

# Joint submission to the Universal Periodic Review of Egypt, 48th Session (Jan-Feb 2025)

Submitted on 16 July 2024 by:

**The Law Society of England and Wales** is the professional body representing more than 200,000 solicitors in England and Wales. Its aims include upholding the independence of the legal profession, the rule of law and human rights around the world. Established by Royal Charter (the "Charter of the Society") in 1845, its activities are established by statute, and it was granted special consultative status with the Economic and Social Council of the United Nations in 2014. <https://www.lawsociety.org.uk/>

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**Lawyers for Lawyers (L4L)** is an independent, non-political and not-for-profit lawyers' organisation established in 1986. Its mission is to promote the independent functioning of lawyers and the legal profession across the world in accordance with internationally recognised norms and standards by supporting lawyers who are at risk as a result of discharging their professional duties. Lawyers for Lawyers was granted special consultative status with the UN Economic and Social Council in July 2013. <https://lawyersforlawyers.org/en/>

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**The Tahrir Institute for Middle East Policy (TIMEP)** is a non-profit organisation founded in 2013. It works to centre advocates and experts from and in the MENA region in the policy discourse to foster transparent, accountable, and just societies. [www.timep.org](http://www.timep.org)

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Word count: 5,624

## Introduction

1. The Law Society of England and Wales (the Law Society), Lawyers for Lawyers (L4L), and the Tahrir Institute for Middle East Policy (TIMEP) welcome the opportunity to submit written information to the 4<sup>th</sup> cycle Universal Periodic Review of Egypt at the 48<sup>th</sup> session of the UPR Working Group. This report is based on interviews with lawyers and other research conducted by the three submitting organisations.
2. This report focuses on the following:
  - a. Significant legal developments since Egypt's 3rd cycle review;
  - b. Lack of independence of the judiciary;
  - c. Laws and regulations undermining the independence of the legal profession;
  - d. Lack of fair trial guarantees that prevent lawyers effectively representing their clients;
  - e. Systemic persecution of lawyers;
  - f. Recommendations.
3. Relevant 3<sup>rd</sup> cycle UPR recommendations not yet implemented include the following:
  - a. Recommendations supported by Egypt:
    - i. 31.145 Strengthen the independence of the judiciary (Albania)
    - ii. 31.292 Continue with efforts to encourage a human rights culture and enhance awareness programmes, especially for law enforcement agencies and the judiciary (Bhutan)
    - iii. 31.192 Adopt measures to ensure freedom of expression both online and offline, freedom of association and assembly, political pluralism and the rule of law (Italy)
    - iv. 31.147 Strengthen criminal procedures in order to safeguard the right to a defence and to due process (Costa Rica)
    - v. 31.143 Take measures to ensure access to justice and due process for all persons accused of criminal offences, including those relating to security and terrorism, such as access to a lawyer and consular assistance in cases involving foreign nationals (Thailand)
    - vi. 31.89 Guarantee the rights of prisoners to regular family visits, medical treatment and access to lawyers, including in high-security prisons (Germany)
    - vii. 31.343 Adopt policies to combat violence against women and girls that ensure access to justice for victims and that include public awareness campaigns (Chile)
  - b. Recommendations noted by Egypt:
    - i. 31.148 Guarantee the right to a fair trial in accordance with international obligations and end all military trials of civilians (Czechia)

- ii. 31.142 Guarantee the right to a fair trial and limit the jurisdiction of military courts to military cases (Switzerland)
- iii. 31.128 Release detainees held for exercising their rights to freedom of expression or association, and ensure fair trial guarantees for those remaining in detention (United States)
- iv. 31.146 Ensure pretrial detention and that all court proceedings fully comply with article 14 of International Covenant on Civil and Political Rights, including by ending the use of mass trials (Australia)
- v. 31.203 Repeal all laws and policies that restrict activities and rights of human right defenders, such as law No. 70/2017, counter-terrorism law No. 94, article 78 of the Penal Code, the anti-cyber and information technology crimes law, and the media regulation law (Belgium)
- vi. 31.201 Stop unduly restricting space for civil society, including through asset freezes, travel bans, long periods of pretrial detention and a growing number of arrests (Sweden)
- vii. 31.204 Take steps to protect human rights defenders and prevent pressure against them, including by lifting travel bans and asset freezes (Canada)

## Significant legal developments since Egypt's 3rd cycle review

4. Since the last UPR review, Egypt has lifted its long-standing state of emergency, launched its National Human Rights Strategy 2021-2026<sup>1</sup>, initiated a national dialogue and reactivated the Presidential Pardons Committee. However, these initiatives did not bring about genuine and meaningful change. Egyptian authorities have taken additional steps that have weakened judicial independence and further eroded due process and the rule of law. The measures introduced under the state of emergency have continued to operate under other repressive laws and practices.
5. Among many laws and policies that have eroded judicial independence and fair trial rights since the last review, in 2019, constitutional amendments empowered the President to appoint the heads of judicial bodies, including the Supreme Constitutional Court, and the Prosecutor General. They also establish the President as the Chair of the Supreme Council for Judicial Bodies and Entities.
6. Members of the armed forces continue to enjoy the powers of law enforcement officers granted to them as an exceptional measure during the state of emergency despite it being lifted in October 2021. Law No. 3 of 2024 grants the armed forces the powers of law enforcement officers to confront "acts that would disrupt public and vital facilities" and "crimes that jeopardise society's basic needs of food supplies and products" to "preserve the basic components of the state, the people's gains and rights, or the requirements of national security". This vague articulation of the law extends the military's judicial powers

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<sup>1</sup> <https://sschr.gov.eg/media/gapb5bq4/national-human-rights-strategy.pdf>

over civilians indefinitely. The law also formalises the jurisdiction of military courts over civilians accused of committing crimes against public and vital facilities and services.

7. The ongoing application of the Anti-Terrorism Law No. 94 of 2015 grants law enforcement officers more exceptional powers than they had during times of emergency. This includes the authority to hold the accused in custody for up to 28 days and to limit the right of a defendant to call a family member and seek legal counsel to "the interests of the investigation" during this time period. This right is systematically denied under the pretext of protecting the investigation procedures. According to lawyers, the accused are usually detained incommunicado.<sup>2</sup>
8. In addition to the laws mentioned above, court practices in Egypt have demonstrated serious violations of the right to a fair trial and due process since the last UPR cycle, especially through the Emergency State Security Courts (ESSCs), Terrorism Circuit Courts (TCCs), and amendments to the Code of Criminal Procedure (see paras 26 – 37 below).
9. In summary, despite constitutional and international legal commitments, supported recommendations, legislative proposals, and voluntary pledges made since the last UPR cycle, laws and policies implemented have actively undermined the independence of the Egyptian judiciary and advanced violations of due process and fair trial guarantees.

## Lack of independence of the judiciary

10. The Egyptian Constitution establishes the independence of the judiciary and provides essential fair trial guarantees, including the presumption of innocence and the right of the accused to be informed of charges promptly, access legal counsel, and be tried without undue delay before an impartial and independent court of law. Since 2017, the President has been granted more control over the judiciary, undermining the independence and impartiality of judges and blurring the separation of powers, a cornerstone of the rule of law.<sup>3</sup>

### *Politicisation of the courts*

11. The Judicial Authorities Law was first amended in 2017,<sup>4</sup> granting the President the power to select the heads of the State Lawsuits Authority, the Administrative Prosecution, the Court of Cassation and the State Council. These powers were extended following the February 2019 Constitutional Amendments,<sup>5</sup> authorising the President to select the Prosecutor-General, the president of the Supreme Constitutional Court, and the heads of other judicial entities. The President has since used these powers to appoint new presidents of the Supreme Constitutional Court in July 2019 and February 2022.<sup>6</sup>
12. Lawyers in Egypt have reported that judges have become known to disregard due process, equality of arms and safeguards of both defendants and lawyers in cases of political

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<sup>2</sup> Lawyers interviewed by TIMEP confirmed their inability to communicate with their clients during the 28-day period.

<sup>3</sup> UN Special Rapporteur on the Independence of Judges and Lawyers, A/68/285 §14.

<sup>4</sup> Law No. 13 of 2017.

<sup>5</sup> Amendments to articles 185 and 193 of the Egyptian Constitution.

<sup>6</sup> <https://www.uanet.org/es/valores/international-fair-trial-day-joint-statement-situation-egypt-focus-country-2022>

opponents or human rights violations.<sup>7</sup> Changes in the composition of the judiciary have also led to perceptions of some judges' independence being compromised due to their ties to authorities and their positioning on certain cases, which is viewed as not being judged according to the law but to the wishes of the government. The degradation of judicial independence from the executive has therefore resulted, among other outcomes, in a politicisation of the courts in violation of the UN Basic Principles on the Independence of the Judiciary.

13. This has also restricted the ability of lawyers working on political or sensitive cases to represent their clients in accordance with their professional standards and without fear of unjust intervention, in violation of the UN Basic Principles on the Role of Lawyers. This yields an environment where defendants' right to due process under Article 14 of the International Covenant on Civil and Political Rights (ICCPR) is violated<sup>8</sup> and where adequate protection of the human rights and fundamental freedoms of all cannot be guaranteed.<sup>9</sup>

#### *Use of military and emergency courts*

14. Judicial independence in Egypt has also been hampered by the recourse to military courts whose mandate has been extended to try non-military related offences. Under the Military Judiciary Law (Law No. 25 of 1966), military courts operate under the direct supervision of the Ministry of Defence which appoints judges based on recommendation from the Director of the military judiciary. Law No. 3 of 2024, which replaced and annulled Law No. 136 of 2014, retains the military's jurisdiction over cases concerning "public and vital facilities" and extends such power to "acts and transgressions that undermine the work of the state's public facilities, or the services it provides".
15. The new law's use of vague terms to extend the military courts' jurisdiction facilitates these courts being used to target all individuals seen as "threatening national security". Such broad application of military courts for non-military personnels and offences threatens the independent administration of justice because of their structure and special nature,<sup>10</sup> raising grave concerns as to the fairness of the proceedings and respect of the defendants' rights.<sup>11</sup>
16. During the state of emergency, in accordance with Egypt's Emergency Law (Law No. 94 of 2015), emergency courts were established to try offences in relation to the state of emergency. In October 2017, the emergency courts were extended through ministerial decree to include violations of the Protest Law (Law No. 107 of 2013) and Anti-terrorism Law (Law No. 94 of 2015). Despite the lifting of the state of emergency on 25 October 2021, emergency courts have been authorized to continue to try cases initiated before the end of the state of emergency.
17. This continued recourse to emergency courts undermines judicial independence, notably because the President in consultation with the ministries of justice and defence determines

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<sup>7</sup> International Commission of Jurists, *Egypt's Judiciary: A Tool of Repression. Lack of Effective Guarantees of Independence and Accountability*, 2016, p.40: <https://icj2.wpenginepowered.com/wp-content/uploads/2016/10/Egypt-Tool-of-repression-Publications-Reports-Thematic-reports-2016-ENG-1.pdf>.

<sup>8</sup> UN Special Rapporteur on the Independence of the Judiciary and Lawyers, A/HRC/50/36 §11 and 13.

<sup>9</sup> UN Basic Principles on the Role of the Lawyer, Preamble.

<sup>10</sup> Military Judiciary Law, Article 71.

<sup>11</sup> <https://www.uanet.org/es/valores/international-fair-trial-day-joint-statement-situation-egypt-focus-country-2022>. See also report of the Special Rapporteur on the Independence of Judges and Lawyers, A/68/285 §54.

the composition of the emergency courts and appoints their judges. There have been reports of cases being moved from ordinary courts to be tried before emergency courts to guarantee convictions in politically sensitive cases. This significantly restricts defendants' procedural guarantees, not least because decisions of emergency courts cannot be appealed (see more in paras 26 – 37 below).

## Laws and practices undermining the independence of the legal profession

18. Lawyers in Egypt have faced increasing challenges in recent years, notably related to politically sensitive cases. Several broad and discriminatory laws have contributed to this.

### *Law on Regulating the Work of Civil Associations (the “NGO law”)*

19. Under Law No. 149 of 2019, which replaced Law No. 70 of 2017, the government can deny the registration of NGOs based on vague terms such as “political” work or undermining “national security, public order, public morals”, limiting their activities to “societal development”.<sup>12</sup> This has had a chilling effect on the legal profession as organisations providing *pro bono* legal aid on sensitive or political cases have been qualified as “political” and faced difficulties accessing funding and licensing. This has limited their ability to defend those seen as in opposition with the executive and the security provided by such organisations.

### *Law Regulating the Press, Media, and the Supreme Council for Media Regulation (the “media law”)*

20. Law No. 180 of 2018 contains provisions preventing “press entities”<sup>13</sup> from publicising content seen as in violation of the Constitution, professional ethics, public morals, public order, or considered to be “fake news”. It also provides authorities wide discretion in censoring content deemed in violation of the law and imposes financial requirements for licensing and oversight, restricting the work and independence of the country’s media.<sup>14</sup> This law has been used against lawyers and human rights defenders to sanction them when speaking up about their cases, including any criticism of the handling of cases or division of powers within the Egyptian state.

### *Anti-Cyber and Information Technology Crimes Law (the “anti-cybercrime law”)*

21. Law No. 175 of 2018 qualifies as cyber-crimes online content found to “undermine family values” or “value of the Egyptian society”.<sup>15</sup> These vague and far-reaching terms allow for broad application, undermining freedom of expression. It also grants authorities wide discretion in ordering the blocking of websites and censorship of any content considered

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<sup>12</sup> UN experts have shared concerns as to the consequences of this law on the right of association and independence of civil organisations: AL EGY 6/2021:

<https://spcommreports.ohchr.org/TMResultsBase/DownloadPublicCommunicationFile?gId=26522>.

<sup>13</sup> All social media users with over 5000 followers are considered “press entities”.

<sup>14</sup> TIMEP, *The Law Regulating the Press, Media, and the Supreme Council for Media Regulation*, 15 May 2019: <https://timep.org/2019/05/15/timep-brief-the-law-regulating-the-press-media-and-the-supreme-council-for-media-regulation/>.

<sup>15</sup> Article 25 of Law No. 175 of 2018.

to “jeopardise the national security or economy”.<sup>16</sup> Cases under this law are tried in economic courts where experts compile a Digital Evidence Report, accessing the accused’s public and personal online data, violating their right to privacy.

*Anti-Terrorism Law and the Law Organising the Lists of Terrorists and Terrorists Entities (the “terrorist entities law”)*

22. The Anti-Terrorism Law (Law No. 94 of 2015 amended by law No. 15 of 2020) relies on vaguely worded provisions which are used to criminalise a wide range of activities as “terrorist”, including all forms of peaceful political opposition. The law was amended in 2020 to extend the definition of “terrorist entity” to include those which infringe public order, harm national unity, the safety of society and security.
23. The Terrorist Entities Law (Law No. 8 of 2015 amended by law No. 14 of 2020) established a listing mechanism of individuals as “terrorists” which has been found to lack transparency and due process guarantees as their notification is not required nor is there an efficient mechanism to challenge decisions. Once included on this list, “competent state authorities” can dissolve the entity, freeze its activities and temporarily deprive the individual or organisation of their political rights. The law was amended in 2020 to also include the imposition of travel bans, confiscation of passports and disbarment. The UN Special Rapporteur on human rights and counter terrorism found these amendments increase the risk of arbitrary detention, torture, absence of judicial oversight and procedural safeguards.<sup>17</sup>

*Weakening of the bar association*

24. Bar associations play an important role in promoting and protecting the independence and integrity of the legal profession.<sup>18</sup> In recent years, Egypt’s bar association, the Lawyers’ Syndicate, has been seen as failing to protect the legal profession in the country,<sup>19</sup> considering the State’s growing interference in the functioning of bar associations, in violation of the Basic Principles on the Role of Lawyers.<sup>20</sup>
25. The Lawyers’ Syndicate has been seen as a highly politicised body, refusing to position itself on matters which appear contrary to the State, while issuing statements and sanctions in accordance with its positioning.<sup>21</sup> This perceived bias shows a failure of the Egyptian bar to meet its mission to represent all lawyers,<sup>22</sup> and answer the challenges they face and different forms of harassment and violations of their right to practise free from unjust intervention.<sup>23</sup>

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<sup>16</sup> Article 7 of Law No. 175 of 2018.

<sup>17</sup> <https://www.ohchr.org/en/press-releases/2020/04/egypts-updated-terrorism-law-opens-door-more-rights-abuses-says-un-expert>

<sup>18</sup> Basic Principles on the Role of Lawyers principles 3 and 4., A/71/348, paras. 30-33 and 80-88; and A/64/181, paras. 19-27 in Report of the Special Rapporteur on the Independence of Judges and Lawyers, A/73/365 §8.

<sup>19</sup> Arab Rule of Law, [https://www.arabruleoflaw.org/files/pdf/judiciary/english/p2/egypt\\_finalreportp2s4\\_en.pdf](https://www.arabruleoflaw.org/files/pdf/judiciary/english/p2/egypt_finalreportp2s4_en.pdf).

<sup>20</sup> According to the UN Special Rapporteur on the Independence of the Judiciary and Lawyers A/HRC/50/36 §65.

<sup>21</sup> Legal Agenda, <https://english.legal-agenda.com/who-protects-egyptian-lawyers-ii/>.

<sup>22</sup> Recommendation No. R(2000)21., Report of the Special Rapporteur on the Independence of Judges and Lawyers, A/73/365 §§48-50.

<sup>23</sup> Legal Agenda, <https://english.legal-agenda.com/who-protects-egyptian-lawyers-ii/>.



## Lack of fair trial guarantees that prevent lawyers effectively representing their clients

26. Egypt's failure to protect the right to a fair trial has been reflected in recently enacted, amended, or ongoing laws and state practices that further erode the independence of the Egyptian judiciary and that have, among other things, impeded lawyers' ability to defend people's rights effectively.
27. Prosecutors regularly prevent lawyers from accessing case files, including reports of investigations, interrogations, witness information and accounts, and other documents relating to the cases in which their clients are listed.<sup>24</sup> This leaves lawyers unable to build a defence. Among other things, the Supreme State Security Prosecution (SSSP) restricts communication with clients, which is not confidential,<sup>25</sup> prohibits lawyers from using phones and prevents them taking notes during the investigation, having to rely only on memory in investigations that may last for hours.
28. Lawyers have reported experiencing prolonged waits in prosecution offices as they are not told presentation times, restricted access to their clients in detention (notably with regards to emergency and military courts), and not being able to communicate confidentially with their clients.<sup>26</sup> Lawyers have also reported instances where investigations have proceeded without the presence of the accused's lawyer or without their notification or where the prosecution has failed to provide the defence with all relevant information.<sup>27</sup>
29. In 2017, an amendment to the Code of Criminal Procedures gave the court complete discretion in deciding whose testimony is necessary to hear. Lawyers interviewed by TIMEP stated that the courts, especially TCCs, tend to hear the prosecution's witnesses without providing the same opportunity to the defence's witnesses, resulting in a stark violation of the equality of arms before the court.
30. Successive amendments to the Emergency Law have expanded the remit of the SSSP and the Supreme State Security Court, such that they have become one of the most hostile and even dangerous locations that lawyers must attend to undertake their professional duties. Lawyers must undergo the same entry and search procedures as accused individuals and they must provide their personal data, including their home address, before entry, leaving them vulnerable to personal harassment and attack.<sup>28</sup> Procedures limit and delay lawyers' access to the extent that they sometimes only reach the investigation rooms after it has concluded, denying individuals access to legal representation, contrary to Articles 9 and 14 of the ICCPR, the UN Basic Principles on the Role of Lawyers and other international standards.

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<sup>24</sup> N. Saeed, *Human Rights Lawyering and Legal Defense Under Authoritarianism*, Committee for Justice, 2023: <https://www.cfjustice.org/cfj-paper-highlights-the-challenges-facing-human-rights-lawyers-under-authoritarianism-in-egypt/>, p.23.

<sup>25</sup> Ibid.

<sup>26</sup> Information collected by Lawyers for Lawyers from interviews with Egyptian lawyers.

<sup>27</sup> Access to all information pertaining to case files has been clarified by the Human Rights Committee as included within the terms "adequate facilities" in article 14(3)(d) of the ICCPR in Comment No. 32 (CCPR/C/GC/32).

<sup>28</sup> N. Saeed, *Human Rights Lawyering and Legal Defense Under Authoritarianism*, Committee for Justice, 2023: <https://www.cfjustice.org/cfj-paper-highlights-the-challenges-facing-human-rights-lawyers-under-authoritarianism-in-egypt/>, p.27.



### *Emergency and terrorism courts*

31. The ESSCs discussed above do not meet the minimum fair trial standards and their rulings are not subject to any form of appeal; they become final upon presidential ratification. The ESSCs have played a key role in the government's punitive and retaliatory approach to rights advocates in the country, with a substantial record of unjustly convicting individuals on fabricated charges in trials that violate fair trial guarantees.<sup>29</sup> According to interviews conducted by TIMEP with Egyptian lawyers, it is a common practice for the ESSCs not to hear or respond to defence requests, not allow defendants to speak before the judge, and to restrict the right of defence lawyers to access the full case files, which hinders their ability to prepare a strong defence for their clients. Additionally, lawyers have raised concerns about certain judges' personal political opinions influencing their rulings.
32. For example, in March 2023, members of the Egyptian Coordination for Rights and Freedoms (ECRF) were sentenced<sup>30</sup> following a trial of the 31 defendants, 14 of whom were imprisoned, which included numerous violations of fair trial guarantees. The defence lawyers were prevented from obtaining the case files during the investigation. The defendants' families were also prevented from attending the hearings. Prior to the trial, members of the ECRF were subjected to prolonged pretrial detention.<sup>31</sup>
33. Decisions of the TCCs, unlike the ESSCs, can be appealed. However, Egyptian lawyers have confirmed the same systematic pattern of fair trial violations, including that TCCs often hold their trials en masse. Despite the large number of cases, the government decreased the number of TCCs from nine in 2018 to three in 2023, resulting in a significant lack of capacity to fairly adjudicate cases. According to lawyers, TCCs often fail to individually consider or hear cases, which leads to the issuance of collective orders against defendants and the prevalence of mass trials in violation of due process and fair trial protections.
34. Initially responding to the COVID-19 pandemic and then later in an alleged attempt to reduce the courts' caseload, the Minister of Justice issued Decision No. 8901 of 2021, which allows judges to renew defendants' pretrial detention periods remotely using videoconferencing. As a result, pretrial detainees attend renewal sessions from a designated room in the prison. Egyptian lawyers have raised serious concerns about how these remote renewals undermine the right of the accused to appear before the judge, to speak freely and privately with their counsel, and to freely submit complaints regarding their detention conditions. This is, in part, because the room in which the accused is presented is located inside the prison under the control of prison wardens, who are often responsible for the violations. Lawyers are also unable to confer with their clients due to the nature of virtual renewals and technical difficulties, such as poor internet access that disrupts the hearing and the lack of a designated time or space for private consultation.

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<sup>29</sup> International Commission of Jurists, 24 January 2023: <https://www.icj.org/egypt-abolish-the-emergency-state-security-courts-and-end-miscarriages-of-justice/>.

<sup>30</sup> Case No. 1552 of 2018.

<sup>31</sup> <https://cihrs.org/egypt-dismiss-charges-against-members-of-the-egyptian-coordination-for-rights-and-freedoms/?lang=en>

## Mass trials

35. The practice of conducting mass trials persists, with defendants being denied adequate legal representation, resulting in manifestly unfair trials.<sup>32</sup> Reports indicate that the majority of mass trials occur in the special courts established by the government, such as the ESSCs, TCCs and military courts, where the rights of the defendants are subject to severe limitations, although mass trials have also taken place in ordinary courts.<sup>33</sup>
36. Testimony from lawyers reveal a range of rights violations during mass trials. Lawyers have reported being denied access to clients both pre-trial and during the trial proceedings.<sup>34</sup> Lawyers have also reported that communication with their clients is impeded due to physical restrictions in the courtroom, as well as practical difficulties due to the large number of defendants and lawyers in court. These problems are compounded by the court rushing the process to conclude the trial, leaving little, if any, time for proper consultation by defence lawyers.<sup>35</sup> In these rushed and crowded trials the opportunity to present an adequate defence is seriously frustrated.
37. Our organisations are also gravely concerned that sentences imposed by courts, including the ESSCs where there is no right appeal, following mass and unfair trials includes the death penalty,<sup>36</sup> in violation of Article 6 of the ICCPR.

## Systemic persecution of lawyers

38. Egyptian authorities have systematically targeted lawyers for conducting their professional duties, preventing them from performing their legitimate work through arrests, physical attacks, threats and intimidation. This is a clear violation of the UN Basic Principles on the Role of Lawyers, particularly Principle 16 which protects legal professionals from harassment or improper interference with their professional functions, as well as suffering or being threatened with prosecution or other sanctions for their legitimate work.<sup>37</sup> It further violates Principle 18 which prohibits lawyers from being identified with their clients or their clients' causes.<sup>38</sup>

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<sup>32</sup> Interviews with Egyptian lawyers on file with the Law Society of England and Wales. See also Amnesty International: <https://www.amnesty.org.uk/press-releases/egypt-ten-sentenced-death-after-flagrantly-unfair-mass-trial>; Reprieve: <https://reprieve.org.uk/2021/05/24/the-death-penalty-in-egypt-ten-year-after-the-uprising/>.

<sup>33</sup> Ibid.

<sup>34</sup> Interviews with Egyptian lawyers on file with the Law Society of England and Wales.

<sup>35</sup> Ibid.

<sup>36</sup> Interviews with Egyptian lawyers on file with the Law Society of England and Wales. See also Amnesty International: <https://www.amnesty.org.uk/press-releases/egypt-ten-sentenced-death-after-flagrantly-unfair-mass-trial>; Reprieve: <https://reprieve.org.uk/2021/05/24/the-death-penalty-in-egypt-ten-year-after-the-uprising/>.

<sup>37</sup> UN Basic Principles on the Role of Lawyers, Paragraph 16: "Governments shall ensure that lawyers (a) are able to perform all of their professional functions without intimidation, hindrance, harassment or improper interference; (b) are able to travel and to consult with their clients freely both within their own country and abroad; and (c) shall not suffer, or be threatened with, prosecution or administrative, economic or other sanctions for any action taken in accordance with recognized professional duties, standards and ethics".

<sup>38</sup> UN Basic Principles on the Role of Lawyers, Paragraph 18: "Lawyers shall not be identified with their clients or their clients' causes as a result of discharging their functions".

39. Following anti-government protests that started on 20 September 2019, the Egyptian authorities arrested more than 2,400 people in two weeks.<sup>39</sup> Many of the lawyers defending those arrested and imprisoned following the protests were themselves in turn arrested, including Sahar Ali, Mohamed Salah Ajaj, Mohamed Helmy Hamdoun, Ahmed Sarhan, and Ahmed Abd El-Azim.
40. Separately, on 29 September 2019, while representing prominent human rights defender Alaa Abdelaftah during questioning before the State Security Prosecution, lawyer Mohamed Al-Baqer was arrested and charged with “spreading false information aiming at disturbing the public and peaceful order” and “joining a terrorist organisation”. He was sentenced to 4 years in prison in a trial marred by serious due process violations, including a failure to provide the defence with a copy of the 2,000-page case file.<sup>40</sup> Their right of appeal was also denied, since judgments of this court are final. He has since been released following a presidential pardon issued in July 2023.
41. On 29 December 2019, members of Egypt’s security forces attacked prominent human rights lawyer Gamal Eid, director of the Arabic Network for Human Rights Information (ANHRI).<sup>41</sup> He was subsequently attacked again,<sup>42</sup> his car was stolen, and another car that he borrowed from another ANHRI lawyer was smashed by security forces at dawn outside his house.<sup>43</sup> The authorities have previously closed ANHRI’s offices, confiscated its bank accounts and placed travel bans on Mr Eid and other rights defenders. ANHRI staff lawyer Amr Imam was also arbitrarily arrested and detained by security forces on 16 October 2019.<sup>44</sup> He was later charged with various offences including “collaborating with a terrorist organisation having knowledge of its goals”, “spreading false news” and “misusing one of the social networking tools”.<sup>45</sup> He was held in pre-trial detention for over two years, contrary to limits under Article 143 of the Criminal Procedures Code,<sup>46</sup> until he was finally released on 24 April 2022.<sup>47</sup> On 10 January 2022, ANHRI decided to suspend its activities,

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<sup>39</sup> International Commission of Jurists, 4 October 2019: <https://www.icj.org/egypt-amidst-the-crackdown-lawyers-are-also-a-target/>.

<sup>40</sup> Law Society of England and Wales, 30 September 2021: <https://www.lawsociety.org.uk/campaigns/international-rule-of-law/intervention-letters/law-society-calls-on-egyptian-government-to-release-detained-lawyer-mohamed-el-baqer>; Gulf Centre for Human Rights, 21 December 2021: <https://www.gc4hr.org/three-human-rights-defenders-sentenced-to-prison-after-unfair-trial/>.

<sup>41</sup> Gulf Centre for Human Rights, 29 December 2019: <https://www.gc4hr.org/un-must-assist-human-rights-lawyer-gamal-eid-after-brutal-attack/>

<sup>42</sup> Gulf Centre for Human Rights, 18 October 2019: <https://www.gc4hr.org/gchr-stands-in-solidarity-with-prominent-rights-defender-gamal-eid-and-anhri-amid-continuous-arrests/>.

<sup>43</sup> Ibid.

<sup>44</sup> CCBE, 7 November 2019: [https://www.ccbe.eu/fileadmin/speciality\\_distribution/public/documents/HUMAN\\_RIGHTS\\_LETTERS/Egypt\\_-\\_Egypte/2019/EN\\_HRL\\_20191107\\_Egypt\\_Assault-on-lawyer-Gamal-Eid-and-Detention-of-lawyer-Amr-Imam.pdf](https://www.ccbe.eu/fileadmin/speciality_distribution/public/documents/HUMAN_RIGHTS_LETTERS/Egypt_-_Egypte/2019/EN_HRL_20191107_Egypt_Assault-on-lawyer-Gamal-Eid-and-Detention-of-lawyer-Amr-Imam.pdf); Committee for Justice, 24 January 2023: <https://www.cfjustice.org/international-day-of-the-endangered-lawyer-egypts-legal-professionals-continue-to-suffer/>.

<sup>45</sup> FIDH, 22 October 2019: <https://www.fidh.org/en/issues/human-rights-defenders/egypt-arbitrary-detention-and-judicial-harassment-of-amr-imam>

<sup>46</sup> ANHRI, 17 October 2021: <https://www.anhri.info/?p=26912&lang=en>.

<sup>47</sup> FIDH, 22 October 2019: <https://www.fidh.org/en/issues/human-rights-defenders/egypt-arbitrary-detention-and-judicial-harassment-of-amr-imam>; Middle East Observer, 17 July 2022: <https://middleeastobserver.org/2022/07/17/egypt-rights-defender-amr-imam-released-after-1000-days-of-pretrial-detention/>.

citing increasing disregard for rule of law in Egypt and an increase in human rights violations and police harassment.

42. The use of anti-terrorism legislation against lawyers for carrying out their professional duties has far-reaching consequences. Notably, this includes the ability of the state machinery to restrict them from travelling and freeze their assets. Those designated as terrorists under the opaque state process described above are also subject to potential disbarment. In Ms. Abdel-Moneim's case, the prosecutor requested to include her on a list of terrorists for five years after the end of her sentence. This would result in a travel ban, her assets being frozen, and police monitoring. Ms. Abdel-Moneim was held in Al-Qanater women's prison and allowed only one family visit in the presence of security agents more than three years after her detention.<sup>48</sup>
43. On 5 March 2023, lawyers Tarek Al-Silkawi, Ezzat Ghoneim and Mohammed Abu Horeira were sentenced to 15 years imprisonment and Hoda Abdel Moneim to 5 years by an emergency court for joining and financing a terrorist group and for spreading "false news" on human rights abuses by security forces. Reportedly, the defendants were banned from speaking to their lawyers in private throughout the investigation and trial. Their defence lawyers were not allowed to attend some of the interrogations by SSSP or to access the case files during the investigation. Allegedly, the court relied on secret-sourced testimonies by National Security Agency officers, which were accepted without adequate cross-examination, and did not allow all defendants to speak in court.
44. In June 2023, lawyers Mahmoud Mohamed Abdelmajeed and Mohamed Issa Rajeh were arrested under the anti-terrorism law, charged with joining and funding a terrorist group by providing that group with information about political detainees in Egypt. These charges were highly contested as unfounded, stemming from their legitimate work as lawyers and documenting human rights violations. Five UN Special Rapporteurs raised concern at their prosecution for their legitimate work under Egypt's anti-terrorism law, "which contravenes international human rights law".<sup>49</sup>

### *Enforced disappearance*

45. The UN Special Rapporteur on the situation of human rights defenders has highlighted a common trend across multiple cases that she has raised with the Egyptian Government, whereby human rights defenders are often arrested without a warrant and subjected to enforced disappearance before being presented to the Supreme State Security Prosecution. They are then ordered to remain in pre-trial detention pending investigation for alleged acts criminalised under the vague provisions of the Penal Code, Anti-Terror Law and Anti-Cybercrime Law.<sup>50</sup>
46. Lawyer Islam Salama has been forcibly disappeared three consecutive times, following court orders for his release. On 25 May 2020, security forces arrested Islam Salama from

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<sup>48</sup> OHCHR, 28 March 2024: <https://srdefenders.org/egypt-enforced-disappearance-and-use-of-repeated-charges-against-hrds-hoda-abdel-moneim-and-moaaz-al-shargawy-joint-communication/>.

<sup>49</sup> AL EGY 1/2024, <https://spcommreports.ohchr.org/TMResultsBase/DownloadPublicCommunicationFile?gld=28771>.

<sup>50</sup> OHCHR, 15 July 2021: <https://www.ohchr.org/en/press-releases/2021/07/egypt-human-rights-defenders-held-incommunicado-face-spurious-charges-says>.

his home.<sup>51</sup> He was arbitrarily detained without legal basis in an undisclosed location for 10 days before being brought before the SSSP<sup>52</sup> who ordered his pre-trial detention pending his case<sup>53</sup> on charges of joining a terrorist group. On 14 October 2020, he was ordered to be released on parole but instead, he was forcibly disappeared a second time,<sup>54</sup> this time for 45 days until he reappeared before the prosecution pending a new case,<sup>55</sup> again leading to his remand in custody. On 16 January 2021, the Mahalla Criminal Court ordered his release on bail but despite the bail being paid and the procedures completed, he was forcibly disappeared again, for a third time.<sup>56</sup> Reports indicate that he was finally released on 5 March 2021.<sup>57</sup>

### *Recycling of charges*

47. In recent years, a practice referred to as ‘recycling’ charges (also referred to as ‘rotation’ of cases) has begun to take hold. Under this practice, detainees who are about to reach the maximum period of pre-trial detention are re-arrested in connection with a new case, yet often on near-identical charges to the original case brought against them. This starts the clock on pre-trial detention over again and allows individuals to face longer pre-trial detention periods than conceived of under the law. The practice violates Article 101 of Proof law and Article 116 Pleadings in Egyptian law, which state that “A person may not be tried under the same charges for which he has been previously tried and punished”.<sup>58</sup> The UN Special Rapporteur on the situation of human rights defenders has said that this practice of attaching individuals to multiple spurious cases, in some instances in parallel, “represents the flagrant disregard by Egypt of the international human rights obligations it has signed up to”.<sup>59</sup> Designed to prevent the promotion of human rights in the country, it has a chilling effect among civil society.<sup>60</sup>
48. On 22 April 2024, lawyer and human rights defender Hoda Abdel Moneim marked 2,000 days of arbitrary detention. On 31 October 2023, Abdel Moneim completed a 5-year prison sentence issued by the ESSC, based on politicised charges<sup>61</sup> in an unfair trial. As she awaited release, Abdel Moneim was charged in a new case<sup>62</sup> facing the same two charges again: joining a terrorist group (for which she had been sentenced and served her 5-year prison term) and committing a terrorism financing crime (for which she had previously been

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<sup>51</sup> Lawyers for Lawyers, 2 March 2021: <https://lawyersforlawyers.org/en/letter-on-the-enforced-disappearance-of-islam-salama/>; Cairo Institute for Human Rights Studies, 16 February 2021 <https://cihrs.org/egypt-enforced-disappearance-of-lawyer-islam-salama-condemned-by-rights-organizations-amid-calls-on-the-ministry-of-interior-to-implement-his-release/?lang=en>.

<sup>52</sup> Ibid.

<sup>53</sup> Case No. 1375 of 2018.

<sup>54</sup> Supra note 51.

<sup>55</sup> Case No. 7869 of 2020.

<sup>56</sup> Supra note 51.

<sup>57</sup> Lawyers for Lawyers, 5 March 2021: <https://lawyersforlawyers.org/en/release-of-islam-salama/>; IAPL, 5 March 2021: <https://defendlawyers.wordpress.com/2021/03/06/egypt-rights-lawyer-islam-salama-returns-home-40-days-of-forced-disappearance-and-detention/>.

<sup>58</sup> Cairo Institute for Human Rights Studies, 4 March 2023: <https://cihrs.org/egypt-dismiss-charges-against-members-of-the-egyptian-coordination-for-rights-and-freedoms/?lang=en>.

<sup>59</sup> OHCHR, 15 July 2021: <https://www.ohchr.org/en/press-releases/2021/07/egypt-human-rights-defenders-held-incommunicado-face-spurious-charges-says>.

<sup>60</sup> Ibid.

<sup>61</sup> Case No. 1552 of 2018 Supreme State Security Emergency. For more details, see <https://cihrs.org/egypt-dismiss-charges-against-members-of-the-egyptian-coordination-for-rights-and-freedoms/?lang=en>.

<sup>62</sup> Case No. 730 of 2020.

acquitted by the ESSC). According to the new case, she committed these two crimes while held in solitary confinement under the supervision and control of the prison administration.<sup>63</sup>

### *Discrimination against women in the legal profession*

49. Women are significantly underrepresented in the legal professions in Egypt. As of 2020, there were 66 women among a total 12,000 judges.<sup>64</sup> Various judgments have been issued denying women law graduates the right to apply to the judiciary since the early 1950s, most recently in 2017 and 2020.<sup>65</sup> On 8 March 2021, International Women's Day, the President called on the State Council and Public Prosecution – two judicial bodies which have been vocal in refusing to employ female staff – to “seek the assistance of women”.<sup>66</sup> In October 2021, the State Council appointed 98 female judges.<sup>67</sup> While their long overdue appointment is welcomed, women still make up less than half a percent of the judiciary in Egypt – far from the 25% that the President pledged to achieve by 2023.<sup>68</sup>
50. Women are also underrepresented in the legal profession and bar associations. In the most recent elections for the General Council of the Egyptian Bar Association, held on 23 March 2024, 18 women reportedly ran for seats on the Council, but none were successful.<sup>69</sup> This is common, according to lawyers in Egypt; since 1912, only four women have been elected to the Council despite many others standing for election. Women lawyers have also criticised bar associations for failing to provide or advocate for the necessary resources to support them or encourage women into the profession, such as safe bathrooms for women in courts and effective investigations into gender-based discrimination.
51. Women lawyers working on human rights cases have been targeted with intimidation. Prosecutors reportedly marginalise women lawyers and undermine their abilities. Women lawyers are often given cases which are considered to be less demanding and told they should refrain from working on political cases which would cause them troubles too difficult for women to endure.<sup>70</sup> One lawyer interviewed by TIMEP recalled a prosecutor warning her away from a case in a way that she felt was aimed at her not only because she was a human rights lawyer, but also because she was a woman.<sup>71</sup>
52. Women lawyers have also reported being harassed by some judges who have objectified their bodies, looked at them in ways that they would not with their male peers, doubted their abilities as lawyers and tested them in public.<sup>72</sup> According to some women lawyers, there is no clear and effective mechanism for them to report such treatment.

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<sup>63</sup> MENA Rights Group, 29 April 2024: <https://menarights.org/en/articles/ngos-renew-their-call-release-egyptian-lawyer-and-human-rights-defender-hoda-abdel-moneim>.

<sup>64</sup> TIMEP, 2 October 2020: <https://timep.org/2020/10/02/her-honor-setting-the-bar-fighting-for-equality-in-egypts-judiciary/>.

<sup>65</sup> Ibid.

<sup>66</sup> Mada Masr, 9 March 2021: <https://www.madamasr.com/en/2021/03/09/news/u/cautious-optimism-from-advocate-of-womens-inclusion-in-judicial-bodies-after-presidential-order/>.

<sup>67</sup> ABC News, 22 October 2021: <https://abcnews.go.com/International/appointment-98-female-judges-egypts-state-council-means/story?id=80685728>.

<sup>68</sup> Supra note 66.

<sup>69</sup> Information collected by Lawyers for Lawyers from interviews with Egyptian lawyers.

<sup>70</sup> TIMEP, 31 January 2023: <https://timep.org/2023/01/31/challenges-of-being-a-minority-lawyer-in-egypt/>

<sup>71</sup> Ibid.

<sup>72</sup> Ibid.



## Recommendations

53. Our organisations call on Egypt to take the following action to protect and promote human rights, access to justice and the rule of law, and encourage members of the Human Rights Council to make similar recommendations during the UPR of Egypt:
- a. Repeal the Judicial Authorities Law, and any constitutional amendments, decrees or regulations that authorise the President to select the heads of judicial institutions and prosecution, as well as other provisions that affect judicial and prosecutorial independence.
  - b. Repeal legislation that extends the military courts' jurisdiction to non-military personnel accused of offences.
  - c. Repeal vague provisions and end the politicised use of the anti-terrorism law, anti-cybercrime law, media law, and penal code against lawyers, human rights defenders, and dissidents.
  - d. Repeal legislation, including the anti-terrorism law and any constitutional amendments, decrees or regulations which grant law enforcement, and military officers, exceptional powers that limit the rights of a defendant, contrary to international law.
  - e. Ensure access to justice and due process for all persons accused of criminal offences, including immediately ending the practice of mass trials.
  - f. Immediately end the practice of recycling or rotation of cases and ensure that no-one is held in pre-trial detention beyond the maximum period allowed and no-one is tried under the same charges for which they have been previously tried.
  - g. Immediately end the practice of enforced disappearance and ensure that perpetrators are brought to justice, in trials conforming with international law.
  - h. Ensure that sufficient safeguards are in place, both in law and in practice, to guarantee the full independence and safety of lawyers and their effective protection against any form of retaliation in connection with their professional activity.
  - i. Refrain from any actions that may constitute harassment, persecution, or undue interference in the work of lawyers, including their arrest or criminal prosecution on improper grounds such as the expression of critical views or the nature of the cases that the lawyer is involved in.
  - j. Take immediate measures to guarantee the effective protection of the right of freedom of expression of lawyers as set out in article 23 of the Basic Principles on the Role of Lawyers, in particular their right to take part in public discussion of matters concerning the law, the administration of justice and the promotion and protection of human rights, without suffering professional restrictions by reason of their lawful action.



- k. Ensure the immediate and unconditional release of lawyers, human rights defenders, and members of civil society who are arbitrarily detained and prosecuted for carrying out their legitimate professional activities.