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List of Issues for Egypt

134th SESSION (28 February to 25 March 2022), GENEVA

Submission to the List of Issues to be taken up in connection with the consideration of the Fifth periodic report submitted by Egypt to the Human Rights Committee

Committee for Justice- 15 December 2021





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I. INTRODUCTION

In the context of its contribution to assist Egypt in the implementation and respect of the International Covenant on Civil and Political Rights (ICCPR) during the 134th session of the Human Rights Committee, CFJ would like to provide suggestions of questions for the review of the State party. This contribution is based on information received by CFJ on individual cases of violations as well as on an analysis of the law and practice of the State party regarding its conventional obligations under the Covenant.

In the last four years Egypt's human rights situation has extremely deteriorated. Severe violations including torture, enforced disappearance, extrajudicial killing are committed by the state with total impunity – under the pretext of counterterrorism purposes but in actuality to stifle civil society and civic spaces, political parties and movements, and any peaceful dissident or independent voices.

The Egyptian authorities have recently put an end to the state of emergency that had been imposed since 2013 in North Sinai, and nationwide since April 2017. It had continuously been renewed until 25 October 2021. It is important to underline that according to article 154 of Egypt's Constitution, the maximum period for a state of emergency is three months, possibly renewable once, but the current government declared a new state of emergency every six months to circumvent this article, a process that had kept going for the past 4 years until 25 October 2021.

The declaration of a state of emergency entailed the application of the emergency law, which gave the President broad powers to restrict the rights and freedoms of citizens under the justification of maintaining security and public order. The emergency law legalized the arbitrary detention of individuals in violation of their right to freedom, put restrictions on meetings in violation of the right to peaceful assembly, enabled arbitrary censorship of newspapers and the media in violation of the freedom of expression, and the permitted control of messages in violation of the privacy of the citizens.

During this state of emergency, the Egyptian parliament enacted several laws (IT Crime Control Law No. 175 of 2018 and Press and Media Regulation Law and Supreme Council for Media Regulation No. 180 of 2018 and The Right to Public Meetings, Processions and Peaceful Demonstrations Law No. 107/2013 (hereinafter referred to as the Protest Law)) that disposed the same norms and restrictions as the emergency law. As a result, once the emergency state was declared finished, the legal implications were not significant as the government already had norms recreating the same pattern as during the state of emergency. Furthermore, any legal gap that the end of the state of emergency created, was filled by amendments of existing laws (Anti-Terrorism Law No. 94 of 2015, Law on securing and protecting public and vital facilities. No. 136 of 2014 (hereinafter referred to as Public facilities law)), a few days after it was declared finished.





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II. FREEDOM OF EXPRESSION AND MEDIA INDEPENDENCE (Articles 9,12,15,18,19)

The Egyptian state has shut down all avenues for free, peaceful expression by imprisoning journalists, semi-nationalizing the media market, blocking websites, and passing censorship-bolstering legislation. Foreign correspondents have been barred entry, deported, and threatened, or refused work permits.

The Anti-Cyber and Information Technology Crimes Law (no.175/2018), which authorizes mass surveillance of communications in Egypt by national security entities, is particularly concerning. The Law consists of 45 provisions. Among them, article 7 grants the investigative authorities the power to block any website whenever they deem that the website's content promotes extremist ideas that violate national security or damages the Egyptian economy. While recognizing that the right to express and access information and ideas is subject to limitations as prescribed by the ICCPR (International Covenant on Civil and Political Rights), these restrictions must meet the standards of legality. Restrictions must be publicly provided by laws which meet standards of clarity and precision and are interpreted by independent judicial authorities.

It is important to emphasize that restrictions on the freedom of expression following the application of the Anti-Terrorism Law, Public facilities Law, Protest Law, as well as related laws limiting and regulating internet content and access, directly impacted human rights and therefore constitute a disproportionate interference, and a clear incompatibility with the ICCPR. In conclusion, the IT Crime Control Law has the same effect as the control issued during the State of Emergency because it allows the government to arrest and detain citizens who express any opinions that do not align with the government on social media.

While the Egyptian Constitution guarantees the freedom of expression, assembly, and association, the subsequent legislation and practice impinge upon these rights. Many of these restrictions have been issued by presidential decision in the absence of parliamentary consideration.

The Supreme Council for media regulation (Supreme Council), a body subordinated to the President was created through the Press and Media Regulation Law and Supreme Council for Media Regulation Law No. 180 of 2018, its main task is to regulate and control media. This includes the power to block journalistic web pages, social media accounts or any personal web page with over 5,000 followers. The law creates numerous restrictions on journalists which are fundamentally incompatible with international freedom of expression standards. Furthermore, it introduces broad and ill-defined restrictions on content, censoring content from abroad on grounds of 'national security' and preventing journalists from reporting on matters of public interest like public trials for example.

Questions:

1. Will the State party repeal the domestic provisions which harshly criminalise the freedom of expression in the Anti-Cyber and Information Technology Crimes Law (no.175/ 2018)?
2. How can the State party guarantee the independence of the Press with a governmental body like the Supreme Council?





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3. Can the State party comment on how the restrictions put on the freedom of expression meet the requirements set by the ICCPR?

III. CONCERNS OVER THE SITUATION OF HUMAN RIGHTS DEFENDERS AND CIVIC SPACE (Articles 9,12,19,21,22)

Following the widespread national and international criticism of the previous NGO Law No. 70 of 2017, the Egyptian Government worked on the adoption of Law No.149 of 2019, that entered in force in January 2021. It is worth noting that the new law still maintains most of the repressive provisions of the 2017 law and includes only a handful of token cosmetic changes attempting to address human rights concerns. The new provisions restrict the work of civil society organizations and associations by adopting a very narrow role for civil society, significantly constraining the activities of both domestic and foreign NGOs, and empowering authorities with wide-ranging monitoring power and broad discretion to regulate and dissolve NGOs.

Under the Covenant, States party are permitted to restrict this freedom only when such restriction is prescribed by law, and then only if the restriction is "necessary in a democratic society" to serve legitimate interests in national security, public safety, public morals or health, or the rights or freedoms of others whereas in the case of Egypt, those restrictions only serve the government's interests of keeping a grip on any opinions that do not align with its.

The Egyptian Authorities have been systematically targeting human rights defenders and lawyers solely for their legitimate and peaceful defence of human rights and fundamental freedoms. Since 2017, Egypt has been consistently cited in the UN Secretary General's annual reprisals for cooperation with the UN reports. The Egyptian Authorities have subjected human rights defenders to enforced disappearance, arbitrary prolonged detention, and torture solely for seeking to engage or engaging with the United Nations.

Following its severe crackdown on critics inside of Egypt, the authorities have tried to silence and intimidate critics and dissidents inside Egypt like [Mohamed El-Baqer, Alaa Abdel Fattah and Mohamed Ibrahim \(Oxygen\)](#) who got sentenced to 4 years imprisonment for Mohamed El Baqer and Mohamed Ibrahim, and 5 years for Alaa Abdel Fattah during a trial that was heard on the 20th of December 2021, but also abroad, Bahey eldin Hassan, veteran human rights defender, and director of the Cairo Institute for Human Rights Studies in self-exile, was sentenced in absentia to 15 years in prison. Hassan was also added to the terrorist list, resulting in an asset freeze and has been put on Egypt's arrivals watch list.

The Egyptian Authorities also escalated acts of reprisal against families in Egypt of activists, academics, and human rights defenders living abroad, in a clear pattern of intimidation and harassment, through unlawful home raids, arbitrary arrests, enforced disappearances, and prolonged detention of their family members without trial or charges.





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Questions:

1. Can the State party comment on the individual cases mentioned in the above paragraph and explain the steps it is willing to take in order to put an end to the violations described, ensure redress and non-repetition?
2. Is the State party willing to repeal the provisions within the NGO Law No.149 of 2019 that censor the work of civil societies and human rights defenders?
3. Can the state party demonstrate the necessity and proportionality of the NGO Law to the pursuance of legitimate aims in order to ensure continuous and effective protection of the Covenant rights?

IV. PROLONGED PRE-TRIAL DETENTION AS A PUNITIVE MEASURES AGAINST OPPOSITION (Articles 9,10,19,21, 22,25)

Repeated pre-trial detention commonly referred to as “Recycling of cases” or “rotation” occur when a new case is brought by the prosecution against someone who is in pre-trial detention or has already served or is still serving a sentence, in a bid to keep peaceful dissidents behind bars indefinitely. The charges under the new case are simply a revived version of the old cases. This has been a key trend in past years. In Egypt, pre-trial detention limit is 2 years, and once this limit is reached usually the victim gets a release order, only to find out later he or she had been put on a new case, thus not released. There have been many cases of victims on 3 or 4 cases that have been added in that pattern.

The “[Hope Coalition](#)” Case is a well-known case of a large-scale arrests and detentions of a number of political activists made by the Egyptian Authorities in retaliation to their establishment of the secular/political “Hope Coalition” and their planning to participate in the Egyptian parliamentary elections of 2020. The “Hope Coalition” Case No. 930/2019 includes around 83 accused persons, among them political activists affiliated with different parties, along with human rights defenders, and even civilians, who are not affiliated in any way to the Hope Coalition or its members.

Prior to the 2018 presidential election results, several of the Presidents competitors were arrested and charges were fabricated against them. Although the President Sisi won the elections with 98 percent of the votes, several of his opponents remain in pre-trial detention, and for others received sentences to years in prison like [Sami Anan](#), former army chief of staff, currently sentenced to 10-year prison sentence, he got released on December 2019. His aid [Hisham Genena](#), who got sentenced to five years in prison.

The repeated pretrial detention practice in Egypt is being used as a punitive measure for critics of the government, with defendants kept inside for years, like [Mohammed al-Qassas](#), the vice-president of the Strong Egypt party, who has been held in pretrial custody since early 2018 without trial until 24th November 2021, resulting in nonobservance of the international norms relating to the right to a fair trial.





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Recently under heavy criticism of the prolonged pretrial detentions, the Egyptian government, authorities have started extracting one of the charges from such cases into a separate case that is taken to a special court as a felony that has a maximum potential of 5 years imprisonment, so as to have this argument that individuals have been tried and even serve sentences. On 18 November, 2021 Mr. Ziad al-Elaimy has been sentenced to 5 years in prison under charges of spreading false news, a charge that has been copied from his original case (“Hope Coalition” case, under which he has been in pre-trial detention since 2019).

Questions:

1. Can the State party demonstrate its application of article 17 of the Covenant relative to non arbitrary or unlawful interference?
2. How does the State party justify remanding in custody of the detainees released under orders from the courts?
3. Can the State party comment on the individual cases mentioned in the above paragraph and explains the steps it is willing to take in order to put an end to the violations described, ensure redress and non-repetition?
4. how is the State party guaranteeing the right to participate in public affairs in light of the systematic arbitrary detention of political opposition mentioned above?
5. What measures does the State party take for the implementation of the article 9 of the Covenant relative to the right to liberty and security of person?

V. RIGHT TO FAIR TRIAL AND INDEPENDENCE OF JUDICIARY (Articles 6,9,10 and 14)

During the 34th Universal Periodic Review, Egypt received 11 recommendations in connection with fair trial procedures and guarantees. Despite supporting six recommendations¹ and partially supporting three, CFJ note that Egypt has nevertheless followed a course completely opposed to the recommendations and the principles of justice.

On April 7, 2017, the President issued Law No. 13/2017, granting himself the authority to select and appoint the heads of judicial agencies - including the Cassation Court and State Council - violating both the Egyptian constitution and the right to a fair hearing by an independent, impartial judiciary. He also ratified legislative amendments severely curtailing the right of defence and codifying the terrorism circuits into the criminal courts. The amendments gave criminal courts the right to deny defendants’ requests to hear witnesses and eliminated core procedural steps in appeals heard by the Cassation Court: resulting in less guarantees for the accused, with particularly grave implications in death penalty cases.

Emergency State Security Courts were established by Prime Ministerial Decree No. 840/2017 after the declaration of the state of emergency. The end of the state of emergency only stopped the enforcement of the emergency law and ended the

¹ Related to respect for ICCPR fair trial standards and the principles of the Egyptian constitution, respect for the right to contact an attorney and family, and cooperation with the High Commission for technical assistance to strengthen judicial independence





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jurisdiction of the Emergency Supreme State Security Courts, however, any case that had already been referred to an emergency court remains active. It is important to note that many cases involving opposition were recently transferred to the emergency court, right before the decision to end the state of emergency was taken, which underlines a prior intention to keep the activities of the emergency court going. Their judgments are not subject to appeal; the only review process is that the president has the right to reduce or cancel the sentence issued by emergency state security courts or to order a retrial for a stated reason.

In October 2021, the Egyptian Parliament approved amendments on the Public Facilities Law (No. 136 of 2014) that has allowed the military to assist police forces in the protection of public facilities. In addition, it opened the door for military courts for those accused of attacking such facilities. Amendments on the Public Facilities Law have increased the competence of the military judiciary authority by adding many facilities to the list falling under their competency. Normally, the military judiciary is an exceptional judiciary such as the Emergency State Security courts and typically do not protect basic due process rights or satisfy the requirements of independence and impartiality of courts of law. Furthermore, the draft included an amendment to Article 3 of the Public Facilities Law No. 136 of 2014 as regards of the duration of enforcement of the law. Initially the duration was two years; it was extended to five years according to law No. 65/2016; then came this last amendment of the law without a time limit.

Furthermore, the Egyptian Penal Code was also amended. Law No. 71 of 2021 added a new Article No. 186 (bis)² that fundamentally contradicts Article 187 of the Egyptian Constitution, which stipulates that “Court sessions are public, unless, for reasons of public order or morals, the court deems them confidential. In all cases, the verdict is given in an open session.”

The Anti-Terrorism Law No. 94 of 2015 has imposed several restrictions on rights and freedoms. CFJ shares the concern previously expressed within the [Special Procedures Report of 28 February 2020](#) that the Anti-Terrorism law is increasing the power of prosecutors and jeopardising the independence of the judicial authority

Questions:

1. Is the State party willing to reform and/or repeal the provisions within the following Laws: Public Facilities Law, Law No. 71 of 2021 and the Anti-Terrorism Law No. 94 of 2015, in order to be in line with its international obligations?
2. Can the State party dissolve the Emergency State Security courts that are still active while the state of emergency was declared over?
3. What are the steps taken to ensure that the State Security Forces or Prosecution authority apply the judicial orders of release of detainees?
4. Can the State make the hearings public to be aligned with its constitution and the fair trial guarantees of the article 14 of the Covenant?

² Article 186 (bis): “Whoever photographs, records words or clips, broadcasts, publishes, or displays by any mean of publicity the proceedings of a court session examining a criminal case without a prior authorization from the Chief Judge of the designated court, and consultation of the Public Prosecution shall be penalized with a fine of no less than 100,000 EGP and no more than 300,000 EGP. - In addition, it is ruled that the equipment used in committing this crime shall be seized or the content deleted or destroyed depending on the situation.- The fine is doubled in case of recurrence”





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5. Is the State Party willing to cease to try civilians before military courts?

VI. CONDITIONS IN PRISONS AND DETENTION FACILITIES (Articles 7,9,10)

The situation in Egyptian prisons is particularly preoccupying, especially concerning the people detained for political motives. Egypt's prison population includes between 40 000 and 60 000 political prisoners detained since mid-2013³. Cells are overcrowded and poorly ventilated, creating the environment for the spread of disease. Prison officials wilfully disregard inmates' medical needs and deny their rights to visits. Prisons operate with no independent oversight.

Prison officials excessively and routinely use solitary confinement to punish political prisoners; some defendants are confined to solitary immediately upon admission. These include Mohammed al-Qassas, the vice-president of the Strong Egypt party, who has been held in pretrial custody in solitary confinement since his first day of detention in 2018, and [Ahmed Douma](#), who has been serving his sentence in solitary confinement since 2013. The regulation determining the maximum duration of solitary confinement was most recently extended from 15 to 30 days, with prisoners denied visits and exercise periods for the duration.

For the past years, prisoners have continued to die due to medical neglect, including those with illnesses that should not be fatal when minimally treated, such as infections from wounds, fevers, diabetic comas, or dehydration due to diarrhea. In prisons that keep a doctor on staff, the doctor is often underqualified and/or inaccessible.

Torture is not limited to prisons. It is more prevalent during the interrogation phase in police stations, State Security offices, or unofficial military locations not subject to any inspection by judicial bodies.

Torture is used by the security forces to obtain confessions, intimidate, and procure information. Investigative agencies, whether the Public Prosecution, State Security Prosecution, or the Military Prosecution are complicit in covering up and disregarding torture allegations. Torture is a systematic practice in Egypt and is facilitated by the investigative agencies with their failure "to curb practices of torture, arbitrary detention, and mistreatment; or take action on complaints.", furthermore, CFJ documented a high number alleged torture and degrading and inhuman treatment from victims of enforced disappearances, which remains an ongoing practise.

Questions:

1. What steps are taken to improve the conditions of detention?
2. How can the State party justify the deaths due the medical neglect within detention facilities?
3. Can the State party comment on the individual cases mentioned in the above paragraph and explains the steps it is willing to take in order to put an end to the violations described, ensure redress and non-repetition?

³ CFJ Report, "Violations in Egyptian Places of Detention ", MAY/JUNE 2020





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4. Those guilty of torture and other inhuman or degrading treatment generally remain unpunished, especially in cases where those in authority depend on the security services. How can such a situation be justified in the light of article 2, paragraph 3, of the Covenant?
5. How can the State party guarantee the independence of the investigative agencies to cease any torture or other inhuman or degrading treatment on detainees and be in coordination with article 10 of the Covenant?

