

Not authorized for them



A paper on the crisis of the legalize file of the press websites

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Prepared and edited by: The Monitoring and Documentation Unit of the
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info@afteegypt.org
www.afteegypt.org

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Methodology

This paper depends on analyzing the laws related to regulating the press and media and the Supreme Council for Media Regulation (SCMR). It uses the official data issued by the SCMR, which is published on its official website, and approved by the Monitoring and Documentation Unit in the Association for Freedom of Thought and Expression (AFTE). In addition, the paper depends on several statements by officials of the SCMR and reports published in newspapers. Furthermore, conducting four telephone interviews with those admins of four press websites, three of which are private local websites and the fourth a partisan website, all of them submitted a request to obtain a license to legalize the situation to the SCMR since October 2018, in order to find out the latest developments regarding the file of licensing press websites.

Introduction

At the end of last April, the SCMR held two ceremonies to award licenses to most of the national press websites¹ and several private press websites². As part of the process of legalizing the situation of press websites that publish from within Egypt, according to the law regulating the press and media and the SCMR No. 180 of 2018, its executive regulations and the licensing regulations issued by the SCMR last year by Resolution No. 26 of 2020.

The management of the legalization the situation of press websites by the SCMR, in its current or previous formation, was characterized by significant random and disorganization, as well as selectivity and politicization regarding the response of the SCMR to license requests submitted to it by various websites, despite all of these websites fulfilling all the licensing requirements issued by the SCMR. It's possible to say that all sites that provide content suspected of opposing or criticizing existing and applied policies or trying to search or investigate an alternative version of the official government version of any event, the SCMR decided to ignore their license requests, and leave their legal position pending, so that they remain threatened at all times by security pursuits on the pretext of not obtaining a license to work, regardless the passage of more than two

1.The SCMR and National Press celebrate the handover of certificates of legalize the situation of national publications. Posted on the page of the SCMR on the Facebook, on April 11, 2021, last visited on May 24, 2021 <https://bit.ly/2RHkpyL>

2. The SCMR ceremonies handing over licenses to satellite channels and websites. Posted on the page of the SCMR on the Facebook, on April 15, 2021, last visited on May 24, 2021. <https://bit.ly/3fg9B3K>

and a half years since those sites submitted for the first time to the SCMR to obtain the necessary license to legalize their situation.

The distinction between press websites is mainly depending on the provided content, as well as the nature of those who are the admins. At the time the SCMR issued nearly 40 licenses for private press websites, including Al-Qahira 24 (Cairo 24), the SCMR ignored 110 requests were submitted by other websites wishing to legalize their situation, included the websites of Al Arabiya Egypt, Mada Masr, Al Manassa, Darb, and many others.

This report aims to track the process of legalizing the situation of press websites in order to identify the policy of the SCMR in managing and regulating the issuance of licenses of journalistic activity for press websites. Such according to review the Articles of the law regulating the press and media and the SCMR No. 180 of 2018, and its executive regulations No. 418 of 2020, as well as the regulation of licenses issued by the SCMR No. 26 of 2020.

Random and disorganized processes in managing the legalize situation of press websites

Since its beginning, the process of managing and regulating issuing licenses to carry out the journalistic activities for press websites has been characterized by random and disorganization, due to the political management that wishing to extend the cover of legal regulation to include all forms of press or media contents produced by modern online media, which the legislator did not care to regulate in any way before issuing the law regulating the press and media and the SCMR in August 2018, as this will was not reflected in a coherent legal frame regulating the ownership and the publishing of online newspaper, what made the policy of dealing with these websites is extremely disorganizing.

The beginning was with the 2014 constitution, which used for the first-time terms such as (online media and newspaper), as Article No. 70 of the constitution stipulates the right of Egyptians, natural or legal persons, public or private, to own and issue newspapers, establish multimedia. Newspaper is issued upon notice as regulated by laws. The laws regulate the procedures for establishing and owning audio and video broadcasting stations and press websites.

As per the Article, the establishment of paper newspapers is depending on giving notice, while the article obliges online newspapers to obtain a prior license from the administrative authority to carry out their activities. As well as Article 71 of the constitution also includes constitutional protection for newspapers and the media, as it prohibited the Imposition of any censorship, closure, or suspension of them, except in times of war or times of general mobilization, specific censorship may be imposed on it. According to the Article, the cover of constitutional protection did not extend to online newspapers and online media.

It seems that the distinction between newspaper and online newspaper at the level of issuance requirements as well as constitutional protection, streaming from confusion in the drafting of the constitutional contexts and articles, such confusion was a direct result of the political wishing to place the online press and media into the legal frame which regulating the press and media, in order to facilitate control over the content that comes out to the public of citizens. Specifically, via online media, which represented the last access for freedom of speech, information exchange, fact-finding, and the search for alternative narratives. Especially, since the years immediately following the drafting of the constitution witnessed widespread, escalating, and systematic operations to nationalize the visual media market and the printed press for the benefit of the United Media Services, which is owned by the Egyptian General Intelligence Service.

Along with the increasing hostility of the Egyptian authorities to the internet in general and the online platforms of the press and media in particular, since May 2017, unknown government authority has blocked dozens of press websites³, reached 124 websites, according to the latest monitoring by the AFTE, without any judicial decisions or legal ground. Such websites, continued to be pursued by blocking the alternative links which created to enable their visitors to access them, as well as blocking hundreds of websites that provide technical alternative to users in order to bypass the blocking, such as Proxy and VPN websites.

Because of the devastating effects of blocking press websites, the most important of which are the economic effects that impede the ability of these investment models to continue. Several press websites have already suspended its activity and lay-offs of employees due to their inability to overcome these effects⁴. As well as the continuation of security raids on the headquarters of these websites and prosecutions against those admins of them and their employees, including journalists.

The SCMR was formed for the first time in April 2017, as per the articles of the law regulating the press and media No. 92 of 2016 issued in December 2016. Upon issuing the Law No. 180 of 2018 regulating the press and media and the SCMR, the SCMR reconstituted in January 2020 in accordance with the new law.

Four laws and four regulations regulate the press and media during the past seven years, since issuance of the constitution in 2014 until the issuance of the last executive regulation No. 418 of 2020. Such period was characterized by legislative confusion and lack of clarity in the legal frames regulating the work of websites; this issue is demonstrated by the policy of the SCMR towards the problem of licensing/ legalizes the situation of websites during the last three years.

A year and half after Abdel Fattah Al-Sisi issued Law No. 180 of 2018 regarding regulating the press and media and the SCMR, the Cabinet issued the executive regulations for the law No. 418 of 2020, and in August 2020 the SCMR issued Resolution No. 26 of 2020 regarding the issuance of the regulation of licenses. Accordingly, the legal form governing the ownership, issuance and management of newspapers and multimedia was completed.

The regulation obliges all websites to “legalize their legal situation” within six months from the date of issuance of the executive regulations of the law regulating the press and media, which

3. Muhammad Taher wrote: Decision from an Unknown Body: On blocking websites in Egypt. AFTE, published on February 1, 2018, last visited on May 24, 2021. <https://cutt.ly/7nWegnO>

4. Mostafa Shawky wrote: Out of sight: A study on the effects of three years of blocking news websites. AFTE, published on June 25, 2020, last visited on May 24, 2021. <https://cutt.ly/OnWelkM>

ends in mid-August 2020, and the SCMR extended this period for three months ending in mid-November 2020, and extended one last time to be expires in March 2021, and a number of websites have submitted a request to legalize the situation, but no decisions have been issued so far to reject or accept license requests, and this situation is still unclear and pending.

After issuing the law regulating the press and media, procedural problems related to regulating the ownership and management of websites in general and obtaining licenses for press websites specifically. Two months after the approval of the law regulating the press and media, the SCMR published in October 2018 an announcement directed to Egyptian website managers, to “legalize their legal situation”, by applying for a websites license and the necessary documents, and paying the prescribed fees, which is fifty thousand Egyptian Pounds, and the SCMR set a legal deadline for submitting the application, which extended to mid-November. During this period, nearly 150 websites applied to obtain the license. The SCMR approved forty of the applications submitted, but no data was issued to declare the names of such websites that were granted license, or denied⁵.

The legislative confusion during that period led to the lack of stability of forming the SCMR, as SCMR head Makram Mohamed Ahmed and his Council remained in their positions despite the suspension of the law regulating their formation No. 92 of 2016 after the issuance of Law No. 180 of 2018, and the new formation of the law regulating the press and media was issued only early 2020. Also, during such period, the post of State Minister of Information was created, and was taken over by Osama Heikal, journalist and writer, before he submitted his resignation in early April of this year, and his tenure was not free from the ongoing confusion over powers and authorities with the Council headed by Makram in particular⁶. Such matter directly resulted in significant random and disorganized processes in managing the file of licensing/ legalizing the situation of press websites.

5. Hassan Al-Azhari wrote: The crisis of absence of constitutional protection for online press websites. Masaar, published on April 12, 2021, last visited on May 24, 2021. <https://bit.ly/3fhpBm8>

6. Mostafa Shawky wrote: Position Paper: On the Creation of the State Ministry of Information. AFTE, published on April 17, 2020, last visited on May 24, 2021. <https://cutt.ly/YnWjQ04>

Select and politicize... Standards governing the work of the Licensing Committee

“We applied for a website license for the first time in 2018, as we were among the first websites to apply for the license. We did not encounter any obstacles during the application process and even obtaining the certificate of completion of the license, but the procedures took about three years. During such period, the SCMR requested some clarifications. In addition to completing some papers and data, and giving us an initial paper stating our right to work, until the executive regulations were issued, and the papers were completed, we obtained the license directly.”

Tamer Ibrahim, editor-in-chief of “Al-Qahira 24 (Cairo 24)” website

“We applied for a website license for the first time in 2018, before the issuance of the executive regulations, and that coincided with the security authorities raided the websites’ headquarters and arresting journalist Adel Sabry, the editor in chief. The announced reason for raided the website’ headquarter was the lack of obtaining the required licenses of journalistic activity. We went to the SCMR to request a license, at first, they refused because the executive regulations had not been issued, and with our insisting on obtaining imply that we had started the licensing process, allowing us to work without threat. In the end, the SCMR agreed to submit a request to stating our wishing to legalize the situation of the website. After the issuance of the executive regulations, we reapplied again after fulfilling the legal and financial requirements specified by the executive regulations and the regulations regulation licenses, but we did not receive any response, accepting or rejecting, until we decided to invisibility permanently the website until the unblocking of the website and the application for obtaining a license is decided.”

Ahmed Abdel Gawad, general manager of “Masr Al-Arabia” website

Al-Qahira 24 (Cairo 24) and Masr Al-Arabia are local and private press websites that were issued among dozens of press websites that were launched after the January 2011 revolution. Both websites applied for the license at the same time in 2018, the first recently obtained a license, while the legal situation of the second remained suspended as the SCMR contained to ignore the official correspondences of the website’s management.

The statements of those admins of both sites to the AFTE unveil the great difference in the policy of the SCMR towards the press websites that applied to legalize their situation and fulfilled all the licensing requirements specified by the regulation. While the process for some websites to obtain licenses was characterized by flexibility and ease, as described by the editor-in-chief of Al-Qahira 24 (Cairo 24) website, ignoring and intransigence was the title of the SCMR's policy towards other websites such as Masr Al-Arabia, which was forced to go into hiding in the end after it's desperation to agree to legalize its situation and unblock the website and allow them to continue their journalistic activity freely.

“After the release of the editor-in-chief, the interviews with the head of the council of Journalists’ syndicate and official correspondences with the SCMR, by legal and amicably attempting to restore activity on the website. Within last eight months, we suffered difficulties for you, and we only obtained false promises to return, accordingly we prefer to give up quietly until further notice.”

The invisibility statement, “Masr Al-Arabia” website⁷

On May 20, 2021, the SCMR decided to form a temporary committee to receive applications for licensing newspapers, press websites, and multimedia⁸, from May 23 to May 30, 2021. The warning directed to the press websites in order to legalize their situation this time was not the first one, as the SCMR has called at separate times during the last three years for the press websites, newspaper and various multimedia to legalize their situations and obtain license. Although the number of press websites that applied for a license to the SCMR during the period from October 21, 2018 until the end of January 2019, reached 150 websites, the SCMR approved only 40 websites, and consideration is still unclear regarding the other 110 websites⁹. This confirms the dislocation and confusion of the work of the SCMR in the licensing file, which led to a slowdown and sluggishness in the SCMR's ability to consider 150 websites over a period of two and a half years.

7. Masr Al-Arabia wrote: “Masr al-Arabiya” asks its visitors for permission to be invisible. Masr al-Arabiya, published on April 14, 2021, last visited on May 24, 2021. <https://bit.ly/3wvCiPK>

8. The SCMR forms a temporary committee to receive applications for licensing newspaper, press websites and multimedia. Posted on the page of the SCMR on the Facebook. Posted on May 20, 2021, last visited May 24, 2021. <https://bit.ly/3fHIsWj>

9. Ahmed El-Bahnasawy wrote: The “SCMR” licenses approve the requests of 40 websites out of 150. ElWatan News. Posted on July 2, 2019, last visited May 24, 2021. <https://www.elwatannews.com/news/details/4185320>

The websites that applied for the license included¹⁰: “Various news: 47, Sports news: 7, Economic news: 17, Art news: 2, Medical news: 1, Editorial journalism: 23, Religious knowledge: 2, Entertainment and variety: 1, Advertising: 4, News for centers of specific areas: 2, Science news: 6, Agricultural news: 1”. The AFTE obtained statements from those admins of four local press websites, three of them were private websites (Al-Manassa, Al-Qahira 24 (Cairo 24), Masr Al-Arabia) and the other was partisan website called Darb, which is affiliated with Socialist Popular Alliance Party. Only Al-Qahira 24 (Cairo 24) obtained the license. However, the statements clearly highlighted the selectivity and politicization of the process of legalizing the situation of press websites.

The three websites that were not able to obtain the license all share in being websites that provide content that violates the editorial line prevailing in the multimedia owned and directed by security, all of them were blocked in 2017, and all the alternative links they used to enable their visitor to access and bypass the blocking were pursued and blocked. Also, the admins of the three websites and their employees were subjected to continuous security pursuits, and the police raided the headquarters of the Masr Al-Arabia website in 2018 and arrested its editor-in-chief, who spend two and half years in pretrial detention pending two different cases due to one of the translated press coverage published by the website. Last year, a security force raided the website’ headquarter and arrested its editor-in-chief, claiming that they did not obtain a license to work.

It seems that the SCMR has ignored requests for licensing a number of websites is not only dislocation or confusion, but it is a deliberate neglect aiming to freeze the legal situation of these websites so that they remain vulnerable to harassment and security prosecution on the pretext of not obtaining the license. As we mentioned above, the licensing committee discriminates against these websites depending on two main criteria, the first is the nature of the provided content, and the second is the admins of the websites.

In his statement to the author of the report, Khaled Al-balshi, editor-in-chief of Darb, said *“The crisis is that the whole subject is under control the other authorities, such as security authority. As long as the media authorities and councils by virtue of their formation are not independent, they will remain subject. In accordance to evidence of the differentiation between websites that go within the context and other websites that go outside the prescribed context, and our situation remains that we are blocked website from an authority that we cannot prove before the law, our legal situation is not clear as we applied for licensing and did not receive a response of approval or rejection. They want us to continue struggling with this difficult situation.”*

10. The same reference in the previous margin.

Two press websites of Khaled Al-Bolshi had previously been blocked by the Egyptian authorities, Al-Bedaiah website, which was blocked in the first wave of blocking in 2017, and Kateb website, which was launched under the auspices of the Arabic Network for Human Rights Information was blocked only eight hours after its launch. Finally, Darb website of the Socialist Popular Alliance Party, which was blocked one month after its launch. Despite the peculiarity of the legal situation of Darb, as a partisan website, it benefits from the article of the Parties Law, which allows each party to publish two newspapers without being bound by the licensing requirements specified by the law.

“Before launching the website, we contacted the SCMR and the Parties Affairs Committee, with our intention to establish a partisan website, according to the article of the Parties Law that gives each party the right to publish two newspapers without being bound by the financial or legal requirements to which other websites are subject. That was a week before the date of our issuance on March 8, 2018, and since then we have not been able to get a response, so that the SCMR did not ask us for any clarifications or to complete any papers or data during that period, just a complete disregard. However, there was a response of another kind that comes one month after the website was launched when the website was blocked on April 9, 2018. And now our situation is pending like many other private websites.”

Article-No. 15 of Political Parties Law No. 40 of 1977 and its amendments states that “without prejudice to the right to publish newspapers in accordance with the provisions stipulated in Law No. 96 of 1996 regarding the regulation of the press, each party shall have the right to issue at most two newspapers to express its opinions, without obligation to obtain the license stipulated in the mentioned law.”

Conclusion

The executive regulations of the law regulating the press and media and the SCMR No. 180 of 2018 obliges all online newspapers and media which applied to the SCMR to legalize their situation in accordance with the provisions of the law and the regulations issued in implementing it, within a period not exceeds six months from the date of issuance executive regulations. Therefore, with the issuance of the executive regulations in Feb 2020, the legal term will expire in mid-August 2020, but as we mentioned, the SCMR decided to extend this period several times. Until his last decision a few days ago to form a temporary committee to receive licensing applications, it will expire at the end of May.

Despite all this, the SCMR is still continuing its policy of ignoring license applications submitted by a number of press websites, an approach that the AFTE warns against because it exposes these websites to harassment and security persecution. These websites are blocked by an unknown authority, and their legal situation is pending, and it is always vulnerable to security prosecutions, depending on the nature of the provided content, as well as the economic effects of blocking. Hence, all this leads to dry up the sources of the independent press and represents a flagrant violation of the freedom of journalistic activity. The AFTE also points out the extreme danger of discrimination and selectivity practiced by the SCMR in the process of determining press websites eligible for licensing and warns against any security or political interference in the work of the SCMR and the Licensing Committee.

Recommendations

- The SCMR shall quickly decide on requests for licensing/ legalizing of situations submitted by all press websites, especially those that submitted since October 2018 and have not received any acceptance or rejection until now.
- The SCMR shall intervene in accordance with its legal powers in order to unblock press websites, especially in light of the great economic and security suffering faced by those admins of websites and their employees. And provide the necessary protection for these websites in order of journalistic activity freely, and to stop the security raids on websites' headquarters and the security and judicial prosecutions for their employees.