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## Egypt: Escalating violations against pretrial detainees

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In addition to the prolonged pretrial detention and the stereotypical recurrent charges, the Egyptian authorities have committed several other violations against detainees, most prominently:

### First: Enforced disappearance

Many detainees were subjected to enforced disappearance and unlawful detention before being presented to the competent prosecution.

The security services forcibly disappear those detainees in places belonging to the National Security Sector or in camps affiliated with the Central Security Sector, where they interrogate them, mostly amid physical or moral torture, to force them confess crimes they never committed; and this is what can be noted from the time difference from the date of the arrest of the detainees and the date of their presentation before the State Security Prosecution.

The duration of this extrajudicial detention ranges from one week to ten days to more than two months, in violation of Article 36 of the Code of Criminal Procedure, which states that the accused must be brought before the Public Prosecution within 24 hours: The judicial officer shall immediately listen to the statement of the apprehended person.

If the apprehended person fails to make a statement exonerating himself, the judicial officer shall, within a twenty four-hour period, refer said to the competent Public Prosecution. The Public Prosecution shall question the apprehended person within a twenty four-hour period then order the arrest or release thereof.

In the same context, the Freedom of Thought and Expression association has issued a report on Case No. 65 of 2021, documenting the exposure of all the accused in the case to unlawful detention for periods ranging from one week to 22 days.

Although the Constitution clearly stipulates that the accused must be brought to the interrogation authority within twenty-four hours, however, most defendants in these cases were unlawfully

detained by police officers and Ministry of Interior personnel before they were brought before the State Security Prosecution.

### Second: Inclusion on "terrorist" lists:

Many detainees were included on "terrorist" lists, which accordingly leads to depriving them of their political rights, including the right to travel, movement, and work. Such measure also entails placing their money and property under judicial custody, where in many cases the state confiscated their funds. For example, this measure was used against Rami Shaath, Ziad El-Eleimi, and Alaa Abdel-Fattah.

This measure was criticized for violating the basic rights established in the Egyptian Constitution of 2014, as well as the international legal rules that ban imposition of a penalty without informing the accused and listening to his defense, as Egyptian courts issue decisions of inclusion on terrorist lists without informing the accused or enabling their lawyers to attend court sessions and defend their clients.

In a statement issued by UN experts last February, the United Nations said the Egyptian authorities abuse the Anti-Terrorism Law, expressing concern over the provisions, definitions and uses of the law that have affected civilian human rights defenders and activists.

### Third: Renewal of pretrial detention in absentia

The Prosecution sometimes renews the pretrial detention without the attendance of detainees from prison, in violation of the Code of Criminal Procedure, and thus, the court decisions are considered absolutely null. In most cases, when release orders are issued, the State Security Prosecution file appeals against them, which are usually accepted, and the pretrial detention continues.

### Fourth: Prosecution's ignoring of defendants' complaints

The Prosecution is used to overlooking most complaints submitted by defendants, whether related to circumstances of the arrest campaigns, periods of enforced disappearance, the physical or moral coercion defendants are subjected to at the National Security headquarters, their health conditions, or the conditions of prisons and detention centers.

Anyway, the Prosecution does not respond to any complaints or requests submitted by defendants, while, on the contrary, it immediately responds to the national security investigation records, regardless of rationality of their content or consistency of their charges.

Therefore, it is noted that the Public Prosecution never investigated a single case related to the detainees' complaints regarding subjection to enforced disappearance or torture, despite providing the telegraphs sent to several official parties representing the executive and judicial powers, as evidence.

### Fifth: Investigation in absence of a lawyer:

Often a number of defendants are brought to the Prosecution without a lawyer, in violation of Article 54 of the Criminal Procedures Code, which states that an investigation with the accused can only begin in the presence of his lawyer; and if the defendant does not have a lawyer, a lawyer shall be appointed for him. In all cases, the accused may not be investigated except in the presence of an authorized or delegated lawyer.

### Seventh: Failure to refer defendants to trial

Despite the long duration of pretrial detention, which sometimes reaches four years, no detainee has been referred to trial, with the exception of the case of the researcher Ahmed Samir Santawi, who was rotated in two cases, where in late May he was referred to trial before the Supreme State Security Court (emergency), which is considered derogation from the right to a fair trial, in accordance with international human rights conventions and the provisions of the Egyptian Constitution.

*In light of these violations and others, the Egyptian government, the legislative power, the Public Prosecution and the security services should take serious steps to improve the human rights situation in Egypt, including:*

### First: Egyptian government

-Respecting international provisions and standards stipulated in international human rights conventions ratified by the Egyptian government, especially those related to the civil, political, economic and social rights, the freedom of opinion and expression, and the right to organization and peaceful assembly.



-Implementation of all the recommendations addressed to the Egyptian government by the UN Human Rights Council in its periodic review of Egypt's file in 2018.

-Respecting the role of civil society and human rights organizations in defending human rights in respect of the Declaration of Human Rights Defenders issued by the United Nations on 10 December 1998, stopping all measures taken against activists working in the field of human rights, including travel bans, seizing funds, in addition to closing Case no.173 of 2011 against Egyptian human rights organizations.

-Putting an end to the phenomenon of prolonged pretrial detention and recurrent stereotypical charges, and releasing all activists who were imprisoned for using their legal and constitutional rights of expression, before talking about any national human rights strategy.

### Second: Legislative Power:

-Reconsidering the amendments of articles of the Criminal Procedures Code and the Anti-Terrorism Law, which give powers that expand the role of the Public Prosecution in pretrial detention for a period up to five months, and the adoption of new provisions that would establish guarantees for oversight over the role of the Public Prosecution in the preliminary investigation, whether with regard to pretrial detention, or in issuance of other orders, ensure separation of the powers of accusation and investigation and issuance of pretrial detention orders.

-Adoption of the system of imprisonment and liberty judge so that the decision on pretrial detention remains within the competence of a judge as established in the French and German legislation.

-Putting an end to referring the cases stipulated under the Emergency Law 162 of 1958 to the State Security Prosecution, reconsidering the articles of accusations in the Penal Code, especially those related to crimes that affect the security of the state, the articles of the Terrorism Law 94 of 2015, and those of Law 175 of 2018; and cancel the articles that have a vague concept that would affect the freedom of opinion and expression in those laws.

### Third: Public Prosecution:

-Immediate release of anyone who has exceeded the five-month period under pretrial detention without being referred to a criminal trial, but rather rotated pending other cases.

- Monitoring the conditions of detainees under pretrial detention in places of detention, inspecting these places in pursuit of unlawful detentions.
- Opening investigation in all complaints submitted by defendants regarding pre-trial detention and the detainees subjected to enforced disappearance and unlawful detention by the security services before referring them to the prosecution, as well as investigating all complaints of physical and moral torture.
- Failure to take into account the security investigation reports for referring pretrial detainees to new cases known as circulation".
- The release of lawyers and rights defenders held under pretrial detention, such as Ziyad El-Eleimi, Mohamed El-Baqer, Amr Imam, Ezzat Ghoneim, Ibrahim Metwally, Mohamed Ramadan, Sayed Al-Banna, Mohab El-Ibrashi, and Amr Nohan, because they were only exercising their professional rights in defending the rights of their clients.
- The release of all journalists and media professionals that are under pretrial detention, most notably Hisham Fouad, Hossam Mounis, Esraa Abdel-Fattah, Badr Mohamed Badr, and Mostafa El-Khatib.

#### Fourth: Security Services:

- Putting an end to the policy of circulating detainees in new cases, with the aim of distracting them from their right to express their opinions in public affairs.
- Ceasing all practices of unlawful detention, as well as practices of physical and moral torture against detainees.
- Allowing independent Egyptian, Arab and international human rights organizations to visit detention facilities in coordination with the Public Prosecution.