THE DRAFT CRIMINAL PROCEDURES LAW
SUPERFICIAL REFORMS AND AN IRON FIST

المركز العربي لاستقلال القضاء والمحاماة
THE ARAB CENTER FOR THE INDEPENDENCE OF THE JUDICIARY AND THE LEGAL PROFESSION (ACIJLP)

مؤسسة دعم العدالة
JUSTICE SUPPORT FOUNDATION (JSF)

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Introduction

The significance of articles promulgating a law is often overlooked, with attention being focused solely on its substantive provisions, deficiencies, allegations of unconstitutionality, encroachments on public rights and freedoms, or conflicts with the principles of Islamic Sharia—recognized as a primary source of legislation whose general rules must not be violated.

However, promulgation articles hold substantial importance, serving as the law's equivalent of a birth certificate. Their issuance falls within the jurisdiction of the President of the Republic, who formally signs them into effect. This raises a legal debate regarding their nature: Are they legislative acts of the President or executive actions? Moreover, should these articles be regarded as integral parts of the law, supplementary to it, or entirely distinct?

In all cases, these articles can carry provisions that act as "legal mines" during the law's implementation. They might undermine the law's core principles, introduce new legal provisions, or even repeal existing laws or provisions—whether explicitly or implicitly.

In light of their critical role, this paper, issued as part of the Arab Center for the Independence of the Judiciary and the Legal Profession's series of legal studies on the draft Criminal Procedures Law, is dedicated to examining the promulgation articles of the law. It aims to analyze their additions to, and omissions from, the draft, assess their consistency with other provisions of the draft, and evaluate their significance, implications, and alignment with the essential guarantees upon which the law must be founded.

First: Understanding promulgation articles

Article 123 of the Constitution stipulates in its first paragraph that "The President of the Republic has the right to issue laws or object to them." This provision establishes that the authority to issue laws is vested exclusively in the President of the Republic.

The promulgation articles of a law signify a directive from the President of the Republic to the executive authority, mandating the implementation of the provisions of a law approved by the House of Representatives. These articles also delineate the timeframe within which the provisions of the law are to be applied.

The rationale behind this process lies in the hierarchical nature of the executive authority, wherein its members are obligated to execute orders solely issued by their leader, the President of the Republic. The principle of separation of powers reinforces this approach, ensuring that no implementation orders emanate from the legislative authority to the executive branch.[1]

Accordingly, the authority to issue a law is a constitutional prerogative granted to the President of the Republic. This power is typically formalized through the promulgation articles of a law, which establish specific rules governing its application.[2]

It is, therefore, customary in all laws and decrees carrying the force of law that their promulgation articles bear the signature of the President of the Republic.

Legal scholars have debated the legal nature of the promulgation articles, questioning whether they form part of the legislation itself or if they are merely an executive order. A decisive perspective can be drawn from the stance of the Supreme Constitutional Court in Egypt, which accepted appeals against the constitutionality of certain promulgation articles in various laws. This means that the court recognizes the promulgation articles as part of the legislation.[3]

According to Article 192 of the Constitution states: "The Supreme Constitutional Court shall be solely competent to decide on the constitutionality of laws and regulations..." Therefore, the court's acceptance of such appeals means that it considers the promulgation articles to be part of the legislative framework, subject to both implementation and judicial scrutiny.

Finally, the promulgation articles represent a stage in the law-making process, serving as a complementary procedure to the legislative enactment. Their primary purpose is to bring the law into effect, signaling its official establishment and directing the relevant state authorities to enforce its provisions. This process culminates with the publication of the law in the Official Gazette, which serves as the only means of notifying the public of its enactment.

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[1] / Dr. Sayed Eid Nayel, Introduction to the Study of Law (Legal Theory), Dar Al Nahda Al Arabiya 2022, p. 129.

[2] / Dr. Mayada Abdel Qader Ahmed Ismail, Journal of Jurisprudential and Legal Research, Issue Thirty-Seven, April 2022, issued by the Faculty of Sharia and Law, Damanhour, p. 833.

[3] / Review Appeal 29 of Constitutional Judicial Year 31, May 12, 2013 session; Appeal 92 of Constitutional Judicial Year 29, December 2, 2017 session; and Appeal 42 of Judicial Year 26, May 8, 2005 session.

Second: Promulgation articles in the draft law

1. Changes to the promulgation articles

Between the initial publication of the draft in August 2024, following the completion of the legislative drafting by the subcommittee, and the report issued by the joint committee comprising the Constitutional and Legislative Affairs Committee and the Human Rights Office in November of the same year, several changes and additions were made to the promulgation articles.

- The first version of Article 1 of the promulgation articles was canceled. The initial text read: "The provisions of this law and its attachment regarding criminal procedures shall be implemented." The revised text, as presented in the joint committee's report, states: "Without prejudice to the provisions of the procedures stipulated in other laws, the provisions of this law and its attachment regarding criminal procedures shall be implemented."

- Article 4 in the promulgation articles of the draft before amendment read: "The Criminal Procedures Law issued by Law No. 150 of 1950 shall be cancelled, as shall any provision that contradicts the provisions of this law and its attachment." The alternative text in the Joint Committee report reads: "The Criminal Procedures Law issued by Law No. 150 of 1950 and Law No. 140 of 2014 regarding the provisions related to the extradition of criminals are hereby repealed, and any provision that contravenes the provisions of this law and its attachment is hereby repealed."

2. Implications of the change and addition to Articles 1 and 4:

- The change to Article 1 implies that the special criminal procedures outlined in certain existing laws, such as the Anti-Terrorism Law No. 94 of 2015, Law No. 8 of 2015, the Anti-Information Technology Crimes Law No. 175 of 2018, and the Emergency Law No. 162 of 1985, in cases where a state of emergency is declared for any reason, will remain in force and be applied, in conflict with the provisions of the draft law upon its approval.

- When considering the original wording of Articles 1 and 4 together in the draft Criminal Procedures Law, they appeared to explicitly repeal and replace the special procedural provisions found in the aforementioned laws. “The principle is that special laws take precedence over general laws, and a general law does not annul a special law unless it explicitly states so, or if the provisions of the general law are incompatible with the application of special

laws. This rule reflects the legislative intention that the most recent will of the legislator prevails over prior laws."[4]

The change asserts that the exceptional procedures remain in effect in all crimes stated in these laws, which undermines the guarantees that were claimed to be incorporated into the draft law. Furthermore, it introduces an unconstitutional distinction between two categories of defendants—those who are subject to general procedural rules and those who are subject to exceptional, separate rules.

3. The paradox created by amending Articles 1 and 4 of the promulgation articles:

- The addition to Article 1 of the promulgation articles creates a paradox by maintaining the special criminal procedures found in other laws, such as the Anti-Terrorism Law. These procedures grant security authorities broad powers to arrest, search, and implement precautionary measures on individuals or objects. Additionally, these laws provide broad powers to the Public Prosecution. This clearly suggests an intention by the executive and security agencies to establish a permanent alternative to the Emergency Law, which has been suspended.

- Meanwhile, the paragraph added to Article 4 of the promulgation articles is meant to cancel the law on international cooperation and extradition of criminals to remove the possibility of bypassing the provisions related to international judicial cooperation and extradition in the new draft Criminal Procedures Law, treating the former law as a special law. According to the general principle, special laws override general ones.

- This paradox highlights a deeper legislative philosophy that emphasizes expanding the powers of security agencies and the Public Prosecution, retaining all provisions that support such an expansion, regardless of concerns regarding potential violations of rights, freedoms, and fair trial standards. The opposite takes place in the approach towards other matters.

[4] / Appeals 30952 and 31314 of Judicial Year 56, Session 9/14/2010, Supreme Administrative Court. The Supreme Administrative Court affirmed the principle that if a provision is included in a law specific to a particular case, that provision must be followed, even if other provisions from a more general law are later enacted. This is in line with the principle "the special law takes precedence over the general law," unless the subsequent law explicitly repeals or amends the special provision, thereby overriding it.
Appeal 1374 of Judicial Year 7, Session 12/12/1964, Supreme Administrative Court. The Court of Cassation stated that "it is impermissible to disregard the provisions of a special law in favor of a general rule, as doing so would contradict the very purpose for which the special law was enacted."
Appeal No. 17886 of Judicial Year 91, Session Wednesday, March 16, 2022.

Third: Defendants' rights between special and general procedural rules

1. Between the provisions of the draft Criminal Procedures Law and the Anti-Terrorism Law:

- Paragraph (1) of Article 40 of the Anti-Terrorism Law provides that: "The judicial control officer, in the event of a danger of a terrorist crime and the necessity required to confront this danger, has the right to collect evidence about it and search for its perpetrators..."

  This provision establishes an exception that departs from the principles embedded in the general procedural rules outlined in the Criminal Procedures Law. Under the latter, evidence collection is permitted only when an actual crime has been committed. In contrast, the Anti-Terrorism Law authorizes evidence collection merely upon the existence of a danger—even without the occurrence of an actual crime. The mere presence of information, whether substantiated or not, suggesting preparatory acts for a crime, is deemed sufficient to justify this intervention. This is further bolstered by Article 34 of the same law, which classifies preparatory acts as an independent offense punishable by up to one year of imprisonment.[5]

- The text vests the authority to assess the existence of such a danger exclusively in the hands of the judicial control officer—effectively, the security services. The text stipulates that the suspect may be detained for a period of 24 hours before being presented to the Public Prosecution, along with a report prepared by the judicial control officer.

  However, in France, for example, the Public Prosecution tasks judicial control officers with evidence collection and investigation and it also sets specific timeframes for investigations and evidence collection, subject to extension based on justified requests submitted by the judicial control officer.[6]

- The article permits judicial control officers to detain suspects for a full 24 hours before presenting them to the Public Prosecution[7], even in the

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[5/] Article 34 of the Anti-Terrorism Law stipulates that: any individual who engages in acts of preparation or planning to commit a terrorist crime shall be sentenced to imprisonment for a minimum of one year, even if their actions do not progress beyond the stage of preparation or planning.

[6] / Article 75-11 of Law No. 516 of 2000 concerning the amendment of the French Criminal Procedures Law.

[7]/ Compare this provision with Article 3 bis (B) of Emergency Law No. 162 of 1958, which states: Whenever a state of emergency is declared, judicial control officers may detain any individual against whom there is evidence of committing a felony or misdemeanor, as well as seize any dangerous or explosive materials, weapons, ammunition, or other evidence of the crime found in their possession, home, or any suspected hiding places. This is permitted as an exception to the provisions of other laws, provided that the Public Prosecution is notified within 24 hours of the detention.
With the Public Prosecution's authorization, the suspect may be detained for a period not exceeding seven days to complete the collection of evidence, provided that interrogation begins during this

absence of an actual crime. This provision creates a substantial deviation from the general procedural rules of the Criminal Procedures Law. “The provision grants judicial control officers broad discretionary authority to determine whether to detain individuals, bypassing the requirement for prior judicial oversight of their actions. Consequently, this framework deviates from the general procedural principles, which strictly prohibit the arrest or detention of any individual without an explicit order from the competent judicial authorities.”[8]

- Paragraph 3 of Article 40 empowers the Public Prosecution or the "competent investigative authority" to order the detention of suspects for up to 14 days, renewable once. While the text requires that such orders be reasoned and issued by at least a public attorney, this provision excludes the judiciary from the process entirely. The phrase “or the competent investigative authority” appears superfluous, as the authority rests squarely with the Public Prosecution. The cumulative detention period under this provision reaches 28 days, in addition to the initial 24-hour detention by the judicial control officer. Thus, suspects may be held for a total of 29 days by security apparatuses without judicial oversight or presentation before a judge. This starkly contrasts with the general procedural rules in the Criminal Procedures Law, which mandate judicial supervision over all detention decisions to safeguard individual rights and freedoms.

- Article 42 of the Anti-Terrorism Law[9] introduces an additional period to the already extended detention timelines. Following the suspect's presentation to the Public Prosecution or the competent authority, the law mandates an interrogation within 48 hours. Effectively, this allows a suspect to be detained for up to 31 days without being presented to a judge or undergoing substantive investigation if an order is issued to detain him to complete the investigation procedures and collect information and evidence.

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period. The provisions in the Anti-Terrorism Law, however, are even more restrictive of the suspect's rights than those in the Emergency Law.

[8] / Dr. Ihab Abdel-Ghani Othman, Procedural Criminal Provisions in Combating Terrorist Crimes in Light of Law No. 94 of 2015 on Combating Terrorism, Journal of Legal and Economic Studies, Faculty of Law, Sadat City University, Volume 9, Issue 4, December 2023, p. 2512.

[9]/ Article 42 of the aforementioned law provides: During the detention period specified in Article 40 of this law, and prior to its expiration, the judicial control officer must prepare a report detailing the procedures undertaken, record the statements of the detainee, and present the detainee, along with the report, to the Public Prosecution or the competent investigative authority for interrogation within 48 hours, after which a decision must be made either to place the individual in pre-trial detention or to release them.

- When a search infringes upon an individual's freedom and the sanctity of their home, the constitutional legislator has safeguarded such actions with strict constitutional guarantees, prohibiting searches except in connection with an actual crime and the initiation of an investigation. This principle has been affirmed by the current Criminal Procedures Law and reinforced in the draft law, wherein Article 75 stipulates that: "The search of homes and their annexes constitutes an investigative act and shall only be conducted pursuant to a reasoned order issued by a member of the Public Prosecution, based on an accusation directed at a resident of the home to be searched for committing or participating in a felony or misdemeanor." However, Article 45 of the Anti-Terrorism Law[10] diverges from these constitutional and procedural safeguards. It "permits the search of the home of an individual under arrest or in pretrial detention in instances where there is a perceived danger of a terrorist crime or a risk of losing evidence, without requiring that an actual crime has been committed or that sufficient evidence exists to implicate the suspect in the crime."[11]

- Article 42 replicates provisions already outlined in Article 40, creating ambiguity and procedural confusion. While Article 40 establishes that suspects must be presented to the Public Prosecution within 24 hours of their detention by the judicial control officers, Article 42 seems to reiterate this requirement without clear differentiation. To resolve this, the initial presentation within 24 hours (per Article 40) must culminate in a reasoned order from at least a public attorney for a detention period not exceeding 28 days. The second presentation stipulated in Article 42 logically applies before the expiration of this 28-day period, obligating the Public Prosecution to decide, within 48 hours, whether to extend custody or release the suspect. Any extension of custody must count towards the total detention period authorized under pretrial detention rules.

- Article 52 further diverges from general procedural norms by stipulating that neither the initiation of criminal cases nor the execution of penalties for terrorist crimes shall lapse due to statutory limitations[12]. Under general rules outlined in Article 17 of the draft law, criminal cases expire after 10 years for felonies, three years for misdemeanors, and one year for contraventions.

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[10]/ Article 45 states that: In cases where it is permissible to detain or remand a perpetrator of a terrorist crime, and when there is a danger or fear of losing evidence, the judicial control officer may obtain a reasoned permit from the Public Prosecution or the competent investigation authority, as the case may be, to search the residence of the detainee or the person in pretrial detention, and seize objects and belongings related to the crime for which the search is being conducted.

[11] / Dr. Ihab Abdel-Ghani, ibid, p. 2562.

[12]/ Article 52 of the Anti-Terrorism Law states that: Criminal proceedings for terrorist crimes are not subject to a statute of limitations, and any penalties imposed for such crimes remain enforceable regardless of the passage of time.

Article 479 of the draft law regulates the lapse of penalties by prescription: 20 years for felony convictions (increased to 30 years for death penalties), five years for misdemeanors, and two years for contraventions.

- The provisions of Article 53 of the Anti-Terrorism Law mirror those of Article 3 of Emergency Law No. 162 of 1958. This article grants the President of the Republic discretionary powers to ensure public security and order, including measures such as evacuating or isolating specific areas or imposing a curfew, provided that such measures are limited to the area identified in the decision for a period not exceeding six months unless extended by the President with the approval of a majority in the House of Representatives. The President can enact these measures verbally in urgent situations. The measures outlined in this article are presented as examples, effectively granting unrestricted authority in violation of all applicable laws and legislation. Notably, these measures can be invoked without the occurrence of a specific crime, based solely on the receipt of information—regardless of its reliability. It is worth highlighting that this law, along with its provisions, was introduced following the Supreme Constitutional Court's ruling on the unconstitutionality of Article 3, Paragraph (1) of the Emergency Law.[13][14]

2. Between the provisions of the draft Criminal Procedures Law and Terrorist Entities Law:

- The general principle regarding the restriction or seizure of a suspect's assets requires a decision by the competent criminal court. This decision is issued upon the Public Prosecution's submission of sufficient evidence linking the suspect to the alleged crime (Article 143, Paragraph 1, of the draft law). In cases of necessity or urgency, the Public Prosecutor may issue a temporary order to this effect. However, such an order must be presented to the competent criminal court within seven days of issuance; otherwise, it shall be deemed null and void (Article 143, Paragraph 2, of the draft Criminal Procedures Law).

- Article 8 bis of the Terrorist Entities Law, however, departs from this general principle in several ways:

[13]/ Article 3, Paragraph 1 of the Emergency Law stipulates that: Whenever a state of emergency is declared, the President of the Republic is empowered to take appropriate measures to safeguard security and public order. These measures may include: (1) imposing restrictions on individuals' freedom to assemble, move, or pass through certain locations at specific times; arresting and detaining suspects or individuals deemed a threat to security and public order; and authorizing the search of individuals and premises without adhering to the provisions of the Criminal Procedures Law.

[14]/ The ruling of the Supreme Constitutional Court in Case No. 17 of Constitutional Judicial Year 15, June 2, 2013 session, and published in the Official Gazette No. (22) bis on June 3, 2013.

First: It does not necessitate sufficient evidence linking the suspect to a terrorist crime. Instead, it relies on the vague phrase "serious evidence or information."

Second: The article provides the Public Prosecutor with absolute authority to act, even at the evidence-gathering stage, prior to and without a formal investigation. This approach contradicts the nature and limits of precautionary measures typically linked to an ongoing investigation.

Third: It extends the period within which the matter must be submitted to the competent criminal court. While Article 143 of the draft Criminal Procedures Law mandates submission within seven days, Article 8 bis allows up to one month.

Fourth: Article 8 bis does not impose any penalty for failing to present the matter to the court within the stipulated one-month period. This omission effectively grants the Public Prosecutor the authority to seize the suspect's assets during the evidence-gathering phase without a clear time limit. By contrast, the equivalent article in the draft Criminal Procedures Law explicitly invalidates such measures if not presented to the court within seven days.[15]

- The Public Prosecutor may submit a request to the competent criminal court (terrorism division) to include an individual or entity in the lists of terrorist entities or terrorists based on "investigations, documents, inquiries, or information supporting the request" (Article 3 of the Law). Notably, inclusion in these lists does not require an open investigation; the request can be based solely on security information or inquiries. Once listed, inclusion is valid for a period of "five years, which may be extended in accordance with Article 4 of the Law". This listing triggers consequential measures such as the seizure of funds and travel bans[16]. These measures

[15]/ Article 8 bis of the Terrorist Entities Law stipulates: If credible information or evidence exists regarding fixed or movable funds obtained through the activities of any terrorist or terrorist entity—whether listed or not on the terrorist entities and terrorists lists—or funds used to finance such activities, their affiliates, or associates in any manner, the Public Prosecutor is authorized to order the seizure of these funds or assets and prevent their owners or holders from disposing of them.
The seizure and prevention order must be submitted to the department specified in Article 3 of this law within one month of its issuance, for review to decide on its confirmation, cancellation, or amendment.

[16] / Article 7 of the law stipulates that: The following effects shall be imposed by force of law upon the publication of the listing decision, and throughout its duration, unless the division stipulated in Article (3) of this law decides otherwise:
Secondly, regarding terrorists:
1 -Listing on the travel ban and arrival watch lists, or preventing a foreigner from entering the country.
2 -Withdrawal or cancellation of the passport or prevention of issuing or renewing a new passport.
3 -Loss of the condition of good reputation and conduct necessary to assume public, parliamentary or local jobs and positions.

are typically only authorized through investigations and in connection with a specific crime, as stipulated in Articles 143 and 147 of the draft Criminal Procedures Law.

3. Between the provisions of the draft Criminal Procedures Law and the Anti-Cyber and Information Technology Crimes Law:

The enactment of legislation to address crimes committed through modern technology, communication methods, and the proliferation of electronic platforms became an imperative. Consequently, Law No. 175 of 2018 was promulgated to address the criminal aspects of technological advancements. The law introduced, among other provisions, certain specialized procedural rules that deviate from the procedural norms established in the Criminal Procedures Law (the general law). Article 1 of the promulgation articles preserved the procedural rules stipulated in the Anti-Cyber and Information Technology Crimes Law, maintaining their distinct application.

- One of the most contentious precautionary measures under this law is the authority to block website content. Such measures infringe on the freedom to disseminate ideas and exchange information, constituting a direct violation of the freedoms of opinion and expression. These are rights enshrined in the Egyptian Constitution. Accordingly, the authority to impose such restrictions should reside exclusively with competent investigative authorities and only in connection with a specific, well-defined crime. However, Article 7, Paragraph 3 of the Law permits judicial control officers to unilaterally issue a content-blocking decision based on their discretion, valid for a period of 48 hours. This is contingent upon submitting the blocking order, along with a written report[17], to the investigative authorities within the specified timeframe. Such provisions stand in contradiction to the protections guaranteed by Articles 70 and 71[18] of the Egyptian Constitution.

4 -Inability to be appointed or contracted in public jobs, public sector companies, or the public business sector.

5 Suspension from work with payment of half the salary....

[17]/ Article 7, Paragraph 3 of the Law states that: In cases of urgency due to an immediate threat or imminent harm, the competent investigation and monitoring authorities may notify the relevant authority. The authority is then required to immediately inform the service provider to temporarily block the site, content, websites, or links mentioned in the first paragraph of this article, in accordance with its provisions. The service provider must implement the notification immediately upon receipt.

[18]/ Article 70 stipulates that: Freedom of the press, printing, and paper, visual, audio, and electronic publishing is guaranteed. Egyptians—whether natural or legal persons, public or private—have the right to own and issue newspapers and to establish visual, audio, and digital media outlets…

Article 71 provides that: It is prohibited to impose censorship on Egyptian newspapers or media in any form, or to confiscate, suspend, or close them. However, specific control may be imposed during times of war or general mobilization…

- A review of comparative legislation concerning information technology reveals that most jurisdictions have opted to address website blocking through temporary or permanent closure rather than permanent blocking. These laws typically allow for the closure of a website or service provision location when it serves as a source for committing a crime or operates with the owner's knowledge. However, the authority to order such closures is uniformly restricted to the subject court.[19]

- Another precautionary measure included in the Anti-Information Technology Crimes Law is the issuance of travel ban orders. The law empowers the Public Prosecutor or investigating authority, when necessary or when sufficient evidence indicates the seriousness of the accusation of committing or attempting to commit a crime under this law, to issue a travel ban order. Unlike the provisions of the draft law, where the order may extend indefinitely as per Article 147, the current law restricts the order to a maximum of one year. In both cases, however, judicial oversight remains limited to reviewing grievances submitted by the suspect, highlighting a notable lack of proactive judicial involvement in the initial issuance and oversight of such orders.
- Among the precautionary measures outlined in the Anti-Cyber and Information Technology Crimes Law is the travel ban order. This measure allows the Public Prosecutor or the investigating authority to issue a travel ban when necessary or when sufficient evidence indicates the seriousness of the accusation of committing or attempting to commit a crime under this law[20]. Notably, the travel ban under the current law is limited to a maximum duration of one year, unlike the draft law, which permits its

[19] Dr. Hatem Ahmed Mohamed Battikh, Development of Legislative Policy in the Field of Combating Information Technology Crimes: A Comparative Analytical Study, p. 100:
Refer to Article 13 of Kuwaiti legislation, which states: It is permissible to rule for the confiscation of devices, programs, or means used in committing any of the crimes stipulated in this law, as well as the funds obtained from them. A ruling may also be issued to close the shop or site where the crime was committed, provided the owner was aware of the crime, for a period not exceeding one year. This is without prejudice to the rights of third parties acting in good faith or the injured party's right to compensation. Mandatory closure applies in cases of repeated violations where the owner had prior knowledge.
Similarly, Article 13 of Saudi legislation stipulates: Without prejudice to the rights of third parties acting in good faith, a ruling shall be issued to confiscate devices, programs, or means used in committing any crimes stipulated in this law, as well as funds obtained from these crimes. A ruling may also be issued to erase or destroy information or data and to close the shop or site where the crime occurred, either permanently or for a period determined by the court.
Refer to Margins 1 and 3 of the source and the indicated pages.

[20]/ Article 9 of the Law states that: The Public Prosecutor, or an appointed senior prosecutor from the appellate prosecution, along with the competent investigation authorities, may issue a reasoned order to prevent a defendant from traveling abroad or to place their name on watch lists. This can be done when necessary or if there is sufficient evidence indicating the seriousness of an accusation related to a crime stipulated in this law or an attempted crime. The travel ban order is valid for a specified period. Any individual subjected to a travel ban may appeal the order before the competent criminal court within 15 days of being informed of it. If the appeal is rejected, they may submit a new appeal every three months from the date of the ruling rejecting the previous appeal.

extension beyond this period under Article 147. Both frameworks, however, lack comprehensive judicial oversight, restricting the judiciary's role to accepting or rejecting the grievances filed by the suspect.

- The law also introduces an expansion in the designation of judicial control officers. Article 5 provides that the Minister of Justice, in agreement with the competent minister, may grant judicial control officers powers to employees of the National Telecommunications Regulatory Authority (NTRA) or other personnel as designated by national security authorities. This provision marks a significant departure from the draft law, which does not reference national security authorities or their involvement in conferring judicial control status. This expansion raises concerns about potential infringements on the rights of suspects, especially given the broad procedural powers granted under Article 6 of the Anti-Cyber and Information Technology Crimes Law. These powers include, for a period of 30 days and under a reasoned order from the investigating authority, actions such as "seizing, withdrawing, collecting, or capturing data and information systems; tracking data in any location, system, program, electronic medium, or computer; and accessing, inspecting, or searching computer programs, databases, and other devices and systems to facilitate seizures."[21]

Fourth: Assessing the legislator's approach in light of the amendment to the promulgation articles

The fact of the matter is that the draft Criminal Procedures Law, as highlighted by numerous respected legal scholars, was already fraught with significant concerns prior to the amendment of the promulgation articles. These included suspicions of unconstitutionality, ambiguity, and a lack of precision in several provisions, particularly those governing travel bans, seizure of funds, and other procedural matters. Additionally, the draft contained numerous articles that infringed upon the guarantees afforded to the defendant, including their right to defense and other fundamental rights.

The situation deteriorated further with the amendment to the first article of the promulgation articles which introduced a clause mandating the preservation of special criminal procedures established under all existing exceptional laws, thereby insulating these provisions from potential reform. Consequently, this adjustment effectively nullified any guarantees that the draft law sought to introduce, consolidating expansive powers in the hands of the Public Prosecution, headed by the Attorney-General, as well as security authorities. This shift came at the expense of the rights and guarantees of suspects and the judiciary, whose role was relegated to merely ratifying or annulling precautionary measures.

[21] Article 6 of the Anti-Cyber and Information Technology Crimes Law No. 175 of 2018.

In our assessment, the legislator's approach to drafting the Criminal Procedures Law is fundamentally flawed. It exhibits a clear prioritization of expanding prosecutorial and security authorities at the expense of safeguarding the rights and guarantees of suspects. The philosophy underpinning this legislative effort appears to emphasize strengthening security prerogatives rather than protecting individual freedoms or broadening their guarantees.

This trend is underscored by the absence of meaningful deliberation on the amendment to Article 1 in the joint committee's report, despite other provisions in the law being subject to extensive objections and debates. Even so, these concerns were largely disregarded, as the committee's final report adopted the proposed text without modification.

Fifth: Conclusion and recommendations

Undoubtedly, the amendments to Articles 1 and 4 of the promulgation articles of the draft Criminal Procedures Law—particularly the amendment to Article 1, as elaborated above—have undermined the very principles touted by those responsible for drafting the law. These amendments negate the proclaimed benefits, guarantees, and alignment of the draft with constitutional provisions and international charters and agreements ratified by Egypt. The retention of special procedural laws, such as the Anti-Terrorism Law, which is applied to a broad spectrum of crimes through an overly expansive and ambiguous definition, facilitates the inclusion of offenses unrelated to terrorism. This is compounded by the incorporation of vague and politically charged terminology, such as "harming national unity or social peace," in Article 2 of the Anti-Terrorism Law, terms that are inherently subjective and challenging to define.

This strikes at the core of criminal justice, inflicting significant damage on the Egyptian legislative framework, eroding the guarantees afforded to defendants and suspects, and expanding the powers of security agencies at the expense of fundamental rights and freedoms. It is as though the draft law, already marred by deficiencies and constitutional uncertainties, has compounded its flaws by introducing amendments that effectively dismantle the remaining guarantees and protections for individuals accused or even suspected of committing a crime.

Recommendations:

- Repeal the two additional paragraphs introduced to Articles 1 and 4 of the promulgation articles of the draft Criminal Procedures Law, restoring their original wording to ensure the exclusion of any provisions that conflict with the Criminal Procedures Law, including procedural stipulations found in special legislation.

- Conduct a review and amendment of all articles and provisions that expand the jurisdiction of judicial control officers, particularly those that extend their authority in precautionary investigative procedures such as arrest, search, and interrogation. It is imperative to implement oversight mechanisms to monitor their activities in evidence collection and investigation, ensuring these processes are properly documented.

- Reassess and amend all exceptional powers conferred upon the Public Prosecution, notably in areas such as surveillance, interception of communications, and monitoring of messages. Such powers should be placed under judicial oversight or entrusted to specialized investigative judges appointed specifically for these matters, with the recommendation that each court designate a judge exclusively responsible for handling such cases.

- It is necessary to work on amending the draft law from all exceptional provisions that were copied, in text or in ruling, from notorious laws such as the Emergency Law or the Anti-Terrorism Law, particularly Article 116 of the draft law.

- The draft law should either be withdrawn or its discussion postponed until it is reviewed by professors of criminal law at Egyptian universities, lawyers, judges, and other concerned parties. Their observations and recommendations should be recorded. Furthermore, the State Council's comments on a previous version of this draft, which shares numerous similarities in its articles and provisions, should be carefully considered, with appropriate amendments made to address issues in the current draft.

- For the time being, it would be sufficient to introduce a targeted amendment to the Criminal Procedures Law, focusing specifically on pretrial detention. This amendment should establish comprehensive legislative provisions to address the deficiencies in the current framework for pretrial detention, including setting clear limits and durations, preventing the recycling of defendants into new cases while they are in detention, and ensuring that defendants have the right to meet with their lawyers and receive proper legal defense.

- It is necessary to reassess the continued application of special laws such as the Anti-Terrorism Law and the Terrorist Entities Law Regulating. Inspiration can be drawn from the French model, which integrates criminal and procedural provisions for combating terrorism into its general penal code rather than creating standalone legislation. This approach ensures that all measures are taken under the supervision of the Public Prosecution or a specialized investigating judge, without unduly expanding the powers of the Public Prosecution or judicial control officers.