

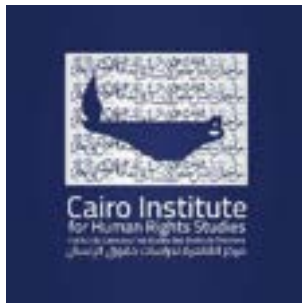
Reform or Rhetoric?

A Civil Society Benchmark for Criminal
Justice Reform in Egypt's 2027–2032
National Human Rights Strategy



List of endorsements

Cairo Institute for Human Rights Studies (CIHRS), Egyptian Initiative for Personal Rights (EIPR), Egyptian Human Rights Forum (EHRF), Law and Democracy Support Foundation (LDSF), Egypt Wide for Human Rights, Sinai Foundation for Human Rights (SFHR), Egyptian Front for Human Rights (EFHR), El Nadeem Center



Contents

1. Executive Summary	4
2. Purpose, Scope and Methodology	7
a. Purpose.....	7
b. Scope.....	8
c. Methodology	9
3. Current Context: Criminal Justice as an Engine of Human Rights Violations	10
a. Political and Institutional Context.....	10
b. Patterns of Human Rights Violations	12
4. Guiding Principles for Criminal Justice Reform Objectives	21
5. Pillars for Reform	22
Pillar 1: Legal Framework and Effective Remedies.....	22
Pillar 2: Emergency, Counter-Terrorism, and National Security Powers.	28
Pillar 3: Torture and Other Ill-Treatment	33
Pillar 4: Enforced Disappearance.....	40
Pillar 5: Liberty, Detention, and Treatment of Persons Deprived of Liberty	46
Pillar 6: Administration of Justice, Fair Trial Rights, and Independence of the Judiciary	53
6. Conclusion: A Strategy for Reform, rather than for Show	62

1. Executive Summary

Egypt's criminal justice system is in dire need of reform. While Egypt's Constitution and international obligations prohibit torture and arbitrary detention and guarantee fair trial rights, in practice these protections are routinely subverted in the service of national security-related justifications. A constellation of emergency legislation, counter-terrorism laws, expansive national-security powers, exceptional courts, and institutions that operate without meaningful independent oversight collectively result in a system through which gross human rights violations are perpetrated and sustained. In short, Egypt's criminal justice system suffers from structural deficiencies that preclude the full realization of fundamental human rights.

Egypt's 2021–2026 National Human Rights Strategy did not confront these issues. Instead, it largely restated existing legal guarantees, emphasized training and institutional initiatives, and pointed to isolated prisoner releases as evidence of progress. In doing so, the Strategy left intact the laws, practices, and institutions responsible for widespread abuses. Moreover, the Strategy was developed without meaningful consultation with independent Egyptian human rights organizations, victims, survivors, or affected communities. Unsurprisingly, arbitrary detention, “case rotation”, (or recycling), enforced disappearance, torture and other ill-treatment, denial of healthcare in detention settings, unfair trials, and reprisals against lawyers and human rights defenders continued during the Strategy's implementation period.

This Shadow Human Rights Strategy for Egypt 2027–2032 aims to fill this gap. It is intended to serve as a benchmark against which Egypt's renewed National Human Rights Strategy may be assessed with respect to criminal justice issues. Drawing on years of documentation and reform proposals put forth by Egyptian and international civil society organizations, together with the findings and recommendations of United Nations treaty bodies, Special Procedures, and the African Commission on Human and Peoples' Rights, this Shadow Strategy identifies the minimum reforms required to move from the current system characterized by repression and impunity toward one governed by human rights and the rule of law.

The Shadow Strategy organizes its recommendations in six mutually reinforcing pillars.

The first pillar addresses Egypt's legal framework and the right to an effective remedy. Egypt's Constitution and international commitments provide a textual foundation for protecting persons in the criminal justice system, but the primacy routinely given to security considerations hollows these provisions out in practice. Restating existing legal

guarantees, as Egypt's 2021–2026 Strategy did, leaves this gap between text and practice untouched. Egypt's renewed Strategy must close it by aligning the domestic definition of torture with international law, criminalizing enforced disappearance as a standalone offence, narrowing terrorism offences to the principle of legality, removing the procedural barriers that prevent victims from initiating or pursuing complaints, and establishing an independent body empowered to investigate serious violations by state officials.

The second pillar concerns emergency, counter-terrorism, and national-security powers. Egypt has built an interlocking legal architecture (Emergency Law No. 162 of 1958, Anti-Terrorism Law No. 94 of 2015, Organizing Lists of Terrorist Entities and Terrorists Law No. 8 of 2015, and Presidential Decree No. 136 of 2014) that displaces ordinary criminal justice protections for a broad and expanding category of persons. The formal lifting of the state of emergency in October 2021 left this architecture largely intact. Emergency State Security Courts continue hearing cases referred before that date, and terrorism circuit courts operate with the same politically motivated charges, near-automatic detention renewal, and denial of appeal that defined the emergency period. A renewed Strategy must repeal or fundamentally reform the Emergency Law, abolish the Emergency State Security Courts, restore the exclusive jurisdiction of ordinary courts over civilians, and subject the full body of security-related legislation enacted since 2013 to independent review with meaningful participation by those it has affected.

The third pillar addresses torture and other ill-treatment—a thoroughly documented feature of Egypt's criminal justice system. Police and National Security Agency officials perpetrate torture or other ill-treatment, prosecutors rely on the resulting confessions rather than investigate the allegations behind them, courts admit this evidence while dismissing complaints of abuse, and prison staff sustain and reproduce suffering through denial of medical care and deplorable conditions of detention. Dismantling this system requires an absolute exclusionary rule for torture-tainted evidence, automatic and independent investigation of every credible allegation, real accountability for prosecutors and judges who facilitate or disregard torture, and the transfer of prison healthcare to civilian medical authority.

The fourth pillar concerns enforced disappearance, one of the most pervasive practices within Egypt's criminal justice system and one substantially normalized both in law and in conduct. Over decades, many thousands of people have been subjected to disappearance inside National Security Agency headquarters and other official and unofficial facilities, carried out by police, military, and prison personnel and directed at political opponents, human rights defenders, lawyers, journalists, students, and family members of activists. Ending this practice requires repealing the legal provisions that authorize incommunicado detention, prohibiting detention in unofficial or

unacknowledged locations, guaranteeing immediate and independent investigation of every reported disappearance, and recognizing the rights of families to truth, information, and participation in the search for their relatives.

The fifth pillar addresses detention and the treatment of persons deprived of their liberty. In Egypt, pre-trial detention functions as the default response to arrest rather than the exceptional measure international law requires. Conditions inside places of detention compound these failures: the newest “model” correctional facilities have produced waves of suicide attempts and deaths from delayed emergency response, while other facilities are marked by overcrowding, denial of family contact, and the use of basic necessities as tools of punishment. Respecting and fulfilling human rights in detention contexts requires establishing pre-trial detention as a genuine last resort ordered by an independent judge, enforcing absolute limits on its duration, ending so-called “case rotation”, and guaranteeing humane conditions, regular family contact, and confidential legal access for every detained person.

The sixth pillar concerns the administration of justice, fair trial rights, and the independence of the judiciary and legal profession. The provisions maintaining and protecting judicial independence have been eroded through constitutional provisions concentrating power in the executive, including presidential control over judicial appointments, ratification of exceptional courts’ verdicts, and pardon powers that have negated convictions of security officials for serious violations. Within this environment, mass trials, routine denial of confidential access to counsel, reprisals against lawyers for their professional work, the absence of any right of appeal from Emergency State Security Courts, and an expanding military court jurisdiction over civilians have become defining features of criminal proceedings. Reversing this trajectory requires transparent and merit-based judicial appointments with genuine security of tenure, abolition of exceptional courts, an end to the trial of civilians before military courts, an enforceable right of appeal in every criminal case, and guaranteed protection for lawyers to carry out their professional duties free from surveillance, arrest, or reprisal.

Crucially, the Shadow Strategy’s recommended reforms must be understood as an integrated programme rather than a menu of discrete commitments. Addressing the many and interwoven shortcomings of Egypt’s criminal justice system cannot be done in a piecemeal or pick-and-choose manner. It requires a fulsome and comprehensive reform agenda that tackles the many and intertwined laws, policies, and practices that have sustained a decade of gross human rights abuses.

Therefore, the measure of Egypt’s renewed National Human Rights Strategy is not the number of initiatives it announces or training programmes it conducts. Instead, it must

dismantle the structural causes of persistent violations and in their place construct a system defined by respect for human rights and adherence to the rule of law.

Egypt does not lack constitutional provisions, international standards, or detailed recommendations from human rights bodies. Nor does it lack evidence of the scale and nature of the violations occurring at the hands of and within its criminal justice system. What has been missing is the political and institutional will to confront the laws, policies, and practices—in other words the structural conditions—that facilitate and sustain those violations. Egypt's renewed Human Rights Strategy for 2027–2032 presents an opportunity to make decisive changes to a criminal justice system built around systemic abuse. To be credible, the renewed Strategy must seize that opportunity by creating a roadmap for measurable progress towards a transparent and accountable criminal justice system.

2. Purpose, Scope and Methodology

a. Purpose

This Shadow Human Rights Strategy for Egypt 2027–2032 sets out an independent civil society vision for criminal justice reform. It is intended to serve as a benchmark against which Egypt's renewed National Human Rights Strategy may be assessed, including whether it addresses the structural causes of abuse within the criminal justice system, adopts concrete and measurable reform objectives, and creates conditions for accountability, remedy, and non-repetition.

The Shadow Strategy is premised on the view that a credible human rights strategy cannot be limited to restating constitutional guarantees, announcing training initiatives, or performative yet isolated releases of political prisoners as evidence of reform. Previous assessments by Egyptian and international human rights organizations concluded that patterns of arbitrary arrest and violations in detention continued despite Egypt's existing National Human Rights Strategy, and that the Strategy functioned primarily as a public-relations tool.¹ Those organizations also noted that the previous Strategy was drafted without consultation with independent human rights organizations or meaningful public engagement.

¹ See Joint NGO submission for the review of Egypt by the Human Rights Committee, 137th session (27 February to 24 March 2023) (Committee for Justice (CFJ), DIGNITY, Egyptian Front for Human Rights (EFHR), Egyptian Initiative for Personal Rights (EIPR), EgyptWide for Human Rights, EuroMed Rights, International Service for Human Rights (ISHR), REDRESS, Women's International League for Peace and Freedom (WILPF)), https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=INT%2FCCPR%2FCSS%2FEGY%2F51549&Lang=en, See also: Amnesty International, Egypt: "Disconnected from reality": Egypt's National Human Rights Strategy covers up human rights crisis, September 2022, available at : <https://www.amnesty.org/en/documents/mde12/6014/2022/en/>

This Shadow Strategy therefore seeks to articulate the minimum standards that should guide any genuine reform process. It identifies priority areas where legal, institutional, and policy change is required to bring Egypt's criminal justice system into compliance with its obligations under international and regional human rights law. It is designed for use by civil society organizations, victims and survivors, families of detainees and disappeared persons, lawyers, journalists, diplomats, United Nations and African human rights mechanisms, and other stakeholders assessing the credibility and adequacy of Egypt's official commitments.

The Shadow Strategy is in no way intended to replace the State's responsibility to facilitate a transparent and participatory process for developing its the Renewed Strategy. Rather, it provides an independent reference point for evaluating whether State-led reform efforts are coherent, rights-based, and responsive to the lived realities of those affected by criminal justice abuses.

b. Scope

This Shadow Strategy focuses on criminal justice reform. It does not address the full range of human rights concerns in Egypt, many of which are serious and interrelated. Instead, it concentrates on the legal and institutional architecture through which arbitrary detention, torture and other ill-treatment, enforced disappearance, unfair trials, abusive counter-terrorism measures, and impunity are produced and sustained.

The Shadow Strategy covers six priority areas:

1. Egypt's criminal justice legal framework and availability of effective remedies;
2. States of emergency, counter-terrorism, and national security measures;
3. Torture and other cruel, inhuman, or degrading treatment or punishment;
4. Enforced disappearance;
5. The right to liberty and security of person, pre-trial detention, prison conditions, and the treatment of persons deprived of liberty; and
6. The administration of justice, fair trial rights, and the independence of the judiciary and legal profession.

Crucially, these areas are interrelated and mutually reinforcing: the misuse of counter-terrorism laws enables arbitrary detention; arbitrary detention and enforced disappearance increase the risk of torture; torture is facilitated by denial of access to lawyers and families; coerced confessions and exceptional courts undermine fair trial rights; and impunity is sustained when prosecutors, courts, prison authorities, and oversight bodies fail to investigate violations or provide remedies. Amidst this web of

violations, Egypt's official responses rely heavily on constitutional and legal guarantees while ignoring widespread and systematic violations in practice, including fair trial violations, entrenched impunity for security and military forces, and arbitrary detention.

Accordingly, this Shadow Strategy is framed around objectives for real human rights reform in the criminal justice sector for the period 2027–2032. At this stage, it does not include implementation indicators. Those may be developed at a later stage, once the content, structure, and commitments of Egypt's renewed National Human Rights Strategy are known. The present document instead identifies the substantive standards and reform objectives against which future State commitments can be assessed.

c. Methodology

This Shadow Strategy is based on a review and synthesis of documentation, legal analysis, and recommendations produced by Egyptian and international human rights organizations, as well as findings and standards developed by United Nations and African human rights mechanisms. It draws on human rights reporting by national and international NGOs, as well as Egyptian civil society reform proposals on legislative and institutional reform, including proposals concerning the Criminal Procedure Code, emergency legislation, counter-terrorism law, judicial authority, police powers, and the regulation and oversight of detention facilities.

The analysis is guided by Egypt's obligations under international and regional human rights law, including the International Covenant on Civil and Political Rights, the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, the African Charter on Human and Peoples' Rights, and relevant standards concerning fair trial rights, detention, the independence of judges and lawyers, the prevention of torture, and the investigation of potentially unlawful deaths. It also takes account of Egypt's failure to ratify or fully engage with certain key accountability and prevention mechanisms, including mechanisms for individual complaints and independent detention monitoring.

The methodology first identified recurring patterns and structural drivers of abuse within Egypt's criminal justice system which are informed by documentation of the experiences of victims and survivors. It then translated those findings into reform objectives that are capable of being used as benchmarks for assessing the renewed National Human Rights Strategy.

This Shadow Strategy gives particular weight to patterns that demonstrate institutional or systemic failure, including the role of the Public Prosecution, Supreme State Security Prosecution, security agencies, prison authorities, specialized courts, and military courts in enabling or failing to remedy violations.

This Shadow Strategy is not intended to be exhaustive. It prioritizes reforms that are necessary to transform the criminal justice system from a mechanism of repression and impunity into one governed by legality, accountability, due process, human dignity, judicial independence, and effective remedy.

3. Current Context: Criminal Justice as an Engine of Human Rights Violations

a. Political and Institutional Context

On paper, Egypt's constitutional architecture contains protections for individual rights. For example, the 2014 Constitution prohibits torture, arbitrary detention, and guarantees fair trial rights and the right to legal counsel. Egypt is also party to numerous international and regional human rights treaties, including the International Covenant on Civil and Political Rights, the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, and the African Charter on Human and Peoples' Rights.

In practice, however, there is a massive gap between these formal guarantees and experiences of persons who encounter Egypt's criminal justice system. Emergency legislation, counter-terrorism powers, and security-agency practices operate alongside and in tension with constitutional criminal justice protections—creating conditions in which arrest, pre-trial detention, interrogation, trial, and imprisonment may all occur within a nominally legal framework, but for political cases the protections that framework is meant to provide are not applied.² The result is widespread violations—including arbitrary detention, enforced disappearance, torture and other ill-treatment, and denial of fair trial rights—that are enduring features of Egypt's criminal justice system.

The reality of Egypt's human rights record has been recognized at the highest levels of independent international oversight. Egypt has been the subject of two separate inquiries by the United Nations Committee against Torture under Article 20 of the Convention against Torture—a procedure reserved for situations where reliable information indicates that torture is being *systematically practiced*.³ Both inquiries, with findings published in

² See *Joint NGO submission for the review of Egypt by the Human Rights Committee*, 137th session (27 February to 24 March 2023) (Committee for Justice (CFJ), DIGNITY, Egyptian Front for Human Rights (EFHR), Egyptian Initiative for Personal Rights (EIPR), EgyptWide for Human Rights, EuroMed Rights, International Service for Human Rights (ISHR), REDRESS, Women's International League for Peace and Freedom (WILPF)), https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=INT%2FCCPR%2FCSS%2FEGY%2F51549&lang=en; see also, DIGNITY, CFJ, ECRF, *Torture in Egypt: Systemic and Systematic*, DIGNITY Praxis Paper #38 (2021), <https://dignity.dk/wp-content/uploads/publication-series-38.pdf>.

³ Committee against Torture, *Report of the Committee against Torture*, UN Doc. A/72/44, 2017, ch. V, "Summary account of the results of the proceedings of the inquiry on Egypt," paras. 67–70.

1996 and 2017 respectively, reached the same conclusion: that torture in Egypt is habitual, deliberate, widespread, and systematic.⁴ In its February 2023 Concluding Observations on Egypt's fifth periodic report under the International Covenant on Civil and Political Rights, the United Nations Human Rights Committee (HRC) expressed deep concern about "the reportedly systematic use of torture and cruel, inhuman or degrading treatment at the hands of law enforcement personnel," and noted with equal concern "the general lack of investigations into such practices and punishment of those responsible, reprisals against victims who denounce torture and the lack of reparation for victims, as well as the reported absence of meaningful oversight by the judiciary and public prosecution, including with regard to the use of evidence obtained under torture and the disregarding of medical examinations and complaints of torture."⁵ In like manner, the United Nations Committee against Torture (CAT) expressed "deep concern" at the lack of accountability for torture "by police officers, prison guards and other members of the security forces, as well as the military, in police stations, correction and rehabilitation centres, national security detention centres, military bases and in unofficial places of detention, during the arrest, interrogation and investigation phases, often as a method of coercion to elicit information or to punish or intimidate real or perceived political opponents and critics of the Government".⁶ Thus, the breadth, longstanding duration, and deep-seated character of the issues with Egypt's criminal justice system should be no surprise to the government.

Egypt's 2021–2026 National Human Rights Strategy was an opportunity to begin closing the gap between formal commitments and practice. That opportunity was not realized. Independent assessments by UN treaty bodies, and international and Egyptian non-governmental organizations concluded that patterns of violations—including arbitrary arrest and violations in detention—continued unabated during the Strategy's implementation period.⁷ The Strategy was also developed without consultation with independent human rights organizations or meaningful public engagement, contrary to

⁴ UN Committee against Torture, Annual Report, UN Doc. A/51/44, 9 July 1996, para. 220; UN Committee against Torture, Annual Report 2017, UN Doc. A/72/44, 2017, paras. 67, 69.

⁵ UN Human Rights Committee, Concluding Observations on the Fifth Periodic Report of Egypt, UN Doc. CCPR/C/EGY/CO/5, 14 April 2023, para. 27.

⁶ UN Committee against Torture, Concluding Observations on the Fifth Periodic Report of Egypt, UN Doc CAT/C/EGY/CO/5, 12 December 2023, para. 35.

⁷ UN Human Rights Committee, Concluding Observations on the Fifth Periodic Report of Egypt, UN Doc. CCPR/C/EGY/CO/5, 14 April 2023, para. 27; UN Committee against Torture, Concluding Observations on the Fifth Periodic Report of Egypt, UN Doc CAT/C/EGY/CO/5, 12 December 2023, para. 35; *Joint NGO submission for the review of Egypt by the Human Rights Committee*, 137th session (27 February to 24 March 2023) (Committee for Justice (CFJ), DIGNITY, Egyptian Front for Human Rights (EFHR), Egyptian Initiative for Personal Rights (EIPR), EgyptWide for Human Rights, EuroMed Rights, International Service for Human Rights (ISHR), REDRESS, Women's International League for Peace and Freedom (WILPF)), p. 3, https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=INT%2FCCPR%2FCSS%2FEGY%2F51549&Lang=en.

official government claims.⁸ As a result, it set a very low bar for reform and did not engage with the root causes of violations, or with the institutions and practices through which those violations are produced. Thus, the Strategy did not, indeed could not, offer a credible framework for reform.

b. Patterns of Human Rights Violations

i. The Legal Architecture of Oppression in Egypt

In describing the issues facing Egypt's criminal justice system, it is important to make a preliminary distinction: the problems are not rooted in a few bad actors carrying out violations against Egypt's legal and regulatory system. Rather, the problems are structural: Egypt's criminal justice system is a body of law that has been deliberately constructed to displace ordinary rights protections in favor of security-agency powers. This system is primarily held up by three interlocking legal frameworks.

First, the Anti-Terrorism Law No. 94 of 2015 contains provisions so vague and overbroad that they have been routinely criticized by UN Special Procedure mandate holders as tools for silencing legitimate criticism.⁹ Most significantly, a 2020 amendment to the law effectively codified enforced disappearance by authorizing the arrest and incommunicado detention of individuals for up to 28 days without access to family or counsel.¹⁰ The law also grants the Public Prosecution expansive pre-trial detention powers in terrorism-related cases and broadly defines "terrorist purposes" to include conduct as vague as causing harm to "public order" or "society's safety"—formulations that have been applied in practice to peaceful protest, journalism, human rights work, members of minority groups and online expression.¹¹ A further 2021

⁸ *Joint NGO submission for the review of Egypt by the Human Rights Committee*, 137th session (27 February to 24 March 2023) (Committee for Justice (CFJ), DIGNITY, Egyptian Front for Human Rights (EFHR), Egyptian Initiative for Personal Rights (EIPR), EgyptWide for Human Rights, EuroMed Rights, International Service for Human Rights (ISHR), REDRESS, Women's International League for Peace and Freedom (WILPF)), p. 3, https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=INT%2FCCPR%2FCSS%2FEGY%2F51549&Lang=en

⁹ Press Release, Egypt uses terrorism trials to target human rights activists, say UN experts, UN Office of the High Commissioner for Human Rights, 8 October 2020, <https://www.ohchr.org/en/press-releases/2020/10/egypt-uses-terrorism-trials-target-human-rights-activists-say-un-experts>; Press Release, Egypt's updated terrorism law opens the door to more rights abuses, says UN expert, UN Office of the High Commissioner for Human Rights, 9 April 2020, <https://www.ohchr.org/en/press-releases/2020/04/egypts-updated-terrorism-law-opens-door-more-rights-abuses-says-un-expert>; Letter from UN Special Procedures to Egyptian Authorities concerning amendments to counter-terrorism legislation, 28 February 2020, <https://spcommreports.ohchr.org/TMResultsBase/DownloadPublicCommunicationFile?gld=25072>.

¹⁰ See UN Experts Public Communication, reference OL EGY 4/202028, February 2020, <https://spcommreports.ohchr.org/TMResultsBase/DownloadPublicCommunicationFile?gld=25072>.

¹¹ See *Joint NGO submission for the review of Egypt by the Human Rights Committee*, 137th session (27 February to 24 March 2023) (Committee for Justice (CFJ), DIGNITY, Egyptian Front for Human Rights (EFHR), Egyptian Initiative for Personal Rights (EIPR), EgyptWide for Human Rights, EuroMed Rights, International Service for Human Rights (ISHR), REDRESS, Women's International League for Peace and Freedom (WILPF)), pp. 5-6, https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=INT%2FCCPR%2FCSS%2FEGY%2F51549&Lang=en.

amendment expanded presidential authority over terrorism cases, including by granting the President power to decide penalties for “terrorism threats”. The amendment also bans the filming, recording, or broadcasting of terrorism court proceedings without judicial permission.¹² Troublingly, another 2021 law expanded these bans to all criminal trial proceedings.¹³

Second is Egypt’s Emergency Law No. 162 of 1958, under which Emergency State Security Courts (ESSCs) adjudicate offenses committed during declared states of emergency. In 2017, the Prime Minister transferred jurisdiction over protest and terrorism-related offenses to the ESSCs, and in January 2021 their jurisdiction was further expanded to include certain Penal Code offenses including the spreading of “false news.”¹⁴ Critically, ESSC judgments are not subject to appeal—the President of the Republic may commute or reduce sentences, but there is no right of review by a higher independent tribunal.¹⁵ Although President al-Sisi formally lifted the declared state of emergency in October 2021, criminal cases continued to be heard before ESSCs, which retain jurisdiction over cases referred to them before that date.¹⁶ The CAT expressed concern about “the far-reaching powers conferred on the Government under Emergency Act No. 162,” noting in particular that 2020 amendments introduced under cover of the COVID-19 pandemic “further restricted the enjoyment of rights under the Convention...including the extension of the jurisdiction of military courts over civilians and the expansion of the powers of the security forces to detain suspects indefinitely with barely any judicial oversight.”¹⁷ Accordingly, Amending the Emergency Law was one the

¹² See *Joint NGO submission for the review of Egypt by the Human Rights Committee*, 137th session (27 February to 24 March 2023) (Committee for Justice (CFJ), DIGNITY, Egyptian Front for Human Rights (EFHR), Egyptian Initiative for Personal Rights (EIPR), EgyptWide for Human Rights, EuroMed Rights, International Service for Human Rights (ISHR), REDRESS, Women’s International League for Peace and Freedom (WILPF)), p. 5.
https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=INT%2FCCPR%2FCSS%2FEGY%2F51549&Lang=en.

¹³ Law 71 of 13 June 2021. See Press Release, International Commission of Jurists, 21 June 2021, *Egypt: Law 71 an assault on the right to a public trial and on freedom of expression*, <https://www.icj.org/egypt-law-71-an-assault-on-the-right-to-a-public-trial-and-on-freedom-of-expression/>.

¹⁴ International Commission of Jurists, Submission to Egypt’s Fifth Periodic Review by the Human Rights Committee – 137th Session, paras. 46-47; See *Joint NGO submission for the review of Egypt by the Human Rights Committee*, 137th session (27 February to 24 March 2023) (Committee for Justice (CFJ), DIGNITY, Egyptian Front for Human Rights (EFHR), Egyptian Initiative for Personal Rights (EIPR), EgyptWide for Human Rights, EuroMed Rights, International Service for Human Rights (ISHR), REDRESS, Women’s International League for Peace and Freedom (WILPF)), p. 5.
https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=INT%2FCCPR%2FCSS%2FEGY%2F51549&Lang=en.

¹⁵ *International Commission of Jurists, Submission to Egypt’s Fifth Periodic Review by the Human Rights Committee – 137th Session*, para. 32. See also, ICCPR art. 14(5) and Human Rights Committee General Comment No. 29, UN Doc. CCPR/C/21/Rev.1/Add.11 (2001), para. 16. See also *Emergency Law No. 162 of 1958*, arts. 12–14.

¹⁶ International Commission of Jurists, Submission to Egypt’s Fifth Periodic Review by the Human Rights Committee – 137th Session, p. 4, para. 11.

¹⁷ UN Committee against Torture, Concluding Observations on the Fifth Periodic Report of Egypt, UN Doc CAT/C/EGY/CO/5, 12 December 2023, para. 11.

CAT's of three priority follow-up recommendations in its 2023 Concluding Observations.¹⁸ In like manner, the African Commission on Human and Peoples' Rights has urged and recommended the Egyptian authorities to amend its emergency laws to comport with international legal obligations and standards.¹⁹

Third is Presidential Decree No. 136 of 2014, which extended military court jurisdiction to cover crimes committed on or against "public or vital property," resulting in the referral of thousands of civilian cases to military courts.²⁰ A 2021 amendment to the underlying law removed the time limitation that had previously constrained this jurisdiction, entrenching the referral of civilians to military courts without specifying any end date.²¹ Military court judges in Egypt are appointed by the Minister of Defense and are subject to the military chain of command, meaning they cannot be considered independent and impartial tribunals as required by Article 14 of the ICCPR.²² In 2023, the CAT expressed deep concern at "the extended jurisdiction of and increasing recourse to military courts to prosecute individuals, including civilians, under overly broad provisions of counter-terrorism and other legislation," and at reports that "a very large number of actual or perceived critics and political opponents of the Government, including children, have been tried and convicted in such courts in trials, including mass trials, that lack due process and fair trial guarantees."²³

Together, these frameworks embed coercive security-agency powers within formal legal institutions and procedures, blurring the distinction between exceptional measures and ordinary criminal justice. Over time, the above counterterrorism, emergency, and national-security frameworks—and the practices developed under them—have increasingly been incorporated into Egypt's ordinary prosecutorial and criminal-justice machinery, entrenching procedures that facilitate arbitrary, prolonged detention, and torture and

¹⁸ UN Committee against Torture, Concluding Observations on the Fifth Periodic Report of Egypt, UN Doc CAT/C/EGY/CO/5, 12 December 2023, para. 12(e).

¹⁹ See e.g. ACHPR, *Egyptian Initiative for Personal Rights and Interights v Arab Republic of Egypt*, Communication 334/06, Decision of 9th Extra-Ordinary Session Held From 23 February to 3 March 2011, para. 233(b)(V); ACHPR, *Mohammed Abderrahim El Sharkawi (represented by EIPR and OSJI) v. the Republic of Egypt*, Communication 396/11, Decision of 66th Ordinary held virtually from 13 July to 07 August 2020, para. 355(II).

²⁰ International Commission of Jurists, Submission to Egypt's Fifth Periodic Review by the Human Rights Committee – 137th Session, para. 44.

²¹ International Commission of Jurists, Submission to Egypt's Fifth Periodic Review by the Human Rights Committee – 137th Session, para. 44.

²² International Commission of Jurists, Submission to Egypt's Fifth Periodic Review by the Human Rights Committee – 137th Session, para. 45.

²³ UN Committee against Torture, Concluding Observations on the Fifth Periodic Report of Egypt, UN Doc CAT/C/EGY/CO/5, 12 December 2023, para. 31.

other ill-treatment. The result is that the law itself stops functioning as a vehicle for rights protection and becomes instead a tool for excluding targeted individuals from legal protections.²⁴

ii. Prosecutors and Courts as Instruments of Oppression

Human rights violations in Egypt's criminal justice system are enabled and legitimized by the actions of judges and prosecutors. Two key examples show how judges and prosecutors—actors who should be challenging abuses of the law—utilize Egypt's legal framework to facilitate abuses: the treatment of torture-tainted evidence and the practice of case recycling.

Egypt's 2014 Constitution formally requires that statements obtained through torture, coercion, of physical or mental harms be disregarded.²⁵ In reality, forced confessions are a common feature in political and national security-related criminal proceedings. Judges and prosecutors frequently ignore allegations of torture during investigations, before trial, and during trial sessions—including where defendants describe in specific detail the methods used against them. Judges and prosecutors do not explain to defendants or their lawyers why torture claims are not investigated or taken seriously.²⁶ Courts regularly dismiss torture allegations with circular reasoning—for example by justifying reliance on a confession by finding that its contents, “conformed with the truth and reality,” using the confession itself to explain away injuries documented on the defendant's body.²⁷ In 31 monitored cases involving 212 defendants who alleged torture, prosecutors referred only 88 to forensic medicine and failed to act on 124 such requests.²⁸ In 2023, the CAT expressed concern at consistent reports that “torture is routinely used to extract confessions and that confessions obtained through torture are invoked against defendants in court as evidence of their guilt” and that “courts do not investigate complaints of this kind.”²⁹ The HRC similarly expressed concern at “absence of meaningful oversight by the judiciary and public prosecution, including with regard to the

²⁴ UN Committee against Torture, Concluding Observations on the Fifth Periodic Report of Egypt, UN Doc CAT/C/EGY/CO/5, 12 December 2023, paras 11-12; DIGNITY, CFJ, ECRF, *Torture in Egypt: Systemic and Systematic*, DIGNITY Praxis Paper #38 (2021), p. 14 <https://dignity.dk/wp-content/uploads/publication-series-38.pdf>.

²⁵ Article 55, 2014 Constitution.

²⁶ DIGNITY, CFJ, ECRF, *Torture in Egypt: Systemic and Systematic*, DIGNITY Praxis Paper #38 (2021), p. 17 <https://dignity.dk/wp-content/uploads/publication-series-38.pdf>.

²⁷ DIGNITY, CFJ, ECRF, *Torture in Egypt: Systemic and Systematic*, DIGNITY Praxis Paper #38 (2021), pp. 17-18 <https://dignity.dk/wp-content/uploads/publication-series-38.pdf> (discussing Case No. 9115/2016 (Criminal Court Southern Giza) and two Alexandria Military Criminal Court cases (Case No. 241 of 2014; Case No. 36 of 2015)).

²⁸ DIGNITY, CFJ, ECRF, *Torture in Egypt: Systemic and Systematic*, DIGNITY Praxis Paper #38 (2021), p. 16 <https://dignity.dk/wp-content/uploads/publication-series-38.pdf>.

²⁹ UN Committee against Torture, Concluding Observations on the Fifth Periodic Report of Egypt, UN Doc CAT/C/EGY/CO/5, 12 December 2023, para. 29.

use of evidence obtained under torture and the disregarding of medical examinations and complaints of torture”.³⁰

Prosecutors contribute to the use of torture-tainted confessions by failing to exercise their legal powers to investigate. Egyptian prosecutors are empowered to visit prisons unannounced and conduct investigations, but these powers are not effectively exercised.³¹ Direct complaints from imprisoned persons about torture and other ill-treatment largely go unheeded. Even where a prosecutorial investigation is initiated, the Ministry of Interior (which includes police and prison administrations) has on documented occasions failed to implement resulting decisions.³²

Courts similarly overlook police and prosecutorial irregularities that would, if properly scrutinized, disrupt proceedings: documented patterns show courts routinely ignoring overt periods of enforced disappearance, contradictions in witness statements, absence of evidence proving the elements of the alleged crime, anonymity of sources in seizure and investigation reports, and proven torture violations.³³

Case rotation (or recycling) is another practice showing how prosecutorial and judicial actors operate as instruments of repression. Rotation refers to the practice of initiating a new criminal case against an individual who has received a release order, reached the maximum legal period of pre-trial detention, or completed a sentence—thereby resetting the detention clock and enabling continued imprisonment without lawful basis. The individual is typically subjected to enforced disappearance between cases, reappearing before prosecutors under fresh charges, often based on the same facts and the same National Security Agency reports.³⁴ Between September 2020 and February 2021 alone, approximately 4,500 people were trapped in pre-trial detention through this and related mechanisms.³⁵ No judge has to date formally questioned the actions of prosecutors in rotation cases, even where the fabrication of new charges is clearly deliberate.

³⁰ UN Human Rights Committee, Concluding Observations on the Fifth Periodic Report of Egypt, UN Doc. CCPR/C/EGY/CO/5, 14 April 2023, para. 27.

³¹ Amnesty International, *‘What do I care if you die?’ Negligence and Denial of Health Care in Egyptian Prisons*, p. 59, 2021.

³² Amnesty International, *‘What do I care if you die?’ Negligence and Denial of Health Care in Egyptian Prisons*, p. 59, 2021.

³³ DIGNITY, CFJ, ECRF, *Torture in Egypt: Systemic and Systematic*, DIGNITY Praxis Paper #38 (2021), p. 19-29, <https://dignity.dk/wp-content/uploads/publication-series-38.pdf>

³⁴ DIGNITY, CFJ, ECRF, *Torture in Egypt: Systemic and Systematic*, DIGNITY Praxis Paper #38 (2021), pp. 20-23, <https://dignity.dk/wp-content/uploads/publication-series-38.pdf>; International Commission of Jurists, Submission to Egypt’s Fifth Periodic Review by the Human Rights Committee – 137th Session, paras. 33-34.

³⁵ V. Yee, A. McCann, J. Holder, *Egypt’s Revolving Jailhouse Door: One Pretrial Detention After Another*, NYTimes, 16 July 2022, <https://www.nytimes.com/interactive/2022/07/16/world/middleeast/egypt-prisoners.html>.

Both the Human Rights Committee and the Committee against Torture specifically identified and condemned this practice in their 2023 Concluding Observations. The HRC recommended that Egypt “put an end to the involvement of security agencies in the decision-making process on the release of detainees and the practice of ‘rotation’ under which detainees are added to new cases on similar charges.”³⁶ In like kind, the CAT found that “the Supreme State Security Prosecution bypasses release orders by judges or prosecutors for individuals in prolonged pre-trial detention by issuing new detention orders based on similar charges resulting from secret investigations conducted by the National Security Agency.”³⁷ The Special Rapporteur on Human Rights Defenders has specifically documented rotation as a systematic tool of repression, noting that her mandate has sent 22 communications to Egypt since May 2020 regarding, among other practices, the misuse of anti-terrorism legislation through this mechanism.³⁸

iii. Detention as a Site of Punishment

Rather than being the regulated endpoint of criminal proceedings, detention and imprisonment in Egypt function as a continuing site of human rights violations.

Prison healthcare is woefully substandard. The provision of timely healthcare, including in medical emergencies, is left to the discretion of guards and other prison officials, who regularly dismiss or downplay the severity of detainees’ health problems and routinely delay transfers for treatment inside and outside prisons.³⁹ Regulations from the Ministry of Interior require sign-off from multiple governmental bodies before a medical transfer can take place—a process that can take months, far exceeding what patients’ conditions can accommodate.⁴⁰ In 2018, 72% of all reported deaths in detention were attributable to denial of healthcare.⁴¹ More broadly, more than 1,100 detainees died in Egypt’s prisons between 2013 and October 2022, the majority as a result of medical negligence.⁴² In 2023, the HRC expressed concern at the “multiple reports indicating that detainees held for

³⁶ UN Human Rights Committee, Concluding Observations on the Fifth Periodic Report of Egypt, UN Doc. CCPR/C/EGY/CO/5, 14 April 2023, para. 27.

³⁷ UN Committee against Torture, Concluding Observations on the Fifth Periodic Report of Egypt, UN Doc CAT/C/EGY/CO/5, 12 December 2023, para. 17.

³⁸ Press Release, *Egypt: Special Rapporteur concerned about use of anti-terrorism legislation against human rights defenders*, Special Rapporteur on Human Rights Defenders (Mary Lawler), 14 January 2025, available at <https://www.ohchr.org/en/press-releases/2025/01/egypt-special-rapporteur-concerned-about-use-anti-terrorism-legislation>.

³⁹ See Amnesty International 2021, *‘What do I care if you die?’ Negligence and Denial of Health Care in Egyptian Prisons*, p.9.

⁴⁰ Article 37 of the Internal Regulations promulgated by the Minister of the Interior’s Decision No. 79 of 1961 on prisons.

⁴¹ DIGNITY, CFJ, ECRF, *Torture in Egypt: Systemic and Systematic*, DIGNITY Praxis Paper #38 (2021), p. 25, <https://dignity.dk/wp-content/uploads/publication-series-38.pdf>.

⁴² Egyptian Task Force for Human Rights, *A Crisis by Design*, Mid-Term UPR Report, January 2023, https://eipr.org/sites/default/files/reports/pdf/egypt_upr_en.pdf.

political reasons are frequently subjected to particularly harsh conditions, including the deliberate denial of health care, the denial of visits by family members and legal counsel and extended periods of solitary confinement.”⁴³

Egypt’s new so-called “model correction and rehabilitation centers,”⁴⁴ have not resolved these problems, and in many important respects, have worsened them. These facilities are designed to minimize direct human interaction: prisoners communicate with administrative officials via intercom systems, with officials responding through headphones. Under this system, prison officials have failed to respond promptly to medical emergencies, at times leading to serious harm or death. Between 2023 and the first quarter of 2024, 31 prisoner deaths were recorded in Egyptian prisons, approximately 15 of which occurred in the Badr and 10th of Ramadan correctional centers specifically.⁴⁵ Conditions in these new facilities have been so severe as to produce a wave of suicide attempts between November 2022 and March 2023.⁴⁶ The CAT documented overcrowding and poor material conditions including at Egypt’s newest facilities and expressed concern regarding “insalubrity and inadequate hygiene, lack of ventilation, the poor quality and insufficient quantity of the food and water provided...limited access to quality health care, including mental health care.”⁴⁷

Sexual and gender-based violence is an all-too-common occurrence in Egypt’s custodial system. The Committee against Torture in 2023 expressed concern over forced anal examinations used to prove “habitual debauchery” under Act No. 10 of 1961 and forced vaginal examinations to prove allegations of extramarital relations — practices the Committee characterized as torture — and reiterated its recommendation to end these practices.⁴⁸ Between 2015 and 2022, 655 distinct incidents of sexual violence by Egyptian authorities in detention contexts were documented, affecting 544 victims including 124 women, 30 members of the LGBTQ+ community, 15 children, and two refugees.⁴⁹ Most

⁴³ UN Human Rights Committee, Concluding Observations on the Fifth Periodic Report of Egypt, UN Doc. CCPR/C/EGY/CO/5, 14 April 2023, para. 29.

⁴⁴ Constructed from 2013 onward and officially rebranded to project an image of reform.

⁴⁵ Institute for Middle East Studies, “Egypt’s New Prisons: Hidden Violence and Promises of Reform,” March 2024, available at the following link: <https://bit.ly/3UB7iwN>.

⁴⁶ Middle East Democracy Center, PRESS RELEASE: Investigate reports of a wave of suicide attempts inside Egypt’s Badr Prison, <https://mideastdc.org/publication/press-release-investigate-reports-of-a-wave-of-suicide-attempts-inside-egypts-badr-prison/>.

⁴⁷ UN Committee against Torture, Concluding Observations on the Fifth Periodic Report of Egypt, UN Doc CAT/C/EGY/CO/5, 12 December 2023, para. 21.

⁴⁸ UN Committee against Torture, Concluding Observations on the Fifth Periodic Report of Egypt, UN Doc CAT/C/EGY/CO/5, 12 December 2023, paras. 41-42.

⁴⁹ Freedom Initiative and Egyptian Front for Human Rights, *No One is Safe: Sexual Violence Throughout the Life Cycle of Detention in Egypt (2015–2022)* (April 2022), pp. 14, 31, available at https://egyptianfront.org/wp-content/uploads/2022/04/Fi_NoOnelsSafe_03-22_v6.pdf.

detainees reporting sexual violence experienced the same documented lifecycle of violations: psychological and physical torture through threats; sexual harassment; virginity tests for women; forced anal examinations for gay men and transgender women; beatings; electric shocks; sexual assault and rape; followed by charges relating to the victims' peaceful exercise of rights of expression, assembly, or association.⁵⁰ Far from the product of a few bad actors, the consistency of these attacks across geography, time, perpetrating institution, and victim profile indicates a systematic practice.

The enforced disappearance of individuals into unofficial or unacknowledged places of detention creates particular vulnerability to the above abuses. Over a seven-year documentation period, 3,088 people were recorded as having been subjected to enforced disappearance for varying periods inside National Security Agency headquarters and other official and unofficial detention facilities.⁵¹ Since May 2020, Egypt has been one of the world's top receivers of communications from the United Nations Working Group on Enforced or Involuntary Disappearances.⁵²

iv. Impunity: The Enabling Factor

The violations described above persist because the institutions that should prevent, investigate, and remedy them are themselves implicated in perpetrating and sustaining them.

The CAT, having twice found that torture in Egypt is systematic, stated in its 2023 Concluding Observations that it “remains deeply concerned at the lack of accountability, which contributes to a climate of impunity.”⁵³ Accordingly, the CAT further reiterated its Article 20 recommendations for an independent complaints body, ex officio investigations, immediate suspension of suspected perpetrators, and the application of superior responsibility—none of which have been implemented.⁵⁴

⁵⁰ Egyptian Front for Human Rights and The Freedom Initiative, *No One Is Safe: Sexual Violence through the lifecycle of detention in Egypt 2015-2022*, <https://mideastdc.org/publication/no-one-is-safe-sexual-violence-throughout-the-life-cycle-of-detention-in-egypt/> (2022).

⁵¹ Egyptian Task Force for Human Rights, *A Crisis by Design*, Mid-Term UPR Report, January 2023, para. 14, https://eipr.org/sites/default/files/reports/pdf/egypt_upr_en.pdf.

⁵² International Commission of Jurists, ICJ denounces Egypt's large-scale use of enforced disappearances to silence any kind of opposition (UN Statement), 20 September 2022, available at: <https://www.icj.org/icj-denounces-egypts-large-scale-use-of-enforced-disappearances-to-silence-any-kind-of-opposition-un-statement/>.

⁵³ UN Committee against Torture, Concluding Observations on the Fifth Periodic Report of Egypt, UN Doc CAT/C/EGY/CO/5, 12 December 2023, para. 35.

⁵⁴ UN Committee against Torture, Concluding Observations on the Fifth Periodic Report of Egypt, UN Doc CAT/C/EGY/CO/5, 12 December 2023, para. 36.

The Public Prosecution is constitutionally designated as the body responsible for investigating torture allegations and other violations by state officials.⁵⁵ In this function it has repeatedly failed to act with independence or effectiveness. The HRC has recommended the establishment of an independent investigative body as far back as 2002,⁵⁶ and again in 2023 noted the absence of meaningful oversight from the judiciary and public prosecution in recommending the prompt, impartial, and independent investigation into all credible allegations of torture and effective remedy for victims.⁵⁷

Procedural rules reinforce the Public Prosecution's inaction. Victims of torture face significant barriers to initiating proceedings against public officials. For example, criminal cases against government actors generally require action by the Public Prosecutor or Chief Prosecutor, and the Code of Criminal Procedure does not allow direct prosecution by victims for felony-level offenses such as torture.⁵⁸ Moreover, the domestic definition of torture falls significantly below the standard required under the Convention against Torture.⁵⁹

On the rare occasions when law enforcement officers have been prosecuted for torture or deaths in custody, resulting convictions have been negated by presidential pardons or overly lenient sentences.⁶⁰ Notably, according to REDRESS in 2023, "no NSA officer has been convicted of torture."⁶¹ The combination of pardons combined with total lack of

⁵⁵ 2014 Constitution, Art. 189; Egypt's reply to the List of Issues, UN Doc. CCPR/C/EGY/RQ/5, para. 55.

⁵⁶ UN Human Rights Committee, Concluding Observations on Egypt Fourth Periodic Report, UN Doc. CCPR/CO/76/EGY, 28 November 2002.

⁵⁷ UN Human Rights Committee, Concluding Observations on the Fifth Periodic Report of Egypt, UN Doc. CCPR/C/EGY/CO/5, 14 April 2023, para. 27.

⁵⁸ Arts. 63, 162, 232 The Egyptian Code of Criminal Procedure. - No. 150 of 1950. Under Egyptian law, criminal cases must be initiated by the Public Prosecutor or the Chief Public Prosecutor only, in accordance with Criminal Procedures law Article 63 and Article 232. Victims of torture are not entitled to appeal the orders issued by the Public Prosecution Office or the investigative judge in the event that the accused is a public official. And despite a constitutional entitlement to remedy a violation of rights by directly filing a criminal lawsuit, the Code of Criminal Procedure does not allow direct prosecution except in the case of violations and misdemeanors, not in cases of felonies such as the crime of torture.

⁵⁹ Penal Code Art.126 fails to define what, in fact and law, constitutes "torture". It does not refer to infliction of severe pain or suffering, whether physical or mental; only includes one prohibited purpose (thereby leaving out torture for purposes of punishment, coercion or intimidation, or discrimination); and does not include official acts committed by way of instigation ("order" is too narrow) or consent or acquiescence. It only covers infliction of torture upon the vaguely termed "suspects", essentially leaving outside its protection convicted persons or persons serving a prison sentence, witnesses, family members, or third parties (people completely unassociated with the criminal justice system or its processes). UN Committee against Torture, Concluding Observations on the Fifth Periodic Report of Egypt, UN Doc CAT/C/EGY/CO/5, 12 December 2023, para. 36; UN Human Rights Committee, Concluding Observations on the Fifth Periodic Report of Egypt, UN Doc. CCPR/C/EGY/CO/5, 14 April 2023, para. 27.

⁶⁰ Carnegie Endowment for International Peace, *The Prevalence of Torture in Egypt*, 6 March 2018; Egyptian Task Force for Human Rights, *A Crisis by Design*, Mid-Term UPR Report, January 2023, para. 28, https://eipr.org/sites/default/files/reports/pdf/egypt_upr_en.pdf. REDRESS et al., *Torture in Egypt: A Crime Against Humanity* (October 2023), p. 11.

⁶¹ Carnegie Endowment for International Peace, *The Prevalence of Torture in Egypt*, 6 March 2018; Egyptian Task Force for Human Rights, *A Crisis by Design*, Mid-Term UPR Report, January 2023, para. 28, https://eipr.org/sites/default/files/reports/pdf/egypt_upr_en.pdf. REDRESS et al., *Torture in Egypt: A Crime Against Humanity* (October 2023), p. 11.

prosecution of security personnel sends a strong signal from the highest levels of state authority that accountability for custodial abuse will not be enforced.

Targeting and reprisals against those who document violations or represent them further entrenches impunity. Lawyers, human rights defenders, journalists, researchers, and family members of victims have been arrested, prosecuted, subjected to asset freezes and travel bans, and in some cases themselves subjected to torture and enforced disappearance.⁶² The CAT, HRC, and UN Special Rapporteur on Human Rights Defenders have all expressed concern at the targeting and harassment of lawyers involved in political activities or politically sensitive cases—with the Special Rapporteur sending no less than 22 communications since May 2020 alone.⁶³

The legal architecture described above, the prosecutorial and judicial complicity that extends and legitimizes it, and the custodial conditions through which harm is inflicted, are held in place by this system of impunity. When viewed together, it is clear that reform of Egypt's criminal justice system requires a fundamental break with the institutional culture and practices through which accountability has been systematically denied. The six pillars that follow identify what that break must look like in concrete terms.

4. Guiding Principles for Criminal Justice Reform Objectives

Given the magnitude and structural nature of necessary reforms to make meaningful progress on Egypt's human rights record in the realm of criminal justice, this Shadow Strategy's Pillars are drafted in light of the following guiding principles:

Legality. Law must be sufficiently clear and accessible to guide conduct and no person may be prosecuted or punished except on the basis of a law that was in force at the time of the alleged conduct. The principle of legality constrains arbitrary state power and is the foundation upon which all other rights within the criminal justice system depend.

⁶² International Commission of Jurists, Submission to Egypt's Fifth Periodic Review by the Human Rights Committee – 137th Session, paras. 34-39 (pp.14-15);

⁶³ UN Committee against Torture, Concluding Observations on the Fifth Periodic Report of Egypt, UN Doc CAT/C/EGY/CO/5, 12 December 2023, para. 33; UN Human Rights Committee, Concluding Observations on Egypt Fourth Periodic Report, UN Doc. CCPR/CO/76/EGY, 28 November 2002, para. 41; Press Release, *Egypt: Special Rapporteur concerned about use of anti-terrorism legislation against human rights defenders*, Special Rapporteur on Human Rights Defenders (Mary Lawler), 14 January 2025, available at <https://www.ohchr.org/en/press-releases/2025/01/egypt-special-rapporteur-concerned-about-use-anti-terrorism-legislation>.

Non-Discrimination. The administration of criminal justice must be free from discrimination on any ground, including race, ethnicity, gender, religion, disability, socioeconomic status, or political opinion. Where structural discrimination exists within the system, reform must actively address and dismantle it.

Freedom of the Person. Deprivation of liberty is a measure of last resort and must always be subject to lawful authority, judicial oversight, and meaningful review. Pre-trial detention, in particular, must not function as *de facto* punishment, and conditions of detention must respect the inherent dignity of every person.

Prohibition of Torture and Enforced Disappearance. These prohibitions are absolute and admit of no exception, derogation, or justification. Their inclusion here reflects both their status in international law as well as the recognition that criminal justice institutions have historically been sites where these violations occur and must be actively prevented.

Judicial Independence. A justice system is only as legitimate as the impartiality of those who administer it. Judges and prosecutors must be insulated from political interference, and institutional design must support, not merely permit, independent decision-making at every level.

Victim and Survivor Participation. Rights-based reform requires that those most directly harmed by crime and by failures of the justice system have a genuine voice in how that system operates and evolves. Participation must be substantive and safe.

Accountability and Non-Repetition. Where the justice system has itself caused harm, accountability is owed, and remedial action must be taken to prevent recurrence. Reform without accountability risks normalizing past failures instead of ending them.

5. Pillars for Reform

Pillar 1: Legal Framework and Effective Remedies

i. The Challenge

On its face, elements of Egypt's legal framework appear to provide a foundation for the protection of persons within Egypt's criminal justice system. However, and as described above, these protections are hollowed out by the application of robust and overlapping laws giving wide deference supremacy of 'security' considerations over the respect, protection and fulfillment of human rights.

The result is a legal framework that has been invoked by the Government as textually robust while functioning in practice to shield perpetrators and deny victims. Egypt's National Human Rights Strategy for 2027–2032 must not merely restate existing legal provisions. If it is to address the many challenges facing the Egypt's legal framework, it must commit to closing the gaps within the legal framework itself, and to creating the conditions under which existing protections can operate as intended.

ii. International Legal Standards

Egypt's obligations under international and regional human rights law establish the minimum standards against which its legal framework and remedial infrastructure must be assessed.

Under Article 2 of the ICCPR, Egypt is obligated to ensure that any person whose rights under the Covenant are violated has access to an effective remedy, including through competent judicial, administrative, or legislative authorities. This obligation applies to violations of Covenant rights, requires prompt, thorough, and impartial investigation, and encompasses the full range of reparative measures, including restitution, compensation, rehabilitation, satisfaction, and guarantees of non-repetition.⁶⁴

Under Articles 1 and 4 of the UNCAT, Egypt is required to ensure that all acts of torture are offences under its criminal law, defined consistently with the Convention's definition. States must criminalize torture in accordance, at minimum, with Article 1, including all prohibited purposes and all categories of potential victim. Article 13 requires that States ensure the right to complain to, and have cases promptly and impartially examined by, competent authorities. Article 14 requires States to ensure in their legal systems that victims of torture obtain redress and have an enforceable right to fair and adequate compensation.

Under Article 6(a) of the African Charter on Human and Peoples' Rights, every individual has the right to liberty and security, and no one may be arbitrarily arrested or detained. The African Commission's Principles and Guidelines on the Right to a Fair Trial and Legal Assistance in Africa establish detailed standards on the independence of courts, the right to counsel, and the right to effective remedy.⁶⁵ The African Commission has called on Egypt to harmonize its legislation, including the Emergency Law and Criminal Procedure Code, with the African Charter and other applicable international standards.⁶⁶

⁶⁴ Human Rights Committee, *General Comment No. 31: The Nature of the General Legal Obligation Imposed on States Parties to the Covenant*, UN Doc. CCPR/C/21/Rev.1/Add.13, 26 May 2004, paras. 15-16.

⁶⁵ African Commission on Human and Peoples' Rights, *Principles and Guidelines on the Right to a Fair Trial and Legal Assistance in Africa*, adopted 29 May 2003, Principles A(1), A(4), C, G.

⁶⁶ African Commission on Human and Peoples' Rights, *Egyptian Initiative for Personal Rights and INTERIGHTS v. Egypt*, Comm. No. 334/06, decision adopted 3 March 2011, paras. 233(III), 233(V); African Commission on Human and Peoples' Rights, *Mohammed Abderrahim El Sharkawi (represented by EIPR and OSJI) v. Egypt*, Comm. No. 396/11, decision adopted during the 66th Ordinary

The principle of legality – reflected in Article 15 of the ICCPR and Article 7 of the African Charter – requires that criminal offenses be defined with sufficient precision to guide conduct, and prohibits punishment for conduct that was not clearly proscribed at the time of commission. Overly broad criminal provisions, such as those governing terrorism, “public order,” or “false news” in Egyptian law, violate this principle when applied to conduct protected under human rights law.

Finally, the UN Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law (2005 Basic Principles) provide authoritative guidance on the components of effective remedy, including equal and effective access to justice, adequate and effective reparation, and access to relevant information concerning violations and reparation mechanisms.

iii. Reform Objectives

Objective 1.1 — Align the domestic definition of torture with international standards. (*Cross-reference Objective 3.1*) Including by amending Article 126 of the Penal Code to bring the definition of torture into full conformity with Article 1 of the UNCAT. The amended definition shall:

- (a) encompass all forms of severe physical and mental pain and suffering;
- (b) cover all prohibited purposes, including punishment, intimidation, coercion, and discrimination, in addition to the extraction of confessions;
- (c) extend to acts committed by instigation, consent, or acquiescence of a public official, not only by direct order;
- (d) protect all persons, including convicted prisoners, witnesses, and persons not party to criminal proceedings, not only suspects; and
- (e) provide penalties commensurate with the extreme gravity of the offense, including for superior responsibility where officials authorized, acquiesced in, or failed to prevent acts of torture committed by their subordinates.

Objective 1.2 — Criminalize enforced disappearance as an autonomous offense. (*Cross-reference Objective 4.1*) Including by enacting a standalone criminal offense of enforced disappearance, consistent with Article 2 of the International Convention for the Protection of All Persons from Enforced Disappearance (CED), that:

- (a) defines enforced disappearance as the arrest, detention, abduction, or any other form of deprivation of liberty by agents of the State, or by persons or

Session, 13 July–7 August 2020, para. 355(II); African Commission on Human and Peoples’ Rights, *Concluding Observations on the 18th–19th Combined Periodic Report of the Arab Republic of Egypt under the African Charter on Human and Peoples’ Rights (2019–2024)*, 86th Ordinary Session, Feb.–Mar. 2026, para. 29.

- groups acting with the State's authorization, support, or acquiescence, followed by a refusal to acknowledge the deprivation of liberty or concealment of the fate or whereabouts of the disappeared person;
- (b) establishes penalties commensurate with the gravity of the offense;
- (c) criminalizes complicity, participation, and superior responsibility; and
- (d) provides for the right of victims and their families to obtain justice and reparation.

Objective 1.3 — Narrow and bring the definition of terrorism into conformity with the principle of legality. Including by repealing Anti-Terrorism Law No. 94 of 2015 and Organizing Lists of Terrorist Entities and Terrorists Law No. 8 of 2015, and replacing them with legislation in which the definitions of terrorism, terrorist acts, terrorist purposes, and related offenses are:

- (a) specific, clear, accessible, and foreseeable in their application;
- (b) limited to conduct involving violence or the credible threat of violence, and not extended to peaceful protest, journalism, human rights documentation, online expression, or association with lawful organizations;
- (c) consistent with Egypt's obligations under Articles 9, 14, 18, 19, 21, and 22 of the ICCPR and the requirements of the principle of legality; and
- (d) reviewed and amended in light of all communications from United Nations Special Procedures identifying specific provisions as incompatible with international human rights law.

Objective 1.4 — Remove procedural barriers that prevent victims from accessing justice.

Including by amending the Code of Criminal Procedure to ensure that:

- (a) victims of torture and other serious human rights violations, including victims of acts committed by public officials, are entitled to initiate criminal proceedings directly before a competent court, including for felony-level offenses;
- (b) victims are entitled to appeal decisions of the Public Prosecution not to investigate or prosecute;
- (c) alternative oversight mechanisms are established to enable independent review of prosecutorial inaction in cases of alleged violations by state officials;
- (d) legal aid is made available to victims of human rights violations who lack the means to access legal representation; and

- (e) victims and witnesses are protected from reprisal, and their personal details are kept confidential.

Objective 1.5 – Establish a genuinely independent body for the investigation of human rights violations by state officials. Including by establishing, by law and in practice, an independent investigative body with the authority, resources, and institutional independence required to investigate credible allegations of torture, enforced disappearance, unlawful killing, and other serious human rights violations by police, National Security Agency officials, military personnel, prison staff, and prosecutors. The body shall:

- (a) operate with full independence from the Public Prosecution, the Ministry of Interior, and the executive;
- (b) coordinate with prosecutorial and judicial authorities pursuant to clear procedures established by law, including for the preservation and transfer of evidence, the referral of cases, and the implementation of judicial orders, while retaining exclusive authority over the conduct and direction of its investigations; all relevant institutions shall be required to cooperate promptly, and any refusal or delay shall be reasoned in writing and subject to independent judicial review.
- (c) have the power to access all places of detention, classified files, and any other evidence relevant to its investigations;
- (d) have the power to order interim protective measures for victims, witnesses, and their families;
- (e) make its findings public; and
- (f) be empowered to refer cases for criminal prosecution or disciplinary action.⁶⁷

Objective 1.6 – Ratify the Optional Protocol to the Convention against Torture and establish an effective National Preventive Mechanism (NPM). Including by ensuring the NPM:

- (a) is fully independent of the Ministry of Interior, the Public Prosecution, and the executive;
- (b) has unrestricted access to all places where persons may be deprived of their liberty, including police stations, National Security Agency premises, military

⁶⁷ Meaning that the establishment of this body will not preclude direct prosecution of individual perpetrators before competent courts.

detention facilities, psychiatric institutions, and all official and unofficial places of detention;

(c) has the power to conduct unannounced visits and to speak privately with detainees;

(d) has the authority to make recommendations to competent authorities and to publish its findings; and

(e) is adequately resourced and staffed.

Objective 1.7 — Ratify the International Convention for the Protection of All Persons from Enforced Disappearance and accept the competence of the Committee on Enforced Disappearances to receive and consider communications from individuals and States pursuant to Articles 31 and 32 of the Convention.

Objective 1.8 — Ratify the First Optional Protocol to the ICCPR, thereby allowing individuals subject to Egyptian jurisdiction to submit communications to the United Nations Human Rights Committee alleging violations of their Covenant rights.

Objective 1.9 — Ensure full implementation of decisions of the African Commission on Human and Peoples' Rights. Including by taking all necessary measures to implement in full all existing and future decisions of the African Commission on Human and Peoples' Rights in which violations of the African Charter have been found. This includes, at minimum:

(a) payment of compensation ordered to victims in Communications 323/2006, 334/06, 355/07, 396/11, and 424/12 and in all subsequent decisions;

(b) enactment of the legislative reforms ordered;

(c) release of prisoners ordered to be released; and

(d) establishment of a standing mechanism within the Government to ensure monitoring of compliance with all African Commission decisions.

Objective 1.10 — Establish a comprehensive legal framework for access to official information relevant to human rights violations. Including by enacting or amending legislation to ensure that:

(a) victims and their families, their legal representatives, and independent human rights organizations have the right to access information held by state bodies—including the Public Prosecution, the Ministry of Interior, the National Security Agency, and prison authorities—concerning arrests, detentions, locations of

- detained persons, causes of death in custody, and investigations into alleged violations;
- (b) secrecy provisions in existing laws are narrowly construed and may not be invoked to conceal information about human rights violations; and
 - (c) violations of the right to information by state officials are subject to effective sanctions.

Pillar 2: Emergency, Counter-Terrorism, and National Security Powers.

i. The Challenge

Egypt has constructed a legal architecture of emergency and counter-terrorism powers that has effectively displaced ordinary criminal justice protections for a broad and expanding category of persons. Three interlocking frameworks are central to this architecture: Emergency Law No. 162 of 1958, Anti-Terrorism Law No. 94 of 2015, and Presidential Decree No. 136 of 2014.

What makes this architecture particularly resistant to reform is the degree to which it has been normalized. Although President al-Sisi formally lifted the declared state of emergency in October 2021, the ESSCs continue to hear cases referred before that date, and terrorism circuit courts have continued to operate with the same deficiencies—including politically motivated charges, near-automatic pre-trial detention renewal, denial of the right to appeal—that characterized the emergency period. Egypt's National Human Rights Strategy must commit to dismantling these frameworks, not managing them at the margins.

ii. International Legal Standards

Under Article 4 of the ICCPR, derogation from Covenant rights during a public emergency is permissible only to the extent strictly required by the exigencies of the situation. Importantly, certain rights, including those against torture and the right to recognition as a person before the law, are non-derogable in all circumstances. Even in states of emergency, fundamental fair-trial guarantees under Article 14 must be respected.⁶⁸ Likewise, Article 14 applies fully to exceptional, special, and military courts and that the

⁶⁸ Human Rights Committee, *General Comment No. 29: States of Emergency (Article 4)*, UN Doc. CCPR/C/21/Rev.1/Add.11, 31 Aug. 2001, paras. 11, 15–16; Human Rights Committee, *General Comment No. 32: Article 14: Right to Equality Before Courts and Tribunals and to a Fair Trial*, UN Doc. CCPR/C/GC/32, 23 Aug. 2007, paras. 6, 22, 45–48.

right to review of conviction and sentence under Article 14(5) is violated where a conviction cannot be reviewed by a higher tribunal.⁶⁹

The UNCAT is explicit that no exceptional circumstances whatsoever—including a state of war, threat of war, internal political instability, or any other public emergency—may be invoked as justification for torture.⁷⁰ Emergency and counter-terrorism measures may not be used to remove legal safeguards and judicial review, permit incommunicado or unofficial detention that heightens the risk of torture or enforced disappearance, or expand military and emergency-court proceedings lacking due-process and fair-trial guarantees.⁷¹

UN Security Council Resolution 1624 (2005) and subsequent counter-terrorism resolutions, together with the UN Special Rapporteur on counter-terrorism and human rights, affirm that counter-terrorism measures must comply fully with international human rights law, and that definitions of terrorism, terrorist acts, and incitement to terrorism must be precise, non-discriminatory, and not framed so broadly as to suppress the lawful exercise of human rights, including freedom of expression.⁷²

The African Charter on Human and Peoples' Rights contains no derogation clause, meaning that rights guaranteed under the Charter—including the right to liberty, the right to a fair trial, and the right to freedom from torture—cannot lawfully be suspended under any circumstances, including declared emergencies. The African Commission's Principles and Guidelines on the Right to a Fair Trial and Legal Assistance in Africa provide that military courts should not, in any circumstances, exercise jurisdiction over civilians, and that military or special tribunals may not be created to displace the jurisdiction of ordinary courts or circumvent fair-trial guarantees.⁷³

⁶⁹ Human Rights Committee, *General Comment No. 29: States of Emergency (Article 4)*, UN Doc. CCPR/C/21/Rev.1/Add.11, 31 Aug. 2001, paras. 11, 15–16; Human Rights Committee, *General Comment No. 32: Article 14: Right to Equality Before Courts and Tribunals and to a Fair Trial*, UN Doc. CCPR/C/GC/32, 23 Aug. 2007, paras. 6, 22, 45–48.

⁷⁰ Convention against Torture, Art. 2(2).

⁷¹ Committee against Torture, *General Comment No. 2: Implementation of Article 2 by States Parties*, UN Doc. CAT/C/GC/2, 24 Jan. 2008, paras. 5, 13–14; Committee against Torture, *Concluding Observations on the Fifth Periodic Report of Egypt*, UN Doc. CAT/C/EGY/CO/5, 12 Dec. 2023, paras. 11–16, 19–20, 31–34.

⁷² S.C. Res. 1624, UN Doc. S/RES/1624 (14 Sept. 2005), pmbl. & para. 4; S.C. Res. 2178, UN Doc. S/RES/2178 (24 Sept. 2014), pmbl. & paras. 5, 17; S.C. Res. 2354, UN Doc. S/RES/2354 (24 May 2017), annex, guideline (e); S.C. Res. 2396, UN Doc. S/RES/2396 (21 Dec. 2017), pmbl.; Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism, *Ten areas of best practices in countering terrorism*, UN Doc. A/HRC/16/51, 22 Dec. 2010, paras. 12–14, 26–31, practices 1, 7–8.

⁷³ African Commission on Human and Peoples' Rights, *Principles and Guidelines on the Right to a Fair Trial and Legal Assistance in Africa*, adopted 29 May 2003, Principles A(4)(e), L(a)–(c).

iii. Reform Objectives

Objective 2.1 – Repeal or fundamentally reform Emergency Law No. 162 of 1958. (*Cross-reference Objective 6.2*) Including by repealing Emergency Law No. 162 of 1958, or, as a minimum, fundamentally reform it to ensure that:

- (a) any future declaration of a state of emergency is strictly subject to the criteria of Article 4 of the ICCPR—namely that it responds to a genuine and officially proclaimed public emergency threatening the life of the nation, is strictly limited in time and geographic scope, and does not derogate from non-derogable rights;
- (b) declarations of emergency are subject to mandatory parliamentary authorization and review at intervals not exceeding 30 days;
- (c) the Emergency State Security Courts (ESSCs) are abolished and no new exceptional courts are established in their place;
- (d) all cases currently pending before ESSCs are transferred to ordinary civilian courts with full fair trial guarantees, including the right of appeal;
- (e) all convictions handed down by ESSCs that are not subject to appeal are subject to mandatory review by independent civilian courts; and
- (f) the President’s powers to commute, reduce, or order retrials before ESSC benches are abolished and replaced with a right of appeal before an independent civilian tribunal.

Objective 2.2 – Amend Anti-Terrorism Law No. 94 of 2015 to bring definitions into conformity with international standards. Including by amending Anti-Terrorism Law No. 94 of 2015 to ensure that:

- (a) the definitions of terrorism, terrorist acts, terrorist entities, and terrorist financing are specific, clear, and limited to conduct involving actual or threatened violence, and do not extend to the peaceful exercise of rights to freedom of expression, assembly, association, or opinion;
- (b) terms such as “public order,” “society’s safety,” and “national unity” are removed from the operative definitions of terrorist purposes, or sufficiently defined that their scope is limited and foreseeable in application;
- (c) all provisions that have been identified by United Nations Special Procedures as incompatible with international human rights law are repealed or amended accordingly;

- (d) persons designated as members of terrorist entities, or subjected to asset freezes and travel bans on that basis, have the right to challenge their designation before an independent judicial authority with access to the evidence relied upon; and
- (e) the penalties provided for terrorism-related offenses, including the death penalty for broadly defined offenses, are reviewed and brought into conformity with the principle of proportionality and the requirements of Article 6 of the ICCPR with respect to the most serious crimes.

Objective 2.3 – Repeal the 2020 amendment to Anti-Terrorism Law No. 94 of 2015 that authorizes incommunicado detention. (*Cross-reference Objective 4.2*) Including by repealing the 2020 amendment to Anti-Terrorism Law No. 94 of 2015 that authorizes the arrest and incommunicado detention of individuals for up to 28 days. In its place, Egypt must ensure that:

- (a) all persons deprived of their liberty are entitled to prompt notification of the reasons for their arrest and the charges against them;
- (b) all persons are entitled to communicate with and be visited by a lawyer of their choosing from the moment of deprivation of liberty;
- (c) all persons are entitled to notify a family member or other person of their choice of their arrest and place of detention without delay; and
- (d) any detention that is not registered in an official record accessible to lawyers, judges, and independent monitors constitutes an offense subject to criminal sanction.

Objective 2.4 – Restrict the jurisdiction of military courts to military personnel for offenses of a purely military nature. (*Cross-reference Objective 6.3*) Including by repealing Presidential Decree No. 136 of 2014 and all associated legislation extending military court jurisdiction over civilians, and amending the Military Judiciary Law to ensure that:

- (a) the jurisdiction of military courts is strictly limited to offenses of a purely military nature committed by active military personnel;
- (b) civilians are not subject to the jurisdiction of military courts under any circumstances, including offenses involving public or vital property, national security, or terrorism;
- (c) all cases involving civilians currently pending before military courts are transferred to ordinary civilian courts with full fair trial guarantees;

- (d) all convictions of civilians handed down by military courts are subject to mandatory review by independent civilian courts; and
- (e) military court judges are appointed through a process that guarantees their independence from the Ministry of Defense and the military chain of command.

Objective 2.5 – Abolish the Supreme State Security Prosecution’s role in ordinary criminal proceedings. (*Cross-reference Objective 6.4*) Including by reforming the institutional mandate of the Supreme State Security Prosecution (SSSP) to ensure that:

- (a) the SSSP does not exercise powers of pre-trial detention, charge, or prosecution in cases that do not meet a rigorously defined threshold of genuine national security threat;
- (b) the SSSP does not conduct investigations in the absence of the accused’s legal counsel;
- (c) all decisions by the SSSP to impose or renew pre-trial detention are subject to prompt review by an independent judicial authority not connected with the investigation;
- (d) the SSSP does not use National Security Agency investigation reports as the sole or primary basis for detention orders, charges, or renewed cases against individuals; and
- (e) the role of the National Security Agency in the investigation and prosecution of criminal cases is eliminated and replaced with procedures subject to ordinary judicial oversight.

Objective 2.6 – Establish a comprehensive legislative review mechanism for all security-related legislation that is tasked with:

- (a) conducting a systematic audit of all laws, presidential decrees, and ministerial regulations enacted since 2013 that expand the powers of security agencies, extend the jurisdiction of exceptional courts, or restrict rights in the name of counter-terrorism or national security;
- (b) assessing the conformity of each such measure with Egypt’s obligations under the ICCPR, the UNCAT, and the African Charter;
- (c) facilitating and incorporating inputs and perspectives from victims, survivors, affected communities, their legal representatives, and civil society organizations in the audit process;
- (d) producing public reports with specific recommendations for repeal or amendment; and

- (e) engaging independent Egyptian and international human rights experts and civil society organizations in the review process.

The findings of this mechanism shall be incorporated into the legislative program of the 2027–2032 strategy period.

Pillar 3: Torture and Other Ill-Treatment

i. The Challenge

The systematic practice of torture and other ill-treatment in Egypt is among the most thoroughly documented features of its criminal justice system. Torture is initiated by police and National Security Agency officials, covered up by prosecutors who rely on torture-tainted confessions and decline to investigate, legitimized by courts that accept such evidence while dismissing or deferring allegations of ill-treatment, and sustained by prison staff through the denial of medical care, solitary confinement, sexual violence, and degrading conditions. The institutional culture across the criminal justice apparatus is one in which torture is a recognized and tolerated tool of governance, and accountability is the exception so rare as to be effectively nonexistent.

Both of the CAT's Article 20 inquiries, in 1996 and 2017, reached the same conclusion: that torture in Egypt is habitual, deliberate, widespread, and systematic. In their 2023 Concluding Observations, the CAT and HRC expressed concern at the systematic use of torture and the general lack of accountability for torture by police officers, prison guards, and other members of the security forces across a wide range of custodial settings.⁷⁴

ii. International Legal Standards

The prohibition of torture and other cruel, inhuman, or degrading treatment or punishment is absolute under international human rights law, admitting of no exception, derogation, or justification. Article 7 of the ICCPR, Article 2 of the UNCAT, and Article 5 of the African Charter all prohibit torture and other ill-treatment in unconditional terms. This prohibition cannot be suspended under any circumstances, including during states of emergency.⁷⁵

Under Article 1 of the UNCAT, torture is defined as any act by which severe pain or suffering, whether physical or mental, is intentionally inflicted on a person for purposes including obtaining a confession or information, punishment, intimidation, coercion, or discrimination, by or at the instigation of, or with the consent or acquiescence of, a public official. Article 16 extends States' obligations to prevent, prohibit, and investigate acts of cruel, inhuman, or degrading treatment or punishment that do not rise to the level of

⁷⁴ Committee against Torture, Concluding Observations on the Fifth Periodic Report of Egypt, UN Doc CAT/C/EGY/CO/5, 12 December 2023, para. 35; Human Rights Committee, Concluding Observations on the Fifth Periodic Report of Egypt, UN Doc. CCPR/C/EGY/CO/5, 14 April 2023, para. 27.

⁷⁵ Human Rights Committee, *General Comment 20*, UN Doc. INT/CCPR/GEC/6621, 44th Sess. 1992, para. 3.

torture. As the CAT emphasized in its Article 20 inquiry findings concerning Egypt, torture obligations extend beyond the direct acts of individual perpetrators to systemic and institutional conduct, including the role of prosecutors, judges, and prison officials who facilitate torture by failing to curb it or act on complaints.⁷⁶

Under UNCAT States are obligated: under Article 4 to make all acts of torture criminal offenses with appropriate penalties; under Article 12 to ensure competent authorities proceed to a prompt and impartial investigation wherever there is reasonable ground to believe torture has occurred; under Article 13 to ensure persons who allege torture have the right to have their complaint examined by competent authorities; and under Article 15 to ensure that statements established to have been made as a result of torture are not invoked as evidence in proceedings except against persons accused of torture. The admission of torture-tainted evidence in criminal proceedings constitutes a violation of the right to a fair trial under Article 14 of the ICCPR, independent of any violation of Article 7.⁷⁷

The UN Standard Minimum Rules for the Treatment of Prisoners (the Nelson Mandela Rules), the UN Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment, and the Istanbul Protocol on the effective investigation and documentation of torture and other cruel, inhuman, or degrading treatment or punishment provide the operational framework for states' obligations in custodial settings. The Nelson Mandela Rules require that health-care professionals in places of detention act with full clinical independence and document and report signs of torture or other ill-treatment to competent medical, administrative, or judicial authorities.⁷⁸

Sexual violence in detention, including forced anal and vaginal examinations, constitutes torture or cruel, inhuman, or degrading treatment under international human rights law. The UN Special Rapporteur on torture has characterized non-consensual medical examinations used to establish sexual conduct, sexual orientation, or gender identity—including forced anal examinations and virginity testing—as degrading, discriminatory, medically unjustified practices that may amount to torture or other ill-treatment.⁷⁹

⁷⁶ Committee against Torture, *Report of the Committee against Torture*, UN Doc. A/72/44, 2017, ch. V, "Summary account of the results of the proceedings of the inquiry on Egypt," paras. 67–70.

⁷⁷ Human Rights Committee, *General Comment No. 32: Article 14: Right to Equality Before Courts and Tribunals and to a Fair Trial*, UN Doc. CCPR/C/GC/32, 23 Aug. 2007, para. 6.

⁷⁸ United Nations Standard Minimum Rules for the Treatment of Prisoners (the Nelson Mandela Rules), G.A. Res. 70/175, annex, UN Doc. A/RES/70/175, 17 Dec. 2015, Rules 25, 27, 30, 32, 34.

⁷⁹ Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, *Report of the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment*, UN Doc. A/HRC/31/57, 5 Jan. 2016, paras. 36, 46, 48, 72(f)–(i).

The principle of superior responsibility, recognized under international law and reflected in CAT doctrine, establishes that senior officials⁸⁰ may bear responsibility for torture or ill-treatment committed by subordinates where they knew or should have known of such conduct and failed to take reasonable and necessary measures to prevent, repress, investigate, or punish it..⁸¹ This principle applies to prosecutorial and judicial superiors, as well as to law enforcement and military chains of command.

iii. Reform Objectives

Objective 3.1 — Align the domestic definition of torture with international standards (*Cross-reference: Objective 1.1*). As set out in Objective 1.1, Egypt must amend Article 126 of the Penal Code to bring the definition of torture into full conformity with Article 1 of the UNCAT. For the avoidance of doubt, in the context of this Pillar, the amended definition must explicitly:

- (a) cover all prohibited purposes, including punishment, intimidation, coercion, and discrimination, and not only the extraction of confessions;
- (b) protect all persons within the custody or control of the state, including convicted prisoners, witnesses, and persons held in unofficial or unacknowledged places of detention;
- (c) criminalize acts of torture committed by instigation, consent, or acquiescence of a public official, extending liability to prosecutors, judges, and institutional superiors who failed to act on credible knowledge of torture; and
- (d) provide for penalties commensurate with the gravity of the offense, including for those who order, facilitate, or fail to prevent torture, in application of the principle of superior responsibility.

Objective 3.2 — Establish an absolute prohibition on the use of torture-tainted evidence.

Including by amending the Code of Criminal Procedure to establish a mandatory and unconditional exclusionary rule for evidence obtained through torture or other ill-treatment, providing that:

- (a) no statement, confession, or other evidence established or credibly alleged to have been obtained through torture or cruel, inhuman, or degrading treatment

⁸⁰ Including commanding officers and other institutional superiors.

⁸¹ Committee against Torture, *General Comment No. 2: Implementation of Article 2 by States Parties*, UN Doc. CAT/C/GC/2, 24 Jan. 2008, para. 26; Rome Statute of the International Criminal Court, art. 28; see also ICRC, *Customary International Humanitarian Law*, Rule 153.

- shall be admissible in any proceedings, except as evidence against a person accused of having committed such acts;
- (b) where a defendant alleges that a confession or statement was obtained through torture, the burden of proof shall shift to the prosecution to demonstrate that the evidence was obtained through lawful means;
 - (c) upon receipt of a credible allegation of torture, courts are required to suspend proceedings pending independent forensic examination and investigation of the allegation, and may not proceed to judgment on the basis of the contested evidence until those steps are completed;
 - (d) judges who rely on confessions or evidence subsequently established to have been obtained through torture are subject to disciplinary proceedings before an independent body; and
 - (e) the forensic examination of persons alleging torture shall be conducted in conformity with the Istanbul Protocol, by independent forensic practitioners with no institutional connection to the detaining authority, and shall be completed within a period that preserves the evidential value of findings.

Objective 3.3 – Mandate prompt, independent, and effective investigation of all torture allegations. Including by establishing in law that:

- (a) all credible allegations of torture or other ill-treatment – including those raised during criminal proceedings, before a court, or in a complaint to any public authority – trigger an automatic obligation to investigate, which cannot be waived or deferred by any official;
- (b) investigations into torture allegations are conducted by a body that is institutionally and operationally independent of the Public Prosecution, the Ministry of Interior, the National Security Agency, and all other bodies whose personnel may be implicated – consistent with the independent investigative body established under Objective 1.5;
- (c) the accused official is suspended from duties involving contact with detainees for the duration of the investigation;
- (d) victims, their families, and their legal representatives are notified of the initiation, progress, and outcome of investigations and are permitted to participate in investigative proceedings;
- (e) victims, witnesses, complainants and their legal representatives are protected from reprisal during and after investigations;

- (f) investigations are completed within a defined and reasonable time period, and failure to complete an investigation within that period is subject to independent review; and
- (g) the outcomes of investigations — including decisions not to prosecute and the reasons for them — are published.

Objective 3.4 — End prosecutorial and judicial complicity in torture.

Including by taking concrete legislative and institutional measures to end the failure of prosecutors and judges to investigate, exclude, and sanction torture, including:

- (a) amending the Code of Criminal Procedure to require prosecutors to initiate an *ex officio* investigation into any case where there are visible signs of injury on a detained person, where a detained person alleges torture, or where forensic medical evidence is consistent with ill-treatment—and to make such investigation a necessary and prior condition to relying on any confession or statement by that person;
- (b) establishing a mandatory referral obligation requiring that where a prosecutor receives a complaint of torture by a state official and declines to investigate or prosecute, the matter is automatically referred to the independent investigative body established under Objective 1.5;
- (c) repealing or amending all provisions of the Code of Criminal Procedure that require the consent of the Public Prosecutor or Chief Public Prosecutor before victims can initiate criminal proceedings against public officials for torture, and providing victims with a direct right of access to an independent judicial authority;
- (d) establishing disciplinary proceedings, before an independent body with civilian oversight, for judges who demonstrably fail to apply the exclusionary rule, ignore credible torture allegations presented in proceedings before them, or rely on evidence that is established to have been obtained through torture; and
- (e) ensuring that the practice of case rotation, whereby individuals subjected to torture are returned to the same custodial environment through renewed charges, is prohibited by law, consistent with Objective 5.4.

Objective 3.5 — Prohibit and criminalize all forms of sexual violence in detention.

Including by:

- (a) explicitly prohibiting all forms of sexual violence against persons deprived of their liberty in all detention facilities, including police stations, National Security Agency premises, prisons, and all official and unofficial places of detention;
- (b) repealing or amending all provisions of Egyptian law, including provisions of Law No. 10 of 1961 on Combating Prostitution, that authorize or require forced anal examinations, forced vaginal examinations, so-called “virginity tests,” or any other non-consensual medical examination to establish sexual behavior, identity, or orientation, recognizing that such examinations constitute torture or cruel, inhuman, or degrading treatment under international law;
- (c) ensuring that sexual violence against detainees—including rape, sexual assault, forced examination, and sexual harassment—is criminalized with penalties commensurate with its gravity;
- (d) establish accessible, confidential, and independent complaint mechanisms that enable survivors of sexual violence in detention to report violations without fear of reprisal, re-traumatization, or use of their complaint as the basis for additional charges; and
- (e) ensure that survivors of sexual violence in detention have access to appropriate medical care, psychological support, and legal assistance from the moment they report, without conditions.

Objective 3.6 – Transfer responsibility for prison healthcare to the Ministry of Health.

Egypt must transfer responsibility for the provision of healthcare to persons deprived of their liberty from the Ministry of Interior to the Ministry of Health, ensuring that:

- (a) all prison and detention facility medical personnel are employed, supervised, and professionally accountable to the Ministry of Health and not to prison administrations or the Ministry of Interior;
- (b) medical personnel act with full clinical independence and are required to document and report to independent authorities all injuries consistent with torture or ill-treatment, all deaths in custody, and all cases where they have been prevented from providing required care;
- (c) emergency medical transfers are not subject to multi-agency authorization processes under the Ministry of Interior, and can be ordered directly by medical personnel;
- (d) all persons entering a place of detention undergo an independent medical examination upon arrival, conducted in private by medical personnel with no

connection to the detaining authority, consistent with the Nelson Mandela Rules;

- (e) persons deprived of their liberty have the right to request and receive a medical examination by an independent physician of their choosing, at their own expense or at state expense where they lack means, without requiring authorization from prison authorities; and
- (f) Egypt's NPM (*cross-reference Objective 1.6*) conducts periodic monitoring and inspection of health care services in places of detention.

Objective 3.7 – Ensure accountability for deaths in custody.

Including by ensuring that:

- (a) every death occurring in custody, in a place of detention, during transfer, or in circumstances where a person was last known to be in state custody, is subject to an automatic, prompt, thorough, and independent investigation consistent with the Minnesota Protocol on the Investigation of Potentially Unlawful Death;
- (b) investigations into deaths in custody are conducted by a body independent of the Ministry of Interior and the detaining authority;
- (c) autopsies are conducted by forensic pathologists who are independent of the institution responsible for the detention, and autopsy reports are made available to the family and their legal representatives without delay;
- (d) families of deceased detainees are promptly notified of the death, the circumstances, and the location of remains, and are given access to information about ongoing investigations;
- (e) impunity for deaths in custody, including through presidential pardons for convicted officials, is brought to an end, and existing pardons for officials convicted of torture or ill-treatment resulting in death are reviewed; and
- (f) disaggregated data on deaths in custody, including cause of death, institution, and the outcome of any investigation, is collected and published annually.

Objective 3.8 – Prohibit solitary confinement except as a strictly limited measure of last resort.

Egypt must amend the Prison Organization Law and all related regulations to ensure that:

- (a) Solitary confinement⁸² may only be imposed as a measure of absolute last resort, for the shortest possible time, and subject to mandatory independent judicial or quasi-judicial authorization and review;
- (b) prolonged solitary confinement, defined as solitary confinement lasting more than 15 consecutive days, is absolutely prohibited consistent with the Nelson Mandela Rules;
- (c) solitary confinement is never imposed on persons with mental health conditions, on juveniles, on pregnant women, or on women with dependent children;
- (d) all decisions to impose solitary confinement are recorded in writing, with reasons stated, and are subject to challenge before an independent body; and
- (e) the use of isolation as a collective punishment, or as a means of preventing detainees from communicating with lawyers or family members, is explicitly prohibited and subject to criminal sanction.

Pillar 4: Enforced Disappearance

i. The Challenge

Enforced disappearance is among the most pervasive and embedded practices within Egypt's criminal justice system. It has, to a significant degree, been legally normalized.⁸³ As such, over decades many thousands of people have been subjected to enforced disappearance for varying periods inside National Security Agency headquarters and other official and unofficial detention facilities.⁸⁴ The practice spans geography, institution, and victim profile. It is carried out by police, National Security Agency officials, military personnel, and prison authorities, and targets political opponents, human rights defenders, lawyers, journalists, students, and family members of activists. To be effective, Egypt's Human Rights Strategy must tackle this issue in its practice, its institutional acceptance, and its legal foundation.

⁸² Defined as the confinement of a prisoner for 22 hours or more per day without meaningful human contact.

⁸³ See 2020 amendment to Anti-Terrorism Law No. 94 of 2015.

⁸⁴ See e.g. Middle East Monitor, UN: Egypt Received Most Communications from UN on Enforced Disappearance Globally, 31 August 2022, <https://www.middleeastmonitor.com/20220831-un-egypt-received-most-communications-from-un-on-enforced-disappearances-globally/>.

ii. International Legal Standards

Enforced disappearance constitutes a multiple and continuous violation of human rights. Under the ICCPR, enforced disappearance simultaneously violates the right to liberty and security of person under Article 9, the right to recognition as a person before the law under Article 16, the right to freedom from torture and other ill-treatment under Article 7, and the right to life under Article 6 where the disappeared person's fate remains unknown.⁸⁵ Moreover, enforced disappearance cannot be justified by derogation where it entails abduction, unacknowledged detention, or violations of non-derogable rights, including the prohibition of torture or other ill-treatment under Article 7.⁸⁶

The International Convention for the Protection of All Persons from Enforced Disappearance (CED), adopted by the UN General Assembly in 2006, provides the most comprehensive international legal framework for the prevention, investigation, and prosecution of enforced disappearance. Article 2 of the CED defines enforced disappearance as the arrest, detention, abduction, or any other form of deprivation of liberty by agents of the State,⁸⁷ followed by a refusal to acknowledge the deprivation of liberty or by concealment of the fate or whereabouts of the disappeared person, which places such person outside the protection of the law. The Convention on Enforced Disappearance provides that enforced disappearance must be criminalized under domestic law, may constitute a crime against humanity when practiced in a widespread or systematic manner, is treated as a continuing offence until the fate or whereabouts of the disappeared person are clarified, and can never be justified by exceptional circumstances.⁸⁸ Article 17 of the CED establishes a comprehensive set of safeguards against secret detention, including the right to be held only in officially recognized places of detention, the right to communicate with family and counsel, and the right to prompt access to a competent judicial authority.

The African Commission on Human and Peoples' Rights has addressed enforced disappearance as a violation of multiple provisions of the African Charter, including

⁸⁵ Human Rights Committee, *General Comment No. 36: Article 6 – Right to Life*, UN Doc. CCPR/C/GC/36, 3 Sept. 2019, para. 58; Human Rights Committee, *Sarma v. Sri Lanka*, Comm. No. 950/2000, UN Doc. CCPR/C/78/D/950/2000, 16 July 2003, para. 9.3; Human Rights Committee, *Moreno Pérez et al. v. Mexico*, Comm. No. 2760/2016, UN Doc. CCPR/C/127/D/2760/2016, 5 Nov. 2019, paras. 12.4–12.6.

⁸⁶ Human Rights Committee, *General Comment No. 29: States of Emergency (Article 4)*, UN Doc. CCPR/C/21/Rev.1/Add.11, 31 Aug. 2001, para. 13(b); Human Rights Committee, *General Comment No. 36: Article 6 – Right to Life*, UN Doc. CCPR/C/GC/36, 3 Sept. 2019, para. 58.

⁸⁷ Or by persons or groups acting with the State's authorization, support, or acquiescence.

⁸⁸ International Convention for the Protection of All Persons from Enforced Disappearance, G.A. Res. 61/177, annex, UN Doc. A/RES/61/177, 20 Dec. 2006, pmbl., arts. 1, 4, 5, 8(1)(b).

Articles 5 (prohibition of torture and degrading treatment), 6 (right to liberty and security), and 7 (right to a fair trial).⁸⁹

The Declaration on the Protection of All Persons from Enforced Disappearance, adopted by the UN General Assembly in 1992, requires States to criminalize enforced disappearance, provides that superior orders cannot justify enforced disappearance, and, as interpreted by the Working Group on Enforced or Involuntary Disappearances, protects victims' and families' right to know the truth about the circumstances of the disappearance and the fate or whereabouts of the disappeared person.⁹⁰

The absolute prohibition on secret detention—detention in places not officially acknowledged or accessible to independent monitors—has been confirmed by the HRC, CAT, and the UN Special Rapporteur on torture.⁹¹

iii. Reform Objectives

Objective 4.1 – Enact a standalone criminal offense of enforced disappearance. (*Cross-reference Objective 1.2*), Egypt must enact a standalone criminal offense of enforced disappearance consistent with Article 2 of the CED. In the specific context of this Pillar, the legislation must further provide that:

- (a) enforced disappearance is a continuing offense for as long as the fate and whereabouts of the disappeared person have not been definitively clarified;
- (b) the statute of limitations, where applicable, does not begin to run until the continuing nature of the offense has ceased and the fate of the disappeared person is known;
- (c) superior orders, whether from a civilian, military, or intelligence chain of command, do not constitute a justification or defense;
- (d) the defense of following orders is not available to any person who knew, or should have known, that the act constituted enforced disappearance;

⁸⁹ African Commission on Human and Peoples' Rights, *Guidelines on the Protection of All Persons from Enforced Disappearances in Africa*, adopted at the 71st Ordinary Session, 21 Apr.–13 May 2022, preamble, para. 7; *J.E. Zitha & P.J.L. Zitha v. Mozambique*, Comm. No. 361/08, decision adopted 3 Mar. 2011, paras. 6–7, 73–75.

⁹⁰ Declaration on the Protection of All Persons from Enforced Disappearance, G.A. Res. 47/133, UN Doc. A/RES/47/133, 18 Dec. 1992, arts. 4(1), 6(1), 13; Working Group on Enforced or Involuntary Disappearances, *General Comment on the Right to the Truth in Relation to Enforced Disappearances*, paras. 1–5.

⁹¹ Human Rights Committee, *General Comment No. 35: Article 9 – Liberty and Security of Person*, UN Doc. CCPR/C/GC/35, 16 Dec. 2014, para. 58; Committee against Torture, *General Comment No. 2: Implementation of Article 2 by States Parties*, UN Doc. CAT/C/GC/2, 24 Jan. 2008, paras. 13–14; Committee against Torture, *Concluding Observations on the Combined Third to Fifth Periodic Reports of the United States of America*, UN Doc. CAT/C/USA/CO/3-5, 19 Dec. 2014, paras. 10–12; Special Rapporteur on torture et al., *Joint Study on Global Practices in Relation to Secret Detention in the Context of Countering Terrorism*, UN Doc. A/HRC/13/42, 20 May 2010, paras. 17, 289, 292(a).

- (e) the offense is not subject to amnesty, pardon, or statute of limitations in cases where it forms part of a widespread or systematic practice; and
- (f) where enforced disappearance is practiced on a widespread or systematic basis, those responsible, including superiors who knew or should have known, are subject to prosecution for crimes against humanity under applicable international law.

Objective 4.2 – Repeal all legal provisions that authorize incommunicado detention. (*Cross-reference Objective 2.3*) Including the 2020 amendment to Anti-Terrorism Law No. 94 of 2015, and any other legal provision, that authorizes the arrest and detention of individuals without access to family, counsel, or independent judicial oversight for any period. In its place, Egypt must ensure by law that:

- (a) no person may be held in incommunicado detention under any circumstances;
- (b) from the moment of deprivation of liberty, every person has the right to notify, or have notified on their behalf, a family member or other person of their choice of their arrest, the charges against them, and their place of detention;
- (c) from the moment of deprivation of liberty, every person has the right to communicate with and be visited by a lawyer of their choosing without delay and without interception;
- (d) any official who fails to ensure notification of arrest, or who actively conceals or misrepresents the location of a detained person, commits a criminal offense subject to effective sanctions; and
- (e) the National Security Agency and all other security and intelligence agencies are prohibited from holding persons in any premises that are not officially registered as places of detention and open to independent monitoring.

Objective 4.3 – Prohibit detention in unofficial, unacknowledged, or unregistered places of detention. Including by:

- (a) enacting legislation explicitly prohibiting the use of any unofficial, unregistered, or unacknowledged place of detention, including National Security Agency premises, military intelligence facilities, and any other location not officially designated as a place of deprivation of liberty;
- (b) requiring that all places where persons may be held, including for periods of questioning or investigation, are officially registered, subject to independent monitoring, and compliant with minimum standards for the treatment of detained persons;

- (c) establishing criminal liability for any official who orders or effects detention in an unofficial location, and for any official who denies knowledge of a person's detention or whereabouts when that person is in state custody;
- (d) ensure that the locations of all existing detention facilities, including all National Security Agency premises used for questioning or detention, are publicly disclosed; and
- (e) establish an independent inspectorate with the authority and resources to conduct unannounced inspections of any location where there are reasonable grounds to believe a person is being held.

Objective 4.4 – Ensure prompt, independent, and effective investigation of all cases of enforced disappearance. Including by ensuring in law and in practice that:

- (a) every report of a possible enforced disappearance—from any source, including family members, lawyers, civil society organizations, or UN mechanisms—triggers an automatic, immediate, and independent investigation, without any requirement for prior authorization from the Public Prosecution, the Ministry of Interior, or any security agency;
- (b) investigations are conducted by the independent investigative body established under Objective 1.5, with full access to all places of detention, classified records, and any other information held by state bodies;
- (c) investigative authorities have the power to take urgent interim measures⁹² from the moment a complaint is received;
- (d) the family of the disappeared person, their legal representatives, and organizations acting on their behalf are kept informed of the progress of the investigation and have the right to participate in proceedings;
- (e) families of victims, witnesses, and their legal representatives, and civil society organizations are protected from reprisal during and after investigations;
- (f) investigations continue until the fate and whereabouts of the disappeared person are definitively established, regardless of the time elapsed; and
- (g) where an investigation establishes that a person died in state custody, the full circumstances of the death, including the identity of all officials responsible for the person's custody, are disclosed to the family without delay.

⁹² Including ordering the production of a detained person before a court, ordering access to a specific detention facility, and ordering the preservation of evidence.

Objective 4.5 – Guarantee the rights of families of disappeared persons. Including by ensuring that:

- (a) family members of disappeared persons have the right to report a disappearance to any competent authority and to receive an acknowledgment of their report without delay;
- (b) family members have the right to access all information held by state bodies concerning the fate, whereabouts, and circumstances of the disappearance of their relative, subject only to restrictions strictly necessary to protect an ongoing investigation and subject to independent judicial oversight;
- (c) family members are not subjected to reprisals, intimidation, harassment, prosecution, or any other adverse treatment as a result of reporting a disappearance or seeking information about a disappeared relative;
- (d) organizations established to support families of disappeared persons, including organizations that document, advocate, and litigate on their behalf, are protected from interference, closure, or prosecution; and
- (e) the right to know the truth about the circumstances of a disappearance is recognized as an autonomous right of both the disappeared person and their family, enforceable before an independent judicial authority.

Objective 4.6 – Ratify the International Convention for the Protection of All Persons from Enforced Disappearance. Egypt must ratify the International Convention for the Protection of All Persons from Enforced Disappearance without further delay, and upon ratification shall:

- (a) accept the competence of the Committee on Enforced Disappearances to receive and consider individual communications pursuant to Article 31 of the CED;
- (b) accept the competence of the Committee to undertake urgent action procedures pursuant to Article 30;
- (c) incorporate the CED's definition of enforced disappearance and its full framework of obligations into domestic law; and
- (d) submit its initial report to the Committee on Enforced Disappearances within the period required by the Convention.

Pillar 5: Liberty, Detention, and Treatment of Persons Deprived of Liberty

i. The Challenge

The right to liberty in Egypt is hollowed out. Pre-trial detention, which international law treats as an exceptional measure of last resort, functions in Egypt as the default response to arrest, particularly in cases involving political opponents, human rights defenders, journalists, and anyone whose detention serves the interests of the security apparatus. The legal framework governing pre-trial detention is itself deeply deficient: prosecutors (not independent judges) hold initial powers of detention; detention may be ordered on the basis of the nature of the offense (not individualized assessments of necessity); the Supreme State Security Prosecution routinely renews detention every 15 days in terrorism-related cases as a matter of near-automatic practice (for up to 150 days)⁹³; and the practice of case rotation means that, in practice, no ceiling on pre-trial detention is enforceable.

Moreover, conditions within Egypt's places of detention compound these failures. Egypt's new so-called "model correction and rehabilitation centers" have created more problems than they have solved. Designed to minimize human interaction, these facilities have produced waves of suicide attempts, deaths from delayed emergency response, and conditions so severe that they have attracted specific concern from the CAT. Across all facilities, overcrowding, denial of family visits, prolonged solitary confinement, sexual and gender-based violence, inadequate nutrition, and the instrumentalization of access to basic necessities are used as tools of punishment. Taken together, these conditions reflect an intentional policy of using detention itself as a means to inflict suffering that must be remedied by Egypt's Human Rights Strategy.

ii. International Legal Standards

Article 9 of the ICCPR establishes the right to liberty and security of person and prohibits arbitrary arrest or detention. According to the HRC, pre-trial detention must be exceptional and based on an individualized determination that it is reasonable and necessary in the circumstances—for example, to prevent flight, interference with evidence, or recurrence of crime—and may not be mandatory or based solely on the offence charged or potential sentence.⁹⁴ Pre-trial detention must also be periodically reviewed by a judicial authority,

⁹³ Beyond 150 days, a criminal court can order detention for up to 45 days, which is done routinely.

⁹⁴ Human Rights Committee, *General Comment No. 35: Article 9 – Liberty and Security of Person*, UN Doc. CCPR/C/GC/35, 16 Dec. 2014, paras. 12, 15, 32, 38–39.

must consider alternatives to detention, and must not continue beyond the period for which the State can provide appropriate justification.⁹⁵

Article 10 of the ICCPR requires that all persons deprived of their liberty be treated with humanity and with respect for the inherent dignity of the human person. This is interpreted to impose positive obligations on States to ensure minimum conditions of detention—including adequate food, water, healthcare, sanitation, lighting, and ventilation—and that its violation may, in sufficiently serious cases, amount to a violation of Article 7.⁹⁶ The Nelson Mandela Rules elaborate the minimum standards applicable to the treatment of prisoners, including rules on accommodation, personal hygiene, healthcare, contact with the outside world, discipline and punishment, and inspection and monitoring. Rule 43 of the Nelson Mandela Rules absolutely prohibits indefinite or prolonged solitary confinement, defined as solitary confinement lasting more than 15 consecutive days. Rules 24 to 35 establish comprehensive standards for healthcare in detention, including the requirement that healthcare personnel act with full clinical independence and that health services be equivalent to those available in the community.

The UN Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment establishes that detained persons have the right to communicate with and be visited by family and legal counsel; that restrictions on such communications must be exceptional and specified by law or lawful regulations; and that no detained person may be subjected to torture or cruel, inhuman, or degrading treatment.⁹⁷ Regarding women deprived of their liberty, the Bangkok Rules require protection from gender-based violence, gender-specific healthcare for pregnant women and mothers, and preference for non-custodial measures for pregnant women and women with dependent children where possible and appropriate.⁹⁸

Finally, the African Commission's Principles and Guidelines on the Right to a Fair Trial and Legal Assistance in Africa establish that pre-trial detention may be used only as a measure of last resort and only where necessary to prevent flight, interference with

⁹⁵ Human Rights Committee, *General Comment No. 35: Article 9 – Liberty and Security of Person*, UN Doc. CCPR/C/GC/35, 16 Dec. 2014, paras. 12, 15, 32, 38–39.

⁹⁶ Human Rights Committee, *General Comment No. 21: Article 10 – Humane Treatment of Persons Deprived of Their Liberty*, UN Doc. CCPR/C/21/Rev.1/Add.3, 10 Apr. 1992, paras. 3–4; Human Rights Committee, *General Comment No. 20: Article 7 – Prohibition of Torture or Other Cruel, Inhuman or Degrading Treatment or Punishment*, 10 Mar. 1992, paras. 2, 6; Human Rights Committee, *Lantsova v. Russian Federation*, Comm. No. 763/1997, UN Doc. CCPR/C/74/D/763/1997, 26 Mar. 2002, paras. 9.2–9.3.

⁹⁷ Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment, G.A. Res. 43/173, annex, UN Doc. A/RES/43/173, 9 Dec. 1988, Principles 1, 6, 15, 18, 19, 33.

⁹⁸ United Nations Rules for the Treatment of Women Prisoners and Non-custodial Measures for Women Offenders (the Bangkok Rules), G.A. Res. 65/229, annex, UN Doc. A/RES/65/229, 21 Dec. 2010, Rules 6–10, 24, 31, 42, 48–52, 57–58, 64.

witnesses, or a clear and serious risk to others, and must not amount to punishment before conviction.⁹⁹

iii. Reform Objectives

Objective 5.1 – Establish pre-trial detention as a genuine measure of last resort. Including by amending the Code of Criminal Procedure to ensure that pre-trial detention is imposed only as a measure of last resort and only where strictly necessary, providing that:

- (a) pre-trial detention may only be ordered where the prosecution demonstrates, on the basis of specific and individualized evidence, that detention is necessary to prevent a genuine and concrete risk of flight, interference with evidence, or recurrence of the specific offense charged, and that no alternative measure is adequate to address that risk;
- (b) pre-trial detention may not be ordered on the basis of the nature or seriousness of the offense alone, the potential sentence, the accused's membership of any organization, or the existence of a prior record without individualized assessment of necessity;
- (c) vague and broad grounds for detention are repealed and replaced with exhaustive, specific, and judicially reviewable grounds;
- (d) a comprehensive system of alternatives to pre-trial detention—including bail, surety, reporting conditions, electronic monitoring, travel restrictions, and surrender of travel documents—is established by law and must be considered and found inadequate before detention is ordered; and
- (e) all decisions to impose or renew pre-trial detention are made by a judge or officer authorized by law to exercise judicial power who meets the requirements of independence, impartiality, and objectivity, and are not made by prosecutors.

Objective 5.2 – Repeal prosecutorial powers to order pre-trial detention. Including by amending the Code of Criminal Procedure to transfer all powers to order, extend, and review pre-trial detention from the Public Prosecution, including the Supreme State Security Prosecution, to independent judges, ensuring that:

- (a) no person may be held in pre-trial detention for more than 48 hours without being brought before an independent judge who is not connected with the

⁹⁹ African Commission on Human and Peoples' Rights, Principles and Guidelines on the Right to a Fair Trial and Legal Assistance in Africa, adopted 29 May 2003, Principle M(1)(e)–(f).

investigation or the prosecution, and who has the power to order immediate release;

- (b) all subsequent renewals of pre-trial detention are ordered by independent judges, subject to full adversarial proceedings at which the accused and their counsel are present;
- (c) the accused and their counsel have the right to challenge the factual basis of any detention order, to examine any evidence relied upon, and to present evidence in rebuttal;
- (d) pre-trial detention orders issued by the Supreme State Security Prosecution in terrorism-related cases are subject to the same requirements of judicial independence, individualized assessment, and adversarial review as all other detention orders; and
- (e) video-link renewal of detention orders, without the physical presence of the accused before a judge, is prohibited.

Objective 5.3 – Establish and enforce absolute time limits on pre-trial detention. Including by establishing absolute, non-extendable time limits on pre-trial detention, providing that:

- (a) pre-trial detention is be exceptional, individually justified, periodically reviewed, and no longer than the State can justify as necessary and proportionate;
- (b) upon the expiration of the applicable time limit, release is mandatory and self-executing, without requirement for any further judicial order;
- (c) any official who fails to release a person upon expiration of the applicable time limit commits a criminal offense;
- (d) time limits apply cumulatively across all cases involving the same set of facts, and any attempt to circumvent time limits by opening new cases on the same or substantially similar facts constitutes an offense of abuse of process; and
- (e) the Trial and Cassation Courts powers to extend pre-trial detention without limitation in cases involving potential life sentences or death sentences, introduced by the 2013 amendment to Article 143 of the Code of Criminal Procedure, are repealed.

Objective 5.4 – Prohibit and penalize the practice of case rotation. Egypt must take specific and enforceable legislative measures to prohibit the practice of case rotation (the opening of new criminal cases against persons who have received a release order,

reached the maximum permissible pre-trial detention period, or completed a sentence, for the purpose of maintaining their continued detention) providing that:

- (a) any new case opened against a person who is simultaneously the subject of a release order in another case, or who has been released or acquitted within the preceding six months, is subject to mandatory prior review by an independent judicial authority with the power to refuse authorization for pre-trial detention where the new case relies on the same facts, the same witnesses, or the same National Security Agency investigation report as the prior case;
- (b) prosecutors are prohibited from relying solely or primarily on a new National Security Agency report, without independent evidence, as the basis for opening a new case against a person who has been ordered released;
- (c) judges are required to make explicit findings, in writing, as to why a new case against a person previously ordered released does not constitute a continuation of the prior proceedings, and such findings are subject to independent judicial review;
- (d) any official, including prosecutors and National Security Agency officers, who initiates or facilitates rotation is subject to criminal liability for abuse of process and arbitrary detention; and
- (e) data on the number of new cases opened against persons simultaneously or consecutively subject to release orders in other cases is collected, published, and subject to independent audit.

Objective 5.5 – Ensure humane and dignified conditions in all places of detention. Egypt must ensure that conditions in all places of detention—including police stations, prisons, pre-trial detention facilities, National Security Agency premises, and all new correctional facilities—meet the minimum standards established by the Nelson Mandela Rules, the Body of Principles for the Protection of All Persons under Any Form of Detention, and the African Commission’s standards under Article 5 of the African Charter, including by:

- (a) eliminating overcrowding through a combination of reduced use of pre-trial detention, increased use of alternatives to imprisonment, and a moratorium on opening new custodial facilities until existing facilities comply with minimum standards;
- (b) ensuring adequate nutrition, clean water, natural light, ventilation, sanitation, hygiene, and appropriate clothing for all detained persons, without discrimination;

- (c) ensuring that access to basic necessities, including food, clothing, medication, reading materials, and family visits, is not used as a tool of punishment, reward, or coercion;
- (d) reforming the design and operational protocols of new “model correctional and rehabilitation centers” to ensure that intercom-based communication systems do not prevent or delay responses to medical emergencies, and that all detained persons have regular and meaningful human contact;
- (e) ensuring that all places of detention are subject to regular, independent, and unannounced inspection by a body with the authority and independence to publish its findings and make binding and public recommendations;
- (f) establishing a transparent, publicly accessible system for monitoring and reporting on conditions in all places of detention, disaggregated by facility and population type, including by the NPM (*cross-reference Objective 1.6*) and independent civil society organizations.

Objective 5.6 – Guarantee the right of all detained persons to family contact and legal access. Including by ensuring in law and practice that:

- (a) all persons deprived of their liberty have the right to receive visits from family members at regular and defined intervals, and that this right may be restricted only on the basis of specific, individualized, and judicially reviewable grounds, and not as a matter of institutional policy or collective punishment;
- (b) blanket bans on family are immediately lifted and prohibited by law;
- (c) all persons deprived of their liberty have the right to communicate with their lawyer in private, without surveillance, monitoring, or interception, at any stage of proceedings and not only at defined intervals;
- (d) legal visits are not subject to authorization by prison authorities, the National Security Agency, or the Public Prosecution;
- (e) the Prison Organization Law is amended to remove the discretion of prison administrators to prohibit or restrict visits on vague health or security grounds, and replaced with specific, defined, and judicially reviewable grounds; and
- (f) all restrictions on family visits and legal access are recorded in writing with reasons stated and are subject to challenge before an independent authority.

Objective 5.7 – Establish specific protections for women deprived of their liberty. Egypt must ensure that the specific needs and vulnerabilities of women deprived of their liberty are addressed in law and practice, consistent with the Bangkok Rules, including by:

- (a) ensuring that all facilities holding women are staffed by sufficient female personnel to prevent and respond to gender-based violence, that searches of women are conducted only by female staff, and that no male staff member has unsupervised access to female detainees;
- (b) ensuring that pregnant women, women who have recently given birth, and women with dependent children are not held in conditions that endanger their health or the health of their children, and that adequate prenatal, obstetric, and postnatal care is available in all facilities holding women;
- (c) establishing a legal requirement that alternatives to detention be considered and, where possible, applied in all cases involving pregnant women and primary caregivers of dependent children;
- (d) prohibiting the use of restraints on pregnant women during labor, delivery, and the immediate postnatal period;
- (e) ensuring that women who give birth while in detention are not separated from their newborn children prematurely and that postnatal care is provided to both mother and child; and
- (f) ensuring that women subjected to gender-based violence in detention have access to appropriate medical care, psychological support, and confidential complaint mechanisms, consistent with Objective 3.5.
- (g) ensuring that all women in detention have access to sexual and reproductive health services as well as sanitary and hygiene products.

Objective 5.8 – Establish an independent and effective complaints mechanism for persons deprived of their liberty in accordance with Objective 1.6. The mechanism must be structurally separate from the Ministry of Interior, the Public Prosecution, and prison authorities, and must provide a means by which persons deprived of their liberty may report violations of their rights, including torture, ill-treatment, denial of healthcare, denial of family contact, and unlawful detention conditions, providing that:

- (a) the mechanism is accessible to all detained persons without restriction, and complaints may be submitted confidentially;
- (b) the mechanism has the power to investigate complaints, to access any place of detention, and to require the production of any relevant document or person;

- (c) all complaints are acknowledged promptly, investigated within a defined time period, and responded to in writing with reasons;
- (d) complainants, victims, witnesses, family members, and legal representatives are protected from reprisal during and after instigation of and the duration of the complaints procedure;
- (e) any official who subjects a detained person to reprisals for making a complaint is subject to criminal liability;
- (f) the outcomes of complaints, including decisions not to investigate and the reasons for them, are reported publicly in disaggregated form; and
- (g) the mechanism reports annually to an independent parliamentary or oversight body on patterns of complaints received, investigated, and resolved.

Pillar 6: Administration of Justice, Fair Trial Rights, and Independence of the Judiciary

i. The Challenge

Egypt's judiciary and prosecutorial bodies have been transformed to function as instruments of executive power. The structural conditions for judicial independence—including security of tenure, financial independence, insulation from executive appointment and removal, and freedom from institutional pressure—have been systematically eroded. The 2014 Constitution concentrates significant influence over the judiciary in the executive: the President appoints the heads of judicial bodies, ratifies verdicts of exceptional courts, and exercises powers of pardon that have been used to negate convictions of security officials for serious human rights violations. The Supreme Judicial Council, which nominally governs the judiciary, has not functioned as an effective institutional counterweight to executive influence.

Within this compromised institutional environment, the denial of fair trial rights is pervasive and systematic. Mass trials are an all-too-common feature of terrorism-related proceedings. Lawyers are regularly denied access to case files, prevented from communicating privately with their clients, subjected to monitoring during consultations, and in numerous documented cases arrested, prosecuted, or subjected to asset freezes and travel bans for the legitimate discharge of their professional duties. The right to appeal does not exist for defendants convicted by Emergency State Security Courts,

whose verdicts are subject only to presidential ratification or commutation. Military courts, whose judges are appointed by and answerable to the Minister of Defense, try thousands of civilians under a jurisdiction that has been repeatedly expanded since 2014 and is now effectively permanent. The Supreme State Security Prosecution is the vehicle through which the most systematic violations of pre-trial detention rights, case rotation, and suppression of torture complaints have been carried out. Courts across the system have demonstrated a consistent institutional disposition to defer to prosecution evidence, accept torture-tainted confessions, overlook procedural irregularities of the most overt kind, and deny defendants the procedural rights to which they are entitled. Urgent reforms are necessary to ensure the criminal justice system no longer functions as a source of human rights violations and, instead, is a tool to remedy such violations.

ii. International Legal Standards

Article 14 of the ICCPR establishes the foundational right to a fair trial, including the right to equality before courts and tribunals, the right to a fair and public hearing by a competent, independent, and impartial tribunal established by law, the presumption of innocence, and a comprehensive set of minimum guarantees for persons charged with criminal offenses. Realization of the rights enshrined in Article 14 requires judicial independence and impartiality is an absolute right not subject to any exception, applying equally to all tribunals—ordinary and specialized, civilian and military.¹⁰⁰ Moreover, trials of civilians by military courts should be exceptional, strictly limited to cases where recourse to such courts is necessary and justified by objective and serious reasons, and that military courts must in all cases comply fully with Article 14's requirements.¹⁰¹

The right to appeal under Article 14(5) of the ICCPR sets out that everyone convicted of a crime has the right to have their conviction and sentence reviewed by a higher tribunal. This right applies without exception and cannot be suspended during states of emergency.¹⁰²

The UN Basic Principles on the Independence of the Judiciary establish that judicial independence must be guaranteed by the State, enshrined in the Constitution or national law, and respected by all governmental and other institutions.¹⁰³ Judges must decide

¹⁰⁰ Human Rights Committee, *General Comment No. 32: Article 14 – Right to Equality Before Courts and Tribunals and to a Fair Trial*, UN Doc. CCPR/C/GC/32, 23 Aug. 2007, paras. 7, 18–19, 22.

¹⁰¹ Human Rights Committee, *General Comment No. 32: Article 14 – Right to Equality Before Courts and Tribunals and to a Fair Trial*, UN Doc. CCPR/C/GC/32, 23 Aug. 2007, para. 22.

¹⁰² Human Rights Committee, *General Comment No. 29: States of Emergency (Article 4)*, UN Doc. CCPR/C/21/Rev.1/Add.11, 31 Aug. 2001, paras. 11, 15–16; Human Rights Committee, *General Comment No. 32: Article 14 – Right to Equality Before Courts and Tribunals and to a Fair Trial*, UN Doc. CCPR/C/GC/32, 23 Aug. 2007, paras. 6, 45–48.

¹⁰³ Basic Principles on the Independence of the Judiciary, adopted by the Seventh United Nations Congress on the Prevention of Crime and the Treatment of Offenders, Milan, 26 Aug.–6 Sept. 1985, endorsed by G.A. Res. 40/32, UN Doc. A/RES/40/32, 29 Nov. 1985, and G.A. Res. 40/146, UN Doc. A/RES/40/146, 13 Dec. 1985, Principle 1.

matters impartially, on the basis of facts and the law, and without any restrictions, improper influences, inducements, pressures, threats, or interferences.¹⁰⁴ Judges must have guaranteed tenure until mandatory retirement, and may not be removed except for reasons of incapacity or behavior rendering them unfit to discharge their duties, through a fair procedure ensuring objectivity and impartiality.¹⁰⁵

The UN Basic Principles on the Role of Lawyers establish that lawyers must be able to perform their professional functions without intimidation, hindrance, harassment, or improper interference; must not be identified with their clients or their clients' causes; must not suffer prosecution or sanctions for any action taken in accordance with recognized professional duties, standards, and ethics; and must have access to their clients promptly, at all stages of proceedings, and in conditions of full confidentiality. Where the security of lawyers is threatened as a result of discharging their functions, they must be adequately safeguarded by the authorities.¹⁰⁶

The UN Guidelines on the Role of Prosecutors establish that prosecutors shall perform their duties impartially, protect the public interest, act with objectivity, consider the position of the suspect and the victim, and pay attention to all relevant circumstances regardless of whether they are to the advantage or disadvantage of the suspect.¹⁰⁷ Prosecutors shall not initiate or continue prosecution where an impartial investigation shows the charge to be unfounded, and shall refuse to use evidence they know or believe was obtained through torture or other unlawful means.¹⁰⁸

The African Commission's Principles and Guidelines on the Right to a Fair Trial and Legal Assistance in Africa establish comprehensive standards consistent with the above, and additionally provide that the jurisdiction of military courts shall be limited to offenses of a purely military nature committed by military personnel, and that exceptional courts may not be established to displace the jurisdiction of ordinary courts over civilians.¹⁰⁹

¹⁰⁴ Basic Principles on the Independence of the Judiciary, adopted by the Seventh United Nations Congress on the Prevention of Crime and the Treatment of Offenders, Milan, 26 Aug.–6 Sept. 1985, endorsed by G.A. Res. 40/32, UN Doc. A/RES/40/32, 29 Nov. 1985, and G.A. Res. 40/146, UN Doc. A/RES/40/146, 13 Dec. 1985, Principle 2.

¹⁰⁵ Basic Principles on the Independence of the Judiciary, adopted by the Seventh United Nations Congress on the Prevention of Crime and the Treatment of Offenders, Milan, 26 Aug.–6 Sept. 1985, endorsed by G.A. Res. 40/32, UN Doc. A/RES/40/32, 29 Nov. 1985, and G.A. Res. 40/146, UN Doc. A/RES/40/146, 13 Dec. 1985, Principles 11–12, 17–20.

¹⁰⁶ Basic Principles on the Role of Lawyers, adopted by the Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders, Havana, 27 Aug.–7 Sept. 1990, Principles 7–8, 16–18, 22.

¹⁰⁷ Guidelines on the Role of Prosecutors, adopted by the Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders, Havana, 27 Aug.–7 Sept. 1990, Guidelines 13(a), (b).

¹⁰⁸ Guidelines on the Role of Prosecutors, adopted by the Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders, Havana, 27 Aug.–7 Sept. 1990, Guidelines 13–14, 16.

¹⁰⁹ African Commission on Human and Peoples' Rights, *Principles and Guidelines on the Right to a Fair Trial and Legal Assistance in Africa*, adopted 29 May 2003, Principles A(4)(e), I, L(a)–(c).

iii. Reform Objectives

Objective 6.1 – Guarantee the structural and institutional independence of the judiciary. Including by taking legislative and constitutional measures to guarantee the independence of the judiciary from the executive, including by ensuring that:

- (a) the process for the appointment of the heads of all judicial bodies is governed by transparent, merit-based criteria and is not subject to presidential discretion or executive interference;
- (b) judges have guaranteed security of tenure until mandatory retirement and may be removed only through a fair, transparent, and independent disciplinary process based on clearly defined grounds of incapacity or conduct rendering them unfit to serve, with the right of the affected judge to be heard and to challenge the decision before an independent body;
- (c) the remuneration, resources, and institutional budget of the judiciary are protected from executive manipulation and are determined by an independent mechanism insulated from political pressure;
- (d) the Supreme Judicial Council is reformed to ensure that it functions as a genuinely independent self-governing body for the judiciary, with a composition and mandate that excludes executive influence; and
- (e) judges are provided with effective protection from all forms of reprisal, pressure, and interference arising from their judicial decisions, and any attempt to influence a judicial decision by an executive official is subject to criminal sanction.

Objective 6.2 – Abolish the Emergency State Security Courts and terrorism circuit courts, and ensure the right to appeal in all criminal proceedings. (*Cross-reference Objective 2.1*) Including by abolishing the Emergency State Security Courts and repeal all provisions of Emergency Law No. 162 of 1958 that establish or authorize exceptional courts outside the ordinary judicial system, consistent with Objective 2.1, and further ensuring that:

- (a) all persons convicted by Emergency State Security Courts whose convictions have been ratified by the President but have not been subject to review by an independent judicial tribunal have the right to apply for review of their conviction and sentence before a competent civilian court;
- (b) the right to appeal a conviction and sentence to a higher independent and impartial civilian court is guaranteed in all criminal proceedings without

- exception, including proceedings before terrorism circuit courts and any other specialized court;
- (c) appellate courts have full power to review both the factual and legal bases of the conviction, and to reverse, vary, or remit the conviction and sentence;
 - (d) the President's powers to ratify, commute, reduce, or order retrial of cases before ESSC benches are abolished; and
 - (e) any existing presidential ratification of an ESSC verdict is not treated as a bar to the right of appeal before an independent civilian court.

Objective 6.3 – End the trial of civilians by military courts. (*Cross-reference Objective 2.4*) Including by restricting the jurisdiction of military courts to offenses of a purely military nature committed by active military personnel, consistent with Objective 2.4, and further ensuring that:

- (a) all civilians currently facing trial before military courts have their cases transferred immediately to ordinary civilian courts with full fair trial guarantees;
- (b) all convictions of civilians handed down by military courts since the expansion of military court jurisdiction under Presidential Decree No. 136 of 2014 are subject to mandatory review by independent civilian courts, with the right of affected individuals to apply for retrial;
- (c) the Military Judiciary Law is amended to remove any basis for civilian jurisdiction and to ensure that military court judges are appointed through a process independent of the Ministry of Defense and the military chain of command;
- (d) crimes under international law, including torture, enforced disappearance, and unlawful killing, are expressly excluded from the jurisdiction of military courts regardless of the identity of the accused; and (e) children are never tried before military courts under any circumstances.

Objective 6.4 – Reform the Supreme State Security Prosecution to ensure compliance with fair trial standards. (*Cross-reference Objective 2.5*) Including by taking specific legislative and institutional measures to reform the Supreme State Security Prosecution, ensuring that:

- (a) the SSSP operates under the same legal framework, procedural constraints, and oversight mechanisms as the ordinary Public Prosecution, without exceptional powers of detention, investigation, or charge;

- (b) all detainees held in cases investigated by the SSSP are entitled to the full range of fair trial guarantees under Article 14 of the ICCPR from the moment of arrest, including immediate access to counsel of their choosing in conditions of full confidentiality;
- (c) the SSSP is prohibited from relying solely or primarily on National Security Agency investigation reports, without independent and verifiable evidence, as the basis for charges, detention orders, or the initiation of new cases against individuals;
- (d) all decisions by the SSSP to impose or renew pre-trial detention are subject to prompt, adversarial review by an independent judge not connected with the investigation;
- (e) the SSSP's practice of renewing pre-trial detention through video-link hearings, without the physical presence of the accused and their counsel before a judge, is prohibited; and
- (f) the role of the SSSP is subject to independent parliamentary and civil society oversight, with disaggregated data on its caseload, detention decisions, and outcomes published annually.

Objective 6.5 – Prohibit mass trials and ensure individualized proceedings. Including by taking legislative and practical measures to ensure that:

- (a) all persons charged with criminal offenses are entitled to individualized proceedings in which the specific evidence against them, their individual circumstances, and their personal culpability are considered separately from those of co-defendants;
- (b) mass trials, in which multiple defendants are tried simultaneously without individualized consideration of the evidence and charges against each, are prohibited by law, and any verdict issued following a mass trial without individualized consideration is subject to mandatory review;
- (c) the right of each defendant to adequate time and facilities for the preparation of their defence is guaranteed in practice, including by ensuring that defence counsel has access to the complete case file for each individual defendant within a reasonable period before trial;
- (d) defendants are not charged solely on the basis of their alleged membership of an organization or group, without specific evidence of individual acts constituting the alleged offense; and

- (e) the use of anonymous witnesses and secret evidence against defendants, without any mechanism for meaningful challenge, is prohibited consistent with the right to examine witnesses under Article 14(3)(e) of the ICCPR.

Objective 6.6 – Guarantee the right to effective legal counsel at all stages of proceedings. Including by ensuring in law and practice that:

- (a) every person deprived of their liberty has the right to legal counsel of their own choosing from the moment of arrest, and where they cannot afford counsel, to have counsel assigned to them at no cost;
- (b) all consultations between a detained person and their lawyer are conducted in private, without surveillance, monitoring, or interception by any authority;
- (c) defence counsel has unrestricted access to the complete case file, including all prosecution evidence, investigation reports, witness statements, and forensic findings, within a reasonable period before trial, and any restriction on access is subject to independent judicial review;
- (d) defence lawyers are not required to speak loudly, to conduct consultations in the presence of prosecutors or security officials, or to submit to any other condition that compromises the confidentiality of the attorney-client relationship;
- (e) defendants are given adequate time and facilities to prepare their defence, and first hearings are not convened within a period that does not allow for meaningful preparation; and
- (f) legal aid is made available to all persons facing serious criminal charges who lack the means to retain counsel, administered through an independent body insulated from prosecutorial or executive influence.

Objective 6.7 – End attacks, prosecutions, and reprisals against lawyers. Including by taking immediate and concrete measures to end the systematic targeting of lawyers for the legitimate discharge of their professional duties, including by:

- (a) releasing immediately and unconditionally all lawyers currently detained or imprisoned on charges arising solely from their professional activities or their association with clients or causes;
- (b) closing all pending criminal cases against lawyers that are based on the legitimate discharge of professional duties, and lifting all associated travel bans, asset freezes, and surveillance orders;

- (c) enacting legislation that explicitly prohibits the arrest, detention, prosecution, or imposition of administrative measures on lawyers on the basis of their professional conduct, their clients' identities or causes, or the content of their legal pleadings;
- (d) ensuring that any allegation of professional misconduct by a lawyer is dealt with exclusively through the independent disciplinary mechanisms of the legal profession, and not through criminal proceedings initiated by state authorities;
- (e) ensuring that attacks, physical assaults, harassment, and intimidation of lawyers are promptly, thoroughly, and impartially investigated, and that perpetrators are held to account; and
- (f) establishing a formal, independent mechanism for monitoring and reporting on attacks against lawyers, with findings published annually.

Objective 6.8 – Reform the Public Prosecution to ensure independence and accountability. Including by taking measures to ensure that the Public Prosecution exercises its functions with genuine independence from the executive and security apparatus, including by:

- (a) amending the legal framework governing the appointment, tenure, promotion, and removal of prosecutors to insulate these processes from executive influence and ensure that advancement is based on merit and adherence to rule-of-law standards;
- (b) establishing an independent oversight body with the authority to receive complaints against prosecutors, including complaints of failure to investigate torture allegations, reliance on torture-tainted evidence, facilitation of case rotation, and complicity in enforced disappearance, and to initiate disciplinary proceedings with the power to impose sanctions;
- (c) issuing binding prosecutorial guidelines requiring prosecutors to: investigate all credible torture allegations *ex officio*; exclude all evidence credibly alleged to have been obtained through torture; decline to open or continue cases where charges are manifestly unfounded or constitute abuse of process; and exercise their powers to visit places of detention proactively and regularly;
- (d) ensuring that prosecutors' decisions not to investigate credible allegations of human rights violations by state officials are subject to independent review and, where appropriate, to challenge by victims before a competent judicial authority; and

- (e) collecting and publishing disaggregated data on prosecutorial investigations of human rights violations by state officials, including outcomes.

Objective 6.9 – Ensure the independence and protection of the legal profession.

Including by taking measures to guarantee the independence of the legal profession and to protect lawyers from interference in the exercise of their professional functions, including:

- (a) repealing or amending all provisions of law that subject lawyers or bar associations to supervision, oversight, or regulation by executive authorities in a manner that compromises professional independence; and
- (b) ensuring that the Egyptian Bar Association functions as a genuinely independent self-governing professional body, free from executive interference in its governance, disciplinary processes, and advocacy activities;
- (c) ensuring that attorney-client privilege is protected by law and enforceable against all state authorities, including the National Security Agency and the Public Prosecution.

Objective 6.10 – Ensure the right to a public hearing and public pronouncement of judgment. Including by ensuring that:

- (a) all criminal proceedings are conducted in public and in person, subject only to strictly defined exceptions, such as the protection of minors or victims of sexual violence, that are authorized by an independent judicial authority in each individual case;
- (b) no blanket prohibition on public attendance at, or media reporting of, criminal proceedings is imposed by executive order, presidential decree, or prosecutorial direction;
- (c) the prohibition on filming, recording, or broadcasting of terrorism court proceedings contained in the 2021 amendment to Anti-Terrorism Law No. 94 of 2015 is repealed;
- (d) judgments in all criminal cases, including terrorism circuit courts, military courts, and Emergency State Security Courts, are pronounced publicly and made available in full to the parties and their counsel without delay; and
- (e) independent court monitoring by civil society organizations, diplomatic missions, and journalists is permitted and facilitated in all criminal proceedings, consistent with the right to a public hearing under Article 14(1) of the ICCPR.

6. Conclusion: A Strategy for Reform, rather than for Show

Egypt's renewed National Human Rights Strategy for 2027–2032 arrives at a moment when the scale, duration, and systematic character of human rights violations in Egypt's criminal justice system have been documented and condemned by an unusually wide and authoritative range of bodies including UN treaty bodies, UN Special Procedures, the African Commission on Human and Peoples' Rights, and a broad coalition of Egyptian and international civil society organizations. The evidentiary record is clear. What is lacking is the institutional will to undertake meaningful reform to address the many challenges and abuses in Egypt's criminal justice system.

The lack of will is rooted in the structural nature of the challenges facing Egypt's criminal justice system: the interlocking legal frameworks of emergency and counter-terrorism powers, the prosecutorial and judicial complicity that extends and legitimizes violations, the custodial conditions through which harm is inflicted, the impunity that holds the entire system in place.

This Shadow Strategy's six pillars identify what genuine reform of these issues require. Collectively, the Pillars' reform objectives reflect a coherent and integrated vision of what a criminal justice system governed by legality, accountability, human dignity, and judicial independence must look like. Moreover, they are grounded in Egypt's existing international and constitutional obligations, the specific recommendations of UN treaty bodies and Special Procedures, and the concrete reform proposals developed over years by Egyptian civil society organizations.

As a benchmark for assessment, it will be used by the organizations that have developed and endorsed it to evaluate the content, scope, and credibility of Egypt's renewed National Human Rights Strategy. The assessment will ask, for each of the reform objectives set out in this document, whether the official Strategy contains a corresponding commitment; whether that commitment is concrete and measurable or aspirational and unverifiable; and whether it addresses the structural causes of the relevant violations or is limited to procedural or institutional gestures that leave those causes intact. In this regard, and as the drafting and adoption of Egypt's Human Rights Strategy 2027-2032 gets under way, it must be emphasized that Civil Society participation is essential to the legitimacy and sustainability of any reform process. The preceding National Human Rights Strategy was developed without consultation with independent human rights organizations. As a consequence, the strategy failed to engage with the structural causes of violations, lacked credibility with those most affected, and produced little meaningful change.

DIGNITY؟



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