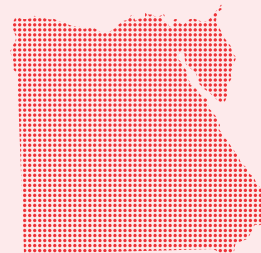
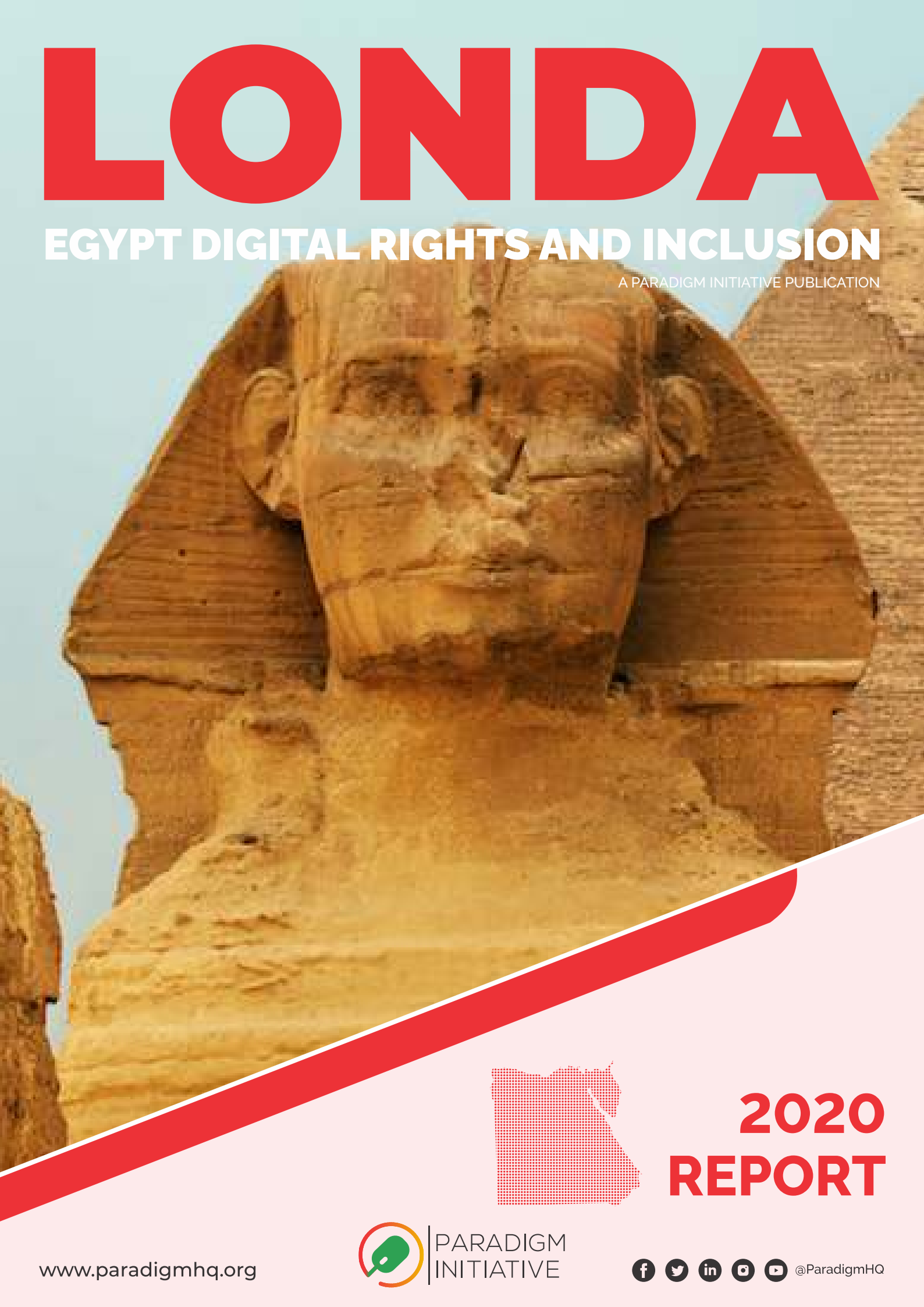


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EGYPT DIGITAL RIGHTS AND INCLUSION

A PARADIGM INITIATIVE PUBLICATION



**2020
REPORT**

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Published by Paradigm Initiative

374 Borno Way, Yaba, Lagos, Nigeria

Email: media@paradigmhq.org

www.paradigmhq.org

Published in April 2021

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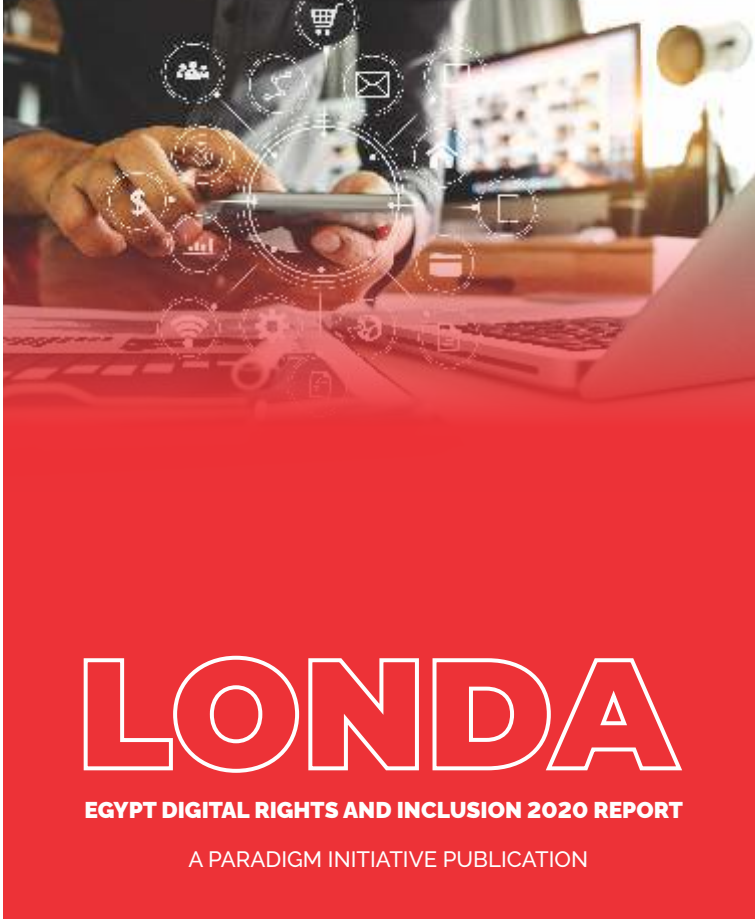
Design & Layout by Luce Concepts

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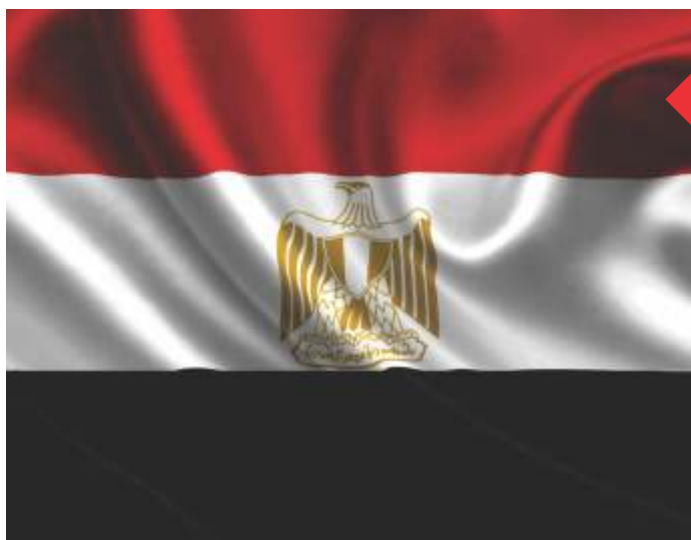
A PARADIGM INITIATIVE PUBLICATION

Civil society organizations continue to work to advance digital rights and inclusion in Africa, ensuring best practices are adopted into policy and legislation. This report analyses the state of digital rights and inclusion in Egypt, examining violations and gaps, investigating the use and application of policy and legislation, highlighting milestones and proffering recommendations for the digital landscape in Egypt. This edition captures among other issues, the digital divide worsened by the COVID-19 pandemic and unearths infractions on different thematic areas such as privacy, access to information, and freedom of expression with the legislative and policy background well enunciated.

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Egypt is one of the largest and most diversified economies in the Middle East, which is projected to become one of the largest in the world in the 21st century. Egypt has the second-largest economy in Africa, the world's 33rd-largest economy by nominal GDP and the 19-largest by PPP.

INTRODUCTION

DIGITAL RIGHTS AND INCLUSION IN EGYPT

The digital revolution and the use of technology as well as different social media applications in Egypt played a significant role in the political revolution that led to political changes in 2011 and 2013 and influenced Egyptian present day politics.

Post 2011, The regimes paid special attention to digital rights and social media by taking all possible measures to control access to the Internet and target activists. To achieve that, the different regimes used the technical means to censor and servile activists and content as well as using legislation tools to legalize internet shutdowns, ban websites, collect personal data, abuse rights to privacy and criminalize the right to freedom of expression under the accusation of fake news which is considered a national security crime. Such actions increased in 2020, in the time of COVID-19, where circulating information about the pandemic was considered as a national security issue.



***The digital revolution and use of technology
Role in the political revolution***

ACCESS TO THE INTERNET IN EGYPT

Egypt witnessed a revolution in the ICT sector during the past two decades. For example, by the end of 2000, there were only 450,000 users with access to the Internet. This number rose to 20 million users¹ before 2011 which was made up mostly by youth² then rose to 29 million in 2011. According to ITU, by 2019, the percentage of the population using the Internet reached 57.28%.³ Facebook users increased from 4.2 million users in 2010 to 9.4 million users in 2011,⁴ and by the end of 2019, Facebook users in Egypt reached 42,400,000.⁵ According to the National Telecommunication Regulatory Authority (NTRA), the number of fixed broadband subscribers reached 799,000 by the second quarter of 2020 and the number of mobile broadband subscribers reached 45,707,490 by the second quarter of 2020.⁶ Despite the ICT revolution, the rise in penetration rate and the rapid change to virtual life as a result of the pandemic, around 43% of Egyptians still have no access to the Internet. Also, the increase in the internet penetration rate was associated with adopting restrictive regulations and laws that led to the shrinking of the virtual civic space and restriction of digital rights.

DIGITAL RIGHTS: LAWS AND LEGAL FRAMEWORK

Legislation is one of the tools that was used by the Egyptian government to close the virtual civic space and breach digital rights. Digital laws refer to a set of legislation and provisions that are adopted to regulate all online activities – inter alia – digital

developed to impose constraints on individuals' digital rights. In 2018, the Egyptian parliament passed Law No.175 of 2018 concerned with combating information technology crimes, "Cybercrimes law", and Law No.180 of 2018 which was concerned with media regulation. In addition, Law No.10 of 2003 which was concerned with regulating communication.



■ BLOCKING WEBSITES

The provisions of the law gave the power to the authority to block websites if they are deemed to harm national security. Article (1) of Law No.175 of 2018 in concern with combating information technology crimes states, "Cybercrimes law defines national security as everything related to the independence, stability, and security of the homeland and anything linked to affairs of the Presidency, the Ministry of Defense and General Intelligence ...". The same definition is also repeated in many laws pertaining to the internet use, without any interpretation or explanation of the concept of national security or clarification of its determinants.⁷ Thus, the authority has the right to determine what is considered security-oriented matters and what is not.

1. Internet World Stats, 'Internet User Statistics for Africa' <https://www.internetworldstats.com/stats1.htm> (Accessed 18 September/2020)

2. Noha Bakr, (2016) The Egyptian Revolution, in Stephan Calleya & Monika Wohlfeld (editors), Change & Opportunities in the Emerging Mediterranean, Mediterranean Academy of Diplomatic Studies.p.59, <https://www.researchgate.net/publication/265358472>

3. ITU, <https://www.itu.int/net4/ITU-D/icteye#/query>

4. MCIT, Op.Cit.,

5. Internet World Stats, Op.cit.,

6. National Telecom Regulator Authority (NTRA)-Egypt, <https://www.tra.gov.eg/en/industry/telecom-market/market-indicators/>

7. Maha Al Asouad, (2016) Right to information and the national security in Egypt, Cairo: Association of freedom of Thoughts and Expression –AFTE.

Some reports stated that from the Combating Information Technology Crimes law, the state aims to “*completely control the Internet, suppress its users, legalize state practices in censoring this space, blocking websites, and mass surveillance of communications*” and other reports added “*before the adoption of these “controversial” laws, the Egyptian legal environment lacked the legal cover and legal justification for the practice of blocking*”.

According to art (19) of Law 180 of 2018 which is concerned with regulating the press and media, the authorities have a right to block websites and electronic news for publishing false news. Besides these specific laws, art (102 bis) of the penal code criminalized fake news, labelling it as a national security crime if it harmed public interest. Article (2) of the Combat Terrorism Law No. 94 of 2015 described that the terrorism actions - *inter alia* - as breaching the public interest or endangering the safety of society and its interests, or casting terror among individuals. Art (29) of the same law added that “*everyone who establishes or uses a website on the internet to promote thoughts that lead to committing terrorism actions*”, shall be punished by imprisonment for a period not less five years.

Consequently, freedom of expression or circulating information and news could be classified as a terrorism action if it is considered, upon the absolute discretion of security authorities, to constitute harmfully to the public interest and order. In addition to Law No.10 of 2003, which is concerned with the regulation of communication, was the main legal tool used to shut down the Internet during the 2011 revolution. All these legal provisions make up the legal infrastructure used to criminalize the freedom of expression online and other digital rights.

■ SURVEILLANCE

Article 6 of the Cybercrime law authorizes the investigation authority to issue a decision that allows surveillance and access to information and article 2 stipulates that Internet Service Providers are required to keep and store customer usage data for a period of 180 days, including data that enables user identification, data related to the information system content, and data related to the equipment used. This means the Internet Service Providers will possess the data related to all user activities, including phone calls, text messages, websites navigated, and applications used on smartphones and computers. In another context, article 25 of the cybercrime law criminalizes the breach of the principles and values of Egyptian families. Without the clarification and identification of the meaning of ‘principles and values of Egyptian families’, as a result in July 2020, some Egyptian women were arrested on charges related to this article, now known as the case of the Tik-tok’s girls.⁸

■ DATA PROTECTION

In July 2020, the Egyptian Parliament issued law No.151 of 2020 concerning the protection of personal data. The third article of promulgating provision of the law stipulates that “*the law will not apply to the personal data in the possession of national security bodies*”. Article 1 identifies the national security bodies by “*The Presidency of the Republic, the Ministry of Defense, the Ministry of Interior, the Intelligence Service and the Administrative Oversight Authority*” which reflect that all personal data are in the possession of national security bodies without real and legal justifications. The Egyptian legal framework was the tool used the most to abuse digital rights in the time of Covid-19.

8. Global freedom of expression Columbia University, The Case of the Egyptian TikTok Girls, <https://globalfreedomofexpression.columbia.edu/cases/the-tiktok-girls-case/>



Article 6 of the Cybercrime law authorizes the investigation authority to issue a decision that allows surveillance and access to information

IMPACT OF COVID-19 ON DIGITAL RIGHTS

The above-mentioned legal framework was used during the COVID-19 pandemic to suppress digital rights in particular freedom of expression online to circulate information and digital press freedom. Egyptian authorities adopted preventive measures to reduce the outbreak of the virus. By end of December 2020 and according to the Ministry of Health, Egypt had recorded 138,062 confirmed cases, out of which 112,105 have recovered, 7,631 died and 18,326 are still active cases.⁹

To respond to the pandemic outbreak, the Egyptian government adopted a partial lockdown policy¹⁰ such as suspending all events that are gatherings.¹¹ With the rapid outbreak of the virus, which increased from one single case to more than 5000 cases within two months, the citizens, civil society activists, journalists, and doctors began to “question” the announced figures, especially with the collapse of the medical systems in most developed countries and the failure to addressing the epidemic with recording tens of thousands of infected cases in a daily basis. Therefore, these preventive measures were associated with restrictive practices against individuals from diverse spectrums.

9. <https://www.worldometers.info/coronavirus/> last visit 1/1/2021 at 5:02 pm

10. Egyptian government, Prime Minister's decree No. (606) of the year 2020, published in official gazette –issue No. (12-Bis B) on 24 March 2020.

11. Egyptian government, Prime Minister's decree No. (606) of the year 2020, published in official gazette –issue No. (10-Bis) on 9 March 2020.

■ FREEDOM OF EXPRESSION

ONLINE IN 2020

The Egyptian state dealt with the information that was circulating about the pandemic as fake news; accordingly, many citizens were subjected to prosecution for spreading fake news. For instance, case No. 535 of 2020 which classified as a national security case, included doctors, journalists, civil society activists, ordinary citizens, researchers who published news of the spread of the pandemic or addressed the causes of infection or the death of a medical personnel. One example is that of the case of the arrest of a specialist in marketing medical products for his “criticism” of the state’s policies to encounter Coronavirus.¹² In the same context, many other journalists, lawyers, and civil society activists were arrested within Case No. (558) of 2020 - State Security case.¹³

It is worth noting that the cases of arrest and investigation took place in the period from March - June 2020, which is the same period that witnessed a significant daily increase in the number of infected people. Where the numbers of infected people escalated in an unexpected way from hundreds at the end of March (507), reaching (17,989) at the end of May and then the numbers jumped within one month to reach (46,898) infected people at the end of June, according to the publicly announced official statistics.

■ THE LEGAL CRITERIA OF FAKE NEWS

The above-mentioned practices and restriction on freedom of expression online imposed questions about the legality and constitutionality of the chosen procedures such as what are the legal criteria for fake news? What is considered fake news or freedom of expression? The legal definition of false news according to article 102 bis, 188 of the Egyptian Penal Code refers to “*publishing and broadcasting (intentionally and ill-intentionally) news, statements or rumors (false) that (which) disturb public peace, provoke panic among people, or harm their interests*”. As it is clear that the text does not define false news, but at the same time it sets standards and controls by which the crime of spreading false news can be described. The Egyptian Court of Cassation, in its decision No. (451) for the year 22 ,20/5/1952) stated that “*In order to apply the text of article 188 of the Penal Code concerning the publication of false news, the news should be false and the publisher is aware of this falsehood and intentionally publishing what it is false, and it added that the verdict must explain the falsehood of the news and the publisher knows of the falsehood of the news, otherwise the verdict is a shortage for not revealing the elements of the crime for which the appellant was indicted.*” Without a doubt, the pandemic not only had an adverse impact on digital rights but also revealed the inconsistencies in what false news was defined as.

Publishing and broadcasting (intentionally and ill-intentionally) news, statements or rumors (false) that (which) disturb public peace, provoke panic among people, or harm their interests.



FALSE NEWS DEFINITION

12. For more details on the case Egyptian Front for Human Rights report, <https://egyptianfront.org/ar/2020/07/fr-353-2020/>

13. For more details on the case Egyptian Front for Human Rights report, Minor report of Case 558 of the year 2020-National security, May 2020.

DIGITAL EXCLUSION

In terms of digital inclusion in Egypt, many people are excluded from access to internet for various reasons related to financial, technical and geographic issues. Refugees, one of the most vulnerable groups in Egypt, are still excluded from access to different digital rights in particular the right to connectivity. According to UNHCR-Egypt, *“The majority of refugees and asylum-seekers in Egypt were already extremely vulnerable before the outbreak of Covid-19 and have been directly impacted by the evolving circumstances. Many have lost their source of income and cannot afford to buy sufficient basic supplies or pay their rent.”*¹⁴

While internet access has been essential for refugees to work, access information and express their opinions; its importance has increased dramatically in the time of the Covid-19 pandemic. In September 2020, the Minister of Education announced the plan for the academic year 2020/2021. The plan adopted a hybrid system that included physical attendance alongside distance learning mechanisms through an online broadcast platform for virtual classes, the electronic Platform.¹⁵ The new distance learning system raises a question about the situation of refugee students who could not access the internet due to the lack of access to the technology needed to access the internet, lack of appropriate computer or mobile devices that connect them to the internet, and high service fee rates for internet access.

Lastly, refugee IDs documents were not recognised by Internet Service Providers so many could not register for internet services or buy mobile SIM cards. The UNHCR has indicated that one of the most significant challenges facing refugee students in light of the pandemic is limited access to hardware devices and the high cost of internet connectivity.¹⁶



Many people are excluded from access to internet for various reasons



14. UNHCR-Egypt, Fact sheet, July 2020.

15. Egypt, Ministry of Education, plan of the academic year 2020/2021, <http://portal.moe.gov.eg/Pages/single-news-view.aspx?NewsID=4646>

16. UNHCR, <https://www.unhcr.org/5e787bea6>

CONCLUSION AND RECOMMENDATIONS



- It is strongly recommended to review the different legal provisions related to fake news and put a clear definition and Criteria for the fake news.
- To ensure refugees' right to access to the Internet, connectivity, E-learning platforms, UNHCR and the Egyptian government should work together to ensure refugees have access to the needed software, hardware, and Internet and recognized refugees' ID card to present to the service providers.
- It is strongly recommended to monitor the application of cybercrime laws through using the different Parliamentary oversight tools.
- The availability of personal data should be upon a request of the national security bodies submitted to the judicial body and be available after a justified court decision.
- The lawyers have to use the strategic litigation mechanisms to protect digital rights.

***UNHCR and the Egyptian government
should work together to ensure
refugees have access to
the Internet.***

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