



**JOINT SUBMISSION OF THE INTERNATIONAL COMMISSION OF
JURISTS AND THE EGYPTIAN COMMISSION FOR RIGHTS AND
FREEDOMS FOR THE FOURTH CYCLE OF THE UNIVERSAL PERIODIC
REVIEW OF THE ARAB REPUBLIC OF EGYPT**

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Composed of 60 eminent judges and lawyers from all regions of the world, the International Commission of Jurists promotes and protects human rights through the Rule of Law, by using its unique legal expertise to develop and strengthen national and international justice systems. Established in 1952, in consultative status with the Economic and Social Council in 1957, and active on five continents, the ICJ aims to ensure the progressive development and effective implementation of international human rights and international humanitarian law; secure the realization of civil, cultural, economic, political and social rights; safeguard the separation of powers; and guarantee the independence of the judiciary and legal profession.

The Egyptian Commission for Rights and Freedoms is built upon a coalition of groups of active citizens advocating for the oppressed throughout Egypt. The Commission engages in activities related to rights, development, social issues, and oversight. The Commission promotes peaceful activism, with human rights as a reference point, aiming to elevate human dignity and uphold the rule of law. The Commission believes that defending human rights is within reach of every citizen active in their surroundings or local community. It aims to open the field of human rights work to active citizens. It aims to address issues related to civil, political, economic and social rights and situations, in a decentralized manner. It pushes for the establishment of legislative and institutional frameworks for a rule-of-law state that safeguards the rights and freedoms of citizens.

International Commission of Jurists
P.O. Box 1740, Rue des Buis, 3,
1211 Geneva 1, Switzerland
Website: <http://www.icj.org>
E-mail: info@icj.org

I. Introduction

1. The International Commission of Jurists (ICJ) and the Egyptian Commission for Rights and Freedoms (ECRF) welcome the opportunity to contribute to the fourth cycle of the Human Rights Council's (HRC) Universal Periodic Review (UPR) of the Arab Republic of Egypt (Egypt). They highlight Egypt's failure to respect, protect and fulfill the following human rights:
 - (i) The right to life;¹
 - (ii) The rights to freedom of expression, freedom of association and peaceful assembly;²
 - (iii) The right to liberty and security of persons;³
 - (iv) The right to freedom from torture or other cruel, inhuman or degrading treatment or punishment;⁴
 - (v) The right to freedom from enforced disappearances;⁵
 - (vi) The right to a fair and public hearing by a competent, independent and impartial tribunal;⁶ and
 - (vii) The right to vote in genuine elections.⁷

II. The right to life

2. During the third UPR cycle, States addressed 21 recommendations to Egypt calling for the outright abolition of, or moratorium on, the death penalty and for the ratification of the Second Optional Protocol to the ICCPR.⁸ Egypt accepted none of them.⁹ States also made six recommendations calling on Egypt to consider a moratorium on the death penalty,¹⁰ which Egypt declared to have implemented.¹¹ Egypt accepted one recommendation calling on it to consider reducing the number of crimes for which capital punishment was an available sentence, but did not accept a recommendation calling for an outright reduction in the number of capital offences.¹²
3. Since 2019, the Egyptian judiciary has continued to impose death sentences and executions have continued to be carry out, with 435 death sentences and 32 executions in 2019, 264 death sentences and 107 executions in 2020, 356 death sentences and 83 executions in 2021, 538 death sentences and 24 executions in 2022, and 590 death sentences and 8 executions in 2023.¹³ Capital punishment has been imposed as a sentence and the Egyptian authorities have carried out executions following fundamentally flawed criminal proceedings, including the mass trial of 739 defendants who were not presented with individualized evidence of their guilt and whose lawyers were not provided the opportunity to present a defence. Seventy-five defendants, among those convicted at first instance, were sentenced to death. The Court of Cassation eventually commuted 31 of these capital sentences to life imprisonment, but upheld 12 death sentences.¹⁴
4. Additionally, Egypt retains capital punishment for more than 100 "crimes", including broad and ill-defined "terrorism-related" offences, rape, kidnapping, drug trafficking and possession for the purpose of trade, "treason" and "espionage".¹⁵
5. Under international human rights law, Egypt, as a retentionist State, must ensure that the death penalty is only applied to the most serious crimes and that trials leading to the imposition of the death penalty strictly meet fair trial rights guarantees under article 14 ICCPR.¹⁶ Furthermore, Egypt must only carry out the death penalty pursuant to a final judgment issued by a competent court.¹⁷
6. Meanwhile, allegations of extrajudicial killings have continued to arise, such as in the case of politician and government critic Ayman Hadhoud, whom the Egyptian

authorities arrested on 6 February 2022 and detained in Cairo at the Abbasiyya Psychiatric Hospital, where he later died.¹⁸ An independent forensic medical report strongly suggested that, prior to his death, Hadhoud was subjected to ill-treatment, possibly amounting to torture, and was denied timely access to medical care, both of which may have caused or contributed to his death. Throughout 2023 and in the first six months of 2024, further reports arose of the deaths of detainees in Egyptian prisons, including of political detainees, as a result of suspected ill-treatment or even torture.¹⁹

7. International standards, such as the Minnesota Protocol and the Mandela rules, require the holding of an independent and effective investigation into all potentially unlawful deaths, such as deaths in custody.²⁰
8. Considering the above, the UPR Working Group and its Member States should make the following recommendations to Egypt:
 - **Abolish the use of the death penalty in all circumstances;**
 - **Pending abolition, implement an immediate moratorium on all executions and on the imposition of capital punishment;**
 - **Pending abolition, ensure that proceedings in capital trials strictly comply with the right to a fair trial and the right to life;²¹**
 - **Ratify or accede to the Second Optional Protocol to the ICCPR aiming at the abolition of the death penalty;**
 - **Investigate all deaths in detention and ensure medical care in detention centers and prisons; and**
 - **In the case of Ayman Hadhoud:**
 - **conduct an impartial and independent investigation into the arrest, detention, alleged ill-treatment, alleged denial of medical care and death in disputed circumstances, and publish the findings; and**
 - **Identify those allegedly responsible and, if the evidence so warrants, bring them to justice in proceedings that fully comply with international fair trial standards.**

III. The rights to freedom of expression, freedom of association and peaceful assembly

9. During the third UPR cycle, Egypt did not accept²² any of the six recommendations²³ calling for the release of detainees held solely for exercising their rights to freedom of expression, freedom of association and peaceful assembly, such as journalists, human rights defenders and political and human rights activists. Egypt also failed to accept or deemed inaccurate recommendations calling for the cessation of travel bans and asset freezes against civil society representatives.²⁴ Since 2019, the Egyptian authorities have continued to arbitrarily arrest, detain and prosecute human rights defenders, political and human rights activists and journalists for the mere exercise of their rights to freedom of expression, freedom of association and peaceful assembly.
10. In 2019, States made a further 36 recommendations to Egypt calling for it to guarantee the rights to freedom of expression, assembly and association,²⁵ which Egypt either accepted or deemed implemented.²⁶ Despite this, since then, Egypt has proceeded to fundamentally undermine peaceful protest and the capacity of civil society organizations to operate.

Arbitrary arrest, detention and prosecution for the mere exercise of the rights to freedom of expression, freedom of association and peaceful assembly

11. Since 2019, human rights defenders, activists and journalists have continued to be at risk of arbitrary arrest, prosecution and detention in Egypt for the mere exercise of their rights to freedom of expression, assembly and association.²⁷ In 2023, Egypt was found to be “one of the world’s biggest jailors of journalists”²⁸ with a 2024 world press freedom ranking of 170 out of 180 countries.²⁹ Since October 2023 and the outbreak of further hostilities in Gaza, ECRF has documented 137 cases of individuals arrested for attending “Palestine solidarity” demonstrations, with 83 people held in pre-trial detention and six subjected to enforced disappearance following arrest.
12. In this context, the case of Mahmoud Hussein, a peaceful protestor, is emblematic.³⁰ The Egyptian security forces first detained Hussein in 2014 for wearing clothing depicting the slogan “a nation without torture” and the 25 January revolution “logo” during a peaceful protest to mark the third anniversary of the 25 January 2011 revolution. The authorities held Hussein in arbitrary pre-trial detention for two years before releasing him on bail in 2016 following a global campaign calling for his release. In 2018, an Egyptian court convicted Hussein in absentia and sentenced him to life imprisonment on spurious charges of membership of a “terrorist” group and involvement in violence. On 30 August 2023, security forces arrested Hussein and subjected him to an enforced disappearance for five days at various facilities controlled by the Egyptian National Security Agency, during which he was interrogated while blindfolded. The authorities subsequently moved Hussein to the Badr Prison (East of Cairo), where he has since been held in pre-trial detention awaiting a retrial³¹ on the same spurious charges for which he had previously been convicted in absentia, stemming from his participation in the January 2014 protest.
13. By way of further illustration, on 23 April 2024, the Egyptian security forces assaulted human rights activists while they were participating in a peaceful protest in front of the UN Women Regional Office for the Arab States in Cairo, in solidarity with women in Gaza and Sudan.³² At least 19 people, including journalists and lawyers, were arrested.³³ Sixteen of those arrested were brought before the Supreme State Security Prosecutor’s Office (SSSP) for investigation in case No. 1567 of 2024 and were charged with “joining a terrorist group”, pursuant to article 12 of Law No. 94 of 2015 on “counter-terrorism”, and with “gathering with the aim of endangering the general peace or the purpose of committing a crime,” pursuant to Law No. 10 of 1914 on “gatherings”. They were all released on conditional bail on the same day, with sureties of up to 10,000 EGP (approximately 209 USD) per person.
14. Since 2019, the Egyptian authorities have continued to arbitrarily prosecute and harass human rights defenders with links to prominent Egyptian human rights associations. Emblematic cases include the prosecution of Bahey el-Din Hassan, director of the Cairo Institute for Human Rights Studies, whom the Fifth Terrorism Circuit Court in Cairo sentenced to 18 years’ imprisonment in absentia in August 2020, and the proceedings against three employees of the Egyptian Initiative for Personal Rights, against whom the Egyptian security forces imposed asset freezes and travel bans as part of a prolonged investigation into their organization on unfounded “terrorism” allegations.³⁴

Laws that unduly restrict freedom of expression, freedom of association and peaceful assembly

15. Since 2019, the violations resulting from the arbitrary arrest, detention and prosecution of individuals for the mere exercise of their human rights have been compounded by the adoption of Law No. 71 of 2021, which criminalizes, *inter alia*, the publication, broadcast or publicization of criminal trials without the prior

authorization of a court and consultation with the public prosecution.³⁵ Consequently, the already restricted capacity of civil society to document and report on the Egyptian authorities' arbitrary criminal prosecution of journalists, activists and human rights defenders has been placed under further severe constraint.

16. Since 2019, Egypt has failed to repeal the repressive Protest Law No. 107 of 2013 as recommended during its third UPR.³⁶ The legislation provides the Egyptian security services with broad powers to ban or forcefully disperse demonstrations, and makes liable to prison sentences and financial penalties those found guilty of breaching its provisions.³⁷
17. Additionally, in 2021, the President of the Council of Ministers introduced further restrictions on associations through the promulgation of Executive Order No. 104 of 2021 relating to Law No. 149 of 2019 on Associations. The legislation provides overbroad powers to the executive to refuse or delay the registration of international and domestic organizations engaged in "civic work", defined as "as nonprofit work aiming at developing society".³⁸ These provisions also include a total ban on "political" work, which is defined in vague terms as undermining "national security" and "public order". Given the scope of the restrictions on associations, the provisions curtail the capacity of civil society organizations to express concern about human rights violations allegedly committed by the government, either through arbitrary or abusive oversight or through outright prohibitions on their activities. The provisions also require organizations to obtain executive approval to receive funding from abroad, further hindering their ability to operate.³⁹
18. Under international human rights law, the arrest and detention of persons merely for the exercise of their legitimate rights to freedom of expression, freedom of association and peaceful assembly is arbitrary.⁴⁰ Egypt does not guarantee the right to "seek, receive and impart information and ideas", and fails to ensure that no restrictions be placed on the exercise of the rights to freedom of peaceful assembly and association beyond those that are "necessary in a democratic society".⁴¹
19. Considering the above, the UPR Working Group and its Member States should make the following recommendations to Egypt:
 - **Cease the arbitrary prosecution and detention of persons solely for legitimately exercising their human rights;**
 - **Permit peaceful protests and cease the use of violent measures to disperse demonstrations;**
 - **Repeal Law No. 71 of 2021 and permit the free and independent monitoring of criminal proceedings;**
 - **Amend Executive Order No. 104 of 2021 and Law No. 149 of 2019 on Associations to enable civil society to operate freely, including by allowing the expression of concern and reporting on legitimate allegations of human rights violations committed by the authorities, and to freely receive financial support; and**
 - **Reform Protest Law No. 107 of 2013 by removing the broad powers of the Egyptian authorities to arbitrarily ban or forcefully disperse peaceful demonstrations, and to prosecute those found in violation of the provisions.**

IV. The right to liberty and security of person, and detention conditions

20. During the third UPR cycle, States made four recommendations calling on Egypt to cease the excessive use of pre-trial detention, including against members of civil society.⁴² Egypt partially accepted two of these recommendations insofar as they called for detainees to be given access to medical care, legal counsel and their relatives, and claimed to have implemented calls for pre-trial detention to be used only to the extent prescribed by the Egyptian Constitution.⁴³ However, since 2019, Egypt has failed to evolve its pre-trial detention practice and framework to allow for an individualized assessment of when pre-trial detention is necessary, and Egypt's legislative framework and practice have continued to allow the remand into custody of people pending trial on a wide scale and over prolonged periods, often in conditions that fail to meet international standards (see below).

Mandatory pre-trial detention

21. Extended pre-trial detention is possible under legislation in force in Egypt today without any requirement on the investigating authorities or the courts to assess its necessity in each and every case. The Code of Criminal Procedure (CCP) states that the prosecutor or investigating judge may conduct the initial detention review hearings, further to which a prosecutor can order detention for a period of four days, after which the accused must be brought before an investigating judge,⁴⁴ who can order pretrial detention for 15 days, renewable by a further 45 days. Only after 60 days of detention have elapsed is the accused brought before an independent judge unconnected with the investigation or the prosecuting authorities.⁴⁵ Article 143 of the CCP further provides that "in any case, pre-trial detention must not exceed... six months for defendants accused of misdemeanours (offences punished by up to three years in prison), 18 months for felonies and two years for felonies punished by death or life imprisonment"⁴⁶.
22. To compound matters, prosecutors of the Supreme State Security Prosecution (SSSP), who are responsible for prosecuting "terrorism-related" offences and oversee the pre-trial detention of individuals accused of such offences, have been found to order "the near-automatic extension of pre-trial detention" without "individualized determination or periodic judicial reviews."⁴⁷

Practice of 'tadweer' or case recycling

23. The practice of tadweer, that is, case recycling, is used by the authorities to further crackdown on perceived opponents of the regime, including lawyers, human rights defenders, political figures and advocates. Tadweer is especially common in trials before the Emergency State Security Court, and it refers to the practice of initiating a new criminal case (B) against individuals while they are in pre-trial detention for another criminal case (A), where the charges and fact patterns are the same in both case A and case B. Tadweer is used to circumvent the already very limited domestic restrictions on pre-trial detention duration described above.⁴⁸
24. Once the maximum duration of pre-trial detention at the behest of the prosecutor has been reached, the trial court must then review the prosecutor's requests to renew pre-trial detention every 45 days. However, there have been credible reports that, even when a judge issues a release order, the "SSSP either always successfully appeals them or maintains [the detainees] in detention without any legal basis, pending rotation or recycling into another new case".⁴⁹

Detention conditions

25. Despite accepting a recommendation to improve detention conditions during the UPR cycle in 2019, and despite the closure of the Al-Aqrab prison in 2022, Egypt continues to hold detainees in horrific conditions comparable to or even worse

than those previously documented.⁵⁰

26. The Badr prison was opened in late 2021 and prisoners held there have reported poor detention conditions, including but not limited to lack of access to sufficient food, clothes and adequate medical care. By November 2022, it was reported that four prisoners had died in the Badr prison complex, at least two of whom as a result of poor detention conditions and lack of appropriate medical care.⁵¹
27. The Egyptian authorities have regularly denied medical treatment to detainees in prisons across Egypt, even in the face of seriously deteriorating health. The ICJ documented the trial and treatment in detention pending trial of Egyptian parliamentarian Zyad el-Elaimy.⁵² During el-Elaimy's prolonged pre-trial detention, the SSSP repeatedly ignored requests from his defence team and pleas from his family to transfer el-Elaimy to a hospital as he suffered from diabetes, asthma, high blood pressure, stomach ulcers and a rare autoimmune disease. El-Elaimy's health deteriorated as his right to receive medical treatment was repeatedly violated.
28. Under international human rights law, Egypt must ensure that detention pending trial is only ordered pursuant to an individualized determination demonstrating that detention is reasonable and necessary.⁵³ Additionally, Egypt must ensure that those deprived of liberty be treated with humanity and with respect for the inherent dignity of the human person, including by guaranteeing access to medical treatment.⁵⁴
29. Considering the above, the UPR Working Group and its Member States should make the following recommendations to Egypt:
 - **End the practice of holding defendants routinely in pre-trial detention;**
 - **Comprehensively reform the pre-trial detention framework, including by ensuring that resort to detention be exceptional, and that such detention may be ordered only when it is determined on the basis of evidence that it is necessary, proportionate and reasonable in the circumstances of the individual case;**
 - **End the practice of 'tadweer' and nullify "recycled" charges and related cases; and**
 - **Ensure humane conditions of detention, and respect the right to medical care of detainees.**

V. [The right to freedom from torture and other cruel, inhuman or degrading treatment or punishment](#)

30. During the last UPR session, Egypt accepted four recommendations calling for it to strengthen its efforts to prevent torture,⁵⁵ and five recommendations calling for it to ensure that credible investigations be carried out into all allegations of torture.⁵⁶ Egypt also deemed implemented a recommendation calling for an end to the use of torture in all places of detention.⁵⁷ Despite this, between 2019 and June 2024, the Egyptian authorities' use of torture continued to be so widespread and systematic as to amount to a crime against humanity.⁵⁸
31. The systematic practice of torture in Egypt is facilitated by an inadequate framework on the prohibition of torture and other ill-treatment. The definition of torture under article 126 of the Egyptian Penal Code only establishes liability when torture is inflicted on a suspect for the purpose of obtaining a "confession", falling significantly below the standard required by the Egyptian Constitution and the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (UNCAT), both of which prohibit torture for several other purposes in

addition to forbidding it to obtain a confession.

32. Considering the above, the UPR Working Group and its Member States should make the following recommendations to Egypt:

- **Amend article 126 of the Penal Code with a view to enacting a crime of torture consistent with article 1 of the UNCAT, fully reflecting all the purposes for which torture may be perpetrated as set out in that provision. The Penal Code should also be amended to ensure the criminalization of complicity and participation of public officials in torture, and appropriate penalties commensurate with the gravity of torture; and**
- **Promptly, thoroughly, independently and impartially investigate all allegations of torture and ill-treatment of convicted prisoners and detainees, and bring to justice State officials and law enforcement officers suspected of carrying out, ordering, instigating or acquiescing in such practices.**

VI. The right to freedom from enforced disappearances

33. During the third UPR cycle, States made three recommendations to Egypt calling for it to accede to the International Convention for the Protection of All Persons from Enforced Disappearance (CED),⁵⁹ which Egypt failed to accept. A further recommendation called on Egypt to establish an independent authority to investigate allegations of enforced disappearance, which Egypt claimed to have implemented.⁶⁰ However, since 2019, the Egyptian authorities have forcibly disappeared thousands of political dissidents, including with the intent to create an atmosphere of fear and intimidation.

34. Between 2015 and 2021, ECRF's campaign "Stop Enforced Disappearances" documented the Egyptian authorities' systematic and widespread use of enforced disappearances, with 4,253 individuals forcibly disappeared for varying periods at the headquarters of the National Security Agency and other official and unofficial detention facilities.⁶¹

35. Egypt's failure to criminalize enforced disappearance in domestic legislation, alongside its failure to conduct investigations into cases of enforced disappearances and hold perpetrators accountable, has encouraged their perpetration. While various articles of the 2014 Constitution and the Penal Code prohibit and criminalize instances of unlawful detention, there is no direct reference to, or explicit criminalization of, "enforced disappearance" in domestic legislation. Furthermore, article 54 of the Egyptian Constitution stipulates that once someone's freedom is restricted, they have a right to contact relatives and a lawyer immediately, and the detainee shall be brought before the relevant investigative authority within 24 hours of being detained.⁶² However, the law on "Counter-terrorism" has eroded the necessary safeguards against incommunicado detention by allowing detention for up to 28 days without access to family or a lawyer.

36. The case of Ayman Hadhoud is illustrative of the pervasiveness and consequences of Egypt's widespread resort to enforced disappearances.⁶³ As mentioned above, on 5 February 2022, Hadhoud's family lost contact with him and suspected he was the object of enforced disappearance; three days later, NSA agents informed persons associated with Hadhoud that he was being held at the Amiriya police station in the city of El-Nasereya; his associates, however, were not allowed to speak to him. On 11 February 2022, persons associated with Hadhoud visited the Amiriya prison in Cairo, only to be informed by officers that he was not there. Hadhoud later died while detained. Egypt has so far failed to conduct an effective

investigation into his enforced disappearance and death in custody.⁶⁴

37. Considering the above, the UPR Working Group and its Member States should make the following recommendations to Egypt:

- **Become a party to the CED;**
- **Ensure that State officials are not involved in the perpetration of enforced disappearances, including through the provision of adequate training and independent oversight;**
- **Promptly, thoroughly and impartially investigate all allegations of enforced disappearance, and bring to justice State officials and law enforcement officers suspected of carrying out, ordering, instigating or failing to prevent or punish such practices committed by their subordinates;**
- **Ensure the right to *habeas corpus* by allowing any detained person to challenge the legality of their detention before an independent and impartial court without delay; and**
- **Enact a crime of enforced disappearance in the Egyptian Penal Code consistent with article 2 of the CED. The Penal Code should also be amended to ensure the criminalization of complicity and participation of public officials, including senior officials who fail to prevent or punish the crime committed by their subordinates.**

VII. [The right to a fair and public hearing by a competent, independent and impartial tribunal](#)

38. During the UPR in 2019, Egypt did not accept four recommendations calling for an end to the trial of civilians before military courts,⁶⁵ the pervasive occurrence of which continued between 2019 and June 2024. Additionally, States made two recommendations to Egypt calling for the right to a fair trial to be guaranteed, both of which Egypt accepted.⁶⁶ Despite this, since 2019, Egypt has failed to ensure basic fair trial guarantees for suspects and defendants brought before the Emergency State Security Court (ESSC), including the right to appeal and to effective counsel.

Military tribunals

39. Contrary to international standards, civilians in Egypt are subject to the jurisdiction of military courts in a wide variety of circumstances. On 27 October 2014, with Presidential Decree No. 136 of 2014 on 'Security and Protection of Public and Vital facilities',⁶⁷ President al-Sisi further expanded the jurisdiction of military courts to include any crime committed on "any public or vital property" resulting in the referral of thousands of prosecutions of civilians before military courts.⁶⁸ Article 3 of this Decree stipulated a two-year limitation on its enforcement, which was extended in 2016 for another five years, and, on 31 October 2021, the House of Representatives passed an amendment to the law, allowing the armed forces "to continue to assist the police in protecting public and vital facilities", without specifying any time limit, thereby entrenching for good the referral for prosecution of civilians before military courts rather than before the ordinary courts.

The Emergency State Security Court

40. Since the last UPR cycle, ICJ and ECRF have documented egregious human rights violations stemming from the Egyptian authorities' pervasive use of the ESSC.⁶⁹

41. Law No. 162 of 1958 ("the Emergency Law") established the ESSC to adjudicate "crimes" committed during the "state of emergency".⁷⁰ In 2017, the Prime Minister transferred "protesting" and "terrorism-related" offences from the ordinary courts' jurisdiction to the ESSC.⁷¹ In addition, certain "crimes" featured in the first two chapters of the Penal Code, including those relating to "spreading false news", were added to the ESSC's jurisdiction in January 2021.
42. On 25 October 2021, President al-Sisi formally lifted the "state of emergency".⁷² Despite this, criminal cases have continued to be tried under article 19 of the Emergency Law, which permits the ESSC to continue to hear cases that were referred to the Court before the end of the "state of emergency." As a result, the ESSC continues to be a tool in the government's hands to suppress dissent and to punish those who peacefully exercise their human rights. ECRF was able to document 96 cases with more than 1,100 defendants who were tried in front of the ESSC between 2019 and 2022.
43. Trial before the ESSC have been found to violate several fair trial guarantees. For example, under article 12 of the Emergency law, decisions by the ESSC are not subject to appeal.⁷³ The President of the Republic may, however, commute or reduce a sentence, suspend its execution or order a retrial before another bench of the ESSC.⁷⁴ This strong executive influence over the ESSC extends also to the President's powers to control the courts' composition and appoint judges.⁷⁵ The Human Rights Committee has expressed concern about the President's broad authority over the ESSC, including with respect to "ratifying judgments and issuing pardons", describing this role as "both part of the executive and part of the judiciary system".⁷⁶ The influence that the President wields over the ESSC seriously blurs the distinction between the judiciary and the executive,⁷⁷ which ultimately undermines the impartiality and independence of the court and the separation of powers required by international human rights law.⁷⁸
44. Additionally, the ICJ has documented cases before the ESSC where defendants have been denied the right to effective legal representation. For example, while detained pending trial, Zyad el-Elaimy⁷⁹ was prohibited from consulting his lawyer without the presence of a SSSP prosecutor.⁸⁰ Communications between el-Elaimy and his lawyer were always heavily monitored as they were forced to speak loudly so that the prosecutors could take notes. Furthermore, pursuant to COVID restrictions, the SSSP began to renew pre-trial detention without the presence of el-Elaimy or his lawyers. El-Elaimy was committed to trial on 14 July 2021, and the first trial hearing was held the following day, without giving him an opportunity to meet his lawyers. Between the first trial hearing on 15 July 2021 and at least the third hearing on 17 August 2021, el-Elaimy was unable to meet his lawyers to prepare a defence.
45. The case of Egyptian student Ahmed Samir Santawy is also illustrative.⁸¹ On 1 February 2021, the Egyptian authorities arrested Santawy in connection with "fake news" charges further to social media posts he allegedly made regarding the COVID 19 pandemic in Egypt whose authorship Santawy denied. During his detention, the Egyptian authorities denied Santawy access to his lawyer and subjected him to enforced disappearance for five days. Between February and May 2021, pre-trial hearings took place with the SSSP before which the authorities permitted Santawy access to his lawyer for only five-minute consultations. When Santawy's case was referred to the ESSC for trial, the authorities further refused permission for Santawy to consult with his legal representatives aside from one occasion, during which the authorities permitted Santawy to have a five-minute consultation with his legal representatives while monitored by an employee of the State Security Services.

Attacks against lawyers

46. Since 2019, the authorities have been responsible for a series of attacks against lawyers solely for the legitimate discharge of their duties.⁸² On 29 September 2019, Mohamed Al-Baqer, a prominent lawyer, human rights defender and director of the Adalah Center for Rights and Freedoms, was arrested while attending the interrogation of pro-democracy activist Alaa Abdel Fattah before the SSSP, in his capacity as a lawyer. Al-Baqer was arrested and questioned before the SSSP and detained pending trial in the same case as Alaa Abdel Fattah, based on the same arbitrary charges.⁸³
47. On 30 September 2019, Al-Baqer was blindfolded, transferred to the al-Aqrab Prison, and detained there in inhumane conditions: he was denied access to outdoor recreation time, sunlight, books, newspapers, a radio, a clock or a mirror. On 20 December 2021, Al-Baqer was sentenced to four years' imprisonment for publishing false news in Case No. 1228/2021 following an unfair trial in which defence lawyers were denied the right to present a defence on behalf of their clients and denied permission to copy the case files.⁸⁴ He is also charged in other cases that are still pending, and has since been transferred to the Badr prison to serve the rest of his sentence there.
48. Considering the above, the UPR Working Group and its Member States should make the following recommendations to Egypt:
- **Restrict the jurisdiction of military courts to trials of military personnel for military offences;**
 - **Ensure that the convictions and sentences of all civilians tried by military courts be quashed;**
 - **Abolish the ESSC, including by repealing relevant provisions of the Emergency Law, and ensure that any existing proceedings before the ESSC be either nullified or transferred to the ordinary courts and that convictions and sentences issued the ESSC be quashed;**
 - **Ensure the protection of the rights of all individuals arrested, detained or charged with a criminal offence to consult and communicate confidentially with their lawyer without delay;**
 - **Ensure that all persons have the right to appeal their conviction and/or sentence to a higher independent and impartial civilian tribunal that has the power to overturn their conviction or reduce their sentence;**
 - **End all attacks against lawyers, including politicized judicial proceedings and abusive prosecutions, as well as all instances of arbitrary detention, physical assault, torture and other ill-treatment, and enforced disappearance;**
 - **Ensure that lawyers be able to carry out their legitimate professional duties without hindrance, harassment or improper interference, and that they are not threatened with prosecution, reprisals or other sanctions for any action taken in accordance with such duties; and**
 - **Ensure that lawyers are not associated with their clients or their clients' cause as a result of legitimately discharging their professional duties, and that legal representation is under no circumstances considered to be akin to providing aid or material support to "terrorist groups".**

VIII. The right to vote in genuine periodic elections

49. During the last UPR third cycle, States made one recommendation to Egypt calling for improved access for observers to the election process,⁸⁵ which Egypt deemed implemented.⁸⁶ Despite this, during the 2023 presidential election, the Egyptian authorities issued only a restricted number of accreditations to observer groups, with international observers having their accreditations rejected without justification.⁸⁷
50. Additionally, the fairness of the 2023 election was grossly undermined by the Egyptian authorities' systematic use of politicized trials to clamp down on any form of political opposition,⁸⁸ as epitomized by the harassment, arbitrary prosecution and detention of preeminent opposition figure, Ahmad Tantawi.⁸⁹ After the announcement of his candidacy the presidential race in April 2023, the Egyptian authorities arbitrarily arrested members of Tantawi's family and his supporters and restricted his supporters' access to the papers required to endorse Tantawi's candidacy.⁹⁰ Consequently, on 13 October 2023, Tantawi withdrew from the presidential race citing the Egyptian authorities' stifling of legitimate political opposition.
51. Then, on 7 November 2023, the Egyptian authorities initiated criminal proceedings against Tantawi, his chief of staff, and 21 campaign volunteers on charges of printing and circulating election documents without authorization. On 6 February 2024, the Matriya Misdemeanor Court convicted and sentenced Tantawi to one year's imprisonment, a five-year ban on running for parliamentary elections and a fine of EGP 20,000 (approximately USD 647), a sentence later upheld on appeal leading to Tantawi's immediate transfer to the Tenth of Ramadan prison in the Sharqia governorate where he currently remains.⁹¹
52. Considering the above, the UPR Working Group and its Member States should make the following recommendations to Egypt:
- **Ensure genuine access to domestic and international observers to election processes; and**
 - **Cease the instrumentalization of the judiciary to harass and arbitrarily prosecute opposition candidates, and immediately release and quash the convictions of political opponent Ahmad Tantawi and members of his campaign.**

ENDNOTES

¹ International Covenant on Civil and Political Rights 1966 (ICCPR), art. 6. Egypt ratified the ICCPR on 14 January 1982

² ICCPR, arts 2, 19, 22 and 21.

³ ICCPR, arts. 2 and 9.

⁴ ICCPR, arts 2 and 7.

⁵ ICCPR, arts 2, 6, 7, 9, 10, 16 and 17. See also, Declaration on the Protection of all Persons from Enforced Disappearances 1992 (DPPED).

⁶ ICCPR, arts 2 and 14.

⁷ ICCPR, arts 2 and 25.

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