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المجموعة المتحدة للقانون، المحامي بالنقض نجاد البرعي
NEGAD EL-BORAI, ATTORNEY AT-LAW

# Creativity & The Law

A Comparative Study Of The Legal Problems
Restricting Freedoms Of Creativity




Lead Researcher & Editor

**Negad El-Borai**

# Executive Summary, Recommendations and Proposals to Improve Some Relevant Laws and Decisions

## Contributing Researchers

**Chapter One: Creators and the Law – Creators and the Judiciary**

Sayed Mahmoud – Essam Zakaria

**Chapter Two: International and Regional Protection of Human Rights**

Hussein El-Sayed

**Chapter Three: The Constitutional Status of Freedom of Creativity in Comparative Law and the Egyptian Constitution**

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Negad El-Borai – Karim Ezzat

# Preface

## Freedom of Creativity and the Law... Challenge and Response

This study is the second part of the study "Against the Constitution: Written Expression That Leads to Prison", which the United Group for Law issued in cooperation with the German Embassy in Cairo a little less than two years ago, on some of the legal provisions governing freedoms of expression in general in Egypt, with proposals for amending them in light of the 2014 Constitution.

At the time, the study set out the challenges facing freedoms of expression through writing in general, and presented the articles of the Egyptian Constitution that protect freedom of expression through writing; it also reviewed the rulings of the Supreme Constitutional Court on the various freedoms of expression. All of this was set against legal provisions, most of which were issued before the 2014 Constitution and a few after it, and all of which contravene the letter of the Constitution, which renders them unconstitutional. The study did not stop at criticising and faulting these provisions, but proposed amendments to the legislative provisions governing freedoms of expression through writing in general, such that members of Parliament would not need new legislation, but only to change some words or phrases in the existing laws in a way that brings them into line with the Constitution.

The study reached findings, among them:

**1.** That the problem does not lie in the provisions of the Egyptian Constitution; it may rather lie in many articles of penal legislation. This was evident in the National Human Rights Strategy[1] and in the working groups prepared by the National Dialogue.[2]

**2.** That much penal legislation was enacted before the 2014 Constitution was issued, so its unconstitutionality is supervening; but even legislation issued after the 2014 Constitution entered into force clearly contravenes its provisions and rules, so its unconstitutionality is inherent rather than supervening. Had it been brought before the Constitutional Court in different circumstances, the Court would have struck it down and ruled it unconstitutional.

**3.** That amending one or more provisions of the Penal Code or of other laws will not make the difference we envisage. Egyptian penal legislation is not confined solely to the Anti-Terrorism Law or the Terrorist Entities Law, but extends to scattered provisions in numerous laws. In addition, the legislation governing the preliminary investigation conducted by the Public Prosecution, the rules on pretrial detention and other matters must be reconsidered. In other words, the legal provisions that impose custodial penalties on individuals, whether in the form of substantive penal provisions or temporary judicial decisions, must be dismantled and reassembled so that they are consistent with the text of the Constitution.

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[1] The National Human Rights Strategy was issued in September 2021 to cover the period from that date until August 2026. It can be consulted at the following link: https://sschr.gov.eg/media/20vb0hx1/-الإستراتيجية-الوطنية-لحقوق-الإنسان.pdf

[2] To learn more about the Egyptian National Dialogue and its recommendations, see its page on the social media site Facebook: https://www.facebook.com/National.Dialogue.NTA

It then made several recommendations, the most important of which were:

**1.** The necessity of the Government implementing the targets set out in the National Human Rights Strategy relating to freedom of expression.[3]

**2.** It is incumbent on the National Council for Human Rights, in cooperation with serious and independent human rights organisations, to form a research group to review all legislation containing penal provisions and assess it against the provisions of the 2014 Constitution and the international charters and treaties that Egypt has signed and that have become, by virtue of the Constitution, part of Egyptian legislation; to propose amendments to it consistent with the provisions of the Constitution and international treaties; and to discuss the results of this research with the House of Representatives and the competent bodies.

**3.** The study recommended that the Supreme Judicial Council, as the body in charge of judges' affairs, organise training programmes for judges on identifying aspects of unconstitutionality in the penal provisions they are called upon to apply in the cases brought before them, and on referring them to the Supreme Constitutional Court.

**4.** It called on the Bar Association and independent civil society organisations to organise training courses for lawyers at the various levels of registration, in order to identify aspects of unconstitutionality in the penal provisions they encounter in the cases they work on, and on how to challenge them and draft pleadings challenging their constitutionality.[4]

It is true that freedom of literary and artistic creativity through the various media is considered a branch of freedom of expression, as established by the rulings of the Supreme Constitutional Court, which ingeniously linked the group of freedoms of expression, binding them together with a close bond, so that it views those rights not individually but as collective rights. The Constitutional Court held that freedom of opinion and expression is necessary to achieve the purpose of freedom of assembly; that freedom of the press is a safeguard of freedom of expression; that freedom of speech and of the press cannot be adequately guaranteed except through some form of assembly; and that the right to form associations is one form of the right of assembly, which is among the highest

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[3] The targets referred to were as follows:
• Issuing a law regulating the right of access to, and the circulation of, information, data and official statistics.
• Promoting a climate and culture of pluralism and of diversity of opinions and views on various public issues.
• Continuing the State's efforts to protect media professionals and journalists while they perform their work, within the framework of the Constitution and the laws regulating this.
• Promoting the right to exercise freedom of expression of opinion and addressing any violations, within the framework of the Constitution and the laws regulating this, and periodically reviewing those laws to guarantee the exercise of this right in accordance with the Constitution and Egypt's international obligations.
• Issuing a comprehensive code of conduct for all aspects of the media and press fields, including digital media and social media sites, ensuring the regulation of the exercise of freedom of expression without infringing the freedoms of others, and drawing on international experience in accordance with the Constitution and Egypt's international obligations.
• Raising societal awareness of the importance of freedom of expression, and holding training for press and media practitioners on the limits of that freedom and the forms of departure from it.

[4] The study can be consulted in Arabic on our website at https://www.ug-law.com/downloads/against-ar.pdf, and a copy in English can be consulted at https://www.ug-law.com/downloads/against-en.pdf

freedoms of expression. In this way, the Court linked all freedoms of expression, making it easy to defend them as an interconnected whole.

However, this cannot lead us to turn a blind eye to the fact that freedom of literary, artistic and scientific creativity must receive special attention, for two reasons.

**The first reason** is that freedom of creativity has had a constitutional provision independent of freedom of the press, and indeed of freedom of expression itself, since the 1971 Constitution, which for the first time contained a provision on freedom of creativity, namely Article 47, which reads: "The State shall guarantee to citizens freedom of scientific research and of literary, artistic and cultural creativity, and shall provide the means of encouragement necessary to achieve this". The 2012 Constitution then slightly expanded the protection of freedom of creativity, with Article 46 providing that "Freedom of creativity in its various forms is the right of every citizen.

The State shall advance science, the arts and literature, sponsor creators and inventors, protect their creations and innovations, and work to apply them for the benefit of society. The State shall take the necessary measures to preserve the national cultural heritage and shall work to disseminate cultural services". The current Constitution then came to provide, in Article 67 and in greater detail, for the protection of freedom of creativity, prohibiting sentences of imprisonment because of the public nature of the artistic, literary or intellectual product, and stating clearly that "Freedom of artistic and literary creativity is guaranteed, and the State undertakes to promote the arts and literature, sponsor creators and protect their creations, and provide the means of encouragement necessary for this. No lawsuits may be filed or initiated to suspend or confiscate artistic, literary and intellectual works, or against their creators, except through the Public Prosecution.

No custodial penalty shall be imposed for crimes committed because of the public nature of the artistic, literary or intellectual product. As for crimes relating to incitement to violence, discrimination between citizens or impugning the honour of individuals, the law shall specify their penalties. In such cases, the court may oblige the convicted person to pay punitive compensation to the party harmed by the crime, in addition to the original compensation due to them for the damage they suffered from it, all in accordance with the law".

**The second reason** is that the internet, the ease of access to it and the subsequent spread of social media have led to an explosion of creators' talents; it has become easy for them to present their creativity directly to the public, without an intermediary. Anyone, whoever and wherever they are, can present to the public songs or acted scenes that they have written and perhaps performed; indeed, a group of people can perform many acted or sung scenes, or scenes through storytelling, without passing through the official channels created by the government, leaping over them. Such a person needs neither the approval of a professional syndicate nor a permit from the Censorship of Artistic Works authority, nor even a legal deposit number for their work. The creator and the audience have come face to face, with no intermediary to restrict the creator or to stand between the creator's work and the public.[5]

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[5] Artistic, scientific and literary creativity can be defined as an advanced mental and productive process in which the individual invents original and unfamiliar ideas, solutions or works that bring benefit or offer aesthetic and cognitive value to society. In other words, it is the use of imagination to find innovative solutions and to make connections between things that appear completely different, and to look at the world in different and new ways; this skill helps to turn imaginary ideas into tangible reality and contributes effectively to solving problems. While creativity of all kinds represents new and innovative production, freedom of expression is the legal and human umbrella that allows this creativity to be disseminated and shared, along with ordinary opinions and ideas. For more, see the meaning of creativity at https://bakkah.com/ar/knowledge-center/الإبداع

This impressive result has encouraged creators to present some of their creations directly to the public through TikTok platforms, book-presentation sites, independent cinema, short mobile films and others, leaving governments with nothing in their hands but loose legal provisions that contravene constitutions and allow them to impose custodial penalties on creators. This is happening at a time when the judiciary applies those legal provisions, which sometimes contravene constitutional provisions or rulings issued by the Constitutional Court, with severity: influenced by social considerations, or to police what it regards as public morals, or sometimes in response to collective campaigns of criticism of a creative work on social media.

The Palestinian writer Nahed Zaqout holds that "the work of authority consists in rebuilding reality/society according to a particular system of knowledge, through regulating mechanisms that usually acquire the attributes of correctness and reasonableness, attributes which in turn provide a kind of normativity that defines the scope of the acceptable and the unacceptable and the domains of the permitted and the forbidden. These mechanisms are often employed unconsciously because, over time, they become an integral part of the production of authoritarian discourse; they also form the outcome of a long history of processes of intellectual domestication and normalisation that educational, pedagogical, guidance and preaching institutions have worked to entrench, with the highly effective techniques and the ever more developed channels of communication available to them.

On the basis of this logic, we see that authority, any authority, seeks to impose its ideology on the members of society, that is, it works for the stability of social systems; it therefore rejects every opinion that contradicts its ideology and prevailing thought. Since writers and thinkers seek to change entrenched social systems, its fear of them arises, and it suppresses their freedom for fear that their writings may tempt people to rebel against the restrictions it necessarily imposes on them. For this reason, it always looks upon the writer/creator with suspicion and apprehension.[6]"

In general, this study aims to provide an analysis of the constitutional guarantees relating to freedom of expression and to artistic and literary creativity; together with a review of the principal laws and executive regulations, administrative decisions and institutional competences governing artistic works; the extent to which the existing legal framework is consistent with Egypt's international human rights obligations; and an analysis of the available judicial rulings.

Alongside all this, the study will present some international legal experiences, whether in legislation or in judicial rulings and decisions, concluding with proposed legal amendments to legislation that would make it consistent with the text of the Constitution. It is no secret to the reader that the legislation regulating creativity was all issued, with few exceptions, before the 2014 Constitution, and most of it is therefore tainted by a defect of supervening unconstitutionality; a legal provision may have been consistent with the constitutions issued before the 2014 Constitution, but today it falls outside the scope of the Constitution.

However, it must be acknowledged that there is great disagreement in our societies about the limits of creativity and the restrictions that should be imposed on it. Mr Tahseen Malwani holds that "every people has morals and behavioural norms that make its members comply with them so as to reach accommodation and coexist with respect and dignity that must not be violated in any way", and that "if creativity is one of the foundations for achieving the common good and development in all sectors of society, objectivity requires that it respect what is entrenched in

[6] Nahed Zaqout, "Freedom and Creativity: A Condition or a Necessity", https://diwanalarab.com/الحرية-والإبداع

people's souls, if it is something that has merit and has nothing to do with backwardness and ignorance. There are many creators who have given themselves free rein to breach the fences of morality, on the pretext that creativity is that which departs from the ordinary. They resorted to this in pursuit of fame and of the boldness of being first to demolish what is sacred in people's souls, and some of them serve an agenda concerned with championing the morals of some peoples at the expense of others, paving the way for colonialism and occupation indirectly".[7]

On the other hand, the Algerian writer Bashir Khalaf holds that "creativity is opposed to every material or moral restriction, and to every institutional text whose aim is to preserve what exists. Creativity is creative thought, a captivating glow, a constantly renewed becoming, a process of transcendence, a process of new and renewed construction; its first step may be demolition in order to establish the new in place of what was and is being demolished, or it may be a new construction ... The way of creativity is development.. improvement.. making human life easier.

If this has always been the state of creativity, then the true creator, the free creator, has always, throughout all historical stages

and in every corner of the earth, striven to break free of restrictions and launch into the vast cosmic spaces, singing to bring happiness to humanity first, answering an inner call and unleashing distinctive energies that God has granted him and singled him out with, achieving for humanity some of its happiness ... The creator, this solitary human being.. his soul longs to escape what the existing patterns of society have been accustomed to and are accustomed to, and to which people have submitted willingly.. his spirit swims in worlds other than the worlds of others, at odds with the prevailing conformity, with submission and subjugation, refusing to accept what is and to preserve it".[8]

The Al-Azhar Document on Freedoms, issued on 6 January 2012, comes to mediate between the two views: it adopts the concept of absolute freedom for creators, restricting it with a single restriction, albeit one with various facets, namely "the system of moral values on which the revealed religions have agreed". It therefore considers it necessary, "at the present stage, to take care not to touch, closely or remotely, upon religious sanctities, and the necessity of respecting them and not attacking them". However, this document is to be commended for regarding that restriction as temporary, using the expression "**at the present stage**", and it is also to be commended for regarding freedom, including freedom of creativity, as "a duty and a necessity, not merely a right granted at one time and withheld at another. For this freedom to be fruitful, it must be coupled with responsibility; the artist or creator is not a being from another planet, but in the end a citizen concerned with everything that concerns his fellow citizens and the members of his society".[9]

However, it is important to know how the world sees us. Egypt, by virtue of geography and history, has an excellent record in creativity and a wide capacity to influence the entire Arab region. With regard to freedoms of creativity, international sources make it possible to assess Egypt's situation across multiple aspects of freedom of creativity and expression, including freedom to write and

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[7] See, for example, Tahseen Malwani, "Freedom of Creativity: Controls and Limits", article, Al-Araby Al-Jadeed, https://www.aajeg.com/حرية-الإبداع-ضوابط-وحدود

[8] Bashir Khalaf, "No Creativity Without Freedom", article on the following website: https://www.diwanalarab.com/لا-إبداع-بلا-حرية.html

[9] The Al-Azhar Document on Freedoms can be consulted on the Al-Azhar website, Al-Azhar Portal: https://azhar.eg/وثائق-الأزهر/وثيقة-الأزهر-للحريات

publish, artistic expression, the press, digital expression, and academic and cultural freedom. Measurement tools vary: some assign a score and a classification, some rank countries according to documented cases of detention, while specialised reports provide qualitative analysis without a global ranking.
In the Freedom to Write Index 2025, Egypt ranks ninth among the countries that detain the most writers, in the Freedom to Write Index 2025 issued by PEN America on 12 May 2026. The Index documented the detention of 13 writers during 2025, compared with 10 in 2024, an increase of three cases, with Egypt remaining among the top ten countries on this list.[10]

**As for artistic creativity and the situation of artists and cultural producers, these are addressed by** the State of Artistic Freedom 2026 report issued by Freemuse, which sets out concerns relating to the detention or prosecution of people working in writing, poetry, translation, caricature and cinema, and to restrictions on publishing and digital expression in Egypt.[11] However, the same report notes the continued existence of independent cultural activity, while stressing that the existence of artistic production and initiatives does not negate the restrictions it documents, just as documenting restrictions does not mean that cultural life has stopped completely.[12]

**As for freedom of digital expression and content creation,** Egypt scored 28 points out of 100 in the "Freedom on the Net 2026" report, with a "Not Free" classification and an overall score unchanged from the previous year. The score was distributed as 14 out of 25 for obstacles to access, 9 out of 35 for limits on content, and 5 out of 40 for violations of user rights.[13] The distribution indicates that the availability of connectivity is relatively better than the assessment of the protection of users' rights. The spread of platforms is therefore not sufficient to prove an improvement in the freedom to use them for publishing, expression and cultural production. The report addresses the risks of penalties and surveillance and the related self-censorship. It also notes an improvement in one of the access items as a result of increased internet penetration and the non-recurrence of power cuts linked to load-shedding during the monitoring period.[14]

Thus we can see ourselves in the eyes of the world and try to improve the general situation, so that Egypt can regain its soft power and lead Arab cultural life towards a wider horizon of freedom, without which there can be no creativity of any significance. I believe this study moves in this direction: it reveals the problems and sets out highly reasonable solutions, some of which the government could implement if it wished to improve the situation of freedoms of creativity.

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[10] PEN America, Freedom to Write Index 2025, published on 12 May 2026; includes Egypt's result and the criteria for counting cases: https://pen.org/report/freedom-to-write-index-2025/ . For comparison with 2024: https://pen.org/report/freedom-to-write-index-2024/ . PEN America

[11] Freemuse, The State of Artistic Freedom 2026, Egypt section, pp. 20–22. The report covers developments during 2025 and does not give Egypt an overall global numerical ranking: https://www.freemuse.org/wp-content/uploads/2026/04/SAF-2026_Web-Quality.pdf . freemuse.org

[12] Ibid.

[13] Freedom House, Freedom on the Net 2026: Egypt, the overall score, its components and the changes in the access items: https://freedomhouse.org/country/egypt/freedom-net/2026 . Freedom House

[14] Ibid.

We hope that this study will constitute a scholarly addition to the many studies issued by highly respected human rights organisations over the last ten years, from which the authors of this study have benefited. We also hope that time will allow us to present its third part, on freedom of expression through the right to organise and to form associations, thereby completing this new trilogy on "The Constitutional and Legal Status of Freedoms of Expression in Egypt and the Judiciary's Position on Them".

I cannot conclude this introduction without extending special thanks to everyone who worked on this study or helped gather its information, and commending the constructive cooperation between the United Group for Law and the German Embassy in Cairo, among whose fruits were this study and the study that preceded it.

And God is the purpose behind all intent; He guides to the right path, and had He willed, He would have guided us all.

**Lead Researcher**

**Negad El-Borai, Cassation Lawyer**

**Cairo, 30 October 2026**

# Executive Summary

This summary presents the study "Creativity and the Law", which discusses freedoms of creativity in light of the Egyptian Constitution and laws, compared with best practice in democratic countries. It offers a condensed picture of a study of more than 230 pages, published in Arabic in a book issued by Rawafed Publishing House and the United Group for Law; it has also been published on the United Group for Law's website, www.ug-law.com. The study is the product of joint work between the United Group for Law and the German Embassy in Cairo. In addition to the lead researcher and editor, a distinguished group of researchers from various disciplines related to the subject worked on it. Alongside the legal part, Mr Sayed Mahmoud, literary critic and specialised journalist at the renowned Egyptian newspaper Al-Ahram, together with the well-known art critic, journalist and head of the Ismailia Documentary Film Festival, Mr Essam Zakaria, presented a view of the situation of creative freedoms in Egypt and of the problems facing creators in the various fields of creativity; while the researcher specialising in international treaties, Hussein El-Sayed, presented an integrated view of the constitutional and legal situation and of judicial applications in the United States and the European Union, and also presented a study on the international treaties on freedoms of expression and creativity; and Cassation lawyer Negad El-Borai and lawyer Karim Ezzat presented a view of the legal situation and of judicial applications regarding freedoms of creativity in Egypt. The study concluded with proposals for legislative amendments, as well as specific recommendations which, if implemented, could improve the situation of freedoms of creativity in Egypt.

## Summary of the Study

Freedom of artistic and literary creativity is one of the essential components of freedom of expression and of the right to take part in cultural life. It is linked to society's ability to renew itself, review its ideas and perceptions and present its experiences in multiple forms, and it is also connected to Egypt's cultural standing and its ability to maintain its regional influence. However, recognition of this freedom in constitutional texts requires a legislative, institutional and judicial framework that protects the independence of creators and allows works to be produced and circulated and the public to have access to them, without interference beyond what the protection of legitimate rights and interests requires.

The central problem is the persistence of a gap between the guarantees established by the 2014 Constitution and the laws, decisions and practices regulating creativity. Restrictions are spread across penal provisions, special legislation and procedures for licensing, professional regulation, presentation and distribution, and they intersect with social and media pressures that may turn into complaints and prosecutions or push institutions to retract earlier approvals. The creator's freedom and the stability of the work are thus affected by a system whose limits are sometimes difficult to identify, and the results of dealing with which are difficult to predict.

The research aims to analyse the sources and effects of this gap by combining a study of constitutional guarantees, international obligations, legislative texts, administrative decisions and institutional competences with an examination of available judicial rulings and practical cases in publishing, music, cinema, theatre and digital content. It draws on legal comparison to identify the controls that allow legitimate interests to be protected without subjecting art to a prior official conception of its subjects, language, media or the audience it may address.

The methodology is based on a comparative legal analysis that links the text to its interpretation, application and outcomes. It does not stop at the existence of a constitutional provision establishing freedom or a legislative provision proclaiming the protection of morals, security or the rights of others, but examines the clarity and foreseeability of the rule, the distribution of powers of intervention, the stability of procedures and licences, the proportionality of sanctions and the extent to which the artistic characteristics of the work are taken into account, so as to allow an assessment of the actual space available for creativity in light of the rules and environment that govern its practice.

## The Scope of Freedom of Creativity and the Transformation of the Cultural Environment

The creative process begins with imagination, research, experimentation and the choice of subject, language, form and medium, and then extends to production, publication, presentation, performance and distribution. Protection therefore covers the activity that brings the work into existence and the choices that shape its structure, as well as the means and institutions that allow it to move into the public sphere, because permitting authorship while obstructing presentation or closing distribution outlets may leave legal recognition in place while preventing the social and cultural purpose of creativity from being achieved.

This protection is not limited to the professional artist or the holder of syndicate membership. It extends to the human being as capable of creation and expression; to those involved in production and circulation, such as publishers, producers, distributors, show organisers and cultural institutions; and to the audience, which holds the right to receive, choose and interact. This means that banning a work or restricting a medium affects a network of rights and relationships that goes beyond the individual interest of the author or performer.

The nature of creativity requires attention to the difference between literal and figurative expression, and between the author's position and the voices the author creates within the work. A novel may present an extremist character in order to understand or criticise it, theatre may reproduce a stereotype in order to expose it, and caricature uses distortion and exaggeration to produce its meaning, whereas ignoring these characteristics leads to equating the depiction of an idea with its endorsement, or to turning a shocking element taken out of context into the basis for judging the whole work.

Digital technology has reshaped the cultural sphere. It has lowered some production costs, made tools available for recording, filming, editing and publishing, and enabled individuals to build an audience and achieve presence and economic return outside traditional channels. It has also broadened the participation of groups that lacked resources, connections or institutional recognition, and weakened the monopoly of elites and institutions over determining artistic value and conferring legitimacy on new names and genres.

This expansion has been accompanied by additional forms of control, including platform policies, recommendation algorithms, content moderation and commercial interests, as well as the ease of cutting scenes out of context and of organising stigmatisation campaigns and complaints. The creator has thus become able to reach the audience directly while at the same time being exposed to the deletion of their output, the restriction of their account or social targeting. This calls for

regulation that takes account of the characteristics of media and addresses their specific risks, without turning moral or aesthetic disagreement into a general ground for prosecution.

## Publishing and the Limits of the Movement of Ideas

Censorship of publishing has been linked to the ability to control the institutions of production and distribution, resources and professional positions. State control over a large part of the industry gave it influence over the choice of names, subjects and employment opportunities, and the narrowing of space for some writers pushed them to publish outside Egypt. Religious authorities and social pressures also intersected with political and administrative decision-making, so that banning became, in multiple cases, the result of interaction between parties with influence in the literary field.

The abolition of prior censorship of publishing opened space for more independent publications and literary groups, but it did not end other tools of control or the influence of conservative currents. Meanwhile, the rise of independent publishing houses and modern bookshops and the spread of the internet and of reading groups contributed to building new relationships between authors and readers and to enabling experiences that do not depend on official institutions for their dissemination, which redistributed standing and opportunities within the book market.

Restrictions also appear in the conditions for participating in fairs, in legal deposit procedures and in distribution outlets. Excluding a publishing house from the Cairo International Book Fair leads to the loss of a major opportunity for sales, for promoting new releases and for engaging with the public, while the absence of stated reasons or a lack of clarity about the responsible body limits the ability to challenge the decision, and makes the stability of the activity dependent on assessments on the basis of which the publisher or writer cannot organise their work.

The crises over legal deposit numbers reveal the need to preserve the documentary function of the procedure and to safeguard the rights of authors and publishers, especially when the requirements are linked to submitting editable files, making drafts available before publication, or objecting to possible political connotations of a title or cover. Modernising administration and preserving intellectual output do not require creating an authority to examine ideas or judge their appropriateness; they also require consultation with stakeholders and a clear definition of obligations.

## Music and the Struggle for Artistic Recognition

Mahraganat and rap express a change in the means of production, the audience, the language and the social experiences entering the public sphere. Audio software and digital distribution have enabled people from outside traditional institutions to present widely popular works, while resistance to them has sometimes been coupled with a discourse of protecting taste and values and with a negative attitude towards the origins of their producers and audiences. Artistic evaluation has thus become entangled with the struggle over who has the power to confer the status of artist and to set the conditions for belonging to the field.

The problem arises when regulatory procedures shift from protecting workers' rights and organising employment opportunities to imposing conditions on lyrics, content and the form of performance, or when genres based on the electronic medium are required to conform to a

traditional model that alters their characteristics. Moreover, the uneven granting of permits and linking them to monitoring of performance may turn professional recognition into a means of conditional containment, instead of an entry point for protecting practitioners and enabling them to work.

Advertising and production companies add further conditions: they may absorb the new artist and give them exposure in exchange for modifying the content or toning down some of its social and political elements. Freedom is thus affected by mechanisms of exclusion and containment together, and the creator's independence becomes linked to their ability to negotiate with the professional institution and the market, while it remains necessary to separate the regulation of legitimate activity from the imposition of a single conception of musical language or of the taste the audience should adopt.

## Cinema, Theatre and the Multiple Levels of Censorship

Film-making passes through a series of professional and censorship approvals, filming permits, location approvals and clearance of the final version, and additional bodies may intervene depending on the subject of the work, which raises costs, lengthens production time and increases the likelihood of obstruction. Completing the procedures does not always guarantee the stability of screening, because a work may face withdrawal of its licence, unwritten instructions or pressure affecting distribution and participation in festivals.

The crises of *Halawet Rouh*, *In the Last Days of the City* and *Feathers* illustrate the different forms taken by the gap between completing a work and making it available. They also reveal the ability of media and societal campaigns to influence the censorship position, while objections relating to Egypt's image raise the question of the freedom to depict poverty, inequality and social problems, when the presentation of a harsh reality or a critical perspective is treated as an insult to society, instead of the work being discussed and evaluated within its artistic field.

Age rating is a possible means of regulating access while preserving availability, but its effect becomes limited if it is added to prior prohibitions without reviewing the philosophy of banning and cutting. Control of distribution outlets or the imposition of repeated approvals for cultural screenings may also obstruct works that have completed licensing, which highlights the importance of the economic and administrative structure of circulation and the need to take into account the situation of independent works and small entities that lack influence and resources.

Theatre is affected by its live nature and by control over venues and repeat performances. Movement, tone and interaction with the audience add meanings beyond the written text, while the subordination of halls to institutions allows administrative or individual interventions in the continuation of activity, and local objections or rumours may turn into the cancellation of a performance before it is staged. Contracting and broadcasting terms also affect the version that reaches television and platform audiences after the work has been staged.

## Digital Content and Social Policing

Short-video platforms, including TikTok, have provided opportunities for visibility and income for young people and some groups with limited influence, but prosecutions over content have been linked to broad descriptions relating to values and modesty, and have sometimes been accompanied

by campaigns focusing on the producer's identity, appearance and life. This reveals the intersection of legal considerations with gendered and class-based conceptions of the permitted limits of visibility, financial independence and participation in the public sphere.

The legal characterisations attributed to clips and accounts may be multiple, so that provisions of information technology law, the Penal Code and other rules overlap, which makes it essential to separate the elements of each crime and its evidence. Fines, bail, confiscation, loss of employment opportunities and social stigma also leave an effect beyond the final penalty, and push others to avoid satire or sharing their everyday experiences for fear that these will be reinterpreted or assigned more serious characterisations.

This environment reveals the expansion of individual policing that tracks expression according to diverse moral standards, taking advantage of the ease of resharing, mobilising and reporting. Meanwhile, addressing the real risks of platforms calls for clear obligations relating to the protection of children, data and privacy and the prevention of exploitation, with guarantees for users and mechanisms of review and accountability, so that selective punishment does not replace regulation of the digital infrastructure within which the risks arise.

## International References for the Protection of Freedom of Creativity

International protection rests on the complementarity of freedom of expression, cultural rights and the protection of the creator's interests. The Universal Declaration of Human Rights combines the freedom to seek, receive and impart ideas and information with the right freely to participate in cultural life and to enjoy the arts, and with the protection of the moral and material interests resulting from scientific, literary or artistic production. Protection thus covers the creation, transmission and reception of the work, and gives the public an active role in culture that is not limited to receiving the choices of institutions.

The International Covenant on Civil and Political Rights gives artistic expression explicit protection in Article 19, which covers imparting and receiving ideas in the form of art and through the medium of one's choice. Freedom to choose the medium matters because image, rhythm, satire or use of the body may be part of the content, and imposing an alternative medium may change the work itself, even if expressing the idea in another form continues to be permitted.

The International Covenant on Economic, Social and Cultural Rights adds protection for the activity that precedes the appearance of the work: Article 15 combines cultural participation, protection of the author's interests and respect for the freedom indispensable for scientific research and creative activity, so that the stages of imagination, experimentation and development fall within the scope of protection. Freedom of participation is also linked to the State's obligation to refrain from unlawful interference and to take measures that facilitate access, contribution and production.

The Convention on the Rights of the Child affirms that the child holds a right to expression through art and to participation in cultural life, alongside the child's need for protection, while the Convention on the Rights of Persons with Disabilities requires that persons be enabled to develop and use their creative, artistic and intellectual potential, and that materials, places and activities be made accessible. This shows the need to combine protection from harm with the removal of the obstacles that prevent equal participation, without reducing the role of these groups to passive reception.

The Convention on the Protection and Promotion of the Diversity of Cultural Expressions links diversity with the modes of creation, production, dissemination, distribution and enjoyment, and calls for an environment that allows individuals and groups to produce their own expressions and to access those of others. It also prohibits using the protection of culture as a pretext for infringing fundamental freedoms, which makes the multiplicity of outlets for access and mediation part of protection, and calls for attention to the restrictions that may arise from control over resources and markets.

The development of standards within the UNESCO system reveals a shift in focus from the status of the artist and their professional and social conditions to the stages of production and circulation, and then to the effect of the digital environment, algorithms and artificial intelligence, because the discoverability and spread of a work may be affected by platform policies, market concentration and unequal access to technology, even without any formal ban being issued. It nevertheless remains necessary to distinguish between these factors and direct legal violations of freedom.

Restrictions are subject to the conditions of legality, legitimate aim, necessity and proportionality. These require a clear and accessible rule, an identification of the harm and the interest and of the link between them and the work, and a search for the least restrictive means. Balancing also requires taking into account the audience and the conditions of access, and distinguishing between protecting believers and protecting beliefs from criticism, between depicting hatred and inciting it, and between regulating children's access and withholding the work from adults without sufficient justification.

The European Convention on Human Rights, through Article 10, provides protection covering the imparting and receiving of ideas, and subjects interference to the test of necessity in a democratic society, while the Charter of Fundamental Rights of the European Union gives freedom of the arts direct recognition that complements freedom of expression and diversity. The American Convention on Human Rights stands out for its protection of expression in artistic form, its rejection of prior censorship as a general rule and its prohibition of indirect restrictions resulting from the abuse of government or private control over the means of circulation.

## Comparative and Egyptian Constitutional Protection

The Basic Law of the Federal Republic of Germany grants freedom of art a guarantee independent of the general provision on freedom of expression, while the Basic Law on the General Rights of Nationals of 1867 in Austria protects artistic creativity and the dissemination and teaching of art. Cultural mediation and the institutions that bring the work to the public thus fall within the scope of protection, and restricting publication, presentation or teaching becomes connected to the freedom itself, rather than being merely a professional effect lying outside it.

The Portuguese Constitution combines freedom of intellectual, artistic and scientific creativity, the right to invent, produce and disseminate a work, and the protection of copyright, and restricts the imposition of official philosophical, aesthetic, political, ideological or religious directives on education and culture. The Spanish Constitution, for its part, protects literary, artistic, scientific and technical production and creativity, prohibits prior censorship and makes the seizure of publications and recordings subject to a judicial decision, which strengthens the independence of the creative process and the stability of its circulation.

The Italian, Greek and Polish models add dimensions relating to the independence of freedom of art from general freedom of expression, the State's obligation to develop and promote it, and the combination of creativity with the dissemination of its fruits and the enjoyment of the products of culture. Protection thus appears both in refraining from interference and in supporting opportunities for learning, production and presentation, while detailed legislation, judicial interpretation and public policy remain the factors that determine the extent to which the constitutional text becomes actual practice.

In Egypt, Article 67 of the 2014 Constitution is the pivot of protection. It combines the guarantee of freedom with the State's obligation to promote the arts and literature and to sponsor creators; confines the filing or initiation of lawsuits to suspend or confiscate works, or against their creators, to the Public Prosecution; and prohibits custodial penalties because of the public nature of the product, subject to the specified exceptions. Meanwhile, Article 92 protects the essence and substance of rights, and Article 93 affirms international human rights obligations.

These guarantees require earlier and later legislation to be reviewed and interpreted so as to preserve the effectiveness of protection. The importance of extending them to those involved in making the work available, according to how their acts relate to its public nature, also stands out, because protection of the author may be undermined if the publisher, producer or exhibitor can be punished in a way that prevents the work from reaching the public. Defining the exceptions also still requires precision, to prevent them from expanding to absorb the principle that the guarantee was established to protect.

## Legislative Comparison and the Limits of Regulation

The comparison reveals that recognition of freedom of art coexists with restrictions relating to morals, religion, authority, symbols, violence and hatred, and that the value of protection is determined by the clarity of the protected interest; by attention to the artistic function, context and audience; by the separation of harm from provocation and of depiction from endorsement; and by the proportionality of the sanction and the possibility of regulating access instead of banning. This prevents general headings from becoming a sufficient basis for subjecting the work or its author to prosecution.

In the field of sexual content, the Obscene Publications Act 1959 allows the material to be considered as a whole and in light of the circumstances of its reception, and provides a public good defence where publication served science, literature, art, learning or other objects of general concern, with the possibility of calling on experts. Artistic merit thus enters into the determination of liability rather than being ignored merely because a sexual scene or element is present.

The French Criminal Code (Code pénal), in its provisions on sexual exhibition imposed on others in a place accessible to public view, highlights the importance of the nature of the act and the circumstances of exposure to it. When an artistic or protest performance is assessed, this calls for examining the function of the use of the body, the manner of its presentation and the rights it affects, and confirms that an apparent description detached from context is not sufficient on its own to understand the legal position of the work or to justify punishment.

In the religious field, Article 188 of the Austrian Criminal Code extends to objects of veneration, doctrines and institutions according to its conditions, while Article 196 of the Polish Criminal Code (Kodeks karny) links the offence to offending religious feelings by publicly insulting an object of

veneration or a place of worship, and the Danish model addresses forms of improper treatment of writings of essential religious importance. The point of tension thus differs between the content of the treatment, its effect on persons and the physical act.

These differences require defining what is meant by protecting religion before assessing the restriction, because preventing incitement against believers differs from shielding a creed from mockery or reinterpretation, and protecting the practice of rites differs from preventing the depiction of a religious figure. The more criminalisation tends to impose respect for a meaning or a symbol instead of preventing a specific harm, the greater the need to scrutinise necessity, proportionality and the effect of the provision on the creator's independence.

In political satire, the German Criminal Code (Strafgesetzbuch – StGB) retains special protection for the Federal President, and Organic Law No. 10 of 1995 on the Criminal Code (Ley Orgánica 10/1995, de 23 de noviembre, del Código Penal) includes protection for the Crown in Spain. This raises the question of whether it is necessary to grant an office exceptional protection from mockery, especially since caricature and parody rely on stripping away solemnity, on exaggeration and on inverting the official image.

Rules on national symbols raise a distinction between protecting the physical object and protecting its meaning, as appears in the Danish Criminal Code (Straffeloven) and the Hungarian Act C of 2012 on the Criminal Code, because some forms of criminalisation are based on insult without requiring damage. Balancing therefore requires separating damage to property from the reuse of a symbol to produce a critical message, and not aggravating the sanction merely because of rejection of the political or historical meaning associated with it.

In countering terrorism and prohibited ideas, the German Criminal Code (Strafgesetzbuch – StGB) allows the purposes of art, science, research, teaching, civic education and historical reporting to be taken into account when certain provisions on the use of symbols are applied, thereby recognising that the appearance of a symbol may serve the depiction or criticism of a phenomenon. In other provisions, it also distinguishes between material that performs a practical function in facilitating a crime and material that appears within a cognitive or creative context, which prevents the mere apparent presence of an element from being reduced to its endorsement.

As for the French Law of 29 July 1881 on the Freedom of the Press (Loi du 29 juillet 1881 sur la liberté de la presse), it addresses incitement to discrimination, hatred and violence and certain forms of discriminatory insult, with the means of publication extending to visual and electronic works. Applying it to art, however, requires determining whether the work adopts the discourse or uses it in order to expose it, and combining content, structure and context, rather than relying on a word taken out of context or on an intention declared by the author of the work.

## The Egyptian Legal Framework and Points of Objection

Restrictions in Egypt are spread across the Penal Code; Law No. 20 of 1936 on Publications, as amended by Law No. 199 of 1983; the legislation regulating the censorship of works; information technology rules; ministerial decisions; and media codes. The objection centres on the accumulation of provisions with broad concepts, overlapping powers and sanctions that affect production and circulation, which calls for a coherent review that prevents the restriction from persisting through legal or administrative alternatives after one of its sources has been amended.

The provisions of the Penal Code relating to sedition, extremist ideas, morals and harming the country's reputation raise questions about the clarity of the act, the intent and the harm, while the publications rules allow entry, circulation and reprinting to be banned and extend the effect of the decision to domestic activity. This shows the need to define the limits of liability and to prevent the definition of the crime from shifting into unrestricted moral judgement, while taking into account the constitutional guarantees relating to expression, creativity and the public nature of the product.

The rules on the censorship of works grant powers relating to production, presentation, circulation, withdrawal of the licence and requests for modification, while Decision No. 220 of 1976 on the Basic Rules for the Censorship of Artistic Works links approval to objectives and prohibitions that may impose a specific message on art. This affects the freedom to present complex characters, different historical readings or harsh social treatments, and increases the fear that depicting a phenomenon may turn into an accusation of advocating it or of defaming society.

Article 25 of Law No. 175 of 2018 on Combating Information Technology Crimes raises a particular problem in taking family principles or values as a basis for criminalisation, because their meaning changes and it is difficult to define the conduct that infringes them, and because they differ from privacy and data offences, in which the right-holder and the infringement can be identified more clearly. Applying it to creative content may also obscure examination of the guarantees relating to public nature by re-describing the content in technical or value-based terms.

The drama codes raise questions about the limits of competence and the legal basis for censorship of content, and about the difference between regulating media practice and directing artistic work. Sanctions directed at the channel or website may also lead to the work being banned or push the producer to delete or modify it. They should therefore be assessed according to their actual effect on availability, taking into account the hierarchy of rules and guarantees, the clarity of the reasons for the decision, the body responsible for it and the means of challenging it.

## Judicial Application and the Effectiveness of Guarantees

Comparative case law reveals that understanding the work as a whole may change the legal outcome, because poetic language is not necessarily equivalent to a direct call, a fictional character does not automatically correspond to a real person, and satire uses exaggeration to produce a message whose nature the audience recognises. Moreover, reproducing a stereotype may serve to combat discrimination, which calls for determining the expressive function before attributing an infringement to the work or its author.

Cases involving the body, religion and symbols show that the existence of a legitimate interest in regulation does not justify every sanction. Interference may be disproportionate because of imprisonment, confiscation or the extent of the cuts, and classification and warnings may restrict the intended audience even though the work continues to exist, while the protection of property, places of worship and privacy remains in place, provided that liability is linked to the act and the harm, and that the artistic form is not used to conceal genuine incitement or established aggression.

The Supreme Constitutional Court has established principles relating to strict scrutiny of criminal provisions, the social necessity of criminalisation, the proportionality of sanctions and the particular nature of the arts when professional practice is regulated. Meanwhile, the ruling relating to *Halawet Rouh* revealed a disagreement about the administration's power to withdraw a licence

after issuing it: the Court upheld the constitutionality of the provision within the scope before it, as against criticism holding that subsequent suspension should be subject to a judicial guarantee that protects the stability of approval and the rights of the creator and the audience.

Some Egyptian applications concerning digital content show the overlap of multiple legal characterisations with the court's power to assess evidence, the connection between offences and the interpretation of modesty and values. This increases the importance of reasoning, of examining the material, of discussing defence pleas and of verifying the elements of each charge. It is also necessary to separate facts from social conceptions of lifestyle, and not to substitute the court's general conviction, or a belief derived from police inquiries, for a statement of the evidence on which liability rests.

## Towards Alternative Wordings More Consistent with the Constitution.

In its final chapter, the study presents alternative legal wordings to the current ones that are more consistent with the Egyptian Constitution and protect freedom of creativity in harmony with international charters and the reality in Egypt, guided by a number of basic rules, namely:

The penalty must be proportionate to the seriousness of the criminalised acts.

Acts punishable under criminal law must be absolutely clear; otherwise they are unconstitutional.

No custodial penalty shall be imposed for crimes relating to the public nature of the artistic, literary or intellectual product, in implementation of Article 67, paragraph 2, of the Constitution.

No custodial penalty shall be imposed for crimes committed by way of publication or public dissemination, in application of Article 71, paragraph 2, of the Constitution.

Any legislation on preventing contempt of religions and beliefs must not restrict freedom of expression; its wording must therefore be precise and narrow, and it must not be interpreted broadly in a way that leads to preventing public discussion of religions or beliefs.

Laws in general must be consistent with the human rights principles set out in the International Covenant on Civil and Political Rights and the other human rights treaties signed by Egypt, in application of Article 93 of the Constitution.

The burden of proof may not be shifted onto the defendant; the burden of proof lies with the claimant, who is required to prove every element of the claim, including the defendant's fault.

# Recommendations of the Study

As is clear from a review of its chapters and conclusions, this study aims to maximise the benefit of Egyptian soft power, which led the Arab cultural and artistic renaissance for decades, by easing the restrictions of legal censorship on it and facilitating its work, and by opening the way to benefiting from it in the difficult circumstances the region is going through and amid the attempts of some sister states to take Egypt's place in leading the Arab cultural and creative scene, relying on huge financial surpluses and on ideas more open to the world. By soft power we mean here "the State's attempt to disseminate its cultural, educational, artistic and creative models, and indeed its political and symbolic values, and to make them represent, in the consciousness and perception of political and intellectual elites around the world or in some regions, the inspiring model that they seek to borrow, to follow, or to be influenced by some of its components or features in the spheres of political systems, legal and constitutional engineering, and the various systems of values and culture". He then goes on to say that the strategy for achieving the effects arising from the inspiring model consists in borrowing the political and social engineering around the symbolic way of life that takes shape and revolves around culture and its many components, as well as intellectual and research freedoms, adventure and avant-garde and experimental artistic experiments, narratives such as the novel and poetry, musical and theatrical experiments, voices, jazz, American cinema and postmodern arts, the great architectural schools and edifices and skyscrapers, and the most developed and long-established universities, institutes and research centres in the social and natural sciences".[15]

Accordingly, the freedom of creators to create, whether artistically, scientifically, intellectually or otherwise, is a matter that must receive the attention of society as a whole. Regrettably, the challenges facing creators are no longer limited to legal challenges; there is also society's own view of creativity and the drawing of individual, rather than societal, red lines for creativity, which each person applies to their surroundings, or whenever they encounter a situation they believe they must confront in order to protect religion and morals. It is true that the legal provisions that restrict freedom of creativity and set limits and restrictions on it help provide pretexts for some members of society to act as self-appointed moral enforcers, but in the end this takes place within the sight and hearing of the law, without anyone moving to rein in this overwhelming desire to put pressure on freedom of creativity.[16]

In fact, the judiciary plays a decisive role in interpreting legal provisions when applying them to various disputes, and those interpretations may sometimes be more important than the letter of the law. It is true that the Egyptian judiciary, like the entire Latin legal tradition, does not play a role in creating legal rules, but in many cases judicial rulings play an important role in creating "judicial precedents", especially if they are issued by a high court such as the Court of Cassation or the Supreme Administrative Court. Thus it can be said that there is a siege surrounding freedom of creativity in Egypt.

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[15] Nabil Abdel Fattah, The Elite and the Revolution: The State, Political Islam, Nationalism and Liberalism, Cairo, Dar Ein Publishing, 2013, p. 287. For more, see "Soft Power: The Vision of the Egyptian Elite" https://acrs.albawabhnews.com/40675

[16] Testimonies from creators about society's pressures on them, and about its members sometimes acting as self-appointed moral enforcers, can be heard in the report of the Association for Freedom of Thought and Expression, "Why You Will Not Be Able to Create in Egypt", by Hossam Fazola, Mostafa Shawky and Mahmoud Othman, at https://afteegypt.org/research/research-papers/2016/10/24/12588-afteegypt.html

The legal situation, whose basic structure took shape from the end of the nineteenth century and the beginning of the twentieth century through to the twenty-first century, that is, long before the 2014 Constitution, and which has not been reviewed in light of the provisions of this Constitution. Then the executive authority, which saw in the old legal structure a support for itself and emulated its philosophy even when it wanted to make some amendments to it; it then tightened, with a number of customary practices, its grip on the neck of creativity, almost strangling it.

Then comes society, in whose mind ideas about the meanings of morality and religiosity, and about standards of what is right and what is not, have been collectively imprinted. Added to all this, after the 25 January 2011 Revolution, came "xenophobia" and "Egypt's image", following intensive media campaigns. Instead of supporting public freedoms, foremost among them freedom of creativity, society became a censor over them, especially with the spread of hardline Salafi ideas in society and their influence on individuals, whose religious hardline stance always grows in inverse proportion to their economic circumstances.

Judges are part of society, not separate from it, and with loose legal provisions such as Egyptian family values, morals or ethics, society's interpretation of those phrases is reflected in their rulings, and it becomes difficult for legal professionals to deal with such notions in a professional manner.

But it must also be pointed out that the wide and common use of the internet in general, and of social media in particular, has helped expand society's censorship of creativity. Just as these media facilitated the spread of creators' works, they have at the same time made it easier for the new self-appointed moral enforcers, who here are the general public, to censor creativity and to seize upon situations and scenes and report them to the police, or to report to the Public Prosecution via the internet what they imagine to be a violation of the sanctity of public morals, ethics or family values, or something that harms the country's reputation, according to each one's own understanding of each of those concepts.

Hence the recommendations set out in the study appear somewhat complex.

On the one hand, they do not arbitrarily separate freedom of creativity from freedom of expression; we believe that guaranteeing freedoms of expression is what helps to guarantee freedom of creativity, and indeed the other tools of freedoms of expression, such as freedom of assembly and organisation, freedom of publication, freedom to form associations and so on.

On the other hand, they place society and its censorship at the centre of attention. If the legal provisions fall short of what we hope, campaigns raising awareness of the importance of freedoms of creativity and of their necessity for Egypt, as well as of the side effects to which hardline ideas lead, including Egypt's loss of its leading position in the Arab region, can make good the defects of the ailing provisions; most importantly, they will create space for work to change or update them.

Thirdly, they treat laws in a manner befitting their importance, setting out legal provisions that can be consistent with the Constitution, particularly given a very old legal structure that may have been consistent with the constitutions in force at the time it was issued, but is now contrary to and different from them.

Addressing the restrictions imposed on freedom of creativity requires combining legislative review with the development of institutional and judicial practices, the improvement of the conditions of production and circulation, and the building of societal support that respects diversity and difference, because amending the provisions remains of limited effect if procedures or pressures

persist that reproduce the same restrictions, and protection of the creator is incomplete without protection of those involved in making their works available and of the public's right of access to them. Considering this, the following recommendations are proposed:

## First: Aligning Legislation with Constitutional Guarantees and International Obligations

**1. Conduct a comprehensive review of the legislation affecting freedom of creativity and build a parliamentary track for amending it.** That the National Council for Human Rights, in cooperation with civil society organisations and the United Group, call a meeting of law professors, specialists and human rights activists to examine the effect of Articles 93 and 151 of the Constitution on the legislation regulating creativity, in light of the guarantees set out in Article 67, and form a working group to identify and assess the provisions and prepare the necessary amendments. These amendments, including the legislative proposals contained in the study, are to be discussed in expanded sessions attended by representatives of parliamentary blocs and independent members, in preparation for their submission to the House of Representatives and their inclusion on its legislative agenda.

**2. Review custodial penalties linked to the public nature of the creative product.** Review the provisions that allow imprisonment for publishing, presenting, performing or distributing works, and establish legislative guarantees that give effect to the protection set out in Article 67, precisely defining the scope of the constitutional exceptions and ensuring that the protection is not circumvented by changing the legal characterisation of the act or treating it as a technical or professional violation without examining its connection with the public nature of the artistic, literary or intellectual product.

**3. Tighten penal provisions with broad wording.** Review the phrases whose scope those addressed by the law find difficult to foresee, including those relating to family values, morals and harming the country's reputation, and delete those whose material conduct cannot be precisely defined, linking criminalisation to clear acts, specific rights or interests and provable harm, so as to reduce the dependence of criminal liability on differing moral and social assessments.

**4. Review the provisions relating to religion in light of the protection of persons and freedom of discussion.** Reassess the provisions used in contempt of religion cases so as to ensure the protection of individuals from incitement to discrimination, hostility or violence on the basis of religion or belief, while preserving space for research, criticism, fiction and artistic reinterpretation, requiring the elements, intent and context of the crime to be stated, and not relying merely on the objection of some recipients to the content of the work.

**5. Review the criminalisation of harming the country's reputation in creative works.** Reconsider the provisions that may be used to punish the depiction of poverty, inequality or social problems as harming the image of the State, and ensure that the protection of reputation does not turn into an obligation to present a positive image or an official narrative of reality, keeping accountability linked to specific acts that meet the elements of a clear crime, rather than relying on the general impression the work leaves.

**6. Subject financial and administrative sanctions to a proportionality test.** Review fines, confiscation, closure, cancellation of licences and blocking of websites or accounts, and assess their effect on the continuity of activity and on persons who did not take part in the violation,

favouring targeted measures that address proven harm and preventing the sanction from becoming a means of shutting down a cultural institution or excluding a creator from the field in a way that exceeds the nature of the act for which it was imposed.

7. **Protect works that use prohibited material for legitimate artistic purposes.** Include clear provisions that take account of the use of symbols of banned organisations, or of violent and discriminatory discourse, within historical, critical and artistic works, so that the use is assessed according to its function and context, distinguishing between depicting a phenomenon in order to understand or criticise it and actually promoting it or inciting the commission of crimes, in a way that preserves art's ability to address the most complex social and political subjects.

## Second: Reforming the System of Censorship and Licensing

1. **Reorganise censorship based on the principle of availability.** Prepare a modern legislative framework based on the principle that the default is the production and circulation of works, narrowing prior intervention to the cases specified by law and justified by a serious and specific danger, and moving towards classification, regulation of access and subsequent liability where these suffice to protect the interest.

2. **Review censorship prohibitions that impose a specific function on art.** Reconsider the rules that link approval of a work to affirming values, delivering a moral lesson or treating problems in a way that does not provoke anxiety or despair, and distinguish between regulating a specific harm and binding the creator to a predetermined moral or social outcome, bearing in mind that depicting crime, sympathising with a complex character or presenting an open ending does not in itself establish advocacy or incitement.

3. **Define competences and prevent multiple censorships of a single work:** The Censorship of Artistic Works authority is the only body entrusted with approving or not approving the artistic works submitted, preventing the requirement of approvals not based on a declared rule, and organising coordination so as to avoid repeated examination, conflicting demands or the continued suspension of a work because it moves between bodies whose legal basis for intervening its owner does not know.

4. **Unify submission procedures and set binding deadlines for decisions.** Establish a clear track for submitting and following up applications and documents, set reasonable periods for issuing a decision or requesting further documents, and prevent applications from being left pending without action, providing a record the person concerned can consult to find out which body is examining the application and what has been done about it, and establishing an urgent means of complaint against delays that threaten production or screening dates.

5. **Require censorship bodies to give written reasons for their decisions.** Issue decisions of refusal, deletion, modification or suspension in written form, stating the legal provision, the facts, the passages objected to and the harm to be prevented, and explaining why less restrictive alternatives are insufficient, so as to enable the owner of the work to understand the decision and prepare a defence, and to prevent reliance on general phrases about appropriateness, values or unspecified requirements.

6. **End the effect of oral instructions in restricting cultural activity.** Confine the obligations imposed on creators and institutions to rules issued by a competent body and published

or announced in a way that allows them to be known, prevent the imposition of a sanction or the obstruction of activity on the basis of an unwritten directive, and enable those concerned to request that any instructions affecting their work be put on record and to challenge them before the competent body.

7. **Strengthen the stability of licences after issuance.** Review the power to withdraw a licence or suspend a screening after approval, and define the cases, bodies, procedures and guarantees required for this, requiring new, specific and verifiable reasons, providing for urgent judicial review, and not treating media controversy or societal objection alone as sufficient reason to nullify an earlier approval or to make the owners of the work bear losses not based on a proven violation.

8. **Develop an independent and transparent age-rating system.** Set declared criteria that take into account the nature of the content, the audience and the conditions of screening, and establish a rating mechanism and a multidisciplinary committee whose decisions can be appealed, reviewing the relationship between rating and prior prohibitions, so that rating leads to wider choice and regulated access, and so as to prevent the protection of children from being used to withhold legitimate works from adults or to impose unjustified stigma on their content.

## Third: Guarantees of Prosecution, Investigation and Trial

1. **Activate constitutional guarantees when complaints are received.** Develop legal guidelines for investigating authorities' handling of complaints relating to artistic, literary and intellectual works, including verifying the nature of the work and its connection to Article 67, and identifying the act, the legal elements and the alleged harm before taking restrictive measures, without treating a large number of complaints or a wide media campaign as independent evidence that a crime has been committed.

2. **Ensure that the work is examined in full and in its original context.** Enable investigating authorities, courts and the defence to view the complete version of the work and the circumstances of its publication and its audience, and do not base the assessment on circulated excerpts or partial images, distinguishing between the author, the narrator and the character and between literal and figurative language, and establishing the source and integrity of digital material and its connection to the person to whom publication is attributed.

3. **Regulate the use of expertise without turning it into aesthetic guardianship.** Allow independent experts from diverse backgrounds to be consulted when it is necessary to understand a medium, an artistic tradition or a production technique, defining the questions to be examined and enabling the defence to discuss the report, and ensure that expertise does not become a means of judging whether the work deserves protection according to its quality or its agreement with the expert's taste, because disputed artistic merit does not on its own settle legal liability.

4. **Do not use pretrial detention merely because of the nature of the expression under investigation.** Review the justifications for resorting to pretrial detention in cases related to creative works and digital content, verifying on an individual and reasoned basis that its conditions are met, using appropriate legal alternatives where they suffice to achieve the purposes of the investigation, and bearing in mind that deprivation of liberty before judgment may halt activity and cause professional and social harm that is difficult to remedy.

5. **Confine the seizure of devices and data to the requirements of proof.** Regulate the examination of phones, accounts and devices so as to define the scope of the data required and the period of its retention, using the necessary forensic copies where they make continued seizure of the originals unnecessary, protecting communications and material unrelated to the incident and the rights of third parties, and providing an urgent route to request the return of tools on which work, study or a source of income depends.

6. **Scrutinise multiple charges and the connection between them.** Verify that each legal characterisation meets its elements and evidence before attributing it to the content, and do not move from a moral assessment of a clip to presuming other offences of a different nature, stating the basis of the connection and its effect on principal and supplementary penalties, so that the accumulation of characterisations does not lead to unjustified aggravation or weaken the ability to mount a defence against a specific charge.

7. **Strengthen the reasoning of judgments and the response to substantive defence pleas.** Set out the material subject to the charge and the facts from which the court concluded that the elements, intent and public nature were present, and state the reasons for excluding constitutional protection when it is invoked, responding to the pleas that affect the outcome, and not relying on general references to values or on satisfaction with police inquiries without presenting what allows the reasoning and the correct application of the law to be reviewed.

8. **Provide rapid and effective judicial protection.** Develop urgent procedures for disputes over the suspension of screenings, withdrawal of licences, blocking and the exclusion of institutions from events, taking into account that cultural activity is tied to dates and contracts that may lose their value over time, ensuring the actual enforcement of final judgments, and allowing claims for redress where the conditions are met, because a judgment issued after the opportunity to screen has passed may not on its own restore the right to its former position.

## Fourth: Publishing, Legal Deposit and Fairs

1. **Limit legal deposit to preservation and documentation.** Review the procedures for granting legal deposit numbers and supplying copies, ensuring that they are not used to examine the appropriateness of ideas, titles or covers, requiring only the materials needed for preservation, in formats that protect intellectual property, setting fees, deadlines and requirements publicly, and consulting authors and publishers before introducing changes that affect their rights or burdens.

2. **Adopt transparent criteria for participation in book fairs and similar cultural events.** Announce the conditions for participation, the allocation of spaces and the reasons for refusal or exclusion, notify the body concerned in writing within a time that allows for complaint, and establish an urgent review mechanism before the event opens, without using a position taken towards a publisher or author to impose an unspecified exclusion on all the institution’s publications or staff.

3. **Confine the confiscation of books and measures preventing their circulation to the limits regulated by the Constitution and the law,** requiring the title, edition, objected material and legal basis of the measure to be specified, confining its effects to what is necessary to address the proven violation, protecting stock, devices and documents unrelated to the incident, enabling the person concerned to obtain a list of the seized items and to challenge their continued retention, and not allowing the ban to extend automatically to critical quotation or to new independent works.

## Fifth: Artistic Syndicates, Production Opportunities and Access

**1. Redirect syndicate regulation towards professional empowerment.** Review membership conditions, permits and fees so as to take account of the multiplicity of paths for learning and gaining experience, providing fair opportunities for talent coming from outside specialised educational institutions, setting declared rules for challenging refusals, and preventing permits from becoming a tool for assessing taste or excluding a musical genre or performance style merely because it differs from prevailing forms.

**2. Take account of technological change in regulating artistic professions.** Update professional rules to accommodate electronic production, sound modification, recorded music, low-cost films and digital content, separating the protection of the rights of instrumentalists and workers from the imposition of a particular medium on the artist, and developing negotiated solutions that protect employment opportunities without abolishing the characteristics on which new genres of creativity are based.

**3. Expand screening outlets for independent production.** Make periodic, transparent programmes available for independent films, plays and musical works within cultural institutions, simplify the procedures for non-commercial screenings and for re-presenting approved works, and allocate declared competitive opportunities for production, distribution and support for venues, so as to reduce the effect of disparities in economic influence and offer the public a diversity that goes beyond what commercial considerations alone dictate.

**4. Support and protect artistic activity in universities and the provinces.** Adopt institutional rules that prevent cancellation, cutting off services or imposing deletions through individual initiatives outside the scope of competence, and that provide a rapid mechanism for handling objections and protecting troupes and audiences, while expanding access to theatres and cultural spaces in the governorates, bearing in mind that the delivery of cultural services should not depend on the ability of the owners of the work to face local or administrative pressure on their own.

**5. Support the independence of artistic funding and contracting.** Set declared criteria for public support based on pluralism and equal opportunities and on avoiding all forms of discrimination.

## Sixth: Digital Creativity and Platform Governance

**1. Separate specific digital crimes from socially divergent expression.** Distinguish, in legislation and in application, between violation of privacy, misuse of data, threats, fraud and exploitation on the one hand, and a performance, satire or content that provokes moral objection on the other, subjecting each charge to clear elements and bearing in mind that the use of a phone or a platform does not obscure the creative nature of the work or exclude the guarantees established for it.

**2. Establish a balanced framework for the governance of major platforms.** Define obligations relating to transparency in content moderation, the protection of children and data and the prevention of exploitation, providing notification of the reasons for deletion, restriction of reach or account closure, and a route for review, taking into account artistic, documentary and

educational content, and avoiding comprehensive bans or suspension of services in a way that affects the expression of large numbers of users because of specific violations that could be addressed by a narrower measure.

3. **Ensure proportionality in removal and blocking orders.** Confine intervention to the offending content wherever possible, stating its duration, scope, reasons and means of challenge, and do not close an entire account or block a platform because of a single item without independent justification, bearing in mind the account's connection to a source of income, a professional archive and communication with the audience, and the harm its loss may cause beyond the incident in dispute.

4. **Develop digital protection for children without negating their participation.** Adopt tools for safety, privacy, reporting and combating exploitation, and provide awareness content for families, children and teachers, while respecting the child's right to expression, creativity and access to culture according to age, and preventing the child's protection from being used to justify general blocking for adults or to criminalise unspecified forms of social difference.

## Seventh: Societal Support and Professional Capacities

1. **Call for the launch of a broad societal and media campaign in support of freedom of creativity.** That the Federation of Artistic Syndicates and the Publishers' Union organise a campaign across the various media and communication channels, discussing the importance of freedom of creativity and its role in cultural life and in Egypt's standing, and society's responsibility to protect it and respect the diversity of its forms, drawing on the Al-Azhar Document and on enlightened religious and artistic views, and involving well-regarded writers and artists, so as to help distinguish between criticising a work and demanding that it be banned, and to counter the stigmatisation, incitement and pressures that target creators because of the difference of their subjects or artistic styles.

2. **Call for countering defamation and incitement against creators.** Develop media and professional practices that respect the presumption of innocence and privacy and prevent rumours or unresolved accusations from being presented as facts, providing for reply and correction and offering protection from serious threats, so that the societal campaign does not become a parallel punishment whose effects continue regardless of the outcome of the investigation or trial.

3. **Organise a judicial and professional dialogue on protecting freedom of creativity and interpreting ambiguous provisions.** Invite the Judges' Club and the State Council Judges' Club, jointly or each separately, to organise panel discussions with the Writers' Union and the Publishers' Union and the Federation of Artistic Syndicates, attended by professors and specialists in comparative international law, to discuss judicial trends on freedom of creativity in light of recent case law, to examine ways of dealing with vague or broadly worded provisions, and to formulate interpretive approaches guided by constitutional guarantees and the characteristics of artistic expression, while respecting the independence of the judiciary and not addressing pending cases or seeking to influence their adjudication.

4. **Organise short legal courses for influencers and creators on social media.** That the National Council for Human Rights, the Bar Association and the relevant civil society organisations organise one-day training courses for influencers and content creators, explaining how to exercise their right to creativity and expression through digital media and clarifying the

rules relating to publication, privacy, intellectual property and other relevant obligations, presenting practical cases that help them avoid breaking the law and understand investigation procedures and the means of defence and appeal, and providing short guidance materials that can be consulted after the training ends.

## Eighth: Implementation, Monitoring and Institutional Accountability

**1. Identify the obstacles to freedom of creativity and prepare an institutional report and a plan to address them.** Invite the Supreme Council of Culture to organise a joint meeting at the level of committee rapporteurs to identify the problems facing creators and to hold hearings for stakeholders, with the results compiled in a report on social and legal obstacles to be submitted by the Council's Secretary-General to the Minister of Culture, and through him to the Government, accompanied by recommendations and an action plan specifying the measures, the responsible bodies and the timeframes, and ways of supporting freedom of creativity in the existing social and legal environment.

**2. Establish an independent mechanism to receive creators' complaints.** Allocate a clear track within a human rights institution, or a joint mechanism, to document complaints of bans, delays, unwritten interference, exclusion and threats, follow them up with the bodies concerned and provide procedural assistance, while protecting the confidentiality of data and avoiding harm to complainants, and issuing aggregated findings that reveal recurring patterns without prejudicing individuals' rights.

**3. Publish periodic data on decisions and sanctions.** Make available statistics disaggregated by type of work, nature of the application, decision, body, duration and outcome of complaint, together with legally available data on cases and judgments, so as to help establish the scale of refusals, delays, withdrawals and blocking, and allow the effect of reforms to be assessed, instead of relying on the number of activities or meetings carried out.

**4. Measure freedom through practical outcomes.** Adopt indicators relating to the time taken to decide applications, the proportion of reasoned decisions, the outcomes of complaints, the enforcement of judgments, the diversity of the beneficiaries of support and of screening outlets, and surveys of creators' experiences of interference and self-censorship, bearing in mind that a fall in the number of banning decisions does not prove an improvement in the environment if it is due to owners of works refraining from applying or producing.

**5. Conduct periodic review with the participation of stakeholders, inviting civil society organisations and the relevant bodies.** Assess the effect of amendments and measures after their application, and listen to creators, publishers, producers, institutions and the public to determine whether restrictions have receded or moved to other tools, linking the review to declared corrective proposals, so that protecting freedom of creativity becomes an ongoing institutional commitment that supports the independence of culture, its diversity and its capacity for renewal.