



Mass surveillance ...

a systematic practice in state institutions

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Prepared by: Research Unit at the
Association for Freedom of Thought
and Expression (AFTE)

Legal material jointly collected by:
AFTE's Legal Aid Unit

Publisher:
Association of Freedom of
Thought and Expression
info@afteegypt.org
www.afteegypt.org

هذا المصنف مرخص بموجب
رخصة المشاع الإبداعي:
النسبة، الإصدار ٤.٠.



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Methodology

This paper reviews and analyzes the laws related to digital privacy within the Egyptian legislative structure, such as the Press and Media Regulation Law No. 180 of 2018, Law No. 175 of 2018 on Combating Information Technology Crimes, and the Personal Data Protection Law No. 151 of 2020. It also relies on the legal analysis of case papers and investigations showing that mass surveillance has been practiced by a number of bodies, such as the Public Prosecution, the Supreme Council for Media Regulation (SCMR), and the Interior Ministry's Information Technology Department.

Introduction

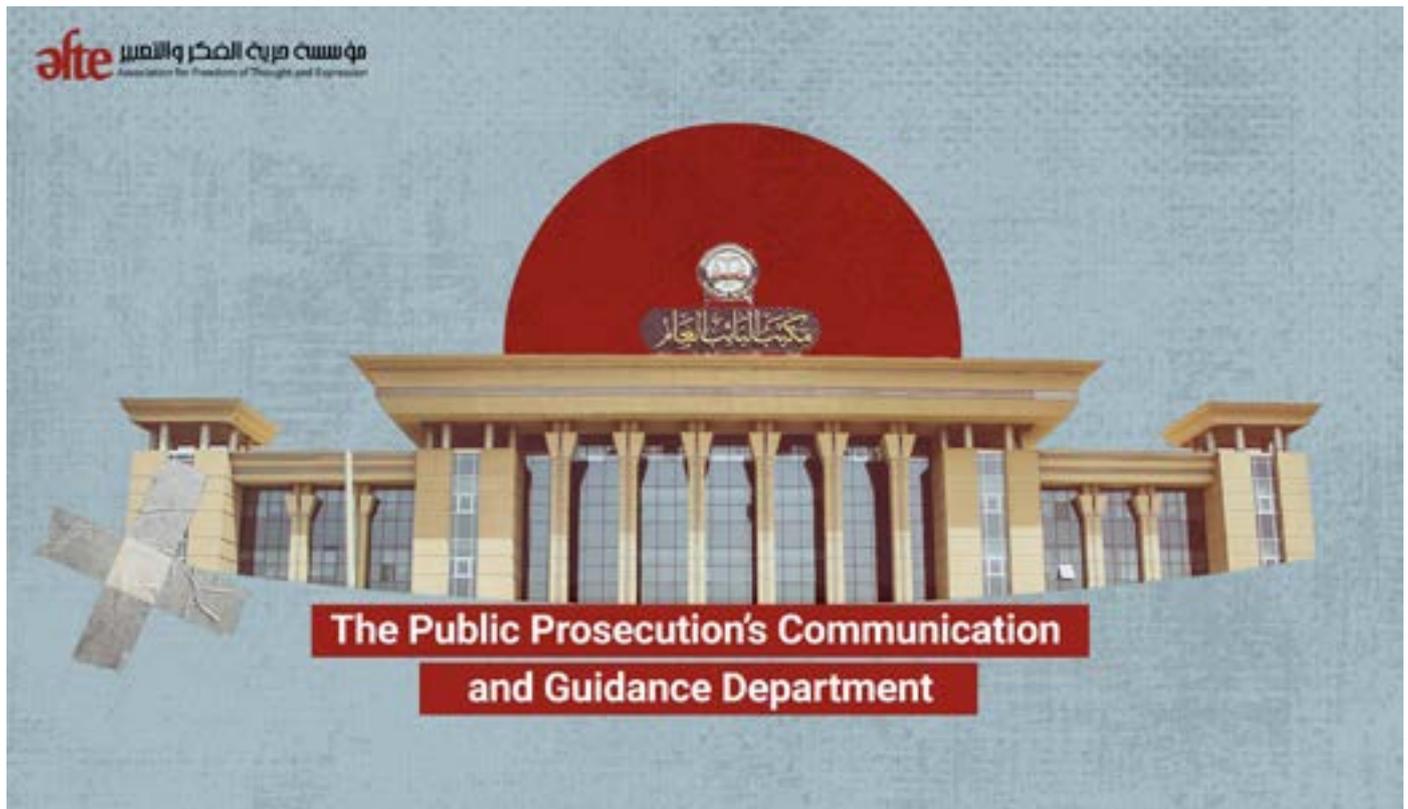
The mass surveillance practiced by the Egyptian authorities has wide negative impacts on digital privacy. The SCMR, the Public Prosecution, public universities, and the Interior Ministry's Information Technology Department violate privacy and apply disciplinary measures such as dismissal, criminal prosecution, and referral to the Emergency State Security Court whose rulings cannot be appealed.

Despite the abolition of the state of emergency in October 2021, this court still examines cases referred to it during the validity of the state of emergency.

These practices are backed by pieces of legislation that do not guarantee protection against mass surveillance, such as the Telecommunication Regulation Law No. 10 of 2003, Law No. 175 of 2018 on Combating Information Technology Crimes, the Press and Media Regulation Law No. 180 of 2018, and the Personal Data Protection Law No. 151 of 2020, which – despite its role in protecting the privacy of citizens – has a number of shortcomings.

By this paper, AFTE seeks to show how far the monitoring of internet users is practiced by various executive and judicial bodies, and how it affects citizens.

First: The Public Prosecution's Communication and Guidance Department



“The Monitoring and Analysis Unit exclusively undertakes the following tasks: To monitor everything related to the Public Prosecution that is published on the traditional and social media.

- To monitor and analyze comments and opinions on the published news related to the Public Prosecution, and see whether the department shall issue statements, make announcements, or respond to the comments.”

Resolution No. 2376 of 2019 establishing the Communication and Guidance Department

The Public Prosecution is not independent from the executive authority. The Judicial Authority Law grants the President of the Republic the power to choose the Public Prosecutor from among three judges nominated by the Supreme Judicial Council. The Public Prosecutor's decision to establish the Communication and Guidance Department stipulates the ability to monitor internet users, thus allowing the Public Prosecution to level charges, file lawsuits, and then investigate them.¹

The Public Prosecution's interest in being present on social media started in 2018 when former Public Prosecutor Nabil Sadek assigned the attorneys gen-

¹ AFTE, “Public Prosecution and digital transformation,” August 2021, last visited in May 2022, link: <https://afteegypt.org/research/policy-papers/2021/08/08/24357-afteegypt.html>

eral and chief prosecutors, each within their jurisdiction, the task of following up the lies and fake news published on social media to target “the country’s security and safety” and taking the necessary legal action against the owners of these online posts². The Public Prosecution urged in a statement the bodies responsible for traditional and social media to inform it of everything that violates the “media and publication charters”.³

Following the September 2019 demonstrations, during which hundreds of citizens were arrested, the Public Prosecution reviewed the defendants' accounts on social media, during investigations with them. After that, it raised questions about the content of the defendants' online posts. On 12 November 2019, the Public Prosecutor issued a decision to establish the Communication and Guidance Department, which included three units, namely the Media Communication Unit, the Electronic and Social Media Unit, and the Monitoring and Analysis Unit.

Since then, the Public Prosecution has issued statements confirming the direct link between its work and what is being raised on social media. On 28 March 2020, the Public Prosecution issued a statement regarding “Covid-19 rumors”, saying it was “closely following up all the news that is published in this regard, especially on social media”. The statement noted that the Public Prosecution had decided to confront these rumors by implementing Articles 80 D, 102, and 188 of the Penal Code regarding the dissemination of false news.

Below are some key cases recently raised by the Public Prosecution:

A) Egyptian family values (Haneen Hossam as an example)

The Public Prosecution launched an extensive campaign in April 2020 with the aim of arresting a number of female content creators on social media, especially on TikTok. During that campaign, the prosecution issued many statements, all revolving around the violation of values of society and the need to preserve the Egyptian family values, an accusation that was levelled against most of those arrested in that campaign, according to Article 25 of Law No. 175 of 2018 on Combating Information Technology Crimes.

Haneen Hossam's case began when a number of social media users criticized her performance in some videos she posted, which prompted the Public Prosecution to issue a statement regarding the incident. The Public Prosecution’s Communication and Guidance Department sent a letter to the North Cairo Public Prosecution Office on 19 April 2020, attached with a report regarding a complaint that circulated on social media about a girl “exploiting her body in

2 AFTE, “Public Prosecution and digital transformation,” August 2021, last visited in May 2022, link: <https://afteegypt.org/research/policy-papers/2021/08/08/24357-afteegypt.html>

3 Al-Shorouk Newspaper, “The Public Prosecutor orders tracking down the lies of the ‘forces of evil’ in traditional and social media, 2018,” last visited in May 2022, link: <https://www.shorouknews.com/news/view.aspx?cdate=28022018&id=19f5d81a-cd2c-4dba-85e5-1543c764c456>

return for money”.

The report noted that Hossam had invited girls to subscribe in an agency she established via Likee in order to meet with young people. It said that the Public Prosecution’s Monitoring and Analysis Unit reviewed the reactions of the on-line subscribers regarding this issue.

On 19 April 2020, the Public Prosecution issued an arrest warrant for Hossam and requested investigations into the incident. The General Administration for the Protection of Morals conducted the investigations, which clearly indicated the monitoring of social media. The investigations report said: “Through the administration’s role in spotting crimes that harm social security, especially after the wide spread of applications and websites within the Egyptian society, which some exploit to publish images that incite citizens, especially the youth, to acts incompatible with customs and traditions... the administration spotted a video of a girl that was widely circulated on social media under the title: ‘Exploitation of the body in return for money.’”

On 21 April 2020, Hossam was arrested. She faced charges of making an announcement on social media that draws attention to prostitution, infringing on family principles and values in the Egyptian society, creating, managing, and using a private online account with the aim of committing the crime stated in the accusations, and joining an organized criminal group for the purpose of human trafficking.

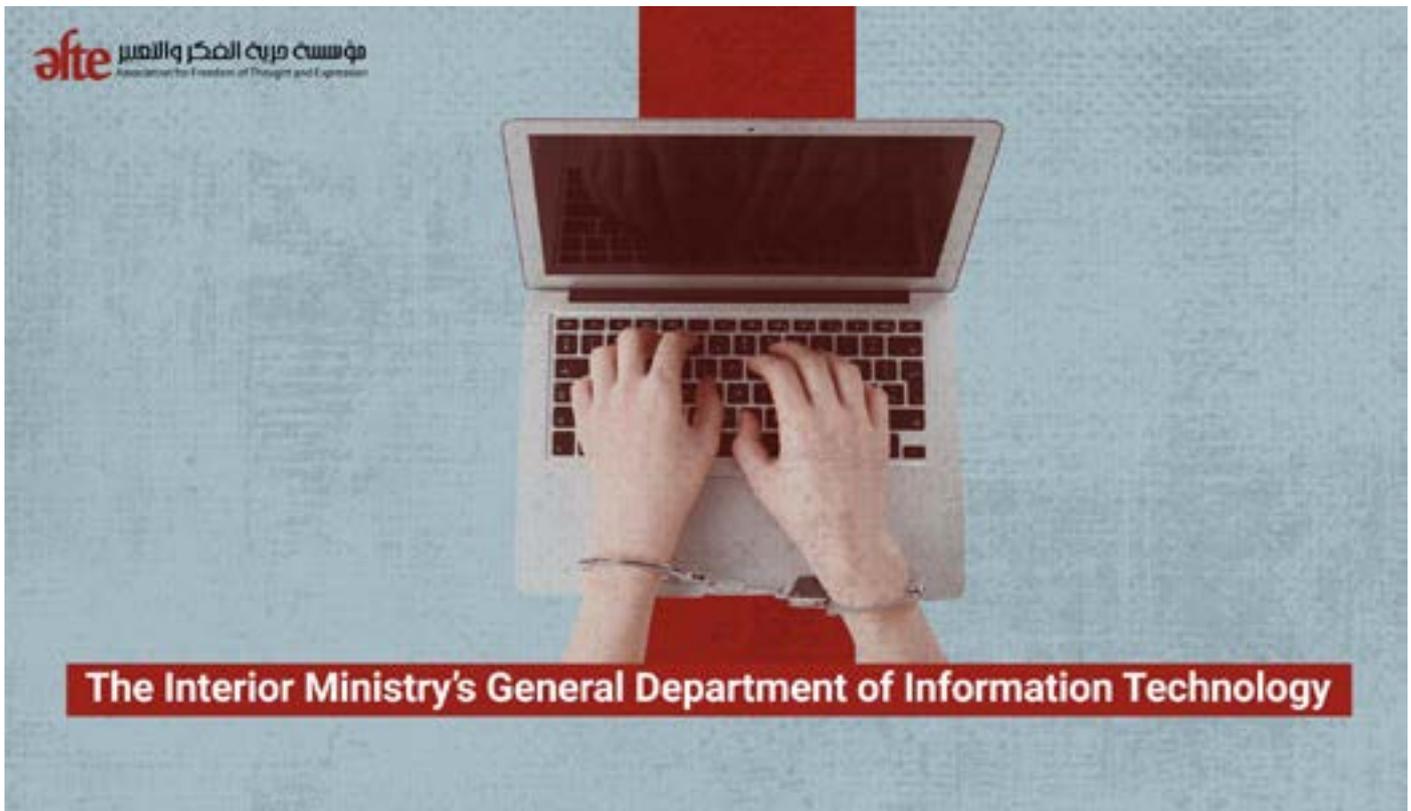
The Public Prosecution decided to refer Hossam to the Economic Court on the aforementioned charges. She remained in detention until the Economic Misdemeanour Court acquitted her. She was released on 27 January 2021. The next day, the Public Prosecution initiated a new case accusing Hossam of human trafficking, and then referred her to the Criminal Court, which sentenced her in absentia to 10 years in prison. In April 2022, the Criminal Court reduced the sentence to three years in prison, after a retrial was held.

A) Contempt of religion cases

On 13 November 2020, the Public Prosecution issued a statement about the imprisonment of three accused of promoting extremist ideas online with the intent of contempt for one of the monotheistic religions and infringing on the principles and values of Egyptian society. The case began with the widespread circulation of a screenshot of a conversation on social media. In response, the Public Prosecution issued a statement saying that its Monitoring and Analysis Unit had spotted a video of people mocking the Islamic prayers⁴. After defendant Youssef Hani apologized before the judge and emphasized respect for the Islamic religion, he was released on 14 November 2020.

⁴ The Public Prosecution’s Facebook page, “The Public Prosecution launches an investigation into an incident of contempt for the Islamic religion,” 11 November 2020, last visited on 25 May 2022, link: <https://tinyurl.com/ptvkndry>

Second: The Interior Ministry's General Department of Information Technology



This department is affiliated with the Communications and Information Technology Sector at the Interior Ministry. According to Ministerial Resolution No. 7638 of 2004, the General Department of Information Technology is responsible for establishing an integrated information system for the ministry that relies on modern technology to raise the level of performance of all the ministry's agencies.⁵

The department is the technical authority that should be referred to in the event of wanting to review evidence of accusations against people in certain cases. It has monitored online users over the past years without legal justification. The department has been repeatedly mentioned in news about the arrest of individuals after monitoring their online activities.⁶

According to AFTE lawyers, the department began monitoring online users in 2011, when it spotted posts on the private accounts of defendant Ahmed Anwar. It submitted these posts to the Public Prosecution to obtain an arrest warrant for Anwar⁷. The department's role in monitoring online users can be

5 The official website of the Ministry of Interior, the General Department of Information Technology, last visited in May 2022, link: <https://site.moi.gov.eg/it/Pages/home.aspx>

6 Al-Ahram newspaper's website, "Department of Information Technology... Watchful eyes to control cybercrimes", December 2020, last visited in May 2022, link: <https://gate.ahram.org.eg/News/2546817.aspx>

7 An interview with an AFTE lawyer

understood by reviewing the case of the “Black Cat” page on Facebook.

On 10 May 2016, a major in the department prepared a report of investigations with the aim of following up on crimes that could disturb public security. This came “as part of the action plan developed by the Criminal Investigation Department, which aims to confront cybercrimes committed on the internet, monitor and follow up news and information”.

The report noted that an engineering officer at the department had spotted a Facebook page called “Black Cat 2”, which had posts inciting against the army, the police, the judiciary, and state institutions. The department inquired about the page’s owner, who turned out to be Mamdouh Safwat. The Abdeen Prosecution Office issued an arrest warrant for Safwat and also ordered that his house be searched and his personal computer and mobile phones be seized. Indeed, Safwat was arrested.

On 11 May, the officer prepared a technical report about the examination of the seized devices, the “Black Cat 2” page and the account associated with it during the arrest process, which was carried out without judicial permission in violation of the law. The officer got photocopies of the posts on the page and the account, and also discovered that the account was running another page called “Bean Dish”.

The Public Prosecution interrogated Safwat on charges of spreading false news. It asked him whether he participated in the 25 January 2011 revolution, belonged to the 6 April Movement and the Ghad Party, or participated in any demonstrations. It obtained the credentials for his Facebook page and then remanded him in custody pending investigation.

According to the nature of its technical tasks, the General Department of Information Technology can be considered as an intermediary body. Its name is usually mentioned when it comes to cooperation with the National Security Agency, the State Security Prosecution and other agencies, or when it comes to the follow-up of citizens’ complaints.

Third: The Supreme Council for Media Regulation



The Supreme Council for Media Regulation (SCMR) was established under the Institutional Regulation of the Press and Media Law No. 92 of 2016, which was repealed in 2018 and replaced with the Press and Media Regulation Law No. 180 of 2018. According to Law No. 175 of 2018 on Combating Information Technology Crimes, the SCMR has the right to block any website or even a personal electronic account with a number of followers of 5,000 or more, which means that the SCMR monitors online users and can therefore impose penalties on them. The SCMR's monitoring role can be understood by reviewing the case of Cairo University professor Ayman Mansour Nada.

On 25 March 2021, SCMR member Rania Hashem submitted a complaint to the Public Prosecutor against Ayman Nada, for publishing several articles on his personal page on Facebook that contained insults and slander against her as well as the SCMR and its head. She attached copies of the articles to her complaint.

On 27 March 2021, the SCMR, represented by its head, submitted a complaint to the Public Prosecutor, stating that the SCMR had discussed an article that Nada published on his Facebook page under the title: "Karam Gaber, I do not know myself, I got lost." The SCMR regarded the article as an insult against the SCMR's head and members, as it described them as ignorant and incapable of carrying out their duties. Then the National Council for Women (NCW) sent a

letter to the General Department of Human Rights at the Public Prosecutor's Office and attached to it Rania Hashem's complaint which claimed that Nada had insulted her by likening her to Lucy Artin, who was famous for managing brothels. The NCW considered this as an infringement on privacy and the Egyptian family values.

After these complaints reached the Cairo Appeals Prosecution, the prosecution decided to listen to those who submitted them. It listened to Hashem first, and asked her where the article was published, and she said it was published on Nada's Facebook page. Then the prosecution asked her about the identity of the user of that page, and she replied: "We have a mechanism in the SCMR to make sure of the link between the page owner and the person, and the SCMR did not take action until it was assured about this issue, and the SCMR's representative should be asked about the details."

The SCMR's representative said during the investigations that Nada was the owner of the Facebook account in question, and that the SCMR had a mechanism to make sure of the link between the page and the person. He pledged to submit a technical report from the National Telecommunications Regulatory Council to prove his argument.

On 20 April 2021, the Cairo Appeals Prosecution summoned Nada for investigation on charges of insulting independent bodies, namely the SCMR and the National Press Authority (NPA), as well as defaming SCMR's head Karam Gabr, SCMR's member Rania Hashem, and NPA's head Abdel-Sadiq Al-Shorbagy, and using a social media account for the purpose of committing crimes.

The prosecution released Nada on a bail of 20,000 pounds. On 27 September 2021, Nada was referred to the Criminal Court on charges of spreading false news, insulting independent bodies, slandering Karam Jabr, Rania Hashem, Abdel-Sadiq Al-Shorbagy, and head of the Media Syndicate Tariq Moawad, and using a social media account for the purpose of committing crimes. On 31 March 2022, the Cairo Criminal Court sentenced Nada to one suspended year in prison, in Case No. 9840 of 2021 (Fifth Settlement Misdemeanour).

Fourth: Public universities



In recent years, dozens of university professors have been referred to administrative investigations that may have ended with dismissal or criminal prosecution, for expressing their views on social media. University administrations have entrenched the monitoring of professors' accounts on social media.

This surveillance is most likely done through verbal assignments from university presidents to some departments, such as the Public Relations and Media Department or the Security Department.

More about the monitoring of university professors' activities can be understood through the case of a professor at Kafr El-Sheikh University, who refused to mention his name.

a) **Kafr El-Sheikh University**

On 29 July 2015, a professor at Kafr El-Sheikh University was summoned by the university's Legal Affairs Department. On 4 August 2015, he was questioned over his appearance in the media, participation in seminars, subscription in agencies without obtaining permission from the competent authority, as well as belonging to a political party in violation of the law.

During the investigation session, the investigator told him that the Public Relations and Media Department at Kafr El-Sheikh University had spotted posts on

his Facebook page criticizing the university president. Then the professor was referred to a disciplinary board, which decided to place a censure on him, but the university president rescinded the decision later.

a) **Sadat Academy**

On 12 March 2022, Suhair Al-Muslimi, an emeritus professor at Sadat Academy's Mathematics and Statistics Department, was summoned by the academy's administration for investigation. During investigation with her on 17 March 2022, she was told that the academy's Security Department had spotted her interaction with Facebook posts about political prisoners and activists in Egypt. Most of these posts dated back to the period from 2015 to 2020.

Muslimi faced charges of misusing social media and doubting the feasibility of Egypt's national projects. The investigation committee has not yet issued a decision regarding her.

Fifth: The National Media Authority



The National Media Authority (NMA) – formerly the Radio and Television Union – takes various disciplinary measures against its employees, such as dismissal and criminal prosecution. The Security Department, which is responsible for securing facilities affiliated to the radio and television building, monitors the

NMA employees' social media accounts.

On 10 April 2016, the Security Department submitted a memorandum to the Central Department of Legal Affairs, noting that director Ali Abu Hamila had written posts on his Facebook account that included inappropriate phrases about the President of the Republic, while commenting on the maritime demarcation agreement between Egypt and Saudi Arabia. The department attached screenshots of the posts in question.

The Central Department of Legal Affairs conducted an administrative investigation No. 105 of 2016 with Abu Hamila regarding these posts. It accused him of publishing and writing inappropriate phrases about the President of the Republic on his Facebook account in April 2016.

The Central Department of Legal Affairs sent a complaint to the Administrative Prosecution, which in turn referred the case to the Disciplinary Court, which ruled on 20 June 2018 that Abu Hamila would be dismissed from his job for committing a disciplinary offense by writing insulting phrases about the President of the Republic on Facebook.

On 18 October 2020, the Supreme Administrative Court issued a non-appealable ruling dismissing Abu Hamila, who worked as director of external recordings at the Nile Drama Channel.

Conclusion

The Public Prosecution participates essentially in the practice of mass surveillance through its Monitoring and Analysis Unit. Other bodies do the same as well, including public universities, the National Media Authority, the Interior Ministry's Information Technology Department, and the Supreme Council for Media Regulation. The systematic practice of mass surveillance, whether practiced by public or judicial institutions, causes serious harms to online users, including exposure to imprisonment or other disciplinary penalties like dismissal.

The cases discussed in this paper require a change in the policies adopted by the executive and security authorities. AFTE hopes that this paper will help step up the efforts exerted by human rights organizations to confront mass surveillance.