



Submission to the United Nations Human Rights Committee 137th Session Review of the 5th report and country situation of Egypt

30 January 2023

Access Now and the Tahrir Institute for Middle East Policy (TIMEP) submit the following information to the United Nations (UN) Human Rights Committee (the Committee) ahead of its 137th session where the Committee will review the 5th periodic report and country situation of Egypt.

This submission informs the Committee of Egypt's non-compliance with the International Covenant on Civil and Political Rights (ICCPR) in accordance with the List of Issues (LOI) adopted by the Committee at its 134th session.¹ Specifically, this submission focuses on the rights to freedom of expression, association and the right of peaceful assembly (Articles 6–7, 9, 19, 21– 22 and 25–26 of the ICCPR) and the right to liberty and security of person, and treatment of persons deprived of their liberty (Articles 6–10 and 14 of the ICCPR).

It is important to note that while this submission draws upon examples, these examples are non-exhaustive, and do not represent the lived experiences of all persons at risk. More information is required to take into full account the intersecting forms of oppression of those who are directly targeted.

About Access Now and the Tahrir Institute for Middle East Policy (TIMEP)

Access Now, a UN Economic and Social Council (ECOSOC) accredited organization, routinely engages with the UN in support of its mission to defend and extend the digital rights of people and communities at risk.² Since its founding in 2009, Access Now monitors the abuse and misuse of new and emerging technologies that threaten fundamental human rights, including freedoms of expression, association, and peaceful assembly, as well as the rights to privacy and non-discrimination. Access Now closely monitors internet shutdowns and other intentional disruptions to internet access and coordinates the global #KeepItOn coalition and campaign against internet shutdowns.

The Tahrir Institute for Middle East Policy (TIMEP) is a non-profit (501(c)(3)) that centers localized perspectives in the policy discourse to foster transparent, accountable, and just societies in the Middle East and North Africa (MENA).³ TIMEP is headquartered in Washington, D.C. and has a network of partners and fellows based in the MENA region and across the world.

¹ See UN Human Rights Committee, List of issues in relation to the fifth periodic report of Egypt, UN Doc. CCPR/C/EGY/Q/5, https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CCPR%2FC%2FEGY%2FQ%2F5&Lang=en

² Access Now, About Us, 2023, <https://www.accessnow.org/>

³ The Tahrir Institute for Middle East Policy (TIMEP), About Us, 2023, <https://timep.org/about-us/>

Freedom of expression, association and the right of peaceful assembly (Articles 6–7, 9, 19, 21– 22 and 25–26 of the ICCPR)

The Law on the Organization of Press, Media and the Supreme Council of the Media (No. 180/2018) and Online Censorship

1. The Law No. 180 of 2018 on the Organization of Press, Media and the Supreme Council of Media (“the Law”) was ratified by President Abdel-Fattah El Sisi in 2018. An executive regulation was issued two years later on February 16, 2020. The law was heavily criticized and opposed by Egyptian and international civil society organizations, as well as by the Egyptian Journalists Syndicate deeming it “a threat to journalism's freedom and future.”⁴ The Law provides expansive powers to block websites to an authority overseen only by the executive branch. It contains several administrative restrictions related to the creation of websites which can impede individuals from publishing and accessing information online. It also provides very broad and vague restrictions to censor content online.
2. Firstly, the Law introduces **stringent and stifling licensing and administrative requirements on journalists and media outlets**, which contravenes international law standards on freedom of expression, including Article 19 of the ICCPR. The Law, for instance, prohibits the establishment of any website in Egypt or managing any website outside of the country without obtaining a license from the Supreme Council for Media Regulation (“SCMR”), a body responsible for regulating the media sector in Egypt.⁵ Media outlets or web administrators could face disproportionate fines between one and three million Egyptian Pounds, in addition to closure and confiscation of tools, devices, and their contents if they operate without a license.⁶ **Chapter 3** of the Law places burdensome rules and obligations on journalists, such as: Journalists must behave in a manner “that does not violate the rights of citizen[s] or infringes on their freedoms” or violates their employers’ editorial policies, and “the profession’s ethics and traditions.”⁷ They are also prohibited from receiving any donations or “privileges” because of their role.⁸ Media outlets and websites must also publish corrections upon request in three days (unless the request was made 30 days after the publication).⁹
3. Secondly, the Law introduces **broad and vaguely-defined restrictions on publishing and disseminating content**, which are fundamentally incompatible with international freedom of

⁴ Ahram Online, *State Council concerns about draft media law in line with syndicate's views: Egypt press syndicate official*, available online: <https://english.ahram.org.eg/NewsContent/1/64/306537/Egypt/Politics-/State-Council-concerns-about-draft-media-law-in-li.aspx>, July 9, 2018.

⁵ See Article 6 of the Law No. 180 of 2018 on the Organization of Press, Media and the Supreme Council of Media, available online: https://www.ilo.org/dyn/natlex/natlex4.detail?p_isn=111247&p_lang=en

⁶ Masaar, *Guide to the Press and Media Regulation Law*, available online: <https://masaar.net/en/guide-to-the-press-and-media-regulation-law/>, December 6, 2021.

⁷ See Article 17 of the Law No. 180 of 2018 on the Organization of Press, Media and the Supreme Council of Media, available online: https://www.ilo.org/dyn/natlex/natlex4.detail?p_isn=111247&p_lang=en

⁸ See Article 25 of the Law No. 180 of 2018 on the Organization of Press, Media and the Supreme Council of Media, available online: https://www.ilo.org/dyn/natlex/natlex4.detail?p_isn=111247&p_lang=en

⁹ Article 22 of the Law No. 180 of 2018 on the Organization of Press, Media and the Supreme Council of Media.

expression standards, including Article 19 of the ICCPR. **Article 4**, for instance, allows the SCMR to ban any publication or newspaper from entering Egypt “for reasons of national security.”¹⁰ It also prohibits the publication and dissemination of any content “which contradicts the provisions of the Constitution, calls for violation of the law, violates the obligations of the Code of Professional Ethics, violates public order and morals, or incites to discrimination, violence, hate, and racism.”¹¹ **Article 19** of the Law prohibits newspapers and websites from publishing “false news,” or content that incites to “breaking the law, or to violence or hate,” or engaging in “defamation of the reputation and honour of individuals,” or to “disregard divine religions or religious beliefs.”¹² **These rules apply not only to media outlets but also to personal websites, blogs, and social media accounts with over 5,000 followers.** Furthermore, **Article 21** prohibits journalists or media from reporting on investigations, trials, or judicial proceedings as doing so would “affect the positions of those involved in the investigation or trial.”¹³

4. Furthermore, the Law also gives the SCMR, **sweeping powers to block websites for vaguely-defined reasons**, such as publishing or broadcasting false news, publishing or broadcasting calls for breaking the law, hatred or violence, publishing or broadcasting content that encourages discrimination between citizens, or libel or ridicule of faiths or religious beliefs.¹⁴ The Law does not mandate the SCMR to obtain an order from court or other independent adjudicatory bodies in order to block websites, giving it discretionary powers to block any website at will.
5. The international standards related to freedom of expression, including Article 19 of the ICCPR, enshrine that any action by public authorities aimed to restrict access to websites shall be prescribed by law, pursue a legitimate aim, and be necessary and proportionate to the aim pursued. The UN Human Rights Committee emphasized in its General Comment no. 34 that:

[a]ny restrictions on the operation of websites, blogs or any other internet-based, electronic or other such information dissemination system, including systems to support such communication, such as internet service providers or search engines, are only permissible to the extent that they are compatible with paragraph 3. Permissible restrictions generally should be content-specific; generic bans on the operation of certain sites and systems are not compatible with paragraph 3. It is also inconsistent with paragraph 3 to prohibit a site or an information dissemination system from publishing material solely on the basis that it may be critical of the government or the political social system espoused by the government.¹⁵

¹⁰ Article 4 of the Law No. 180 of 2018 on the Organization of Press, Media and the Supreme Council of Media.

¹¹ *Id.*

¹² Article 19 of the Law No. 180 of 2018 on the Organization of Press, Media and the Supreme Council of Media.

¹³ Article 21 of the Law No. 180 of 2018 on the Organization of Press, Media and the Supreme Council of Media.

¹⁴ See Article 19 of the Law on the Organization of Press, Media and the Supreme Council of Media (No. 180/2018). Available online: https://www.ilo.org/dyn/natlex/natlex4.detail?p_isn=111247&p_lang=en

¹⁵ See General comment no. 34, Article 19, Freedoms of opinion and expression, UN Human Rights Committee, 2011, available online: <https://digitallibrary.un.org/record/715606?ln=en>

6. In 2011, four special mandates on freedom of expression confirmed in their declaration on “Freedom of expression and Internet” that “mandatory blocking of entire websites, IP addresses, ports, network protocols or types of uses (such as social networking) is an extreme measure.”¹⁶ Similarly, the Council of Europe confirmed that “any measure taken by State authorities or private-sector actors to block or otherwise restrict access to an entire Internet platform (social media, social networks, blogs or any other website) or information and communication technologies (ICT) tools (instant messaging or other applications), or any request by State authorities to carry out such actions complies with the conditions of Article 10 of the Convention regarding the legality, legitimacy and proportionality of restrictions.”¹⁷
7. In May 2017, **the Egyptian authorities launched a massive campaign to block news, political and human rights websites.** The authorities initially blocked 21 websites including Al Jazeera and Mada Masr,¹⁸ among others for disseminating “content that supports terrorism and extremism and deliberately spreads lies.”¹⁹ The website of Mada Masr remains blocked to date, despite multiple requests for information from the authorities and a lawsuit.²⁰ As of April 2021, **there are over 600 websites currently blocked in Egypt**, including at least 113 media websites.²¹ These numbers collected by independent civil society organizations are an estimation. To date, the Egyptian government has not declared nor published any information on the number of websites it has blocked and why. The only known exception is one decision issued by the Committee for the Inventory and Seizure of Muslim Brotherhood Funds to block 33 websites belonging to the Muslim Brotherhood.²² The lack of transparency on the blocking orders, the government bodies issuing them, and the legal basis as to why these websites have been blocked, makes it difficult for civil society organizations and media outlets to appeal these arbitrary decisions
8. **Independent media and civil society websites are particularly targeted with online censorship, and are often blocked within short hours from their launch.** On June 28, 2019, the Egyptian authorities blocked a news website called “Katib” launched by the Arabic Network for Human Rights Information (ANHRI) to document human rights violations, only nine hours after it

¹⁶ Organization for Security and Co-operation in Europe, *Joint Declaration On Freedom Of Expression and the Internet*, available online: <https://www.osce.org/fom/78309>, June 1, 2011.

¹⁷ Council of Europe, *Recommendation CM/Rec(2016)5 of the Committee of Ministers to member States on Internet freedom*, available online: https://search.coe.int/cm/Pages/result_details.aspx?ObjectID=09000016806415fa, April 13, 2016; and Council of Europe, *Recommendation CM/Rec(2018)2 of the Committee of Ministers to member States on the roles and responsibilities of internet intermediaries*, available online: https://search.coe.int/cm/Pages/result_details.aspx?ObjectID=0900001680790e14, March 7, 2018.

¹⁸ Mada Masr, *24 hours later: What we know about the blocking of Mada Masr’s website*, available online: <https://www.madamasr.com/en/2017/05/26/feature/politics/24-hours-later-what-we-know-about-the-blocking-of-mada-masrs-website/>, May 26, 2017.

¹⁹ Al-Ahram, *Security source: 21 websites, including “Al-Jazeera Net”, were blocked for inciting terrorism and spreading lies*, available online: <https://gate.ahram.org.eg/News/1518565.aspx>, May 24, 2017.

²⁰ Access Now, *Egypt is blocking more websites: why it matters, and what you can do*, available online: <https://www.accessnow.org/egypt-blocking-websites-matters-can/>, August 30, 2017.

²¹ Masaar, *Blocked websites in Egypt*, available online: <https://masaar.net/en/blocked-websites-in-egypt/>, April 27, 2021.

²² The Arabic Network for Human Rights Information, ANHRI & “Masaar” launch “Stop the Block” Campaign demanding an end to the practices of the website blocking and Internet censorship in Egypt, available online: <https://www.anhri.info/?p=18965&lang=en>, September 20, 2020.

launched.²³ On July 14, 2022, the Egyptian authorities blocked the website of the independent media outlet Al Manassa, and three of its alternative links within approximately 72 hours.²⁴ On the day the website was blocked, Al Manassa had published an article about the absence of oversight mechanisms to hold the Egyptian president accountable. It had also published a number of features, including one documenting the reinstating of a policeman convicted of torturing and killing an Egyptian citizen. No government agency announced its responsibility for these blocking decisions. Following the establishment of SCMR in October 2018, Al-Manassa applied for a license and paid the required fees, but did not receive a response. In August 2020, Al-Manassa applied again for a license following SCMR's call for all websites that had previously applied for licenses to re-apply using a new application form. However, it has not received a response to date.

9. During the 27th Conference of the Parties to the United Nations Framework Convention on Climate Change (COP27), held in Egypt between 6 and 20 November 2022, the Egyptian government un-blocked the websites of Mada Masr and Human Rights Watch following an international outcry over its online censorship.²⁵ The website of Human Rights Watch was blocked for five years for publishing a report documenting cases of torture, abuse, and systemized enforced disappearances of dissidents in Egypt.²⁶
10. In order to circumvent the blocking and remain accessible online, some media websites resorted to rotating their subdomains. In retaliation, the Egyptian government changed its blocking strategy in April 2020 and internet service providers in Egypt “started to block subdomains by wildcard,” which made all subdomains unreachable. More specifically, the investigation confirmed that the Egyptian authorities have used Sandvine Deep Packet Inspection [DPI] hardware to block access to independent media and human rights organizations in at least two providers in the country, state-owned Telecom Egypt and privately owned Orange Egypt (formerly known as MobiNil).²⁷
11. Other blocked sites include **over 352 websites that provide VPN and circumvention-related tools**, such as TunnelBear and Tor Project.²⁸ It should be noted here that **Article 27** of the Law grants the SCMR the “sole and exclusive right” to establish and license “encrypted digital platforms” in Egypt. In his report on encryption, anonymity, and the human rights framework, the former UN the Special Rapporteur on Freedom of Expression emphasized that “encryption

²³ Mada Masr, *New website documenting rights abuses blocked 9 hours after launch*, available online: <https://www.madamasr.com/en/2018/06/25/news/u/new-website-documenting-rights-abuses-blocked-9-hours-after-launch/>, June 25, 2018.

²⁴ Access Now, *The continued blocking of Al-Manassa and dozens of news websites in Egypt must stop*, available online: <https://www.accessnow.org/blocking-of-al-manassa-egypt/>, August 1, 2022.

²⁵ Guardian, *Cop27 wifi in Egypt blocks human rights and key news websites*, available online: <https://www.theguardian.com/environment/2022/nov/07/cop27-wifi-egypt-blocks-human-rights-key-news-websites>, November 7, 2022.

²⁶ See Human Rights Watch's tweet: <https://twitter.com/hrw/status/1590068486378000385?s=20&t=eEg5AM3YAWEZwXKAIVP7CQ>

²⁷ Qurium, *How operators use Sandvine to block independent media in Egypt*, available online: <https://www.qurium.org/alerts/egypt/how-operators-use-sandvine-to-block-independent-media-in-egypt/>, September 21, 2020.

²⁸ Masaar, *Blocked websites in Egypt*, available online: <https://masaar.net/en/blocked-websites-in-egypt/>, April 27, 2021

and anonymity, and the security concepts behind them, provide the privacy and security necessary for the exercise of the right to freedom of opinion and expression in the digital age.”²⁹ Therefore, “restrictions on encryption and anonymity must be strictly limited according to principles of legality, necessity, proportionality and legitimacy in objective.” The Law fails this three-tier test, and therefore, it violates Articles 17 and 19 from the ICCPR.

12. In addition to the law on organizing press and media, there is an arsenal and repressive laws used by the Egyptian authorities to stifle freedom of expression and opinion, online and offline. **The Cybercrime Law no. 175 of 2018 is a particularly worrisome legal development for individuals and a real threat to their digital rights, particularly their right to freedom of expression online.** It’s used to restrict online civic space and suppress the role and impact of social media platforms, which have been a key asset for mobilization in Egypt during the Arab Spring in 2011. It stifles online expression as it contains disproportionate and illegitimate sanctions.
13. Firstly, **Article 1 contains overbroad and vague terms which gives security forces and courts a huge margin of discretion to applying draconian and disproportionate sanctions** provided by the law to any protected speech. For example, the term “national security” is defined as “all that relates to the independence, stability, security, unity and territorial integrity of the homeland, including those that are not defined, such as endangering the security of the country and its national economy, as mentioned in Article 7 of the law.”³⁰ Likewise, the law does not include the meaning of “family principles or values” mentioned in **Article 25** or “public morals,” used in **Article 26** which can be used as a legal basis to prosecute individuals who share content through social media that might be considered by public authorities as “immoral.”³¹
14. Such provisions are not compatible with Article 19(3) of the ICCPR. The Human Rights Committee said in its General Comment no.34 that “for the purposes of paragraph 3, a norm, to be characterized as a ‘law’, must be formulated with sufficient precision to enable an individual to regulate his or her conduct accordingly and it must be made accessible to the public. A law may not confer unfettered discretion for the restriction of freedom of expression on those charged with its execution.”
15. Secondly, the Cybercrimes Law contains several provisions which can be used to curb the right of freedom of expression and press freedom. For example, **Article 25** provides a 6-month prison term for anyone who “publishes, via the information network or by any means of

²⁹ UN Special Procedures, *Report of the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression David Kaye* (A/HRC/29/32), available online: <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G15/095/85/PDF/G1509585.pdf?OpenElement>, May 22, 2015.

³⁰ Article 1 of the Law No. 175 of 2018 Regarding Anti-Cyber and Information Technology Crimes, available online: <https://cybercrime-fr.org/wp-content/uploads/2020/04/Egyptian-cybercrime-law-pdf>

³¹ Articles 25 and 26 of the Law No. 175 of 2018 Regarding Anti-Cyber and Information Technology Crimes.

For example, these articles were used to sentence Egyptian girls sharing TikTok videos. See, Global Freedom of Expression, *The Case of the Egyptian TikTok Influencers*, available online: <https://globalfreedomofexpression.columbia.edu/cases/the-tiktok-girls-case/>

information technology, information, news, images or the like, which infringes the privacy of any person involuntarily, whether the published information is true or false.” This article could pose a threat to individuals, particularly investigative journalists, who disseminate truthful information or opinions regarding the private lives of public figures such as politicians or high ranked officers on matters related to the public interest. International standards related to freedom of expression recognize the legality of this content as protected speech. Therefore, Article 25 goes against the requirements of Article 19 of the ICCPR.³²

16. Under **Article 2**, the Service Providers shall: “1. Preserve and store the Information System Registry or any means of information technology for one hundred and eighty days on end. Data to be saved and stored shall be as follows: (A) Data enabling identification of the service user. (B) Data related to the content of the Information System dealt with whenever such data is under the control of the Service Provider. (C) Traffic-related data. (D) Data related to communication terminals. (E) Any other data for which a resolution is passed by the Board of the Authority.” It is generally recognized that the analysis of that type of data may allow precise conclusions to be drawn about the individuals’ involved, such as the habits of everyday life, permanent or temporary places of residence, daily or other movements, the activities carried out, the social relationships of those persons and the social environments frequented by them. Therefore, the broad, general and indiscriminate nature of the data retention can undermine anonymous speech and is considered disproportionate.³³
17. **The Anti-Terrorism Law No. 94 of 2015, modified in 2020, is another extremely dangerous and repressive legislation routinely used to prosecute human rights defenders, and journalists, and to crackdown on civil society organizations through complicated and long criminal trials. Article 1**, for instance, defines several key terms such as “terrorist group” and “terrorist act” with a broad and ambiguous manner that can comprise a variety of acts including protected speech or any other acts that do not comprise a sufficient relation to violent terrorist crimes. Therefore, it might be applied to digital campaigns held by NGOs or online media outlets if they publish content which could be interpreted as a crime of harming the national economy. Under **Article 2**, a terrorist act can comprise any “intimidation domestically or abroad for the purpose of disturbing public order.” Such a vague definition can be used by public authorities to ban and to punish legal activities like strikes or demonstrations or freedom of expression online.

³² “National legal systems should make it clear, either explicitly or through authoritative interpretation, that open and free debate on matters of public interest is at the very core of a democratic society. Public figures, especially heads of state, elected representatives, individuals with a role in public life, exercising a public function or otherwise engaged in public activities, inevitably and knowingly lay themselves open to close scrutiny by both journalists and the public. They therefore have a lower expectation of privacy than ordinary individuals or lesser public officials in relation to matters of public interest.” ARTICLE 19 and others, *The Global Principles on Protection of Freedom of Expression and Privacy*, available online: <https://www.article19.org/data/files/medialibrary/38657/Expression-and-Privacy-Principles-1.pdf>; Council of Europe, *Recommendations on the Protection of Privacy in Media Coverage*, available online: <https://rm.coe.int/recommendations-on-the-protection-of-privacy-in-media-coverage-prepare/168073f565>

³³ The Court of Justice of the European Union, *Judgment of the European Court of Justice, Digital Rights Ireland Ltd (C-293/12) V. Minister for Communications, Marine and Natural Resources*, available online: [https://curia.europa.eu/juris/document/document.jsf?doclang=EN&text=&pageIndex=0&part=1&mode=DOC&docid=150642&occ=first&dir=&cid=99319%20\(judgment.%20advisory%20opinions.%20resolutions.%20dissenting%20opinions\)](https://curia.europa.eu/juris/document/document.jsf?doclang=EN&text=&pageIndex=0&part=1&mode=DOC&docid=150642&occ=first&dir=&cid=99319%20(judgment.%20advisory%20opinions.%20resolutions.%20dissenting%20opinions)), April, 8 2014.

18. **Articles 26 and 27** mandates a prison term of at least five years for any person who promotes or prepares for the promotion of the commission of a terrorist crime or establishes a website with the purpose of promoting terrorist ideas, misleading the authorities, or influencing justice. **Article 35** provides that “whoever intentionally, by any means, publishes, broadcasts, displays, or promotes false news or statements on terrorist acts inside the country or anti-terrorism operations contrary to the official statements released by the Ministry of Defense shall be punishable by a fine of no less than 200,000 Egyptian pounds and no more than 500,000 Egyptian pounds, without prejudice to the disciplinary penalties prescribed (...).” This Article prohibits media and individuals from publishing any information that has not been confirmed by the government. It's very dangerous to empower government authorities with deciding on what the truth is, especially that the experience shows that legislation and regulations on disinformation are often abused to silence critical voices in society. This is particularly true given Egyptian authorities' track record of prosecuting activists, journalists, and human rights defenders.
19. The Anti-Terrorism Law No. 94 of 2015 is complemented with another law called Law No. 8 of 2015 Organizing the Lists of Terrorists and Terrorist Entities which authorizes the public prosecution to issue both a “Terrorist List” and a “Terrorist Entities List,” under which individuals and organizations can be designated as a result of a previous court verdict or as a result of a new request.
20. Many prominent Egyptian activists including Alaa Abd el-Fattah, Mohamed al-Baqer, Hoda Abdelmoneim, Ibrahim Metwally Hegazy, Ismail al-Iskanderani, Hala Fahmy, Safaa Al-Korbagi, Mohamed Oxygen, Abdel Moniem Aboul Fotouh, among others, face charges, or have been already sentenced, of joining or aiding a terrorist group as a result of their non-violent political activities or exercising their freedom of expression whether online or offline. On April 27, 2022, the Supreme State Security Prosecution remanded the journalist Hala Fahmy in custody for 15 days pending investigation into case n° 441 of 2022. She faces charges of joining a terrorist group, incitement to commit a crime, and spreading false news at home and abroad.³⁴
21. In November 2020, the Egyptian authorities arrested Mohammed Basheer, the Egyptian Initiative for Personal Rights's Administrative Manager (EIPR),³⁵ and Karim Ennarrah, the Director of EIPR's Criminal Justice Unit, and Gasser Abdel-Razek, EIPR's former Executive Director. The Public Prosecution ordered the detention of all three in case n° 855 of 2020, and charged them with “joining a terrorist group.”³⁶ In July 2019, political activist Ramy Shaath was arrested and held in pretrial detention for 30 months on allegations of providing

³⁴ Reporters without Borders, *Egypt still hounding reporters one year after “national human rights strategy” launch*, available online: <https://rsf.org/en/egypt-still-hounding-reporters-one-year-after-national-human-rights-strategy-launch>, September 19, 2022; See also, *AFTE calls on the Public Prosecutor to release TV presenter Hala Fahmy and stop persecuting journalists*, available online: <https://afteegypt.org/en/advocacy-en/2022/07/07/31372-afteegypt.html>, July 7, 2022.

³⁵ The Egyptian Initiative for Personal Rights (EIPR) is one of Egypt's most active human rights organizations.

³⁶ CHIRS, *Egypt: Continued repression of Egyptian Initiative for Personal Rights (EIPR) staff*, available online: <https://cihrs.org/egypt-continued-repression-of-egyptian-initiative-for-personal-rights-eipr-staff/?lang=en>, November 30, 2022.

“assistance to a terrorist group” under case n° 930 of 2019. Moreover, a court added him to another case n° 517 of 2020 and hence to the government’s “terrorism list.”³⁷

22. Egypt’s Supreme State Security Prosecution (SSSP), a special branch of the Public Prosecution responsible for investigating national security threats and terrorist-related activities, is a notorious abuser of the anti-terrorism laws and have be responsible for prosecuting thousands of peaceful political activists, journalists, lawyers, and human rights defenders in Egypt. The SSSP has special powers afforded under Egyptian law which allows it to order the prolonged pre-trial detention of suspects for up to 150 days, which can be renewed for an additional 45 days by terrorism circuit courts at the request of the SSSP. Detainees can submit a request to appeal the decision but it is up to the SSSP to decide on whether the case can be heard before a judge. In some instances, even when a judge orders the release of a detainee, the SSSP orders the re-detention of the individual under new charges. Such abusive powers have led to the prolonged and illegal detention of many peaceful activists and journalists in the country without access to a fair trial or due process. The SSSP has also been complicit in crimes of torture and forced disappearance.³⁸
23. In 2021, eight UN human rights experts “expressed grave concern over Egypt’s Anti-Terrorism Law and Terrorism Circuit Courts, and said the systematic use of overly broad and vague definitions of terrorism that target human rights defenders, journalists, and those exercising their human rights and fundamental freedoms - including the freedoms of expression as well as of peaceful assembly and of association - are detrimental to human rights. The experts affirmed that the Law’s provisions go beyond the scope necessary to counter-terrorism and severely limit civic space and the exercise of fundamental freedoms in Egypt.”³⁹ They have also asserted that Egypt’s anti-terrorism law and measures fail to comply with the country’s obligations under international law.

Recommendations

24. Amend the Law on the Organization of Press, Media and the Supreme Council of Media (No. 180/2018) to comply with its obligations under ICCPR. More specifically, it must repeal Articles 5, 19, and 27.
25. Rescind the Cybercrime Law no. 175 of 2018 and cease its application to prosecute activities, journalists, and human rights defenders for their peaceful activities online.

³⁷ CHIRS, *Rights Organizations Stand in Solidarity with the Complaint Filed with the African Commission against the Egyptian Government on Behalf of Ramy Shaath and Celine Lebrun-Shaath*, available online: <https://cihrs.org/egypt-rights-organizations-stand-in-solidarity-with-the-complaint-filed-with-the-african-commission-against-the-egyptian-government-on-behalf-of-ramy-shaath-and-celine-lebrun-shaath/?lang=en>, December 12, 2022.

³⁸ Amnesty International, *Egypt: Permanent State of Exception: Abuses by the Supreme State Security Prosecution*, available online: <https://www.amnesty.org/en/documents/mde12/1399/2019/en/>, November 27, 2019.

³⁹ UN Special Procedure, *UN experts urge release of rights defenders in Egypt, condemn misuse of counter-terrorism measures*, available online: <https://www.ohchr.org/en/press-releases/2021/12/un-experts-urge-release-rights-defenders-egypt-condemn-misuse-counter>, December 1, 2021.

26. Unblock all blocked websites since 2017, and cease the import and use of invasive surveillance and censorship technologies to control, monitor, and restrict communications tools and the internet.
27. Repeal the Anti-Terrorism Law of 2018 and open an independent investigation into the role of the SSSP in prolonged arbitrary detention, violations of fair trial guarantees and complicity in enforced disappearances and torture.

Crackdown on Civil Society and Human Rights Defenders in Egypt

28. Since 2013, Egypt has witnessed an unprecedented crackdown on civil society and human rights defenders. The Egyptian authorities have carried out systematic attacks and reprisal against human rights defenders for carrying out their legitimate work, including engaging with the UN Special Procedures. Reprisal includes arbitrary detentions, forced disappearance, torture, unlawful surveillance as well as threats and summons for questioning by security agencies. In 2021, Access Now joined over 100 civil society organizations in calling on the UN Human Rights Council to take urgent action against Egypt's attempts "to annihilate human rights organizations and eradicate the human rights movement in the country," and establish a reporting and monitoring mechanism.⁴⁰
29. In November 2020, the Egyptian authorities escalated its crackdown on Egyptian Initiative for Personal Rights (EIPR) —one of Egypt's most prominent human rights organizations— and arrested three of its senior management staff. On November 19, 2020, Egyptian security forces arrested Gasser Abdel-Razek, EIPR's Executive Director, at his home in Cairo. One day prior, EIPR's Criminal Justice Unit Director, Karim Ennarah, was arrested while on vacation in Dahab. The organization's Administrative Manager, Mohamed Basheer, was also taken in the early morning hours from his home in Cairo on 15 November. All three appeared in front of the Supreme State Security Prosecution and were charged with "joining a terrorist group", "spreading false news", and "misusing social media", and were remanded into custody and given 15 days of pre-trial detention.⁴¹ The interrogations of the security services and then the prosecution of the leaders of the EIPR focused on the organization's activities, its published reports, and human rights advocacy, especially a meeting held in early November by EIPR and attended by a number of ambassadors and diplomats accredited to Egypt from some European countries, Canada, and the representative of the European Union.⁴²
30. Gasser Abdel-Razek told his lawyer that he received inhumane and degrading treatment in his cell that has put his health and safety at risk: he was never allowed out of the cell, had only a metal bed to sleep on with neither mattress nor covers, save for a light blanket, was deprived

⁴⁰ Access Now, *100+ organizations call for U.N. action on human rights abuses in Egypt*, available online: <https://www.accessnow.org/egypt-un-open-letter/>, February 9, 2021.

⁴¹ Access Now, *Action for Egyptian human rights defenders*, available online: <https://www.accessnow.org/action-for-egyptian-human-rights-defenders/>, December 2, 2020.

⁴² Middle East Eye, *Egypt arrests another rights activist after meeting with Western diplomats*, available online: <https://www.middleeasteye.net/news/egypt-arrests-second-rights-activist-contact-western-diplomats>, November 18, 2020.

of all his possessions and money, was given only two light pieces of summer garments, and was denied the right to use his own money to purchase food and essentials from the prison's canteen. His head was shaved completely.⁴³

31. Amid wide international condemnation, the Egyptian authorities released EIPR's leaders after 15 days of detention. However, following their release, they discovered that they were subject to asset freezes, arbitrary travel bans, and their terrorism-related charges have not been dropped. The open-ended criminal investigation into EIPR's staff as "terror suspects" has inflicted agony on their personal and professional lives and impeded them from exercising their basic right. Before his arrest, Karim Ennarah was set to move to London to join his wife, a British filmmaker. Because he cannot leave Egypt, and she cannot move there because of her work, the ban has forced them to live apart, violating their right to a family life. An Egypt-based university and a number of other organizations have retracted job offers they made to Ennarah, because they would not or could not pay him outside of the Egyptian banking system. Gasser Abdel-Razek was passed over for a senior post with a major international organization after they learned he was a "terror suspect" in an open-ended criminal case, in violation of his right to work. The asset freeze even prevented him from renewing the licence for his car. Meanwhile, Mohammed Basheer's asset freeze means he is unable to access his life savings in order to pay for his children's university education.⁴⁴
32. EIPR's founder and current Executive Director, Hossam Bahgat, has also been under a travel ban for seven years and an asset freeze since 2016, while one of the organization's researchers, Patrick Zaki, has been banned from travel since his release from prison in December 2021, after 22 months of arbitrary detention. Zaki is a graduate student at the University of Bologna, and the ban has severely disrupted his studies and professional commitments in Italy. He is also currently standing trial before the Emergency State Security Court on a bogus charge of "disseminating false news".
33. A research by the Tahrir Institute for Middle East Policy and Freedom Initiative highlights the routine and arbitrary use of travel bans to target and intimidate civil society and human rights defenders in Egypt. Egyptian authorities systematically exploit the absence of a clear regulatory framework governing the application of travel bans, to impose travel-related restrictions without any legal justification, notice, or opportunity for targeted Egyptians to challenge the ban. Most of those banned from travel first learn of their situations while attempting to travel, often at the airport, which "underscores the arbitrary nature of the bans." Furthermore, the research found that those on travel bans "are inherently vulnerable to arrest or re-arrest. Some individuals who are released from pretrial detention later face travel ban, while others subject to probationary measures following a served sentence face restrictions on freedom of movement, which can include travel bans. At times, individuals who are subject to travel-related restrictions experience temporary detention or interrogation, as they are

⁴³ Supra note, 30.

⁴⁴ Access Now, *Continued repression of Egyptian Initiative for Personal Rights (EIPR) staff*, available online: <https://www.accessnow.org/open-letter-eipr/>, November 30, 2022.

stopped and interrogated upon departure and/or arrival from/to the airport or when seeking to retrieve a confiscated passport, increasing their risk for detention or abuse.”⁴⁵

34. This systematic abuse of arbitrary travel bans to target activists, journalists, human rights defenders and retaliate against their peaceful work contravenes Egypt’s constitution of 2014 which stipulates that “no citizen may be banned from leaving state territory...except by a causal judicial order for a specified period of time, and in cases specified by the law.”⁴⁶ It also violates Article 12 of the ICCPR which grants individuals the right to leave any country, including his own. Any restrictions to this right must be provided by law, are necessary to protect national security, public order, public health or morals or the rights and freedoms of others, and are consistent with the other rights recognized in the treaty—standards all of which Egypt fails to meet in violation of international human rights law.
35. In January 2022, the Arabic Network for Human Rights Information (ANHRI) —one of Egypt’s most prominent and independent human rights organizations, announced it was shutting down its work and operations due to the “severe and hostile” state attacks against the organization including physical assaults on staff and their belongings, illegal summons, staff arrests and travel bans, interrogation, “all the way to attempts to recruit some staff members as informants.”⁴⁷ On October 16, 2019, Egyptian security forces arrested Amr Imam, a lawyer at ANHRI and held him incommunicado for two days. He was released in 2022 following three years of being held in solitary confinement in pretrial detention, on charges of “spreading false news”, “misuse of social media”, and “joining a terrorist group” exceeding the two-year limit in Egyptian law for pretrial detention.⁴⁸ Another member of the group’s team was arrested in May 2020 on baseless “false news” charges and was only released in August 2021. According to ANHRI’s founder and Executive Director Gamal Eid, who’s been subject to physical assaults, defamation campaign, assets freeze, and travel ban since February 2016, ANHRI “faced an almost impossible difficulty as we remain accused in the civil society case, Case No. 173, for eleven years now, which prevents us from registering or dealing with official bodies.” ANHRI was then requested by the authorities to change its name and was told that working on freedom of expression and prison conditions is forbidden.⁴⁹
36. Furthermore, Egyptian civil society has been subjected to state-sanctioned online attacks. In 2019, Egyptian civil society and human rights organizations faced an unprecedented vicious

⁴⁵ The Tahrir Institute for Middle East Policy and Freedom Initiative, *Abuse of Travel Bans in Egypt*, available online: <https://timep.org/wp-content/uploads/2022/07/Abuse-of-Travel-Bans-in-Egypt.pdf>, May 7, 2022.

⁴⁶ See Article 62 of Egypt’s Constitution of 2014, *Constitute Project*, available online: https://www.constituteproject.org/constitution/Egypt_2014.pdf

⁴⁷ ANHRI, *In the absence of the bare minimum of the rule of law and respect for human rights The Arabic Network for Human Rights Information decides to suspend its activities*, available online: <https://www.anhri.info/?p=28614&lang=en>, January 10, 2022; ANHRI, *The most important instances of persecution and blatant violations that ANHRI and its team were subjected to which drove them to announce the suspension of their activities starting today, January 10, 2022*, available online: <https://www.anhri.info/?p=28606&lang=en>, January 10, 2022.

⁴⁸ Middle East Observer, *Egypt: Rights Defender Amr Imam released after 1000 days of pretrial detention*, available online: <https://www.middleeastobserver.org/2022/07/17/egypt-rights-defender-amr-imam-released-after-1000-days-of-pretrial-detention/>, July 17, 2022.

⁴⁹ *Id.*

online attack operation known as “NilePhish”. A later report by Amnesty International discovered samples of FinFisher’s spyware, FinSpy, distributed by malicious infrastructure tied to the attacker group, likely to be state sponsored.

Recommendations

37. Unconditionally lift travel bans, asset freezes and criminal charges imposed on human rights defenders, as part of case 173 and other cases designed to hinder the work of members of civil society.
38. Ensure that everyone who meets with or contacts the UN experts, UN treaty bodies, or EU and other diplomatic representatives is protected from possible reprisals, including detention, harassment, threats, acts of intimidation and ill-treatment.

Right to liberty and security of person, and treatment of persons deprived of their liberty (Articles 6–10 and 14)

Arbitrary Detention, Imprisonment and Deprivation of Liberty of Political Activists

39. **Since 2013, Egypt has witnessed the worst crackdown on human rights in the country’s history. The Egyptian authorities have imprisoned at least 60,000 political activists,** criminalized demonstrations, and seized control over the media landscape in a successful effort to limit genuine political discourse. Under the current government of President Abdel Fattah al-Sisi, thousands of Egyptians continue to be arbitrarily detained without a legal basis, following grossly unfair trials, or solely for peacefully exercising their human rights. Thousands are held in prolonged per-trial detention on terrorism related charges. Prisoners are held under miserable conditions and are subject to ill-treatment, and as a result hundreds have died in custody due to denial of healthcare and abuse.
40. **The most prominent and emblematic example of this repressive measure is the case of Egyptian activist and software developer, Alaa Abdel Fattah.** Mr. Abdel Fattah has been arrested under every Egyptian head of state during his lifetime. He was re-arrested on September 20, 2019 when he was fulfilling his probation requirements at the El-Dokki Police Station. Upon being detained, he was taken to be questioned before the SSSP. He was then ordered into pretrial detention on potential charges of belonging to a terrorist organization and spreading false news, per Case No. 1356 of 2019. When he first arrived at the Tora Maximum Security Prison 2, where he continues to be held in pretrial detention today, Abdel Fattah was subject to torture. Officers blindfolded him, stripped him of his clothing, beat and kicked him, and threatened him. One officer told him that prison was “made for people like you,” and that he would be in prison for the rest of his life. He was warned that if he reported the abuse he was made to undergo, he would be subject to additional torture.

41. While in detention, Mr. Abdel Fattah has been held in poor conditions. He has been denied access to books and newspapers; has not been given a proper mattress; was denied blankets for a period of time during the winter; and is not allowed to exercise outside. These conditions, coupled with the fact that he had only just completed a five year prison term in March 2019 and subject to probation in the time since, leave Mr. Abdel Fattah in an extremely vulnerable health condition. During his probation, Mr. Abdel Fattah was made to spend 12 hours at the police station every single day.
42. On March 10, 2020, and amid the spread of COVID-19 across the country, Egyptian authorities suspended all prison visits and did not provide an alternative, effectively cutting off communication from detainees and their loved ones and lawyers. Mr. Abdel Fattah was among those affected by this measure. As COVID-19 spread, court hearings were also temporarily suspended. Accordingly, Mr. Abdel Fattah was kept in illegal pretrial detention in violation of the domestic requirement that detentions be reviewed by a court within a set schedule. When pretrial detention hearings did resume at the beginning of May 2020, Mr. Abdel Fattah's pretrial detention was renewed on paper; he was not brought before a court even remotely; and his lawyer was not allowed to make a defense to argue for his release, rendering his pretrial detention illegal yet again.
43. On April 12, 2020, Mr. Abdel Fattah began a complete hunger strike to protest the refusal of Egyptian authorities to release him as a pretrial detainee despite the threat of COVID-19 spreading in overcrowded and unsanitary prison facilities. Throughout the months of April and May 2020, Mr. Abdel Fattah's mother and sister made over 20 attempts to go to Tora Prison and deliver basic medicine, rehydration sachets, vitamins, and a letter to Mr. Abdel Fattah. Every time, they were made to wait outside all day, the items were not allowed in, and they were provided with no information about Mr. Abdel Fattah despite his hunger strike and poor conditions. On May 12, 2020, Mr. Abdel Fattah's family members were unapologetically told by prison authorities that "State Security has responded [to your request] and Alaa Abdel Fattah will not be allowed anything."
44. On May 17, 2020, Ms. Lina Attalah, the editor-in-chief of independent newspaper outlet Mada Masr, was arrested when conducting an interview with Mr. Abdel Fattah's mother, who was outside of Tora prison during another attempt to deliver items to her hunger-striking son. Though Ms. Attalah was ultimately ordered released on LE 2,000 bail that same day, she was detained for hours and accused of "filming a military facility without a license from the competent authorities."
45. On May 18, 2020, Mr. Abdel Fattah's family received a letter from him in which he stated that he would be bringing his hunger strike to a close. He stated that he did not want them to worry further with the Eid al-Fitr holiday coming up. He also noted that now that pretrial detention hearings were being heard by the court system once again, he would leave challenging the constitutionality of detention to the purview and discretion of his legal team. Mr. Abdel

Fattah's family was additionally told that they would be allowed to bring food to Tora prison for delivery to Mr. Abdel Fattah on May 21, 2020, ahead of the Eid al-Fitr holiday.

46. Mr. Abdel Fattah's family and legal team have submitted numerous legal complaints regarding his continued detention, poor prison conditions, and deteriorating health. These include but are not limited to complaints made to the Public Prosecution and memoranda sent to the Supreme Judicial Council. Their requests and complaints have been left entirely unaddressed. Though Mr. Abdel Fattah's hunger strike came to an end on May 18, 2020, he continues to be held in pretrial detention—which is, under Egyptian domestic law, meant to be a measure of last resort. Rather than consider arguments by his legal team on the fact that Mr. Abdel Fattah's specific case does not necessitate pretrial detention or on the fact that the pretrial detention of individuals arrested for exercising their fundamental freedoms, particularly amid pandemic, is improper, authorities continue to keep Mr. Abdel Fattah in detention.
47. On 23 November 2020, the Official Gazette published the decision of the Cairo Criminal Court to include Mohamed Baker and Alaa Abdel Fattah to the "terrorists list" for five years without any due process as part of case No. 1781/2019 by the SSSP. On 18 January 2022, the Court of Cassation rejected their final appeal against the decision. The effect of the decision includes a travel ban, an asset freeze and prohibition from engaging in political or civic work for five years.
48. On September 13, 2021, the Cairo Criminal Court held a session to review his remand detention, and consequently ordered its extension for additional 45 days. Mr. Abdel Fattah was denied the right to attend his most recent detention review hearing in September 2021, and was admitted to the court only after his pre-trial detention had already been renewed. According to a statement issued by his sister, Ms. Mona Seif, Mr. Abdel Fattah was returned to prison as soon as the session ended without presenting him to the judge or allowing him to meet with his lawyers. The judge ordered the presence of Mr. Abdel Fattah only at the insistence of his lawyers to see him and to be assured of his well-being after his mother was informed by prison guards that there was no news of her son on one of her weekly visits to the prison the day before.
49. Mr. Abdel Fattah was surprised to learn of his detention renewal without his presence in court. His lawyer, Khalid Ali, reported that Mr. Abdel Fattah demanded to speak to the judge about his continuous ill-treatment and inhumane prison conditions, and told him that he is contemplating committing suicide. Addressing the judge, Mr. Abdel Fattah stated: "I'm in terrible conditions, I can't carry on like this. Get me out of prison. I will commit suicide, and tell Laila Soueif [his mother] to receive condolences for me." Similarly, Mr. Abdel Fattah told his lawyer that he has not been able to spend one full year outside of prison since 2011, and so "if the goal is to kill me, then I'll commit suicide."
50. On October 18, 2021, Mr. Alaa Abdel Fattah, his human rights lawyer Mr. Mohamed al-Baqer, and blogger Mr. Mohamed Ibrahim, known as "Mohamed Oxygen", appeared before the

Emergency State Security Misdemeanor Court in a new case, identical to Case No. 1356 of 2019 for which they have been held in pretrial detention for over two years. According to their lawyers, the misdemeanor in Case No. 1356/2019 was simply copied into a new case, docketed as No. 1228 of 2021/Emergency State Security. The court charged Mr. Abdel Fattah and the other two defendants with publishing false news that harms the country's interests on their social media pages, including a post shared by Mr. Abdel Fattah on his personal Facebook page about a prisoner inside a high-security prison. The lawyers had learned that the case would be referred to trial just two days prior, on October 16, 2021. The prosecution refused to share the official charge sheet with the lawyers, and during the first hearing, the court denied a request to allow the lawyers to photocopy the case files or consult with their clients alone. The case file is reportedly around 1,500 pages long.

51. During the court session, Mr. Abdel Fattah addressed the judge directly and said that his two years of imprisonment in pre-trial detention violated Egyptian law as well as the Egyptian Constitution, adding that during that time, the prosecution made no effort whatsoever to investigate the case. He also spoke of his harsh prison conditions where he is not allowed any reading material or exercise time outside of his cell. "I demand before anything that you release us immediately, as this is the legal duty of the court," Mr. Abdel Fattah told the judge. "If you won't release me then I request permission to see my lawyers, I haven't been able to speak with them directly about my case since May," he said. The hearing ended in an adjournment until November 1, 2021. At the second hearing on November 1, 2021, the lawyers' request to receive a copy of the case files was again denied. During the session, Mr. Abdel Fattah appeared to be in a poor mental state and told his family and friends that the authorities' ongoing treatment towards him has convinced him that he will remain in custody; he repeated his request that his son not be brought to the court sessions and prison.
52. On December 20, 2021, Mr. Abdel Fattah was sentenced to five years in prison by the Emergency State Security Court on charges of spreading false news in Case No. 1228 of 2021. Two other human rights defenders—human rights lawyer Mohamed El Baqer, and blogger Mohamed 'Oxygen' Ibrahim were sentenced alongside him in the same case to four years each. Across the three trial sessions, defense lawyers were denied access to the case files and the right to present arguments before the judge. Despite the trial being undoubtedly marred by flagrant fair trial and due process violations, the non-appealable verdict was ultimately ratified. Moreover, the two years that Mr. Abdel Fattah was detained prior to the verdict will not count toward his five year jail sentence. This is because Mr. Abdel Fattah was referred to trial on the basis of Case No. 1228 of 2021, a technically new case that was created just days before the trial referral by copying the misdemeanor charge from the original case, Case No. 1356 of 2019, that Mr. Abdel Fattah had been spending his pretrial detention pending. Case No. 1356 of 2019 technically remains open today. This is a new tactic, referred to by lawyers as *naskh*, exercised by Egyptian authorities in an attempt to further turn pretrial detention into a punitive tool and to circumvent any pretrial detention maximums. Mr. Abdel Fattah's prison sentence would end in January 2027.

53. In April 2022, Mr. Abdel Fattah's family announced that he had gained British citizenship but had been routinely denied the right to consular visits. Also in April 2022, Mr. Abdel Fattah launched a hunger strike, with only 100 calories a day, to protest the refusal of Egyptian authorities to investigate complaints that he and his family had previously submitted, and to demand that Egyptian officials allow consular visits and access to his family's lawyers in the United Kingdom, "so that they can take all possible legal measures regarding not only the violations he has been subjected to, but all the crimes against humanity he has witnessed during his imprisonment."

54. On 6 November, 2022, Mr. Abdel Fattah also started refusing water ahead of the COP27 climate conference in hope to increase pressure on the Egyptian authorities to release. During this period, his family was denied access to information on his health and his mother Laila Soueif was denied access to visit Mr. Abdel Fattah in prison. Mr. Abdel Fattah's strike continued for over 200 days, yet he remains unlawfully detained to date.

Recommendations

55. Immediately and unconditionally release all those detained for peacefully expressing their opinions, for defending human rights, or carrying out journalistic work.

56. Cease the practice of arbitrary detention and ensure detainees are brought to trial promptly before a fair and impartial court.

57. Invite relevant UN human rights mechanisms for country visits, notably the Working Group on Arbitrary Detention; the Working Group on Enforced or Involuntary Disappearances; the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment; the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism; the Special Rapporteur on extrajudicial, summary or arbitrary executions; the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression; and the Special Rapporteur on the rights to freedom of peaceful assembly and of association.



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