media." *Article 19*. <https://www.article19.org/resources/egypt-ngos-call-for-full-repeal-of-cybercrime-law-and-reform-of-dangerous-law-regulating-media/>

are targeted? How is digital evidence collected for these cases? What are the contexts and circumstances in which these digital expression arrests occur?

After compiling a dataset of 333 digital expression violations in Egypt from 2011 until mid-2019, this report found the number of Egyptian citizens targeted by the state for digital expression has been steadily rising. Analysis of this data reveals a yearly increase in the number of digital expression arrests, with a surge in the occurrence of these violations beginning in 2016 and continuing until mid-2019, when the data collection for this report ended.

Egyptian security authorities routinely surveil and target social media posts—particularly Facebook content—as a basis for the arrest and detention of Egyptian citizens. The state relies on provisions such as “spreading false news,” “joining a banned group” and “misuse of social media” to detain citizens for digital expression. These charges are found in the Penal Code, the Counterterrorism Law, and the Telecommunications Law, rather than new and highly publicized laws such as the Cybercrime Law and the Media Regulation Law.

The consistent use of the charge “spreading false news” as a basis for arrest mirrors the dominant state narrative that social media is a pervasive threat to national security. The frequent portrayal of social media as a threat fostering chaos and undermining social unity normalizes and legitimizes digital expression arrests. Egypt’s Prosecutor General issued a decree in 2018 directing prosecutors to focus on cases concerning the spread of false news. A “rumour collection network” was established for citizens to send in reports

of false news and rumours to a WhatsApp number—effectively crowdsourcing surveillance to the civilian population.

The data also reveals a dramatic increase in the use of a special prosecutorial body, the State Security Prosecution, to investigate digital expression cases. Beginning in 2017, the number of digital expression cases managed by the State Security Prosecution (SSP) rose significantly. The SSP is a special prosecutorial body which investigates and prosecutes cases related to national security and terrorism; it is notoriously subject to extraordinary procedural rules. The increase in the number of cases located at the SSP is correlated with an increase in the number of pretrial detention cases. Detainees held for digital expression violations by the SSP spend long periods in pretrial detention due to the unique procedural rules governing this body; many of these cases are never even brought to court. The use of the SSP to handle digital expression cases, instead of regular Egyptian criminal courts, suggests the state is exploiting the extraordinary procedural rules governing the SSP to hold defendants for extended periods of pretrial detention. These cases may have resulted in a lesser punishment if they were located within Egypt's felony and misdemeanor courts.

Egyptian security authorities surveil online expression through technically unsophisticated strategies such as device seizures, observation of social media platforms, and informant networks. Demonstration events on Facebook, particularly during periods of heightened political tension, are routinely targeted by security authorities. Videos are also frequently targeted, as they are easily shared and accessed. Analysis of the dataset found three main types

of arrests: mass arrests during periods of increased political tension; high profile figures targeted for their cumulative body of work; and individual posts that cause a citizen to be targeted.

Given that surveillance of digital platforms and restrictions on digital expression has increased, this report provides an outline of these restrictions and their broad impacts on digital rights in Egypt. It comprehensively addresses a new facet of state efforts to consolidate power and ward off challenges to the current regime.

The report first provides a brief overview of the current political climate in Egypt and unpacks the dominant state narratives relevant to digital rights. It then examines the relevant laws, regulations, and decrees comprising the legal foundation for digital expression in Egypt. Next, the report presents findings from the digital expression violations dataset, highlighting key trends and developments. Finally, a series of case stories providing deeper context for these violations is presented.



DIGITIZATION AND DIGITAL EXPRESSION IN EGYPT

Prior to the 2011 Egyptian revolution, digital expression in the country was relatively open and unrestricted. Blogs were particularly popular during this period and citizens would follow those that covered topics not discussed in Egyptian newspapers.

The situation changed after the revolution. Journalists, academics, and researchers all noted the role of digital media during the Egyptian uprising, with many arguing that the emergence of social media was an important factor facilitating the revolution. Whether or not these claims are indeed accurate, freedom of expression online became closely associated with the uprising. As a result, digital expression came under closer scrutiny by the government after 2011.

When the current regime came to power in the 2013 coup d'état, President Abdel Fattah al-Sisi's government issued a series of far-reaching laws regulating the public domain. A protest law restraining street demonstrations was passed in 2013, followed by a law controlling the activities of NGOs in 2017. Between 2013 and 2017, the spaces that were active during the 2011 revolution were systematically regulated and brought under strict state controls. State security authorities, particularly the Interior Ministry's National Security Agency, have been accused of torture and forced disappearances. Death sentences are handed down in unfair mass trials, while labour

rights, LGBTQ rights, and women's rights are repeatedly violated. Human rights organizations argue that these abuses amount to one of the worst periods for human rights in Egypt in decades.

Digital platforms have not been immune to the Egyptian government's crackdown. Indeed, attempts to control digital spaces are best understood as part of a broad strategy to control and curtail political criticism. The widespread blocking of websites in 2017 is an important example: On May 25 of that year, Al-Jazeera, HuffPost Arabi, and Mada Masr (one of the last remaining independent media organizations in the country) discovered their domains were inaccessible inside Egypt.¹ The Egyptian state news agency noted that the websites had been blocked because of content that supports terrorism and spreads lies. Three separate lawsuits were filed in response to the blockage by Mada Masr, the Association for Freedom of Thought and Expression (AFTE), and the El Sharq channel. In 2018, Mada Masr's case was referred to a council of experts for technical review, indefinitely deferring the case.² The move was largely understood as an attempt to avoid ruling on a politically sensitive case. Since 2017, AFTE has meticulously documented the number of blocked websites inside Egypt. As of August 2019, the number of blocked domains had reached at least 513.³

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1 Michaelson, Ruth. 2017. "Egypt blocks access to news websites including Al-Jazeera and Mada Masr." *The Guardian*, May 25, 2017. <https://www.theguardian.com/world/2017/may/25/egypt-blocks-access-news-websites-al-jazeera-mada-masr-press-freedom>

2 Mada Masr. 2018. "Neither victory nor defeat: Court refers Mada Masr blocking base for technical review." *Mada Masr*, September 30, 2018. <https://madamasr.com/en/2018/09/30/news/u/neither-victory-nor-defeat-court-refers-mada-masr-blocking-case-for-technical-review/>

3 Association for Freedom of Thought and Expression. "Blocked Websites List in Egypt." <https://afteegypt.org/en/blocked-websites-list>

Digital attacks have also been widely documented in Egypt. Two large phishing attacks were reported in 2017 and 2019.^{4 5} The most recent attack, which targeted civil society organizations and human rights defenders, likely originated from government-affiliated actors. There has also been significant evidence suggesting that the Egyptian government has purchased and deployed a variety of well-known censorship and surveillance technologies. In Citizen Lab's global mapping of Blue Coat Devices, devices that conduct network filtering and monitoring, evidence of these appliances was found on government networks in Egypt.⁶ Citizen Lab also named Egypt as one of 21 suspected government users of Hacking Team's Remote Control System, a suite of remote monitoring implants.⁷ The July 2015 WikiLeaks release of Hacking Team emails also linked the Egyptian government to purchases of this technology.⁸

Taken together, these measures demonstrate President Abdel Fattah al-Sisi's fear of the organizing power of the internet and the potential for digital communications to spark another popular uprising. Such

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4 Marczak, Bill, Maynier, Etienne, Raoof, Ramy, and Scott-Railton, John. 2017. "Nile Phish." *Citizen Lab*, February 2, 2017. <https://citizenlab.ca/2017/02/nilephish-report/>

5 Amnesty International. 2019. "Phishing attacks using third-party applications against Egyptian civil society organizations." *Amnesty International*, March 6, 2019. <https://www.amnesty.org/en/latest/research/2019/03/phishing-attacks-using-third-party-applications-against-egyptian-civil-society-organizations/>

6 Carrieri, Matthew, Morgan Marquis-Boire, Jakub Dalek, Sarah McKune, Masashi Crete-Nishihata, Ron Deibert, Saad Omar Khan, Helmi Noman, John Scott-Railton, and Greg Wiseman. 2013. "Planet Blue Coat: Mapping Global Censorship and Surveillance Tools." *Citizen Lab*, January 15, 2013. <https://citizenlab.ca/2013/01/planet-blue-coat-mapping-global-censorship-and-surveillance-tools/>

7 Marczak, Bill, Claudio Guarnieri, Morgan Marquis-Boire, and John Scott-Railton. 2014. "Mapping Hacking Team's "Untraceable" Spyware." *Citizen Lab*, February 17, 2014. <https://citizenlab.ca/2014/02/mapping-hacking-teams-untraceable-spyware/>

8 Privacy International. 2016. "The President's Men?" *Privacy International*, February 2016. https://privacyinternational.org/sites/default/files/2018-02/egypt_reportEnglish_0.pdf

fears are couched in concerns over the spread of false news and rumours that cause social chaos and undermine national unity. At the same time, however, Sisi's government has also celebrated the economic merits of digitization. These two contrasting narratives dominate the regime's approach to digital expression. The former normalizes and legitimizes restrictions on digital expression, whereas the latter brings forth inherent tensions and contradictions.

The Threat of False News and Rumours on Social Media

The Egyptian government frequently warns the public about the dangers of social media and the destructiveness of false news spread via online platforms. The characterization of social media as a threat is a tactic used by the regime to normalize and legitimize arrests based on digital expression. This narrative also legitimizes the passage of laws legalizing mass surveillance and is disseminated through comments made by leaders in the executive branch, the language and content of stories published in the state press, and official documents published by government bodies.

State media routinely publishes stories about the spread of rumours intended to undermine the state. There are frequent announcements about the number of rumours the state has identified and destroyed. During a military college graduation ceremony in July 2018, for example, President Sisi announced the state had documented 21,000 rumours within three months that were allegedly intended

to destabilize public unity.⁹ The Egyptian Cabinet's Media Center also released a report in early 2019 summarizing the rumours they purportedly conquered throughout 2018.¹⁰ The report was widely covered in Egyptian state media, with the story reaching the front page of El Youm El Sabaa. In the report, the education sector was targeted with the most rumours, receiving 21.5 percent of the total rumours surveyed. Rumours were also documented monthly, with August 2018 receiving the highest number of documented rumours of that year. At the 2018 state-sponsored Cairo ICT Conference, a panel titled, "Controlling Social Media: A Step Forward or Backward?", featured Makram Mohamed Ahmed, Head of Egypt's Supreme Council for Media Regulation, and Member of Parliament Ahmed Badaway, Parliament ICT Committee Head. The panel emphasized the dangers of social media and the pressing need for the government to control it.

The Muslim Brotherhood is often used as a scapegoat for fake news and is repeatedly accused of spreading false rumours. In March 2019, the Brotherhood was accused of spreading an unflattering video of President Sisi in the aftermath of a train accident at Cairo's central Ramses station in order to "implement their diabolical plans to mislead

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9 Al-Masry Al-Youm. 2018. "Egyptian government has faced 21,000 harmful rumors in 3 months: Sisi." *Egypt Independent*, July 22, 2018. <https://egyptindependent.com/egyptian-government-has-faced-21000-harmful-rumors-in-3-months-sisi/>

10 Mukhtar, Hind. 2019. "Media Center of the Council of Ministers announces the harvest of rumors in 2018." *Youm7*, January 1, 2019. <https://www.youm7.com/story/2019/1/1/%D8%A7%D9%84%D9%85%D8%B1%D9%83%D8%B2-%D8%A7%D9%84%D8%A5%D8%B9%D9%84%D8%A7%D9%85%D9%89-%D9%84%D9%85%D8%AC%D9%84%D8%B3-%D8%A7%D9%84-%D9%88%D8%B2%D8%B1%D8%A7%D8%A1-%D9%8A%D8%B9%D9%84%D9%86-%D8%AD%D8%B5%D8%A7%D8%AF-%D8%A7%D9%84%D8%B4%D8%A7%D8%A6%D8%B9%D8%A7%D8%AA-%D9%81%D9%89-2018-%D8%A7%D9%84%D8%AA%D8%B9%D9%84%D9%8A%D9%85/4088702>

public opinion.”¹¹ ¹² In response, a group of Egyptian MPs reportedly prepared a bill that would increase the penalty for spreading false news through social media to ten years imprisonment and a fine of not less than two million Egyptian pounds (EGP).¹³

Instances of genuinely fake news are used to legitimize the campaign against social media. In March 2019, many newspapers mistakenly reported that an Egyptian man named Mohamed Wageh Abdel Aziz had been appointed as the new transportation minister. It was then revealed that Abdel Aziz had died in 2008. The false report came from the Twitter account of Khaled Mohamed Wageh, Abdel Aziz’s son, who admitted to deliberately starting the rumour about his deceased father to teach a lesson about the dangers of rumours on social media.¹⁴

In response, the Supreme Council for Media Regulation (SCMR) announced the rumour was a “clear violation of the council’s standards and decisions that prohibit copying news and information from social media websites or any other media channel without checking its credibility.”¹⁵ The SMCR widely publicizes genuinely fake news in an effort to legitimize its broad campaign against social media.

The use of fake news to justify broad controls over digital expression

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11 Mada Masr. 2019. “Update: Public Prosecution releases details of Cairo’s Ramses Railway Station train crash that killed 20.” *Mada Masr*, February 27, 2019. <https://madamasr.com/en/2019/02/27/news/u/health-minister-20-killed-40-injured-in-cairos-ramses-railway-station-train-crash/>

12 Tarek, Mohamed. 2019. “The House of Representatives to face rumors and lies on Social Media: thick sanctions are the solution.” *El Watan*, March 6, 2019. <https://www.elwatannews.com/news/details/4042652>

13 Ibid.

14 Al-Masry Al-Youm. 2019. “Fake news claims deceased man will succeed Egypt’s Transport Minister.” *Egypt Independent*, March 4, 2019.

15 Ibid.

reflects global authoritarian trends. While in certain contexts disinformation and misinformation are indeed persistent threats, authoritarian states instrumentalize this threat to consolidate power and crush dissent.¹⁶ In the case of Egypt, the narrative of “fake news” has long been used to justify limits on freedom of expression. Despite the popularization of the term by United States President Donald Trump, laws criminalizing false news have been in effect in Egypt since the mid-twentieth century. Further details on the historical development of false news crimes will be provided in the “Findings” section of this report.

The Importance of Digitization

While warning of the dangers of social media, the Egyptian government also emphasizes the importance of digitization for economic development. President Sisi repeatedly discusses the digitization of the Egyptian economy and the construction of the “digital citizen” as necessary measures to achieve Egypt’s broader economic reforms.

On December 18, 2018, the President gave a speech at the High-Level Africa-Europe Forum in Austria stressing the importance of digitization in economic competitiveness.¹⁷ In 2019, he announced his government’s plan to develop Egypt into a regional hub for data

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¹⁶ Shahbaz, Adrian. 2018. “The Rise of Digital Authoritarianism.” *Freedom House*, October 2018.

¹⁷ El Sisi, Abdel Fattah. 2018. “Remarks at the European High-Level Forum in Vienna.” https://www.facebook.com/Egy.Pres.Spokesman/posts/526045411248177?_tn_=-R

transfer between Asia, Africa, and Europe.¹⁸ The initiative will likely attract investment given the country's geographic location, particularly the many submarine cables passing through Egyptian ports. The announcement was made at a forum for the Chinese Belt and Road initiative and is part of broader efforts to create jobs and bridge the digital divide. Similarly, the "Digital Citizenship Program" is a cornerstone of Egypt's National Cybersecurity Strategy.¹⁹ The program aims to prepare a national "strategic vision for for digital citizenship and an action plan to transform the concept of digital citizenship into reality" (p. 13). Yet these goals and initiatives must comply with the state's robust data sharing requirements and other ill-designed features outlined in the 2018 Cybercrime Law. Stringent requirements may serve as an impediment to foreign investment. The reach of extra-territoriality within Europe's General Data Protection Regulations may hinder the ability of European companies to work with a state that flagrantly disregards the right to privacy.

While the Egyptian government aspires to digitalize the Egyptian economy and become a technology hub in Africa, these desires conflict with the legal restrictions placed on digital platforms. Repercussions from the conflict between the government's emphasis on digitization as a tool of economic development and its censorship and surveillance activities are sure to emerge more concretely in the coming years.

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18 Egypt Independent. 2019. "Egypt seeks to become regional digital hub for data transmission between Asia, Africa and Europe: Sisi." *Egypt Independent*, April 28, 2019. <https://egyptindependent.com/egypt-seeks-to-become-regional-digital-hub-for-data-transmission-between-asia-africa-and-europe-sisi/>

19 Egyptian Supreme Cybersecurity Council. 2018. "National Cybersecurity Strategy (2017 – 2021)." http://www.mcit.gov.eg/Upcont/Documents/Publications_12122018000_EN_National_Cybersecurity_Strategy_2017_2021.pdf



LEGAL FRAMEWORK

This section provides a brief overview of important laws, regulations, case law and decrees governing digital rights in Egypt. The Penal Code, the Telecommunication Regulation Law, the Cybercrime Law, and the Media Regulation Law are the most important laws governing digital rights in Egypt. In addition to this legal framework, notable case laws and decrees offering further insight on the judiciary's understanding and approach to digital expression are also presented.

An analysis of these laws reveals the legal framework governing digital rights in Egypt presents a profound and pervasive threat to the right to privacy and freedom of expression online. Rather than protecting these fundamental digital rights and freedoms, the legal landscape in Egypt legalizes and prescribes mass censorship and surveillance. Moreover, this landscape is rife with redundancies, offering multiple remedies for the same violations and detailing the same crime within several different laws. These laws, regulations and decrees are used by the regime to criminalize digital expression and restrict online spaces. Finally, the cases and decrees presented provide direct evidence of tactics and strategies used by the government to regulate online speech.

Penal code

The Penal Code governs criminal law in the Arab Republic of Egypt. It was first promulgated in 1937 while the country was under British colonial occupation and has been amended several times throughout the twentieth and twenty-first centuries. In total, the Code contains over 400 articles and is divided into four main sections.¹

Several provisions in the Code pertain to digital expression. Notably, most digital expression arrest cases have used longstanding articles from the Penal Code, rather than more recent laws such as the Cybercrime Law. The following is a selection of Penal Code articles relevant to digital expression:

- Article 98: Criminalizes the denigration of religion through speech or writing. Punishment for this crime includes imprisonment for a period between six months and five years, and a fine between 500 and 1,000 EGP.
- Article 102 bis: Makes it illegal to deliberately broadcast false news and rumours which disturb public security and harm the public interest. The penalty for this crime is up to one year in prison and a fine between 50 and 200 EGP. If the crime occurs during a time of war, the fine is increased to between 100 and 500 EGP.
- Article 174: Criminalizes the act of incitement to overthrow the government system. Acts which aim to change the constitution and the statutes of the social body by force or terror are also

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¹ Reza, Sadiq. "Egypt: Criminal Law." 2011. *Handbook of Comparative Criminal Law*, Stanford University Press. <https://ssrn.com/abstract=1854895>

outlawed. The punishment for these crimes includes imprisonment for a period not more than five years and a fine between 5,000 and 10,000 EGP.

- Article 179: Makes it illegal to insult the President of the Arab Republic of Egypt. Punishment for this crime includes a fine between 20,000 and 30,000 EGP.
- Articles 184 and 185: These articles criminalize the act of insulting state institutions and insulting government officials in their official capacities and duties. Punishment for these crimes includes up to one-year imprisonment and a fine between 5,000 and 10,000 EGP.
- Article 188: Criminalizes spreading false rumours (the second article in the Penal Code to do so). Punishment includes up to one-year imprisonment and a fine between 5,000 and 20,000 EGP.²

Telecommunication Regulation Law of 2003 (10/2003)

The Telecommunication Regulation Law of 2003 outlines a legal framework for the regulation of communication and information technology in Egypt. The law seeks to secure telecommunications services in every region and establishes the National Telecommunication Regulatory Authority (NTRA), the regulatory authority for the communications sector.³

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² Penal Code, Arab Republic of Egypt (latest version) <https://manshurat.org/node/14677>

³ Telecommunication Regulation Law of 2003, Arab Republic of Egypt <http://hrlibrary.umn.edu/research/Egypt/Egypt%20Telecommunication%20Regulation%20Law.pdf>

Two articles in this law are relevant for the governance of digital expression in Egypt:

- Article 67: Allows state security authorities to grant themselves complete control over the administration of all telecommunication services during a natural disaster, periods of general mobilization, or any other circumstance which is of concern for national security.
- Article 76: Criminalizes the use or assisted use of illegitimate means to conduct telecommunications correspondence. This article is frequently cited as “misuse of social media” in digital expression cases.

This law was used to justify the infamous internet shutdown during the 2011 revolution⁴ as well as website censorship in the 2013 “YouTube Blocking” case.⁵ In both cases, Article 67 was used to subject all telecommunications services to the power of state security authorities. In general, the Telecommunication Regulations Law was criticized for being technically outdated before the passage of the Cybercrime Law in 2018.

Cybercrime Law of 2018 (175/2018)

The Cybercrime Law was passed in August 2018. It contains 45 articles

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4 Association for Freedom of Thought and Expression, Article 19. 2015. “Egypt: Telecommunication Regulation Law.” <https://www.article19.org/data/files/medialibrary/37966/Egypt-tele-coms-report---English.pdf>

5 Al-Azhary, Hassan. 2018. “By Court Ruling: A Reading in the “YouTube” Block Ruling.” *Association for Freedom of Thought and Expression*. <https://afteegypt.org/en/digital-freedoms-2/2018/11/05/16280-afteegypt.html>

and is the first law in Egypt specifically aimed at combating crimes related to the internet and information technology.⁶ The law was under consideration for several years before its passage in 2018 and at least four prior drafts were circulated before the final version was issued. It was drafted to comply with the Arab Convention on Combating Information Technology Crimes, passed by the Arab League in 2010.⁷

The following is a selection of Cybercrime Law articles particularly relevant to digital expression:⁸

- Article 2: Requires Internet service providers to collect personal user data and store it for at least 180 days. Access to this data must be granted to security agencies upon request. Failure to comply with these data-storage and sharing requirements results in fines ranging from 5 to 10 million EGP.
- Article 6: Grants authorities the right to seize and access all available data, devices, and infrastructure. Temporary judicial orders can be issued to “research, inspect, and access computer programs, databases and other devices and information systems.”
- Article 7: Grants authorities the right to censor and block websites deemed to be “a threat to national security or the national economy” upon the submission of a judicial request. In urgent

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6 Sadek, George. 2018. “Egypt: President Ratifies Anti-Cybercrime Law.” *The Law Library of Congress*, October 4, 2018. <https://www.loc.gov/law/foreign-news/article/egypt-president-ratifies-anti-cybercrime-law/>

7 Mada Masr. 2018. “How you will be affected by the new cybercrime law: A guide.” *Mada Masr*, August 21, 2018. <https://madamasr.com/en/2018/08/21/feature/politics/how-you-will-be-affected-by-the-new-cybercrime-law-a-guide/>

8 Tahrir Institute of Middle East Policy. 2018. “TIMEP Brief: Cybercrime Law.” *Tahrir Institute of Middle East Policy*, December 19, 2018.

matters, security authorities can directly inform the National Telecommunications Regulatory Authority (NTRA) to immediately comply with a temporary blocking of a website. The exact conditions of an “urgent matter” are not specified, potentially allowing for broad interpretation and application of this article.

- Article 24: Criminalizes the creation of accounts falsely attributed to a natural or legal person. Violators can be punished by imprisonment for three months and a fine of at least 10,000 EGP. If the person attributed in this fake account is offended by the account, the penalty is increased to at least one year in prison and a fine of at least 50,000 EGP. The language of the article is vague enough to be used against political satirists and commentators.
- Article 25: Criminalizes the use of information technology to “link to content that is contrary to public morality.” Violators can be punished by imprisonment for a period between two and five years, and a fine between 100,000 and 300,000 EGP.⁹

The passage of the Cybercrime Law was widely condemned by domestic, regional, and international organizations.¹⁰ These organizations argued that the law legalizes sweeping digital surveillance and censorship activities, while restricting the right to privacy and

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⁹ Anti-Cyber and Information Technology Crimes Law, Law No. 175 of 2018, Arab Republic of Egypt https://drive.google.com/file/d/1ra7NlKn7Uh_YU5fL7NBKt18JE2mKAKm8/view

¹⁰ York, Jillian C., Hunasikatti, Malika. 2018. “Egypt’s Draconian New Cybercrime Bill Will Only Increase Censorship.” *Electronic Frontier Foundation*, July 12, 2018. <https://www.eff.org/deeplinks/2018/07/draconian-new-cybercrime-bills-vietnam-and-egypt-will-only-increase-censorship>

freedom of speech online.¹¹ A statement signed by ten different NGOs called for the immediate repeal of the law, claiming the law “threatens the fundamental rights of Egyptians” and constitutes an “overbroad, disproportionate attempt to give the government full control over cyberspace.”¹²

Law Regulating the Press, Media, and the Supreme Council for Media Regulation of 2018 (180/2018)

The Media Regulation Law was also passed in August 2018 and outlines regulations for media and journalism in Egypt.¹³ Over the past five years, the Egyptian media landscape has undergone a series of legal reforms. In 2016, a bill creating three regulatory authorities tasked with governing separate sectors of the media landscape was passed.¹⁴ A second law outlining these three bodies was supposed to quickly follow the passage of the initial law.¹⁵ Instead of passing a

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11 Ben-Hassine, Wafa. 2018. “Egyptian Parliament approves Cybercrime Law legalizing blocking of websites and full surveillance of Egyptians.” *Access Now*, June 20, 2018. <https://www.accessnow.org/egyptian-parliament-approves-cybercrime-law-legalizing-blocking-of-websites-and-full-surveillance-of-egyptians/>

12 Association for Freedom of Thought and Expression, et al. 2018. “NGOs call for full repeal of “cybercrime” law and reform of dangerous law regulating media.” *Article 19*. <https://www.article19.org/resources/egypt-ngos-call-for-full-repeal-of-cybercrime-law-and-reform-of-dangerous-law-regulating-media/>

13 Tahrir Institute of Middle East Policy. 2019. “TIMEP Brief: The Law Regulating the Press, Media, and the Supreme Council for Media Regulation.” *Tahrir Institute of Middle East Policy*, May 15, 2019. <https://timep.org/reports-briefings/timep-brief-the-law-regulating-the-press-media-and-the-supreme-council-for-media-regulation/>

14 Aweys, Ahmed. 2016. “Media MPs approve the draft of the media law.” *Al-Shorouk*, December 5, 2016. <https://www.shorouknews.com/news/view.aspx?cdate=05122016&id=302e6e8b-3e79-4b79-8ee8-d56256d7c69c>

15 Mohie, Mostafa. 2016. “One, two, three, four media laws: How media legislation in Egypt is staging state control.” *Mada Masr*, December 6, 2016. <https://madamasr.com/en/2016/12/06/feature/politics/one-two-three-four-media-laws-how-media-legislation-in-egypt-is-staging-state-control/>

unified law, Parliament divided it into three separate laws: (1) The Law on Regulating the Press and Media and the Supreme Media Regulatory Council (SMRC); (2) and a law regulating the National Press Authority (NPA); and (3) a law regulating the National Broadcasting Authority. The first of these laws was passed in August 2018, and the other two have not yet been issued.¹⁶

The following is an overview of articles from the Media Regulation Law relevant to digital expression:

- Article 6: Requires any media website in Egypt to register with the Supreme Council for Media Regulation (SMRC). The establishment, management, and maintenance of websites inside Egypt is forbidden without first obtaining a licence from the SMRC.
- Article 40: Provides further details on the conditions and requirements of licencing for websites. The following information must be included in an application to the SMRC: “the name of the newspaper or website, the name and surname and nationality of the owner, his place of residence, the language in which the newspaper or website is published, the type of content, the editorial policy, the type of activity, the editorial and administrative structure, the budget statement, the address, the name of the editor, the address of the printing press and the location of the website.”

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16 Al-Abd, Rania and Said, Omar. 2018. “Legislative process and content of new media law criticized by journalists and MPs.” *Mada Masr*, June 13, 2018. <https://madasr.com/en/2018/06/13/feature/politics/legislative-process-and-content-of-new-media-law-criticized-by-journalists-and-mps/>

- Article 19: Outlines the conditions and penalties for spreading false news. The publishing or broadcasting false news is prohibited for newspapers, media and websites. Personal websites, blogs, and accounts with more than 5,000 followers are also subject to this rule. The punishment for spreading false news includes fines up to 250,000 EGP and the implementation of a blocking order.
- The law allows the state to block websites without a court order if they are deemed to be a threat to national security.¹⁷

The law was widely condemned by Egyptian civil society and independent media, with many arguing that it provides even further legal basis for digital censorship and surveillance.¹⁸ A petition calling for the abolition of the executive regulations was signed by over 600 journalists and public figures when a draft version was leaked to the press in November 2018.¹⁹

WEBSITE REGISTRATIONS

Independent media outlets and civil society organizations responded in different ways to the Media Regulation Law's requirement for

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17 The Law Regulating the Press, Media, and the Supreme Council for Media Regulation, Law No. 180 of 2018, Arab Republic of Egypt https://www.scribd.com/document/387536769/34%D9%85%D9%83%D8%B1%D8%B1-%D9%87%D9%80%D9%80%D9%80%D9%80-%D8%AA%D8%A7%D9%85%D9%8A%D9%86#download&from_embed

18 Association for Freedom of Thought and Expression, et al. 2018. "NGOs call for full repeal of "cybercrime" law and reform of dangerous law regulating media." *Article 19*. <https://www.article19.org/resources/egypt-ngos-call-for-full-repeal-of-cybercrime-law-and-reform-of-dangerous-law-regulating-media/>

19 Mada Masr. 2019. "Journalists Syndicate board members walk out of meeting in protest over proposed SMRC bylaws." *Mada Masr*, January 10, 2019. <https://madasr.com/en/2019/01/10/news/u/journalists-syndicate-board-members-walk-out-of-meeting-in-protest-over-proposed-smrc-bylaws/>

website registrations (Article 6). Some human rights organizations rejected the process outright, arguing that participation would legitimize a deeply unjust law. These organizations refused to voluntarily provide the state with detailed information on their activities. The news website Katib, which was blocked nine hours after its launch, announced its indefinite closure in protest of the law. Katib released a statement arguing that payment of the large sum required to register would not guarantee lifting of the block.^{20 21} Some media organizations were forced to close because they could not pay the high registration fee and feared the repercussions of continuing their activities unregistered. Other organizations, such as Mada Masr, made a concerted effort to submit their registration application on-time and comply with its robust requirements. In an explanation of their rationale, they wrote:

We have never been under any illusions about what we are. Our goal has always been to produce adversarial journalism at a time when we see little of it elsewhere and at a time when the state is looking to exert complete control over the media through censorship and acquisition. When the new media law was issued, we sought to challenge the restrictions it imposes on journalists' ability to work freely through our reporting.

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20 Mada Masr. 2018. "Blocked website Katib halts operations in protest of news website registration." *Mada Masr*, November 6, 2018. <https://madamasr.com/en/2018/11/06/news/u/blocked-website-katib-halts-operations-in-protest-of-news-website-registration/>

21 Katib. 2018. "Statement from the editorial family." *Katib*, November 5, 2018. <https://searx.me:3000/?mortyhash=7fed271f0f5e142071df9a7c7719a3193764c78c044ef80bd6da85278d9b43f5&mortyurl=https%3A%2F%2Fkatib.net%2F2018%2F11%2F05%2F%25d8%25a8%25d9%258a%25d8%25a7%25d9%2586-%25d9%2585%25d9%2586-%25d8%25a3%25d8%25b3%25d8%25b1%25d8%25a9-%25d8%25a7%25d9%2584%25d8%25aa%25d8%25ad%25d8%25b1%25d9%258a%25d8%25b1-%25d8%25aa%25d8%25ac%25d9%2585%25d9%258a%25d8%25af-%25d8%25a7%25d9%2584%25d8%25b9%25d9%2585%25d9%2584-%25d9%2581%25d9%258a-%25d9%2583%25d8%25a7%2F>

Nevertheless, we've opted to register within its parameters because we still have much to say and do. We're not ready to go just yet, and if it takes becoming "legal" in the eyes of the state in order to remain operational, then we will attempt to do just that.²²

In March 2019, Al-Mashhad newspaper received the first penalty issued under the new law.²³ The outlet produced a series of reports on vote-buying and corruption leading up to the 2019 constitutional referendum. In response, the editor-in-chief, Magdy Shendy, received a letter detailing a 50,000 EGP fine and a blocking order against the website for six months.²⁴ The website remains inaccessible inside Egypt as Magdy Shendy continues to fight the blocking order and fine in court.

Notable Case Law and Decrees

Case law and decrees also offer insight into the Egyptian judiciary's approach to digital expression. In particular, cases provide evidence of the tactics and technologies used by Egyptian security authorities to surveil and censor online speech. The case examined below reveals a social media monitoring project conducted by the Ministry of the

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22 Mada Masr. 2018. "Becoming 'legal': On Mada Masr's decision to apply for a license under the new media law." *Mada Masr*, November 25, 2018. <https://madamasr.com/en/2018/11/25/opinion/u/becoming-legal-on-mada-masrs-decision-to-apply-for-a-license-under-the-new-media-law/>

23 Mada Masr. 2018. "Editor in chief: Al-Mashhad handed 1st penalties under new bylaws for report on police racketeering for amendment referendum." *Mada Masr*, March 23, 2019. <https://madamasr.com/en/2019/03/23/news/u/editor-in-chief-al-mashhad-handed-1st-penalties-under-new-bylaws-for-report-on-police-racketeering-for-amendment-referendum/>

24 ElHaies, M. 2019. "Egypt tests new censorship law with handling of al-Mashhad website block." *Committee to Protect Journalists*, May 7, 2019. <https://cpj.org/blog/2019/05/egypt-tests-new-censorship-law-with-handling-of-al.php>

Interior; the decrees which follow further indicate the government's preoccupation with false news and rumours. These decrees reveal the extent of the state's coordinated efforts to monitor social media and criminally punish those who, in the opinion of the government, spread false lies and rumours.

NOTABLE CASE LAW: SOCIAL MEDIA SURVEILLANCE 63055/2017

In September 2016, a lawsuit was filed against the Egyptian Ministry of the Interior seeking the suspension the Ministry's practice of monitoring and surveilling social media networks. The plaintiff explained the Ministry had a project which monitored the security risks of social media networks and developed a system to measure public opinion based on these networks. The alleged goal of the project was to apply the latest technology in security risk monitoring systems to social media networks in order to identify people representing a danger to national security. The plaintiff claimed the system was intended to be developed into a permanent security system for the Ministry, with plans for long-term use. The plaintiff argued that this system violated Egyptian's fundamental rights and freedoms, particularly the right to privacy and freedom of information.

Although the case was ultimately dismissed, the court's written decision revealed important facts about the Ministry of the Interior's surveillance activities and the court's attitude towards them. The contested activity, namely surveillance and monitoring of social media networks, was not denied by the Ministry. Rather, the court papers indicated that the practice began in 2014. Nonetheless, the court rejected the lawsuit because it was brought by a non-beneficiary party

and any claim made against the Ministry of the Interior must have a direct interest in the law.²⁵

This case offers insight on the tactics and strategies used by the Ministry of the Interior to surveil digital expression, particularly on social media networks. It also corroborates claims made by many activists, human rights defenders, and opposition figures that the government actively observes and surveils social media networks in order to identify threats to national security.

NOTABLE DECREE: PROSECUTOR-GENERAL'S RUMOUR HOTLINE

Two important decrees concerning the control and containment of false news and rumours were issued within weeks of each other in February and March of 2018.

The first decree, issued by Egypt's Prosecutor General Nabil Sadiq in February 2018, instructed prosecutors to monitor traditional media and social media networks in order to control the spread of lies and rumours undermining the safety and security of Egypt. It called on prosecutors to surveil such networks for false news, statements, and rumours that disturb public security, terrorize citizens, and harm the public interest of the Egyptian state. Prosecutors were encouraged to take all "necessary criminal proceedings against" those who spread lies, rumours, and false news. The decree also called on the authorities responsible for regulating media and social media to notify the Public

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²⁵ Egyptian Administrative Court. 2017. "Failure to accept a claim to invalidate the internal control of social networks on the Internet: Case 63055 of 2017." Decision issued February 28, 2017. <https://manshurat.org/node/14722>

Prosecution whenever they encountered these rumours online.²⁶

The second decree issued by the Prosecutor General announced the establishment of a network of mobile phone numbers to receive SMS and WhatsApp messages from citizens reporting false news and rumours encountered on social media networks and websites. The decree established this rumour collection network as a means of implementing the previous decree and upholding the state's efforts to counter false news and rumours. The decree asked citizens to include the names and personal data associated with a "false rumour" in their reports. Eight different phone numbers were provided to receive reports within their respective geographies.²⁷

These two decrees further demonstrate the government's concern over false news and rumours, shedding light on the tactics and strategies used by Egyptian security authorities to monitor online networks and restrict digital expression.²⁸ They indicate monitoring and surveillance of social media networks is a priority for the Prosecutor General and the prosecution writ large. The "rumour collection network" established by these decrees effectively crowdsources surveillance to the wider civilian population, acting as a veritable low-cost panopticon for Egyptian security agencies. Findings

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26 El-Sadany, Mai. 2018. "#Egypt's Prosec-Gen issues decree." Tweet, February 28, 2018. <https://twitter.com/maitelsadany/status/968872268087558144>

27 El-Sadany, Mai. 2018. "#Egypt's General Prosecution announces phone numbers dedicated to receiving citizen complaints on @Whatsapp." Tweet, March 12, 2018. <https://twitter.com/maitelsadany/status/973288378341969920>

28 El-Sadany, Mai. 2018. "In the Era of "Fake News," Egypt Monitors and Silences." *The Tahrir Institute of Middle East Policy*, March 16, 2018. <https://timep.org/commentary/analysis/in-the-era-of-fake-news-egypt-monitors-and-silences/>

from the dataset of digital expression arrests presented in the next section corroborate what is written in these decrees: state security authorities rely heavily on large networks of informants to inform them of “suspicious” material encountered online.



FINDINGS

In the following, the methodology and findings of a dataset containing 333 digital expression violations will be presented. The dataset documents digital expression arrests and violations in Egypt from 2011 until mid-2019 along twenty-two categories. It ultimately aims to capture broad trends in the persecution of online speech in Egypt

After the initial overview, two important findings from the research will be discussed in further detail: First, an analysis of the charges and laws associated with digital expression violations will be provided, along with important context regarding the historical development of these charges. Second, there will be an explanation of the special prosecutorial body, the State Security Prosecution (SSP), used in many digital expression cases since 2017. The implications of the State Security Prosecution for digital rights will also be discussed.

Methodology

Data collection for the report began in October 2018 and was completed in May 2019. Utilizing a mix of quantitative and qualitative methods, the compiled dataset documented and tracked arrests based on digital expression in Egypt from 2011 until mid-2019.

The collection of this data was preformed manually through obtaining

and analyzing external sources. While the regime may keep internal records, this data is not available publicly. Many defendants and their lawyers do not even have access to the official case documents for their own cases.

Given the lack of official arrest data from the state itself, information on relevant arrests was collected from a number of different sources. These sources included news reports, documentation from Egyptian human rights organizations, among other sources. In particular, the report relies on data from the Association for Free Thought and Expression, the Egyptian Centre for Social and Economic Rights, the Arab Network for Human Rights Information, the Egyptian Commission for Rights and Freedoms, Amnesty International, and others. The deepest of gratitude is expressed to the researchers and lawyers at these organizations.

A template for the data collection was developed containing 22 key characteristics. The template included the following categories for each case:

Key characteristics for case analysis		
Case Year	Type of case	Date of arrest
Name	Governorate	Date of first instance ruling
Gender	Case name	Date of release
Nationality	Case number	Judgment or current status
Data source	Court	Number of charges
Case category	Court Location	Charges
Platform	Prosecuting authority	Corresponding laws
Violation	Presence of defendant	

Under the term “case category,” each case was categorized as a blogger, journalist, social media poster, or social media administrator. Blogger was defined as an individual who posts publicly on a variety of different social media platforms, while also producing longer content such as written blog posts or videos. Digital media journalists were distinguished from traditional print journalists and only the former was included in the dataset. Cases where traditional journalists or photojournalists were targeted based on work that was exclusively published on a digital platform were included in the dataset. A distinction was made between social media “posters” and “administrators,” with the former including those who had been targeted for merely a comment, photo, video, or other form of content posted to social media and the latter defined as those individuals who have been targeted based on their administration of a social media page or event. Data on the targeted digital platform was also included. Given the manual nature of the data collection, there are gaps in the data points that were able to be collected for this category.

“Violations” were categorized as follows: arrest, acquittal, prison sentence, investigation, fine, lawsuit, and pretrial detention. Arrests were defined as detentions lasting for less than two weeks without charge, whereas pretrial detention was defined as an extended period of detention in which the defendant is not brought to trial. Pretrial detention cases were only counted in the year they were established and not again in subsequent years, even if the defendant continued to be detained. Investigations refer only to university or professional syndicate investigations.

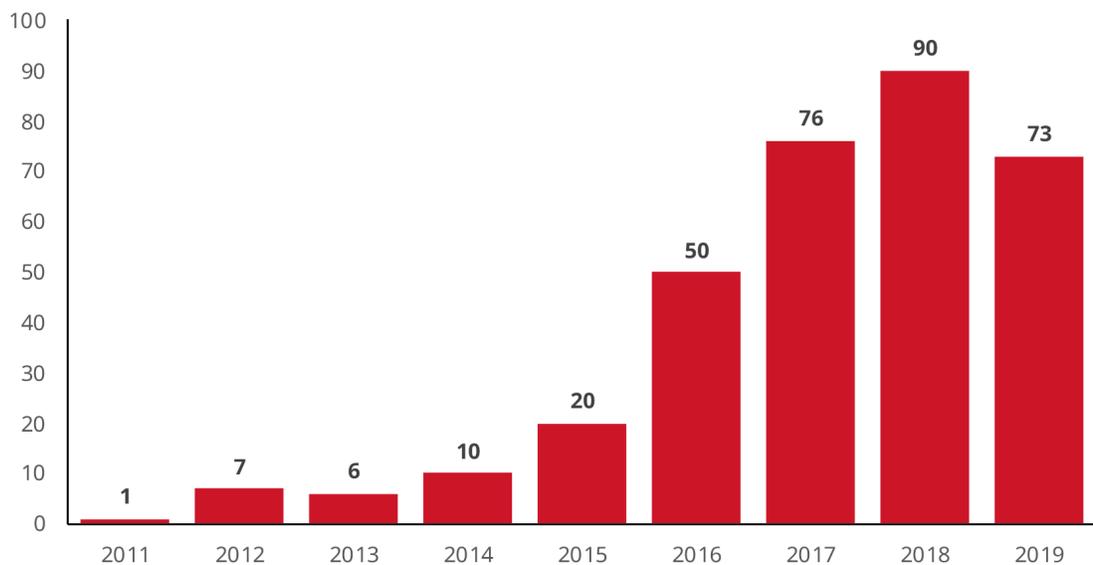
“Type of case” was categorized as follows: felony, misdemeanor,

military, disciplinary, state security, and administrative. Disciplinary cases refer to instances of university or professional syndicate disciplinary actions.

Findings

Figure A Digital Expression Violations by Year

NB: Data for 2019 comes from only the first five months of the year.



In total, 333 digital expression violations were documented from 2011 until mid-2019. As demonstrated in Figure A, the number of digital expression violations per-year increased across the period.¹ While the number of documented cases remained low between 2011 and 2015, a notable uptick in cases started in 2016 and continued through 2019.

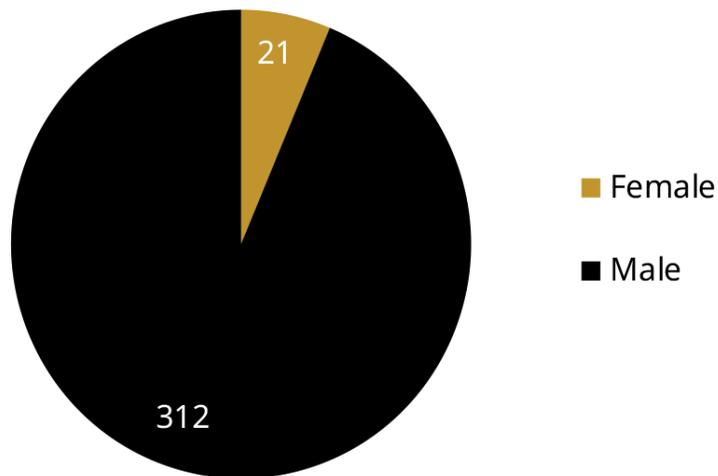
It is important to note, however, that cases were only collected

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¹ Cases-per-year represents the number of cases which began in that year. If a case was ongoing for more than 12 months, it was only counted in the year in which it originated.

for the first five months of 2019. Therefore, the number of digital expression cases by the end of 2019 is likely much higher than what is represented in these graphs.

Figure B Digital Expression Violations by Gender



As seen in Figure B, the data reveal a significant gender imbalance with 94% of the cases targeting men. There is also a concentration in governorates (geographical administrative divisions in Egypt), with 34% of cases occurring in Cairo, 31% in Giza, and 11% in Alexandria, with the remaining 24% spread out across the 21 other Egyptian governorates.

The most-targeted form of expression was social media posts, comprising 75% of all documented cases (Figure C). Administrators of social media accounts and journalists comprise 8% and 9% of documented cases, respectively. Of the seven cases of arrested

bloggers, five occurred in 2018. Facebook was overwhelmingly the most-targeted platform, with 70% of the violations targeting content posted on the social media website (Figure D).

Figure C Digital Expression Violations by Targeted Form of Expression

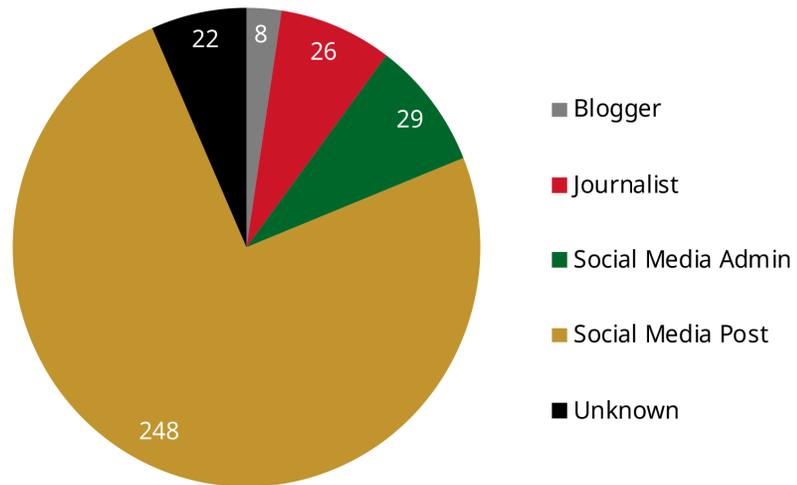
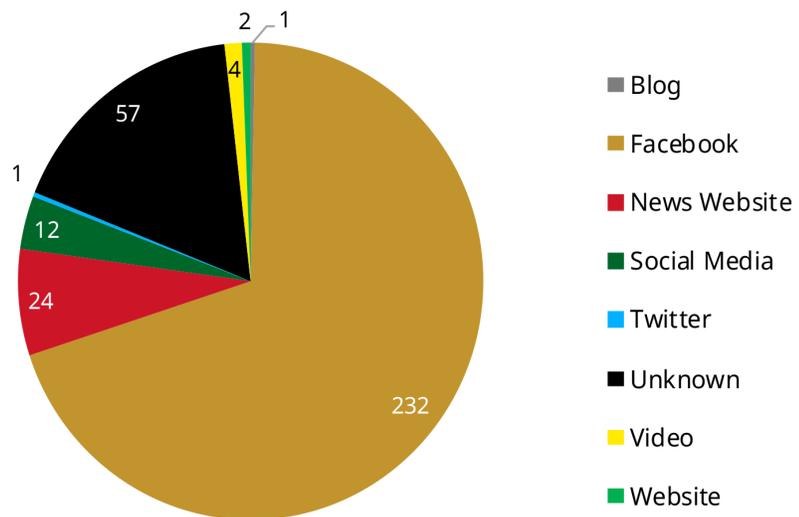


Figure D Digital Expression Violations by Targeted Platform



From 2012 until 2015, digital expression violation cases resulted in a relatively even mix of prison sentences, fines, acquittals, and pretrial detention cases. Starting in 2016, however, the number of pretrial detention cases significantly increased, continuing through 2019 (Figures E1 to E4). Notably, the only cases documented in 2019 were pretrial detention cases.

Figure E1 Digital Expression Cases by Violation

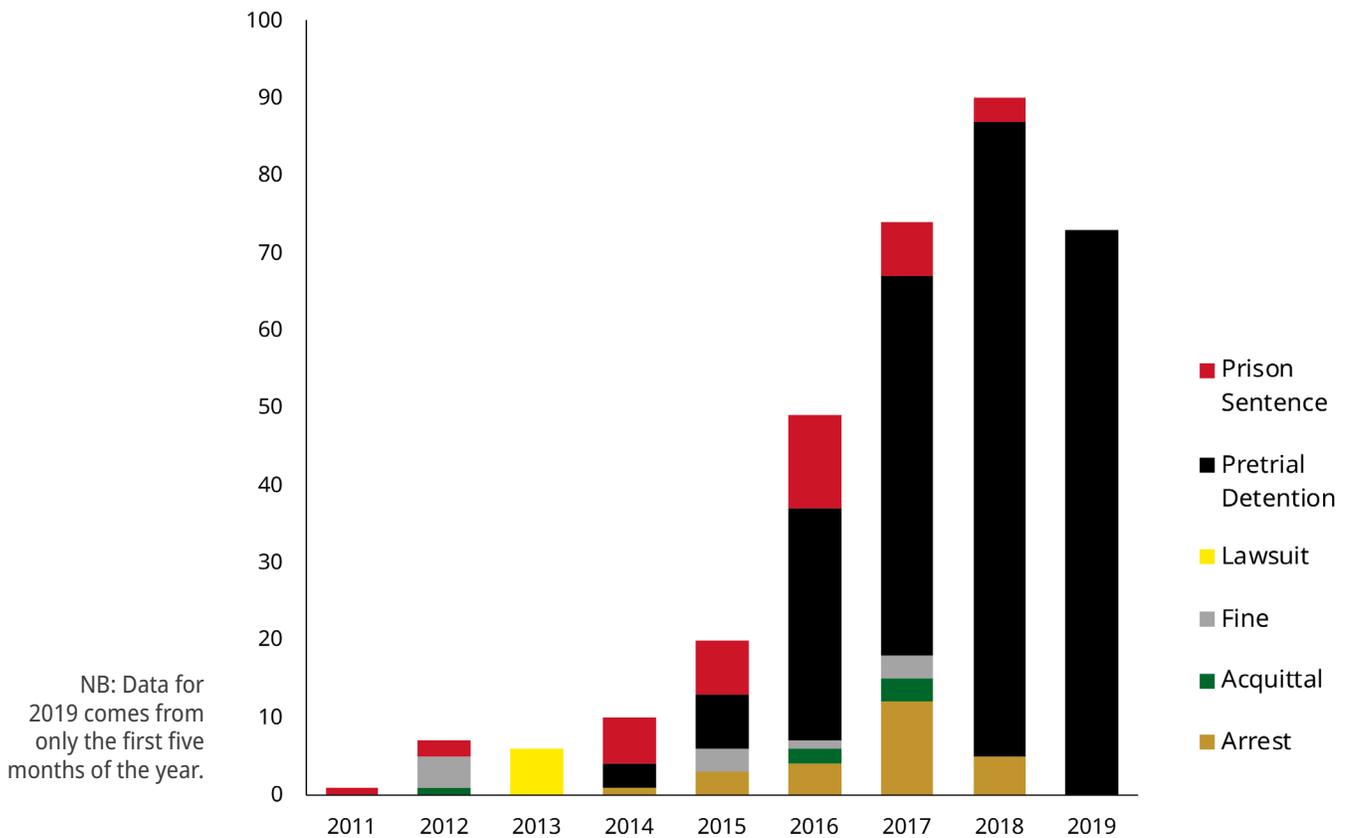


Figure E2 Pretrial Detention Cases

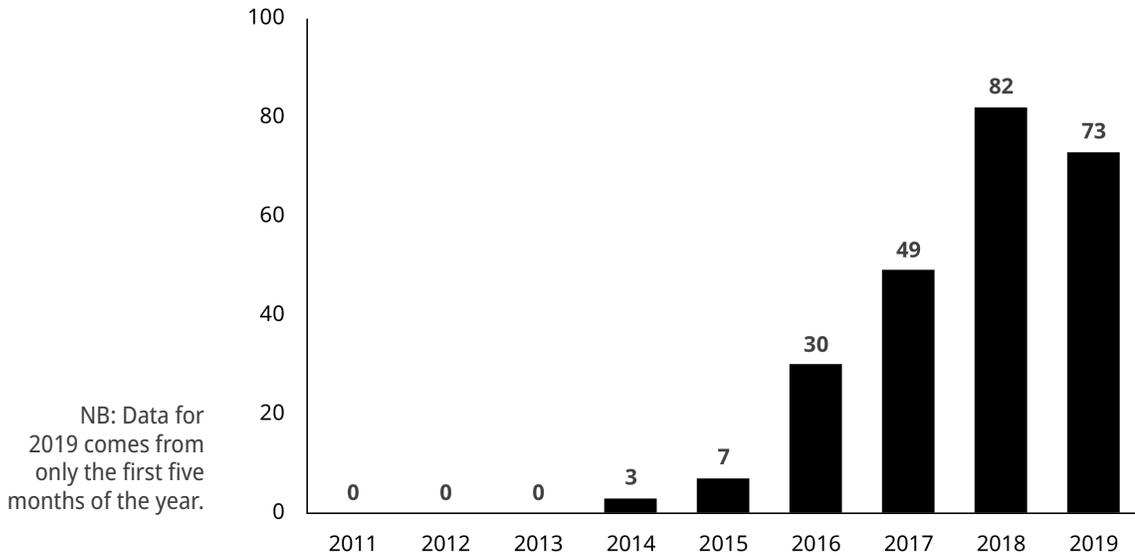


Figure E3 Prison Sentences Cases

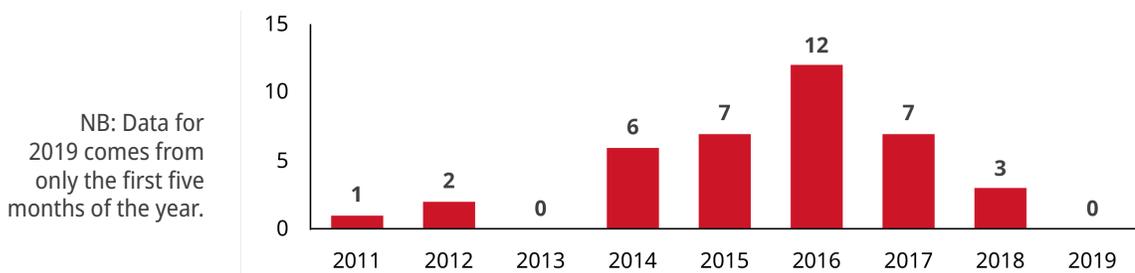
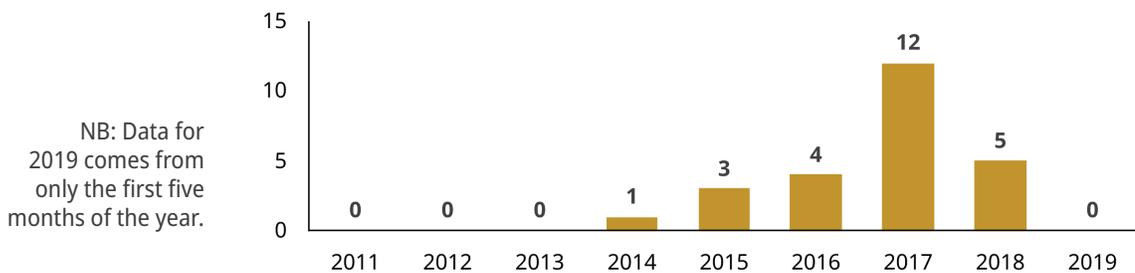
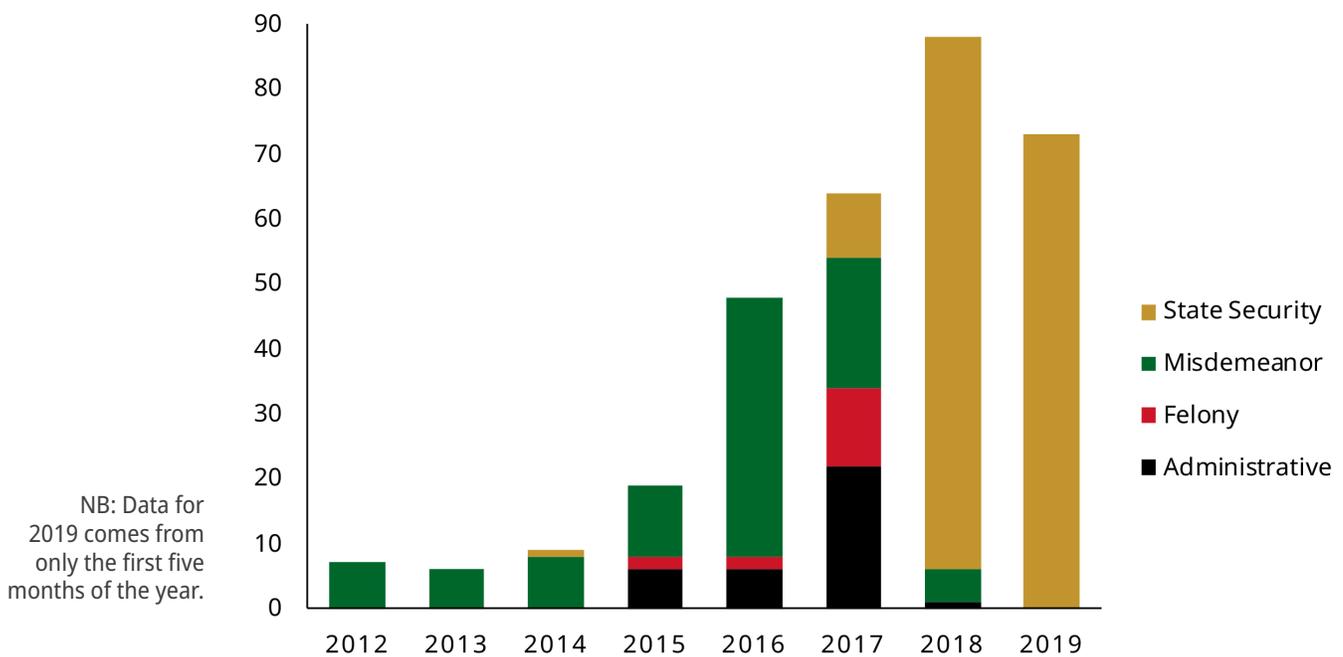


Figure E4 Arrest Cases



Trends also emerged regarding the type of courts hearing digital expression cases (Figure F). Between 2012 and 2015, these cases were primarily handled as misdemeanors. Between 2015 and 2017, there was an uptick in the number of digital expression violations handled as administrative cases. The highest number of felony cases also occurred in 2017. The most notable trend, however, was the explosion of SSP cases in beginning in 2018, which was inextricably linked to the increase in pretrial detention cases.

Figure F Digital Expression Violations by Court



CHARGES AND LAWS

An important objective of this research was to identify the charges and laws associated with digital expression arrest cases in order to better understand how states use the color of the law to legitimize and

justify restrictions on freedom of expression online. The mechanisms of coercive state power in Egypt are notoriously legalistic, with scholars describing the form of authoritarianism in the country as “legal authoritarianism.”² State actions, initiatives, and priorities are therefore usually couched in the language of the law—or at least the color of the law. Accordingly, an analysis of the charges used in these 333 cases provides insight into the state’s internal logic and justification of its practices. These charges reflect dominant state narratives, which normalize restrictions on digital expression, while legal mechanisms provide the underlying legitimization.

The most frequently used charges from the data were:

- “Publishing false news” – present in 70% of cases;
- “Joining a banned group” – present in 65% of cases;
- “Misuse of social media” – present in 47% of cases;
- “Incitement against the regime” – present in 16% of cases;
- “Inciting a demonstration” – present in 15.5% of cases.³

With the passage of the Cybercrime Law in August 2018, an early hypothesis projected that charges from this law would begin to appear in digital expression arrest cases in late 2018 and early 2019. However, none of the collected data revealed the use of the Cybercrime Law. Instead, the charges continued to come from the Penal Code, the

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2 Hamzawy, Amr. 2017. “Legislating Authoritarianism: Egypt’s New Era of Repression.” *Carnegie Endowment for International Peace*, March 16, 2017. <https://carnegieendowment.org/2017/03/16/legislating-authoritarianism-egypt-s-new-era-of-repression-pub-68285>

3 Many cases involved the use of more than one charge.

Counterterrorism Law of 2015, the Telecommunications Regulations Law of 2003, the Assembly Law of 1914, and the Protest Law of 2013. (See Figures G through L).

Figure G Common Digital Expression Violations by Year

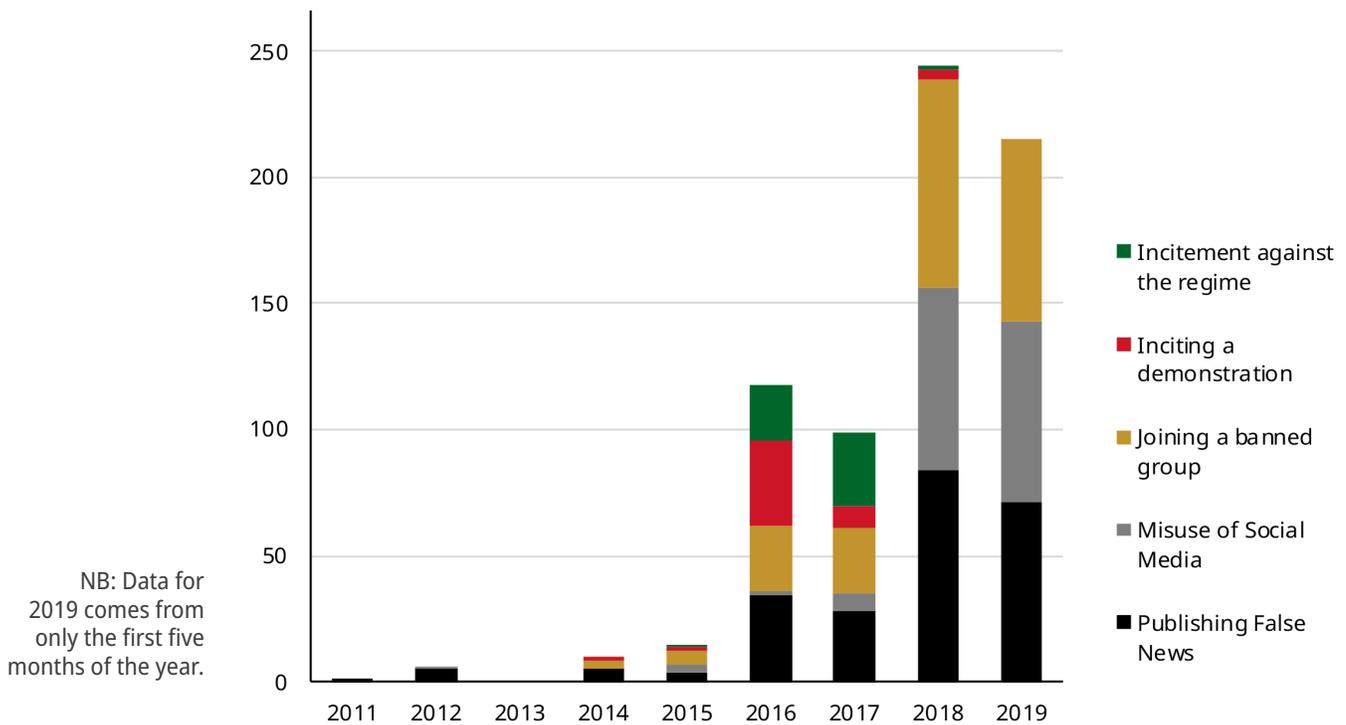


Figure I Charge of spreading false news

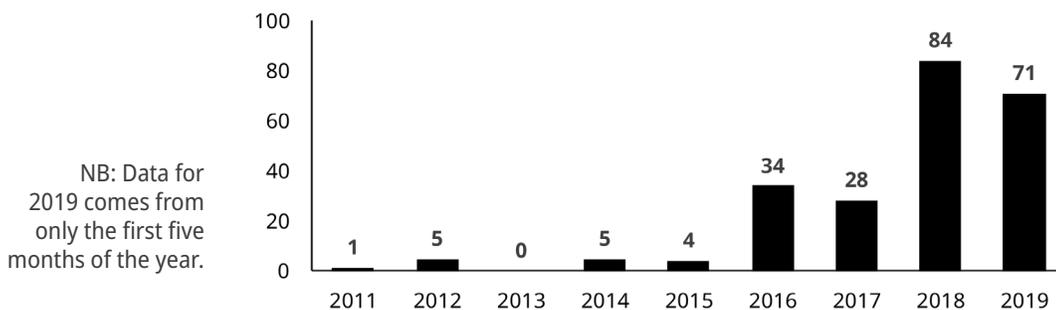


Figure J Charge of joining a banned group

NB: Data for 2019 comes from only the first five months of the year.

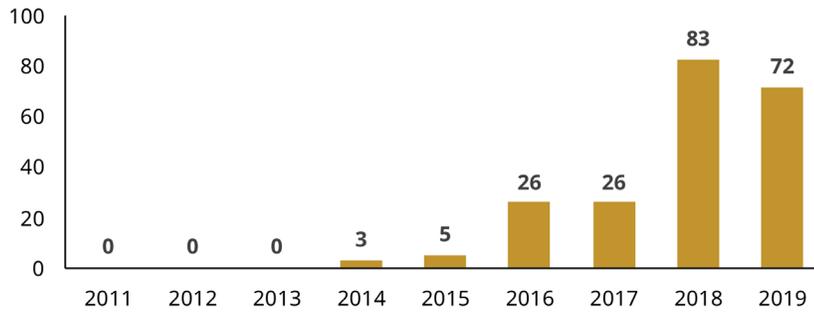


Figure K Charge of inciting a demonstration

NB: Data for 2019 comes from only the first five months of the year.

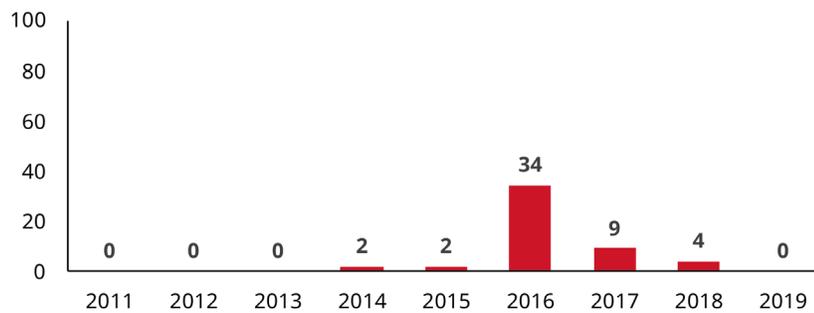
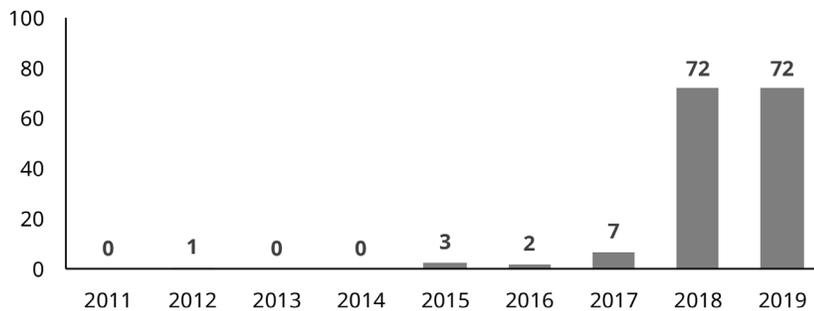


Figure L Charge of misuse of social media

NB: Data for 2019 comes from only the first five months of the year.



Consider the charge of “publishing false news,” which appears in 70% of the collected cases. As demonstrated in Figure I, below, an upward trend in the use of this charge began in 2016 and continued through 2018. Given this timing, it might be tempting to link the rise in the use of this charge to the general prevalence of the term “fake news” which became popular at that same time due to use by United States President Donald Trump. An analysis of the historical development of this charge, however, reveals something different. Article 102 mkr was not present in Egypt’s original 1937 Penal Code. Instead, it was added to the Penal Code in 1957⁴ under President Gamal Abdel Nasser, and amended again in 1970.⁵ Another basis for the charge of “false news” is Article 188 of the Penal Code. This charge was present, albeit with significantly different wording, in the first 1937 Penal Code, and was amended in 1955,⁶ 1982,⁷ and 1996.⁸

From this brief historical overview, it is clear that the charge of “false news” as a tool to suppress political opposition and freedom of expression is not simply a contemporary trend. Instead, this narrative

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4 Nasser, Gamal Abdel. 1957. “Amendments to some sections of the Penal Code: Decision 112 of 1957.” Decision by the President of the Republic, issued May 19, 1957. <https://manshurat.org/node/40173>

5 Nasser, Gamal Abdel. 1970. “Amendments to some provisions of the Penal Code: Decision 34 of 1970.” Decision by the President of the Republic, issued May 24, 1970. <https://manshurat.org/node/31255>

6 Nasser, Gamal Abdel. 1955. “Amendments to some provisions of the Penal Code: Decision 568 of 1955.” Decision by the Prime Minister, issued November 23, 1955. <https://manshurat.org/node/41911>

7 Mubarak, Hosni. 1982. “Amendments to some provisions of the Penal Code and the Code of Criminal Procedure: Decision 29 of 1982.” Decision by the President of the Republic, issued April 14, 1982. <https://manshurat.org/node/32099>

8 Mubarak, Hosni. 1996. “Amendment of the Penal Code for publishing, insulting and defamation offenses: Decision 95 of 1996.” Decision by the President of the Republic, issued June 30, 1996. <https://manshurat.org/node/29021>

has been a tool of successive Egyptian authoritarian regimes for use against their opponents. Although the levels of repression under the current president are unprecedented in Egyptian history, the use of “fake news” as a narrative to discredit legitimate expression appears to be a longstanding feature of authoritarianism in the country.

The following details the corresponding legal bases for the most frequently used charges in digital expression violation cases:

“Publishing false news”

Penal Code Article 102mkr: “Any person who deliberately broadcasts news, statements or false rumors if this would disturb public security, terrorize people or harm the public interest shall be liable to imprisonment and a fine of not less than fifty pounds and not to exceed two hundred pounds.

The penalty shall be imprisonment and a fine not less than one hundred pounds and not exceeding five hundred pounds if the crime occurred in time of war.

The penalties provided for in the first paragraph shall be punishable by any person who has acquired or obtained by himself or by means of means of publication or publication any of the provisions stipulated in the said paragraph if it is intended for distribution or for the third party, and whoever has obtained or obtained any means of printing, even if it is temporary to print, record or broadcast any of the above.”

Penal Code Article 188: “Any person who intentionally misrepresents a news, data, false rumors, artificial papers, forged or falsely attributed to others is liable to a penalty of imprisonment for a period not exceeding

one year and a fine of not less than five thousand pounds and not more than twenty thousand pounds. This would disturb public peace or cause panic among people or harm the public interest.”

“Joining a banned group”

Counterterrorism Law of 2015 Article 2: “A terrorist act shall refer to any use of force, violence, threat, or intimidation domestically or abroad for the purpose of disturbing public order, or endangering the safety, interests, or security of the community; harming individuals and terrorizing them; jeopardizing their lives, freedoms, public or private rights, or security, or other freedoms and rights guaranteed by the Constitution and the law; harms national unity, social peace, or national security or damages the environment, natural resources, antiquities, money, buildings, or public or private properties or occupies or seizes them; prevents or impedes public authorities, agencies or judicial bodies, government offices or local units, houses of worship, hospitals, institutions, institutes, diplomatic and consular missions, or regional and international organizations and bodies in Egypt from carrying out their work or exercising all or some of their activities, or resists them or disables the enforcement of any of the provisions of the Constitution, laws, or regulations. A terrorist act shall likewise refer to any conduct committed with the intent to achieve, prepare, or instigate one of the purposes set out in the first paragraph of this article, if it is as such to harm communications, information, financial or banking systems, national economy, energy reserves, security stock of goods, food and water, or their integrity, or medical services in disasters and crises.”

“Misuse of social media”

Telecommunications Regulation Law of 2003 Article 76: “Without prejudice to the right for suitable indemnity, a penalty of confinement to prison and a fine not less than five hundred pounds and not exceeding twenty thousand pounds or either penalty shall be inflicted on whoever:

1. Uses or assists in using illegitimate means to conduct telecommunication correspondence.
2. Premeditatedly disturbs or harasses a third party by misusing Telecommunication Equipment.”

“Incitement against the regime”

Penal Code Article 174: “Shall be punished by imprisonment for a term not exceeding five years and a fine of not less than five thousand pounds and not more than ten thousand pounds, whoever committed any of the following acts:

1. Incitement to overthrow the established government system in the Egyptian territory.
2. Promotion of doctrines aimed at changing fundamental constitutional principles or statutes of the social body by force or terrorism.

The same penalties shall be imposed on anyone who, by way of material or financial assistance, has encouraged the commission of any of the offenses set forth in the preceding two paragraphs without being intended to be directly involved in the commission thereof.”

STATE SECURITY PROSECUTION

Data analysis also reveals another important finding—the dramatic uptake in the number of digital expression cases located in the State Security Prosecution (SSP) beginning in 2017. Officially, the SSP has jurisdiction over cases concerning national security and terrorism;⁹ in practice, the cases located at this body are either genuine terrorism cases or cases involving freedom of expression. Notably, the upward trend in the use of the SSP for digital expression cases mirrors the increase in pretrial detention cases during this same time period (Figure F and Figure E2). Based on the extraordinary procedural rules governing the SSP, it appears likely the executive branch is deliberately using this body to persecute defendants in digital expression cases by holding them for extended periods in pretrial detention. The ability to hold defendants in indefinite pretrial detention without ever referring the case to court, combined with the personal influence and oversight of the President over the SSP, explains the overwhelming use of the SSP to persecute digital expression.

On April 10, 2017, President Sisi declared a state of emergency in response to the twin bombings of two Coptic churches in Alexandria and Tanta on Palm Sunday.¹⁰ The ISIS-claimed bombings caused at least 47 fatalities and 106 injuries.¹¹ The special conditions during a

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9 The Tahrir Institute for Middle East Policy. 2018. "Egypt's Court System 101." October 22, 2018. <https://timep.org/transitional-justice-project/egypts-court-system-101/>

10 Sisi, Abdel Fattah. 2017. "Declaration of a state of emergency throughout the country: Decision 157 of 2017." President of the Republic, issued April 10, 2017. <https://manshurat.org/node/22611>

11 Michaelson, Ruth. 2017. "Egypt: Isis claims responsibility for Coptic church bombings." *The Guardian*, April 9, 2017. <https://www.theguardian.com/world/2017/apr/09/egypt-coptic-church-bombing-death-toll-rises-tanta-cairo>

state of emergency are outlined in the State of Emergency Law, Law no. 162 of 1958.¹² The conditions under this law allow Egyptian security authorities to undertake all necessary measures to confront terrorism and safeguard security in the country. A state of emergency also establishes the special Emergency State Security Courts (ESSC) and the Public Prosecution can only refer cases to these courts after a State of Emergency has been declared.¹³

Under the 2014 Egyptian Constitution, a state of emergency can only last three months, after which point a new three-month state of emergency can be declared only upon approval of two-thirds of the Egyptian House of Representatives. There are no constitutional limitations, however, on the number of times a state of emergency can be renewed. Since April 2017, a new state of emergency has been declared roughly every three months after the lapse of the prior period.¹⁴

On October 7th, 2017, Prime Minister Sherif Ismail issued decree 2165 of 2017 that placed many crimes that would normally be under the jurisdiction of ordinary criminal courts within the jurisdiction of the SSP and the ESSCs.¹⁵ Because of this decree, these crimes are now subject

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12 See The State of Emergency Law, Law No. 162 of 1958. <https://manshurat.org/node/12875>

13 International Commission of Jurists. 2018. "Egypt: A Return to a Permanent State of Emergency?" *International Commission of Jurists*, June 2018. <https://www.icj.org/wp-content/uploads/2018/09/Egypt-Return-to-State-of-Emergency-Advocacy-Analysis-brief-2018-ENG.pdf>

14 Reuters. 2018. "Egypt extends state of emergency for three months." *Reuters*, October 21, 2018. <https://www.reuters.com/article/us-egypt-security-emergency/egypt-extends-state-of-emergency-for-three-months-idUSKCN1MV0MI>

15 Ismail, Sherif. 2017. "Referring some crimes from the Public Prosecution to the emergency state security courts: Decision 2165 of 2017." Prime Minister, issued October 7, 2017. <https://manshurat.org/node/22926>

to the special procedural rules governing the SSP and the ESSCs. The decree placed crimes in the Assembly Law of 1914, the Protest Law of 2013, and the Counterterrorism Law of 2015 under the jurisdiction of these courts. A number of articles in the Penal Code were also placed under the jurisdiction of the ESSCs, including many charges used to target digital expression such as spreading false news, incitement against the regime, incitement to violence, and insulting the President.

A 2016 report from the International Commission of Jurists issued harsh criticism of the Egyptian ESSCs, claiming they “impact the right to a fair trial, right to liberty, and other rights in ways that cannot be justified, even under a State of Emergency.”¹⁶ Detainees held in SSP cases are subject to extraordinary procedural rules, resulting in gross human rights abuses. Defendants can be held in pretrial detention for up to two years. In practice, they are interrogated immediately after arrest and then held in pretrial detention on a series of 15-day detention orders. The 15-day detention order can be renewed a maximum of ten times, resulting in many defendants spending 150 days in pretrial detention without ever being brought before a judge. After 150 days, defendants are often issued further 45-day detention orders by a judge. Defendants and their lawyers are banned from viewing and obtaining official documents for the case, making it impossible to understand the full extent the investigation or the details of the case. In regular criminal courts, lawyers are allowed to take photocopies of these documents; this right is denied at the SSP. It is

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¹⁶ International Commission of Jurists. 2016. “Egypt’s Judiciary: A Tool of Repression.” *International Commission of Jurists*, September 2016. <https://www.icj.org/wp-content/uploads/2016/10/Egypt-Tool-of-repression-Publications-Reports-Thematic-reports-2016-ENG-1.pdf>

also difficult for lawyers to properly represent their clients as they are often denied visitation rights.

Finally, it must be noted that these courts grant broad oversight powers to the President, undermining principles of judicial independence and fairness. Every verdict released from ESSCs must be approved by the President, allowing him to interfere with any final verdict. The President also appoints the judges of the ESSC, granting him significant personal influence in the cases brought to these courts.¹⁷ Even if the State of Emergency ends, the cases remaining at the ESSC will remain in this court until a decision is issued. Article 19 allows these courts retain their authority over the cases previously referred to them, even if the State of Emergency has ended.¹⁸ Because the executive has more direct control over these special courts, their establishment in 2017 has likely emboldened the regime to target digital expression cases more intensely.

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17 See The State of Emergency Law, Law No. 162 of 1958. <https://manshurat.org/node/12875>

18 Ibid.



TRENDS

This section unpacks the surveillance strategies used by Egyptian security authorities, the type of content that is frequently targeted, and the circumstances surrounding the arrests. The trends identified below were observed through analysis of collected case data. In presenting these trends, the following questions will be addressed:

- How is digital evidence collected? What technologies are used to surveil digital expression? What strategies are used by security authorities to target online speech and arrest citizens?
- What type of content is targeted? Why?
- How do digital expression arrests occur? What patterns can be observed?

Trends in strategies used by Egyptian security authorities to surveil citizens

Analysis of the dataset suggests that the targeting impacting the largest number of Egyptians is conducted through technically unsophisticated means. Three main strategies were observed to be used by Egyptian security authorities to surveil online speech and collect digital evidence: (1) device seizures, (2) observation and surveillance of social media platforms, and (3) informants.

DEVICE SEIZURES

The first strategy employed by the state to target online speech is the seizure and search of electronic devices. Device seizures occur regularly at security checkpoints, airports, public spaces, and in National Security buildings after arrest.

Digital expression arrests occur when citizens are randomly stopped by police on the streets, in public squares, or in cafes, particularly during periods of increased political tension when security agencies are deployed in large numbers. Citizens are asked to surrender their mobile phone or computer and input their password. Their Facebook, WhatsApp and Photos applications are the first to be searched and screenshots or photos are taken of any “suspicious” content police may find.

OBSERVATION AND SURVEILLANCE OF SOCIAL MEDIA PLATFORMS

The second strategy used to target digital expression is simple observation and surveillance of social media platforms. The Ministry of the Interior (MOI) is responsible for mass surveillance and monitoring social media.¹ Leaked documents reveal the MOI released a call for tenders to build a social media monitoring system.² The leaked tender indicated that the department is responsible for monitoring Facebook, Twitter YouTube, WhatsApp, Viber and Instagram. It also specified the

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1 Amnesty International. 2014. “Egypt’s plan for mass surveillance of social media an attack on internet privacy and freedom of expression.” *Amnesty International*, June 4, 2014. <https://www.amnesty.org/en/latest/news/2014/06/egypt-s-attack-internet-privacy-tightens-noose-freedom-expression/>

2 Galad, Magdy. 2014 “Interior imposes electronic grip on the crimes of social networks.” *El Watan News*, June 1, 2014. <https://www.elwatannews.com/news/details/495659>

type of communications the MOI would be searching for:

“Blasphemy and skepticism in religions; regional, religious, racial, and class divisions; spreading of rumors and intentional twisting of facts; throwing accusations; libel; sarcasm; using inappropriate words; calling for the departure of societal pillars; encouraging extremism, violence and dissent; inviting demonstrations, sit-ins and illegal strikes; pornography, looseness, and lack of morality; educating methods of making explosives and assault, chaos and riot tactics; calling for normalizing relations with enemies and circumventing the state’s strategy in this regard; fishing for honest mistakes, hunting flesh; taking statements out of context; and spreading hoaxes and claims of miracles.”³

INFORMANTS

The third strategy used by the regime to target digital expression is informant networks.⁴ Online targeting of digital expression through the use of informants mirrors offline targeting of freedom of expression. Rumour reporting centers have been set up throughout the country, as evidenced by the prosecutor-general’s 2018 decree, creating a form of “crowdsourced” informing. Case files have also included screenshots taken from social media accounts by an informant and sent to security agencies.

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3 Atef, Maged, Sheera Frenkel. 2014. “Egypt Begins Surveillance Of Facebook, Twitter, And Skype On Unprecedented Scale” *Buzz Feed News*, September 17, 2014. <https://www.buzzfeednews.com/article/sheerafrenkel/egypt-begins-surveillance-of-facebook-twitter-and-skype-on-u#3hc4u3r>

4 El Deeb, Sarah. 2014. “Hotline marks return of Egypt’s security agency.” *Associated Press*, January 6, 2014. <https://www.usnews.com/news/world/articles/2014/01/06/hotlines-mark-return-of-egypts-security-agencies>

The regime also targets digital expression through complaints lodged by regime-supportive lawyers like Samir Sabry Ayman Mahfouz or Ashraf Farahat. These lawyers frequently review the Twitter and Facebook pages of high-profile figures and everyday citizens for comments critical of the regime or improper remarks with the aim of lodging legal complaints.⁵

Trends in the type of content targeted by Egyptian security authorities

Another central goal of this report's research was to understand the type of content targeted by the regime. From a photo of the president with Mickey Mouse ears, to outright calls for the downfall of the regime, the type of content which has been used as evidence in digital expression cases is extraordinarily diverse. Two types of content stand out amongst the others as being repeatedly targeted by Egyptian security authorities: (1) events and (2) videos.

EVENTS

Events organized through Facebook—particularly demonstrations and protests—are repeatedly targeted by the regime and yield the highest numbers of arrests. Police and security authorities use a variety of mechanisms to target the administrators of these events as well as those who have indicated their intention to attend. Prior to a

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5 Arab Network for Human Rights Information. 2019. "The New Muhtasibs ... Religious, Moral and Patriotic Inquisitions." *Arab Network for Human Rights Information*, June 13, 2019. <https://www.anhri.info/wp-content/uploads/2019/06/%D8%A7%D9%84%D9%85%D8%AD%D8%AA%D8%B3%D8%A8%D9%88%D9%86-%D8%A7%D9%84%D8%AC%D8%AF%D8%AF-1.edited-3.pdf>

demonstration or protest, police allegedly observe the event's online platform to collect intelligence on those organizing and attending. There will also be an increased security presence on the ground to conduct device seizures and searches in public areas and checkpoints. Police will arrest citizens en masse from the street, place them in detention, and search their devices at security headquarters.

VIDEOS

Videos are another primary target from security authorities. The collected dataset revealed that a substantial number of videos were targeted in digital expression arrests. It is likely that this type of content is deliberately targeted by the security authorities because it is more accessible to the general public than long, written statements in formal Arabic. Videos, especially those recorded in Egyptian colloquial, can reach and influence large sections of the population.

Trends in the circumstances surrounding digital expression arrests made by Egyptian security authorities

In addition to understanding the strategies used by Egyptian security forces and the content they target, it is also important to explore the underlying context of these cases: What types of arrests repeatedly occur? What are the circumstances surrounding them?

Three main types of arrests occur frequently: (1) mass arrests during periods of increased political tension, (2) individual arrests of high-profile figures targeted for their cumulative body of work, and (3) targeting based on specific content.

MASS ARRESTS DURING PERIODS OF INCREASED POLITICAL TENSION

A clear uptick in arrests occurs during periods of increased political tension, particularly around large political events. Digital expression arrests spiked during the Tiran and Sanafir protests, the 2018 presidential elections, and in the aftermath of the Ramses train accident. Events like these are typically surrounded by an increase in activism on digital platforms because they offer activists, opposition politicians, and citizens a concrete issue to mobilize around. At the same time, however, these events also offer a corresponding opportunity for security forces to surveil the individuals, groups, and hashtags affiliated with the event. When a protest event appears on Facebook, there is often an increased security presence in public spaces. The dataset demonstrates that administrators of events will be specifically targeted during these periods.

The digital expression arrests that occur during large political events mostly happen via search and seizure. Citizens will be stopped in the streets by police because of the increased security presence and their phones will be searched. There have also been large scale roundups, with hundreds taken from the streets and detained.⁶ While in detention, their devices are seized and searched.

INDIVIDUAL ARRESTS OF HIGH-PROFILE FIGURES TARGETED FOR CUMULATIVE BODY OF WORK

There is also a clear pattern of the state targeting high-profile bloggers, journalists, and opposition figures based on an individual's

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⁶ Amnesty International. 2017 "Amnesty International Report 2016/17 - Egypt." *Amnesty International*, February, 22 2017 <https://www.refworld.org/docid/58b0340313.htm>

history of critical expression through a digital medium. This practice increased at the end of 2017 and reached its apogee in 2018. Bloggers such as “Khorm,” Mohamed Oxygen, Wael Abbas, and Shady Abu Zeid were arrested in public places, cafes, and even their homes. Their electronic devices were seized and added to State Security cases that included a large number of other detainees.

In these cases, it is difficult to determine the precise motivation spurring the state to arrest the individual at that particular moment. Nonetheless, these arrests may have occurred due to the individual’s cumulative criticism of the government and the state’s increasing intolerance towards freedom of expression in digital spaces.

TARGETING BASED ON SPECIFIC CONTENT

Arrests based on individual posts or other forms of content are also common. In these instances, the circumstances of the case or the case files indicate that the arrest was motivated by specific instance of digital expression. These arrests occur in four main ways: (1) the content is sent to security authorities by an informant, (2) a lawyer sees a “suspicious” post and lodges a legal complaint, (3) a post goes viral and catches the attention of security agencies, and (4) a post appears on a Muslim Brotherhood-affiliated channel or other highly monitored platform.



CASE STORIES

This section profiles a set of cases studies illustrating the trends and patterns identified throughout the report. These particular cases were selected for deeper analysis because they demonstrate the targeted content, arrest patterns, and targeting strategies used by security authorities to surveil online speech in Egypt. The case studies themselves are grouped into the three arrest types described in the prior section: (1) mass arrests during periods of increased political tension, (2) individual arrests of high-profile figures targeted for their cumulative body of work, and (3) targeting based on specific content.

Mass arrests during periods of increased political tension

As noted, the largest numbers of digital expression arrests occur during periods of heightened political tension. Several large-scale digital expression arrests showed up in the collected data, including those that followed in the wake of the 2019 Ramses train accident.

2019 Ramses Train Accident

On February 22, 2019, a train in Cairo's central Ramses station collided into the platform after failing to break. The subsequent explosion

resulted in 25 deaths and more than 50 injuries.¹ Graphic images and videos of the violent train crash and ensuing chaos flooded Facebook and Twitter. The incident became viewed as emblematic of endemic problems in Egyptian life: corruption, lack of adequate safety standards, crumbling infrastructure, and government ministries incapable of implementing necessary reforms to safeguard citizens.

Outrage and anger erupted on social media. A 2017 video of President Sisi responding to the Minister of Transportation was widely shared as evidence of the President's partial culpability for the catastrophe. In the video, President Sisi rejects the Minister of Transportation's request for funds to update the railway infrastructure saying the money should be invested elsewhere.² In response to the viral backlash, *El Watan* newspaper and state television called the video "Rumours of the Brotherhood" and claimed it was part of an ongoing plot by the Muslim Brotherhood "to provoke sedition and promote lies in an attempt to undermine the people ... and cause confusion."³

Youth and activists blamed endemic corruption and negligence in the state bureaucracy for the accident. Calls for protests to hold those in power responsible were issued online. One such Facebook event,

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1 Mada Masr. 2019. "Public Prosecution releases details of Cairo's Ramses Railway Station train crash that killed 20." *Mada Masr*, February 27, 2019. <https://madasr.com/en/2019/02/27/news/u/health-minister-20-killed-40-injured-in-cairos-ramses-railway-station-train-crash/>

2 Mada Masr. 2019. "Lawyers: At least 70 arrested nationwide for alleged involvement in 'protests' sparked by train crash." *Mada Masr*, March 4, 2019. <https://madasr.com/en/2019/03/04/news/u/lawyers-at-least-70-arrested-nationwide-for-alleged-involvement-in-protests-sparked-by-train-crash/>

3 Al Jazairi, Ramy. 2019. "The text of Sisi's speech blasts the Brotherhood's rumors about the development of the railway." *El Watan*, February 27, 2019. <https://www.elwatannews.com/news/details/4027628>

entitled “We will return to Tahrir,” was scheduled for March 1, 2019. In response to these calls, there was an increased police presence on the streets of Cairo, particularly in downtown and near the Ramses station. Over one hundred were arrested from the streets, coffee shops, and their homes between the end of February and the beginning of March. Security forces used different methods to surveil these online calls for protest.^{4 5}

The arrests occurred in a variety of ways, including infiltration of online platforms and device searches. Two online platforms were used to organize the March 1 demonstration: a Facebook event with over 1,000 “attendees” and a large WhatsApp group. Both of these events were allegedly observed by Egyptian security authorities. Individuals arrested in this mass round-up were young, many between the ages of 15 and 21, with little knowledge about digital safety.⁶ Some arrests were made on the basis of messages posted in the WhatsApp group.

Individuals were also stopped and arrested in the streets of downtown Cairo and Ramses due to the increased security presence; their devices were either searched in the streets or while they were held in detention. Arrests of this kind also occurred in Alexandria, Fayoum, Port Said, and Suez.

The individuals detained in this roundup were added to cases



4 Egyptian Centre for Economic and Social Rights. 2019. “The events of March 1.” March 4, 2019. <https://ecesar.org/?p=775855>

5 Egyptian Commission for Rights and Freedoms. 2019. “Monitoring cases of arrest after the Ramses accident.” April 2, 2019. <https://www.ec-rf.net/?p=3186>

6 Egyptian Centre for Economic and Social Rights. 2019. “The events of March 1 update.” March 11, 2019. <https://ecesar.org/?p=775885>

1739/2018, 277/2019, and 488/2019. All three of these cases hold the same list of charges: “participation in a terrorist group” (under Anti-Terrorism Law 33/2015, Article 12), “misuse of social media” (under Telecommunications Regulation Law 10/2003, Article 76), and “spreading false news” (under Penal Code, Article 102 mkr).

High-profile figures targeted for their cumulative body of work

There was a notable uptake in the arrest of well-known Egyptian bloggers, vloggers, satirists, and other social media personalities starting at the end of 2017 and continuing throughout 2018. These individuals included Islam al Refaei, Mohamed Ibrahim, Shady Abu Zeid, and Wael Abbas.

Islam al Refaei, otherwise known as “Khorm” on Twitter and Facebook, was forcibly disappeared on November 17, 2017, when leaving a downtown Cairo café. After ten days, he appeared at the State Security Prosecution in case 977 of 2017 where he was accused of “joining a terrorist organization,” a claim his friends and followers fervently deny. Khorm was then held in pretrial detention until August of the following year, when he was ordered to be released on bail for 2000 EGP. Instead of being released, he was added to case 441 of 2018 under the charge of “joining a group established contrary to the

law.”⁷ Khorm remains in pretrial detention at the time of writing.⁸

The accusations of affiliation with a banned group (i.e. the Muslim Brotherhood) are counterintuitive in the case of Khorm whose Twitter account, with over 70,000 followers, is well-known for its carefully crafted jokes which were often aimed at the Muslim Brotherhood. In fact, he is famous for his sarcasm, lewd jokes and photos, and relentless mocking of the Muslim Brotherhood. Given that there was no single event or post tied to Khorm’s arrest, is likely he was arrested due to his cumulative body of work.

Mohamed Ibrahim, otherwise known as “Mohamed Oxygen,” was arrested outside of his home in Maadi at dawn on April 6, 2018. Both his mobile phone and camera were confiscated by police at the time of his arrest. He has been held in pretrial detention in State Security Case 621 of 2018, on a 15-day detention order that has been repeatedly renewed.

Ibrahim is active across social media as a blogger and vlogger. His blog, “Oxygen Egypt,” is hosted on Blogspot with both a Facebook page and YouTube channel. Ibrahim published political content, focusing on human rights, politics and economics in Egypt. Prior to his arrest, Ibrahim produced critical coverage of the 2018 presidential

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7 Committee to Protect Journalists. 2018. “Egypt extends detention period for four journalists held as part of mass trial.” August 21, 2018. <https://cpj.org/2018/08/egypt-extends-detention-period-for-four-journalist.php>

8 Arab Network for Human Rights Information. 2018. “Islam Al Refaei... The satirical young man & proponent of the “5orm” (hole) theory.” <https://www.anhri.info/?p=7121&lang=en>

elections.⁹ It is difficult to determine the precise motivation for Ibrahim's arrest because lawyers were never granted access to his official case documents.

Shady Abu Zeid was arrested at dawn on May 6, 2018, when more than 20 police officers stormed his home. The officers immediately searched for Abu Zeid's electronics, confiscating his mobile phone, laptops, and tablets. Since May 2018, he has been held in pretrial detention in State Security case 621 of 2018. The Cairo Criminal Court most recently renewed his detention for 45 days on December 25, 2018.¹⁰

The 25-year-old vlogger and satirist was widely known for his Facebook page and YouTube channel "The Rich Content." His videos were not explicitly political, but instead focused on intellectual critiques of Egyptian society such as deconstructing Coptic-Muslim relations or satirically critiquing sexual harassment against women. He was infamously fired from a well-known television series in 2016 after he filmed himself handing out balloons made from condoms to police officers in Tahrir Square on January 25, 2016 (the fifth-anniversary of the January 25th revolution and Police Day). Abu Zeid posted a video of the event on YouTube, which went viral with more than 1.5 million views in its first day. He was fired from the television series when he did not apologize for this incident.

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9 Ibrahim, Mohamed 'Oxygen'. 2018. "The march of support for Musa Mustafa Musa... no one attended." *Oxygen Egypt*, March 2018. https://x2oegypt.blogspot.com/2018/03/blog-post_4.html

10 Abdel Kouddous, Sharif. 2018. "Putting satire behind bars: The case of Shady Abu Zeid." *Mada Masr*, November 11, 2018. <https://madamasr.com/en/2018/11/11/feature/politics/putting-satire-behind-bars-the-case-of-shady-abu-zeid/>

It is unclear what specifically prompted Abu Zeid's arrest in May 2018. Some have pointed to the January 25, 2016, incident as the motivating reason, as well as his cumulative body of work.

Wael Abbas was arrested in the early morning of May 23, 2018, when armed police raided his home and confiscated his mobile phones, computers, and other items. He was then forcibly disappeared for 24 hours before appearing in front of the State Security Prosecution as part of case 441 of 2018. He was held in pretrial detention until his conditional release on December 12, 2018, under which he is required to report to a police station near his home every other day as a precautionary measure.¹¹

Abbas is one of Egypt's most well-known bloggers, having started his blog "Misr Digital" in 2006. Egyptian authorities have repeatedly targeted him for his critical coverage of human rights abuses such as police torture, corruption, and sexual harassment. In 2018, Abbas was swept up in a wider crackdown against bloggers, opposition figures, and activists. No specific post seemed to motivate his arrest, although his lawyers were never able to access the official files for his investigations and charges to know for sure. Of the many charges against Abbas, one was "using a website to help a terrorist group achieve their goals." The website this charge refers to was never specified. It is perhaps Abbas' cumulative body of work that motivated his arrest, rather than any individual post or event.

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11 Frontline Defenders. 2018. "Detention of Wael Abbas." <https://www.frontlinedefenders.org/en/case/detention-wael-abbass>

Specific content causing an individual to be targeted

Arrests based on individual posts or other forms of content are grouped into the four categories which likely led to the arrest: (A) Content is sent to security authorities by an informant, (B) a lawyer sees a “suspicious” post and lodges a legal complaint, (C) a post goes viral and catches the attention of security agencies, and (D) a post appears on a Muslim Brotherhood-affiliated channel or other highly monitored platform. An example of each is described below.

Informant: Sayeda Fayed

At dawn on October 23, 2018, officers from the Helwan Police Department and the National Security Agency raided the home of nurse and former politician, Sayeda Fayed. Fayed was arrested on the basis of a warrant issued by the public prosecution, and her personal computer, mobile phone, and other electronic devices were seized.¹²

Fayed is a nurse at Ain Al Shams hospital, an active member of the nurses’ syndicate and a former politician from the 2011 parliamentary elections. Prior to her arrest, she expressed concerns on Facebook about the quality of care at Ain Al Shams hospital. She discussed the problems facing Egyptian nurses and her dissatisfaction with the medical system in Egypt. These remarks on Facebook led to her arrest

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¹² Center for Trade Union and Workers Services. 2018. “Release Sayeda Fayed and Oujdi Sayyed.” *Center for Trade Union and Workers Service*, October 25, 2018. <http://www.ctuws.com/content/%D8%A7%D9%81%D8%B1%D8%AC%D9%88%D8%A7-%D8%B9%D9%86-%D8%B3%D9%8A%D8%AF%D8%A9-%D9%81%D8%A7%D9%8A%D8%AF-%D9%88%D9%88%D8%AC%D8%AF%D9%89-%D8%A7%D9%84%D8%B3%D9%8A%D8%AF>

after another nurse sent a report to the National Security Agency.¹³

Fayed was added to case number 29377 of 2018 Helwan Misdemeanours and was issued a 15-day detention order. The charges against her were “belonging to a terrorist organization” and “spreading false news over social media.” In her case files, however, the name of the terrorist organization she is accused of belonging to is not specified. On November 6, 2018, Fayed’s case was referred to the Helwan Criminal Court (but she was referred with only the accusation of “spreading false news”); the charge of “belonging to a terrorist organization” had been omitted. There was another activist from the nurse’s syndicate under detention in the same case and there were eight others from the syndicate under investigation. She was released from detention in November 2018.

Lawyer Complaints: Shady al Ghazali Harb

Shady El-Ghazali Harb is a prominent activist and leading opposition figure from the 2011 revolution. On May 14, 2018, Harb presented himself to the Giza prosecution after receiving a summons. The prosecution was investigating accusations against Harb related to charges of spreading false news, misusing social media, insulting

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13 Nour, Sarah. 2018. “Sayyid Fayed and Oujdi Sayyed: Two unionists rejected corruption and were accused of joining an illegal group.” *Masr Al Arabia*, October 25, 2018. <http://www.masralarabia.com/%D8%A7%D9%84%D8%AD%D9%8A%D8%A7%D8%A9-%D8%A7%D9%84%D8%B3%D9%8A%D8%A7%D8%B3%D9%8A%D8%A9/1487127-%D8%B3%D9%8A%D8%AF%D8%A9-%D9%81%D8%A7%D9%8A%D8%AF-%D9%88%D9%88%D8%AC%D8%AF%D9%8A-%D8%A7%D9%84%D8%B3%D9%8A%D8%AF-%D9%86%D9%82%D8%A7%D8%A8%D9%8A%D9%8A%D9%86-%D8%B1%D9%81%D8%B6%D9%88%D8%A7-%D8%A7%D9%84%D9%81%D8%B3%D8%A7%D8%AF-%D9%81%D8%A3%D8%B5%D8%A8%D8%AD%D9%88%D8%A7-%D9%85%D8%AA%D9%87%D9%85%D9%8A%D9%86-%D8%A8%D8%A7%D9%84%D8%A7%D9%86%D8%B6%D9%85%D8%A7%D9%85-%D9%84%D8%AC%D9%85%D8%A7%D8%B9%D8%A9-%D9%85%D8%AD%D8%B8%D9%88%D8%B1%D8%A9>

state institutions, insulting the president of the republic, and joining a terrorist organization. Bail was set at 50,000 EGP, which was paid-in-full, and the Giza prosecution ordered his release. As the police station was processing his release, however, the National Security Agency issued another detention order and Harb was transferred to the State Security Prosecution to be interrogated for a new State Security investigation. He was eventually added to case 621 of 2018 and has been held in pretrial detention since May 2018. To keep Harb in detention, a 15-day detention order was renewed the maximum ten times, after which point another series of court ordered 45-day renewals were imposed. The most recent renewal of this 45-day detention order was issued January 9, 2019.¹⁴

Harb presented himself to the Giza prosecution because a statement had been filed against him by the lawyer Ashraf Farahat, a widely known supporter of President Sisi.¹⁵ In the complaint against Harb, Farahat allegedly attached tweets from Harb's Twitter account. Many of the tweets were statements by Harb on the Tiran and Sanafir Island transfer from Egypt to Saudi Arabia. There were also comments by Harb on the Egyptian-Israeli natural gas agreement and Saudi megaprojects in Egypt's Sinai.¹⁶

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14 Association for Freedom of Thought and Expression. 2019. "Pretrial Detention of Activist Shady El-Ghazaly Harb Extended for 45 Days." January 9, 2019. https://afteegypt.org/en/breaking_news-2/2019/01/09/16104-afteegypt.html

15 Arab Network for Human Rights Information. 2019. "The New Muhtasibs ... Religious, Moral and Patriotic Inquisitions." *Arab Network for Human Rights Information*, June 13, 2019. https://www.anhri.info/wp-content/uploads/2019/06/%D8%A7%D9%84%D9%85%D8%AD%D8%AA%D8%B3%D8%A8%D9%88%D9%86-%D8%A7%D9%84%D8%AC%D8%AF%D8%AF-1_edited-3.pdf

16 Mada Masr. 2018. "Activist Shady al-Ghazaly Harb brought before Supreme State Security Prosecution." *Mada Masr*, May 15, 2018. <https://madamasr.com/en/2018/05/15/news/u/activist-shady-al-ghazaly-harb-brought-before-supreme-state-security-prosecution/>

Viral Posts: Eid al Adha Detainees & Amal Fathy

On August 23, 2018, the “Eid Adha Detainees” case began when 16 people were arrested in relation to case 1305 of 2018, including Ambassador Masoum Marzouq, Abdel Fattah Al-Saidi Al-Banna, Dr. Raed Salama, Dr. Yahia Al-Qazzaz, and activists Nermin Hussain and Abdel Fattah al-Banna.¹⁷ Eight 15-day pretrial detention orders were eventually issued in the case, before the court issued a 45-day detention order on January 15, 2019. The 45-day order was renewed on April 14, 2019. Finally, on May 25, 2019, the detainees were released on precautionary measures.¹⁸

The defendants were arrested in relation to a Facebook post authored by Ambassador Marzouq calling for a referendum on the current political situation in Egypt. The post discussed political and economic issues in Egypt and the general challenges facing the country.¹⁹ The post argued a referendum needed to be held on President Sisi because he was not adequately addressing the fundamental problems plaguing the country. Marzouq wrote that if the people voted to support the President, he would accept Sisi’s legitimacy. But if the

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17 Egyptian Front for Human Rights. 2018. “Case 1305 of 2018 Supreme State Security.” August 27, 2018. <https://egyptianfront.org/ar/2018/08/%D8%A7%D9%84%D9%82%D8%B6%D9%8A%D8%A9-1305-%D9%84%D8%B3%D9%86%D8%A9-2018-%D8%AD%D8%B5%D8%B1-%D8%A3%D9%85%D9%86-%D8%AF%D9%88%D9%84%D8%A9-%D8%B9%D9%84%D9%8A%D8%A7/>

18 The New Arab. 2019. “Release of Egyptian activists and closure of State Security case 1305.” *The New Arab*, May 29, 2019. <https://www.alaraby.co.uk/flashnews/2019/5/29/%D8%A5%D8%AE%D9%84%D8%A7%D8%A1-%D8%B3%D8%A8%D9%8A%D9%84-%D9%86%D8%A7%D8%B4%D8%B7%D9%8A%D9%86-%D9%85%D8%B5%D8%B1%D9%8A%D9%8A%D9%86-%D9%88%D8%BA%D9%84%D9%82-%D8%A7%D9%84%D9%82%D8%B6%D9%8A%D8%A9-1305-%D8%A3%D9%85%D9%86-%D8%AF%D9%88%D9%84%D8%A9>

19 Marzok, Masom. 2018. “A call to the people of Egypt.” Facebook post, August 5, 2018. <https://www.facebook.com/masom.mazok/posts/10212351563439302>

people did not vote to support Sisi, Marzouq said all laws since 2014 should be appealed, a new constitution should be written, and new presidential elections should be held. August 30th was given as the deadline by which President Sisi needed to hold the referendum. Before then, the Egyptian people were invited to protest to express their demands.

Marzouq's Facebook posts are public and he has a large following. After Marzouq posted this statement on Facebook, the post went viral and was shared over 3,000 times. He and his colleagues were subsequently arrested and their assets seized, as pro-state news characterized the post as an attempt by the Muslim Brotherhood to broadcast rumours aimed at destabilizing the state.²⁰

Amal Fathy

On May 9, 2018, Amal Fathy uploaded a 12-minute video of herself to Facebook in which she complained of rampant sexual harassment in Egypt and the failure of the state to protect women in the street. In the video, she explained how she was sexually assaulted and groped by a taxi driver while riding in his taxi. She also complained of verbal sexual

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20 Ayman, Shorouk. 2018. "No. 1305, Summary of the Marzouk story: Soldiers of the Brotherhood bear the result of the failure of the plan to stir up chaos in Egypt." *El Mwatini*, August 27, 2018. <https://www.elmwatin.com/509278/%D8%B1%D9%82%D9%85-1305-%D9%85%D9%84%D8%AE%D8%B5-%D8%A7%D9%84%D8%AD%D9%83%D8%A7%D9%8A%D8%A9%D9%85%D8%B1%D8%B2%D9%88%D9%82-%D9%88%D8%B4%D9%84%D8%AA%D9%87%D8%AC%D9%86%D9%88%D8%AF-%D9%84%D9%84%D8%A5%D8%AE%D9%88%D8%A7%D9%86-%D9%8A%D8%AA%D8%AD%D9%85%D9%84%D9%88%D9%86-%D9%86%D8%AA%D9%8A%D8%AC%D8%A9-%D9%81%D8%B4%D9%84-%D8%AE%D8%B7%D8%A9-%D8%A5%D8%AB%D8%A7%D8%B1%D8%A9-%D8%A7%D9%84%D9%81%D9%88%D8%B6%D9%89-%D9%81%D9%8A-%D9%85%D8%B5%D8%B1-%D9%88%D8%AE%D8%A7%D8%AF%D9%85>

harassment by a guard, claiming he made lewd comments.²¹ Fathy uploaded the video of her complaints to her personal Facebook page. She regularly uploaded videos of her speaking about various issues to her personal page. While the security settings on the videos were public, they were only intended for the consumption of her friends and family.

The video appeared on YouTube soon after Fathy uploaded it to her Facebook account, even though she did not upload it to YouTube herself. After it was posted to YouTube, it received widespread coverage in the Egyptian press, particularly in state owned-media and state-controlled outlets. She was accused of insulting Egypt and Egyptian state institutions, which led to severe harassment on social media for Fathy.

On May 11, 2018, the General Prosecution in Maadi ordered Fathy to be detained based on the comments she made in this Facebook video. Fathy and her husband, Mohamed Lotfy, were both subsequently arrested when their house was raided by police who seized their mobile phones, computers, and tablets. A separate detention order was issued by the SSP on May 13th pending further investigation on charges of “joining a terrorist organization,” “spreading false news,” and “using the internet to call for terrorist acts.” Fathy was held in pretrial detention on a series of 15-day detention orders which were renewed nine times between May 13th and November 12th.

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21 Amnesty International. 2018. “Egypt: Amal Fathy referral to trial a shocking case of injustice.” August 8, 2018. <https://www.amnesty.org/en/latest/news/2018/08/egypt-amal-fathy-referral-to-trial-a-shocking-case-of-injustice/>

On September 29th, Fathy was convicted in the misdemeanor case 7991 of 2018. The Maadi Misdemeanours Court sentenced her to two years in prison and a fine of 10,000 EGP. On December 27th, she was conditionally released from prison and placed under house arrest after paying bail of 20,000 EGP. Her probation was modified on February 10, 2019, which allows her to leave the house.²²

Muslim Brotherhood-Affiliated Channel: Dostour Party arrests

On February 22, 2019 two members of Egypt's Dostour Party—Gamal Fadel and Helal Samir—were arrested from their homes by National Security Agency officers in response to videos they posted on Facebook rejecting proposed amendments to the constitution. The Dostour Party is a secular opposition political party that has often been targeted by the current Egyptian government. The electronic devices of Fadel and Samir were confiscated as part of the arrests.²³

On February 6th, Gamal Fadel posted a 33-second video to his personal Facebook page expressing his rejection of the proposed constitutional amendments. The post included the popular opposition hashtag, "No to the constitutional amendments," and rejected the amendment of Article 226 which would extend presidential term limits. The video was also posted to the known opposition Facebook page,

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22 Frontline Defenders. 2019. "Detention of Amal Fathy." February 11, 2019. <https://www.frontlinedefenders.org/en/case/detention-amal-fathy>

23 Mada Masr. 2019. "Politician: Forced disappearance of 4 Dostour Party members tied to opposition to constitutional amendments." *Mada Masr*, February 25, 2019. <https://madamasr.com/en/2019/02/23/news/u/lawyers-and-politician-forced-disappearance-of-4-dostour-party-members-tied-to-opposition-to-constitutional-amendments/>

“The Egyptian Position.”²⁴ Prior to reposting the video, the administrators of the page reached out to Fadel and obtained his consent. The video later appeared on a third platform without his consent: Al-Sharq, a Turkey based satellite television station believed by Egyptian security authorities to be affiliated with the Muslim Brotherhood. After the video appeared on Al-Sharq, Fadel was arrested.

The details of Helal Samir’s arrest are similar. Samir also posted a video to his personal Facebook page rejecting the proposed amendments to the constitution. He also explicitly rejected the amendment which would extend presidential term limits. Samir was arrested shortly after Gamal Fadel.²⁵

The Dostour members were added to State Security case 277 of 2019 and charged with “participating in a terrorist group to achieve its goals,” “misuse of social media,” and “spreading false news.”

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24 The Egyptian Position. 2019. “Gamal Fadel Says No to the Constitutional Amendments.” Facebook post, February 6, 2019. <https://www.facebook.com/watch/?v=1060941414116811>

25 Egyptian Front for Human Rights. 2019. “The arrest of Aswan activist Gamal Fadel after publishing a video rejecting the constitutional amendments.” February 22, 2019. <https://egyptianfront.org/ar/2019/02/gamal-fadel-arrest/>



CONCLUSION

Digital expression arrests, combined with pervasive internet censorship, paint a bleak picture of digital rights in Egypt—particularly in a country where just nine years ago the Internet and social media was thought to have ushered in a new era of freedom. Since then, countless Egyptian citizens have been detained, imprisoned, and held without due process for exercising their right to freedom of expression online. The state's parallel censorship project has blocked over 500 websites in only two years.

The research presented in this report highlights only a portion of the threat facing millions of ordinary Egyptian citizens. Many cases are documented, but many more slip through the cracks. The time for action is now. Accordingly, three recommendations based on this report's research are offered:

RESEARCH AND DOCUMENTATION

The steep upward trend in the prevalence of digital expression cases shows no signs of abating. Given this, further research and documentation on the numbers of these cases and their particular circumstances is necessary. This research can be utilized to better inform the creation of emergency response procedures, technologies targeting at-risk groups, and digital security education.

DIGITAL SECURITY TRAINING

Digital security training, based on local expertise and specific knowledge of the Egyptian context, is necessary for both ordinary Egyptian citizens and higher-risk groups, such as human rights organizations. This training would be of significant benefit for young Egyptians, who—as demonstrated in this report—are particularly vulnerable to targeting and arrest.

ADVOCACY

While the Egyptian human rights community works tirelessly to document and publicize human rights abuses at significant personal risk, too many powerful actors outside of Egypt remain conspicuously silent. Genuine advocacy on the world stage is absolutely necessary.