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## Egypt: Stereotypical charges and legal framework of pretrial detention

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The political and human rights activists arrested by security forces are always subjected to several recurrent stereotypical accusations, derived from the Egyptian Penal Code (Law No. 58 of 1937), the Anti-Terrorism Law (Law No. 94 of 2015) and the Anti-Cyber and Information Technology Crimes Law (Law No. 175 of 2018).

These charges are often recurrently brought against political and human rights activists in all cases, most notably: spreading false news against the state and its institutions on social media, participating with a "terrorist" group in achieving its goals, joining a "terrorist" group, inciting violence, and many others.

*Following are some details about the articles which constitute the legal framework of these charges by the Egyptian prosecution against defendants, from the Penal Code (Law No. 37 of 1958), the Anti-Cyber and Information Technology Crimes Law (Law No. 175 of 2018), and the Anti-Terrorism Law (Law No. 94 of 2015):*

### First: The Penal Code (Law No. 37 of 1958):

The key articles in this regard are stated in Chapter Two of Book Two, under: "Felonies And Misdemeanors Prejudicial to The Public Interest And Their Penalties" and "Felonies and Misdemeanors internally Prejudicial to the Government", including:

Article 86 bis: Establishing an association or body whose purpose is to disrupt the Constitution or the Law:

Imprisonment shall be the inflicted penalty on whoever establishes, founds, organizes, or runs, contrary to the provisions of the law, an association, corporation, organization, group, or band, the purpose of which is to call by any method, for interrupting the provisions of the constitution or laws, or preventing any of the State's institutions or public authorities from exercising its works, or encroaching on the personal freedom of citizens or other freedoms and public rights as guaranteed by the constitution or the law, or impairing the national unity or social peace. Temporary hard labor shall be the punishment inflicted on any one assuming leadership or command of their formations,

or supplying them with physical or financial assistance, while being aware of the purpose they call for.

Imprisonment for a period not exceeding five years shall be the inflicted penalty on whoever joins any of the associations, corporations, organizations, groups or bands prescribed in the previous clause or participates in them in any form, while being aware of their purposes.

The penalty prescribed in the previous clause shall be inflicted on whoever propagates by speaking or writing or by any other method, for the purposes mentioned in the first clause, and also whoever, personally or by an intermediary, holds or acquires written documents, printed matter, or records, whatever their kind, comprising propagation or advocacy of any of the foregoing, if they are prepared for distribution or access by third parties, and also whoever holds or acquires any method of printing, recording, or publicizing which is used or prepared for use, even temporarily for printing, recording or diffusing anything of the foregoing.

Article 87: Overthrowing or changing the Constitution or system of governance:

Permanent or temporary hard labor shall be the penalty inflicted on whoever tries by force to overthrow or change the constitution of the country, or its republican system or form of the government.

If the crime occurs by an armed gang, capital punishment shall be the punishment inflicted on the person who has formed the gang, and also who assumes its leadership or a command therein.

Article 80 D: Spreading false news outside the country

Confining to detention for a period of not less than six months and not exceeding five years and a fine of not less than 100 pounds and not exceeding 500 pounds or either penalty shall be inflicted on each Egyptian who deliberately discloses abroad false or tendentious news, information or rumors on country's internal situations, which is all bound to weaken the country's financial credibility, dignity, and prestige, or exercises, by any method whatsoever, an activity that is liable to cause damage and harm to the country's national interests. Imprisonment shall be the penalty if the crime occurs in time of war.

#### Article 102 bis:

Detention and paying a fine of not less than fifty pounds and not exceeding two hundred pounds shall be inflicted on whoever deliberately diffuses news, information/data, or false or tendentious rumors, or propagates exciting publicity, if this is liable to disturb public security, cast horror among the people, or cause harm and damage to public interest.

Imprisonment and paying a fine of not less than one hundred pounds and not exceeding five hundred pounds shall be the inflicted penalty if the crime occurs in time of war.

The penalties prescribed in the first clause shall be inflicted on any one who obtains, personally or through an intermediary, or possesses written documents or printed matter comprising some of the provisions prescribed in the first clause, if they are prepared and provided for distribution or access by third parties.

Also, whoever obtains or possesses any means and methods for printing, recording, or for public announcement, which are appropriated, even temporarily, for printing, recording, or diffusing part of the foregoing, shall be liable to the said penalties. Imprisonment shall be the penalty if the crime occurs in time of war.

#### Article 188:

Detention for a period not exceeding one year and paying a fine of not less than five thousand pounds and not exceeding twenty thousand pounds, or either penalty shall be the penalty inflicted on whoever publishes with ill will by any of the foregoing methods, false news, data, or rumors, or fabricated or forged papers, or falsely attributed to a third party, if this is likely to perturb general peace, create fright among the people, or cause harm and damage to public interest.

### **Second: The Anti-Cyber and Information Technology Crimes Law (Law No. 175 of 2018):**

#### Article 25: Infringement of Privacy and Unlawful Information Content:

Anyone who infringes a family principle or value of the Egyptian society, encroaches on privacy, sends many emails to a certain person without obtaining his/her consent, provides personal data to an e-

system or website for promoting commodities or services without getting the approval thereof, or publishes, via the information network or by any means of information technology, information, news, images or the like, which infringes the privacy of any person involuntarily, whether the published information is true or false, shall be punishable by imprisonment for no less than six months and a fine of no less than fifty thousand Egyptian Pounds and no more than one hundred thousand Egyptian Pounds, or by one of these two penalties.

Article 26: Infringement of Privacy and Unlawful Information Content:

Anyone who deliberately uses an information program or information technology in processing personal data of a third party to connect such data with an abusive content or to display the same in a way detrimental to the reputation of such third party shall be punishable by imprisonment for no less than two years and a fine of no less than one hundred thousand Egyptian Pounds and no more than three hundred thousand Egyptian Pounds, or by one of these two penalties.

**Third: The Anti-Terrorism Law (Law No. 94 of 2015):**

Article 12: Joining a terrorist group, while being aware of its purposes:

Whoever establishes, founds, organizes, or manages a terrorist group or assumes command or leadership thereof shall be punished by the death sentence or life imprisonment. Whoever joins or participates in any manner in a terrorist group, while being aware of its purposes shall be punished by imprisonment with hard labor. The penalty shall be imprisonment for no less than ten years if the offender received military, security, or technology training by the terrorist group to achieve its objectives or if the perpetrator is a member of the armed forces or the police. Whoever coerces or obliges a person to join a terrorist group or prevents his separation therefrom shall be punished by life imprisonment. The penalty shall be the death sentence if the coercion, obligation, or prevention results in this person's death.

Article 28: Promoting commission of a terrorist crime

Whoever promotes or prepares to promote, directly or indirectly, the perpetration of any terrorist crime, whether verbally, in writing, or by any other means, shall be punished by imprisonment for no less than five years.

Indirect promotion shall include the promotion of ideas and beliefs inciting the use of violence by any of the means set forth in the preceding paragraph of this Article.

The penalty shall be imprisonment for no less than seven years if the promotion occurs inside houses of worship, among members of the armed or police forces, or in locations belonging to such forces.

Whoever possesses or acquires any public means of printing or recording used or intended for use, even if temporarily, for the purpose of printing, recording, or broadcasting the aforementioned shall be punishable by the same penalty set forth in the first paragraph of this Article.

Article 29: Establishing or using a website to promote perpetration of terrorist acts:

Whoever establishes or uses a communications site, website, or other media for the purpose of promoting ideas or beliefs calling for the perpetration of terrorist acts or broadcasting material intended to mislead security authorities, influence the course of justice in any terrorist crime, exchange messages, issue assignments among terrorist groups or their members, or exchange information relating to the actions or movement of terrorists or terrorist groups domestically and abroad shall be punished by imprisonment with hard labor for no less than five years.

Whoever unduly or illegally accesses websites affiliated with any government agency in order to obtain, access, change, erase, destroy, or falsify the data or information contained therein in order to commit an offense referred to in the first paragraph of this Article or prepare it shall be punishable by imprisonment with hard labor for no less than ten years.