

Egypt's Press: More free, still fettered

By Jeffrey Black

January, 2008. The court complex on Galaa Street in Downtown Cairo is one of the more dispiriting edifices of the Egyptian justice system. The graying, corpulent building is a warren of dank and cramped courtrooms, leaking pipes and crumbling walls. The general effect is an atmosphere that would inspire dread in all but the most plucky of defendants.

It was with a sort of foreboding then, that correspondents went there on October 1st 2007, to cover the first hearing of the trial of Ibrahim Eissa, editor of *al-Dostour* newspaper, and one of the Egyptian government's most lively critics. He had been charged with "endangering national stability."

He had apparently done so through a series of articles published during the previous month about the health (or otherwise) of 79-year old Hosni Mubarak, Egypt's President.

It had been a grim few weeks for Egyptian journalists. Seven days earlier, three staff at the opposition daily *al-Wafd* were sentenced to two years in prison for articles written about members of the judiciary. On September 13th, Mr Eissa himself, along with Wael Ibrashi, editor of *Sowt al-Ummah*, Adel Hammouda, editor of *Al-Fajr* and Abdel Halim Qandil, former editor of *Al-Karama*, were all given jail sentences, subject to appeal, for "insulting the president." This latest case seemed to be crisis point in a much longer trend.

Human Rights lawyer Gamal Eid, who attended Mr Eissa's hearing, estimates that around 500 such cases are brought against Egyptian journalists and writers every year.¹

But aside from the recent spate of state bullying, in the last three or four years it has been much noted that something fundamental has happened to the newspaper business in Egypt. More than at any time in recent history, journalists now feel at liberty to openly criticize the regime and its personages. This new-found liberty has accelerated in parallel with the recent stop-go political liberalization project in Egypt, which began with a public outpouring of discontent as the United States invaded Iraq in 2003.

But by the autumn of 2007, confrontation between the government and a once-obedient profession had reached critical proportions. In these last years of Hosni Mubarak's presidency, Egypt's independent newspaper proprietors are more acutely feeling the contradictions between an active free press and authoritarian government. In Egypt, the current discussion of press freedom centers on the state of the law that allows government to harass, manipulate and silence the media as it chooses.

Press freedom, rather like its sibling democracy itself, exists nowhere in a perfect form. The exigencies of the constitutions of states, cultural norms, vested interests, and the security of nation-states, all variously impinge upon the right to say what you want where you want.

The following is an attempt to work out how that 'freedom' is constituted in Egypt, how it is now at risk, and what might be done to safeguard it.

Freedom of a sort

Mr. Eissa's tribulations come during one of the high points of press freedom in the fifty-four year history of the Arab Republic. Newsstands in the capital groan under the weight of the myriad of state and privately-owned journals, catering from tastes ranging from the somber to the salacious.

More importantly, the level of criticism of government and government policy that now exists, if taken as a litmus test of media freedoms, indicates that the press is more free than at almost any time in recent history. Local observers, commenting on the breaking of taboos such as direct criticism of the President and the President's family, not to mention the exposés of official corruption and malfeasance that have become stock-in-trade of the independent press, say that the traditional deference of Egyptian society towards its masters is dead.ⁱⁱ

While that may be overstating the case a little, privately-owned journals, in particular the likes of *al-Fajr*, and *al-Dostour*, have become vibrant and entertaining means of expressing common disaffection with government and authority. In their bid for one or two pounds from the ordinary Egyptian's pocket, these papers compete for a share of their discontent. The baiting of senior government officials (at one point in 2006 I remember steel-magnate and NDP-grandee Ahmed Ezz being the constant front-page target of both of the above) and the exposure of abuses perpetrated against citizens by the state, particularly torture, has introduced an important level of accountability into the Egyptian polity, even if the way in which some of the private press does so is frequently sensationalist.ⁱⁱⁱ

The emergence of the very respectable daily *al-Masry al-Youm* in 2004 was widely heralded as a revelation. The first issue, in June, introduced both higher journalistic standards and an independent intellectual rigor to the business of reporting Egyptian society and politics. Since then, it has largely supplanted the turgid *al-Ahram* as necessary reading for any observer wishing to keep abreast of local issues.

If seen in this short-term frame, the recent crackdown on independent and opposition editors seems like an inexplicable regression. But in the wider scope of the history and structure of the Egyptian press, the current crackdown seems less of an aberration, and more like a reversion to the restrictive norm.

Taken as a whole, the Egyptian press is an ungainly creature. Heavily loss-making state-owned papers (the “national” press led by the *al-Ahram* Establishment)^{iv}, which are often in control of the few printing presses available, exist alongside privately-owned but foreign-registered journals that come under the heading of the “Cyprus Press” (where, once upon a time, most were registered). The most prominent example of the ‘Cypriot’ papers is Ibrahim Eissa’s *al-Dostour*, founded in 1995.

Papers owned by political parties and which act as partisan mouthpieces form the “opposition” press, such as *al-Wafd* and *al-Ghad*. Lastly, a new breed of privately owned and locally-registered papers have emerged, such as *al-Masry al-Youm* and the leftist *al-Badeel*.^v These can be termed “independent” papers.

All of the above are subordinate, to a greater or lesser degree, to the state. The primary instrument of state control is the Supreme Press Council, a body which both owns the ‘national’ press outright and holds the right to issue licenses for the rest. The SPC is an adjunct of the Shura Council, and as such is effectively controlled by the ruling party and executive.

Censorship, although proscribed by the constitution, exists in varying forms. For the national press, the government-appointed editors are largely self-censoring, mindful of their paymasters. For the Cypriot press, their status as ‘imported’ media means that each issue will pass through the Ministry of Information, and unwanted material will be delayed to the point of irrelevancy. For the independent press, the right of the Supreme Press Council to issue, deny, or revoke licenses is the final measure of state control.

The continued presence of a dominant ‘national’ press, and a Supreme Press Council are symptoms of a Sadat-era problem which has not yet been fully resolved. Following Anwar Sadat’s abolition of the Arab Socialist Union in 1977, the problem of what to do with the then-fully nationalized press arose. The newly invented Shura Council eventually became the trustee of the state’s media assets, and the arbiter of the sector in

general. The modern edifice of state control over the media in Egypt was constructed during the era of the centralized, socialist state.

However, the process of dismantling Egypt's socialist constitution, which Sadat began, has accelerated under Hosni Mubarak, most obviously in the economic sphere. In March 2007, a poorly-attended referendum removed the constitutional obligation to involve the state in much of Egypt's economic activity. But the state's constitutional right to retain control of the media was left untouched.

Articles 206-211 of the constitution set out the governing principles for the country's media. Granted, at heart there is the liberal ideal of the press as a "popular, independent authority," but also present is the idea that it should "interpret the trend of public opinion, while contributing to its information and orientation within the framework of the basic components of society."^{vi} In other words, the function of the press ought to be more or less propagandistic.

Importantly, the constitution also provides that "the financing and ownership of newspapers, and the funds belonging to them, comes under the supervision of the people." In other words, the ultimate authority over the press rests with the institutions of the "people," i.e., the state. These socialist-era provisions remain the legal basis for Egypt's continued authoritarian approach to the press.

So while there has been, as *al-Badeel* editor Mohammed el-Sayyid Said explained in an interview during the week of Eissa's first October hearing, a "dramatic expansion in the margin of freedom of expression" in Egypt, it hasn't come about by any structural changes in the way the press is governed.^{viii}

Rather, the expressive space required for the likes of Ibrahim Eissa, Abdel Halim Qandil or Adel Hammouda to be able to write openly in the way that they do, has appeared concurrently, and informally, with the more open political space occupied by Kefaya, the Judges' Club and other government opponents since 2003.

Mohammed el-Sayyid Said calls this space “the spirit of 2005,” the year in which President Mubarak’s political liberalization project reached its high point, with his opening of the Presidential elections to candidates other than himself.

However, just as Mubarak made the process of political liberalization his own, in response to popular pressure for reform, so too does the President claim responsibility for the current relative freedom of the Egyptian press.

During the furor in September 2007 surrounding the spate of jail sentences for unruly editors, Mubarak took great pains to align himself with the cause of press freedom, insinuating that it had “gained more ground since he came to office.”^{ix}

The sub-text to this piece of generosity by Mubarak is that what the President giveth, the President can taketh away.

Freedom at risk

One of the conceits of the Mubarak-NDP government in recent years has been that it is moving in the direction of pluralistic democracy, whilst in fact using the legal and institutional mechanisms of state to consolidate power in its own hands. The relationship between press and state has most recently been highly demonstrative in this respect.

In one of his more liberal moments, Mubarak promised, in 2004, to annul the aspects of Egyptian law that provide for the imprisonment of journalists that transgress defamation laws or other codes of conduct.

The law that resulted, the Press Law of 2006, did in fact remove some of the articles in the Egyptian Penal Code that result in custodial sentences, but left the overall outlook for press freedoms depressing.

Articles of the Press Law of 1996, the Imprints Law of 1936, and a variety of other administrative laws all can result in jail time for journalists, and all of these remain. The Penal Code itself still contains provision for custodial sentences for the vague and easy-to-abuse offences of “displaying bad publicity,” “insulting the head of state,” and “endangering national interests.”

To make matters worse, the 2006 law introduced new strictures. One of which, bizarrely, created the offence of insulting a *foreign* head of state. It also introduced the responsibility of editors-in-chief for the offences of writers serving under them.

Following this singular display of governmental bad-faith in mid-2006, relations between the press and the state deteriorated, to the low point reached in the autumn of 2007.

Throughout, the Journalists’ Syndicate, which acts like a journalists’ union and which pressed for all of the imprisonment clauses in Egyptian law to be removed, argued its case with humor and clarity.

At a demonstration on July 9th, 2006 outside the People’s Assembly in Cairo, protestors carried placards that read, sarcastically, “Down with Journalism, Long Live Corruption.” A similar protest in late September 2007 at the Journalists’ Syndicate featured a writer dressed up as a convict and posing behind papier-mâché bars.

But why has the deterioration in relations between the government and the press come precisely now?

The straightforward answer seems to be that Egypt is now in the succession period, as the 79-year old Hosni Mubarak is surely not much longer for this earth.^x That fact, coupled with general political unease about how the country will transfer to the next head of state, has led to a raising of the stakes in the area of press freedom. For the Mubarak family, the time for brooking serious criticism has passed.

So, as the structure and legal framework of the Egyptian press has remained essentially unchanged since Sadat, it gives ample room for repressive government action, should it so desire. Evidence from the past few months indicates that it desires precisely that.

The language and tone of the government and ruling party in this respect draws on the old justifications of authoritarian government: Egypt must be united. The national interest is supreme. Excesses of free speech endanger national stability.

Perhaps the best example of this sort of double-think came at the first hearing of Mr. Eissa's case, on October 1st, on the charge that he had endangered national economic stability by reporting on rumors concerning the president's health.

The NDP-affiliated lawyer behind many of the lawsuits filed against independent and opposition journalists in those weeks, Samir al-Shistawy, circulated a statement to the court, setting out the prosecuting position. He wrote:

“Independent and private media have recently appeared, in a climate of freedom of opinion and expression. However, some of these newspapers have deviated from the path...and persisted in the delusion of public opinion and the corruption of the general atmosphere.”^{x1}

“We should punish whoever dares incite the people against one of the pillars of the state.”

In a final flourish, Mr. Shistawy appears for a moment to invoke the ghost of Voltaire, in a defense of free speech, only to banish it at the close:

“I will defend to the last drop of my blood the journalist who respects the interests of his country and his people.”

The most insidious part of this narrative, and the part most pertinent to Egypt's current succession uncertainty, is the conflation of the “pillars of the state” with the person of

Hosni Mubarak. After all, Ibrahim Eissa did not publish disparaging rumors about the institution of the presidency, but about Hosni Mubarak himself. The logic that the Mubarak family is an indispensable part of the Egyptian political fabric, and is therefore not to be trifled with, is plain to see.

The appeals to “country” and “people” at the expense of individual liberty in fact recall earlier justifications of actions that limited press freedom. Anwar Sadat, in the rather more urgent period before the peace with Israel, noted that “If freedom of expression is sacred, Egypt is more sacred, and I am not prepared to relinquish any of her rights.”^{xii}

It has become evident that, despite Mubarak’s liberalizing narrative since 2004, when nervous or strongly challenged, he reverts to the patriarchal, authoritarian mode. In relation to the press, Mubarak has consequently urged “responsibility” in journalism, and respect for the national interest.

So while there is a serious debate to be had about the lines of responsibility in Egyptian journalism, and how far the press may go in pursuing malfeasance and injustice before social harm results (the so-called “Red Lines”), this debate has not yet happened.

The arguments, in particular those presented against Ibrahim Eissa, are spurious, and no matter how ‘irresponsible’ he may have been, they only serve to illustrate the intellectual poverty of the current regime.

Eissa was deemed to have unnecessarily caused capital flight, to the tune of \$350m, as investors pulled money out of the country afraid that President Mubarak was about to die, and that the country would therefore be plunged into chaos.

Attempting to prosecute Eissa on these grounds does two things, neither of which make the prosecution look very smart.

The first attributes to Eissa and his paper far more power than in fact they possess. At its apogee, *al-Dostour*'s distribution was around 150,000^{xiii}, and most of these readers are disaffected Egyptians. With all due respect, this author has yet to meet a foreign investor who pays close attention to *al-Dostour*.^{xiv}

Secondly, it makes a very public hoo-haa about the fact that Egypt's political system is seemingly about to turn dynastic, and that the death of the president is going to be a very serious event, the outcome of which nobody can accurately predict at this time.

The Eissa affair demonstrates that the regime is feeling wounded, nervous and vindictive, and is wishing to inflict pain against the pricks of an assertive independent press. The problem is that, with jail sentences still on the statutes for defamation and hazy crimes like "endangering national interest," no matter how many journalistic freedoms have been granted in the last few years, the regime can still revoke them.

A way forward?

However, there is some confidence that, despite the recent crack-down, the new-found freedoms are a genie that cannot easily be returned to its bottle. Hamdy Salim, the Cairo political bureau chief for the pan-Arab daily *Asharq al-Awsat*, explained that "Although the government wants to finish the 'inheritance file,' things can never really go back to how they were before. They wouldn't dare. Everyone is opposed to imprisoning journalists."^{xv}

Salim also argued that an open independent press helps to release a certain amount of political pressure that might otherwise boil over elsewhere.

If these arguments are accurate, then perhaps the way forward for the Mubarak government is to encourage the independent press, rather than harangue it. Specifically, the legal system that currently trusses up the press into its semi-socialist straitjacket needs to be reformed.

For example, the offices of *al-Badeel*, Egypt's newest independent daily, are a sober and serious place where responsible journalism of the left-wing variety has found a home. Yet, the trials that *al-Badeel* experienced in setting up the paper tell of a culture of official obfuscation that tried even the patience of the serene Mohammed el-Sayyid Said.

“The law forces you to produce the daily paper by the end of three months after the issuance of the license. 90 days to establish a daily paper is far short of what is needed. So, you have to start before you know you will get the license.”

Al-Badeel waited seven months for their license, which was finally issued during the summer months of 2007, the worst time for circulation figures. It is still a critical period for the paper. To add insult to inaction, Mohammed el-Sayyid Said was the recipient of another defamation suit, the details of which were even more marginal than Ibrahim Eissa's.

The procedure by which potential independent papers must wait for a permit from the government to commence printing (and which of course may be turned down), is an unnecessary and anachronistic stricture for the open market economy that Egypt is attempting to become.

The logical step, according to Mohammed el-Sayyid Said, is to abolish the SPC's right to issue licenses for newspapers.

“We have really been struggling to abolish this system of licensing, what we need is just registration, and this is what we [the Press Syndicate] demanded all along. Licensing means that they have the right to withhold the license. Which means that they don't recognize that expression is a right. That is the difference. We want to achieve the right to free expression, which means only registration.”

In addition, the laws still extant which allow imprisonment for journalists need to be repealed. Pressure that would bring about such a change is, despite the disappointments of the 2006 Press Law, most likely to come from the Journalists' Syndicate. Following elections for a new syndicate chairman and council in November 2007, however, the union is more likely to use soft power in pursuit of this aim than outright confrontation with the government. Makram Mohammed Ahmed, widely perceived as the government's choice, won the chairman's election comfortably, aided by a promise for a LE200 (\$40) pay increase for the country's underpaid journalists.

It would also be logical that the government of Egypt, reveling in the country's status as one of the Middle East's most athletic emerging markets, would extend the economic liberalization process to the state's media sector, and sell off the hugely inefficient state papers. This is unlikely any time soon, but with the current example of some private-sector papers to show how Egypt's newspaper industry *could* look like, it ought to happen eventually.

Hisham Kassem, one of the founders of *al-Masry al-Youm*, argues that the recent poisonous atmosphere has to give way to a more independent press. "It is natural that things have developed this way. [Recently] the government has had a nervous breakdown. But the only way forward is to have an independent media."^{xvi}

That, of course, would entail real political openness something which, until the "succession file" is closed, may be in perilously short supply.

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ⁱ HR Info Press Release, October 29, 2007

ⁱⁱ See <http://baheyya.blogspot.com>, 16th September 2007 – "The Death of Deference"

ⁱⁱⁱ Parts of the independent press, particularly some of the "Cyprus" weeklies, have developed a reputation for sensationalism. Mohammed el-Sayyid Said, editor of *al-Badeel* and formerly of *al-Ahram*, described

them as “A mix of the political and sensationalist—with a heavy sex and divorce element.” A random example from the author’s pile of back-issues of the Egyptian independent press serves as an example of the catchwords deployed to drive sales in a competitive marketplace. The banner headline on the cover of *al-Fajr*’s September 9th, 2006, edition: “Sensational Report: Corruption of Gamal Mubarak’s Men Ending His Chance at Succession.”

^{iv} For a discussion of state-owned papers and their losses, in English, see *Al-Ahram Weekly*, “Feeling the Squeeze,” 25-31 January, 2007.

^v An excellent summary of the structure of the Egyptian press can be found at <http://arabist.net/archives/2005/06/04/a-quick-guide-to-publishing-in-egypt/>

^{vi} The text of the Egyptian Constitution in English can be found at <http://www.sis.gov.eg/En/Politics/Constitution/Text/040703000000000001.htm>

^{viii} Interview with Dr. Mohammed el-Sayyid Said, Editor-in-Chief, *al-Badeel*, Cairo, September 29, 2007.

^{ix} This and other proclamations can be found at <http://www.ndp.org.eg/en/News/ViewNewsDetails.aspx?NewsID=24327>

^x A joke circulating during the period in question, September-October 2007, would seem to contradict this. It ran: “One of Hosni Mubarak’s relatives presents him with a tortoise as a gift on his 80th birthday, adding that the creature could live for up to 200 years. Hosni, unimpressed, replies, “Only 200 years?”

^{xi} Statement delivered to press in writing by Samir el-Shistawy, lawyer, at Galaa Court Complex, Galaa St, Cairo, October 1st, 2007.

^{xii} This Sadat quote can be found in the generally very useful *The Arab Press: News Media and Political Process in The Arab World*, by William Rugh, Syracuse, 1987 p48

^{xiii} This estimate belongs to Baheyya’s “The Death of Deference,” above.

^{xiv} Egypt attracted over US\$6bn in foreign direct investment in 2005/2006.

^{xv} Interview with Hamdy Salim, Cairo Political Bureau Chief, *al-Sharq al-Awsat*, Cairo, September 25 2007

^{xvi} Interview with Hisham Kassem, Cairo, September 25 2007