

PROTRACTED IMPUNITY:

EGYPT'S PERVASIVE TORTURE, ENFORCED DISAPPEARANCE, UNFAIR TRIALS, AND DEPRAVED PRISON CONDITIONS

Midterm Report for Egypt's 4th Cycle Universal Periodic Review



Photo by Ahmed Abdel-fatah



COMMITTEE FOR JUSTICE
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I. Introduction

1. Egypt's third cycle Universal Periodic Review took place on 13 November 2019 and was adopted by the Human Rights Council on 12 March 2020.
2. As part of the review Egypt accepted or considered already implemented 36 recommendations relating to torture and other cruel, inhuman, degrading treatment or punishment, conditions in detention, enforced disappearances, and the right to fair trial.
3. In the two-and-a-half years since the review, Egypt has made *no progress* on any of these recommendations. Instead, the situation of human rights has only deteriorated further: torture and enforced disappearance continue unabated; conditions in detention facilities are appalling, leading or contributing to at least 168 deaths in custody for want of medical care;¹ thousands are and remain arbitrarily detained while hundreds have been convicted after grossly unfair trials on charges resulting from the legitimate exercise of human rights.
4. This report will shed light on the dire situation of human rights in Egypt since the 2019 Universal Period Review, with a focus on torture and ill-treatment, conditions in detention, enforced disappearance, and unfair trials in Egypt. It makes urgent recommendations of action for Egypt and the international community to take in order to ensure that all Egyptians have their fundamental human rights respected, protected, and fulfilled.

II. Submitting organizations

5. The Committee for Justice (CFJ) is an independent association for the defence of human rights based in Geneva, Switzerland and established in 2015 by a diverse group of human rights advocates. It seeks to defend victims of and persons vulnerable to human rights violations with a focus on the Middle East and North Africa (MENA) region. For more information see <https://www.cfjustice.org/about/>.
6. The Egyptian Initiative for Personal Rights (EIPR) has been working since 2002 to strengthen and protect basic rights and freedoms in Egypt, through research, advocacy and supporting litigation in the fields of civil liberties, economic and social rights, and criminal justice. For more information see <https://eipr.org/en>.
7. El Nadeem Center for the Rehabilitation of Victims of Violence is an Egyptian NGO dedicated to combating torture and providing support for its victims by offering treatment and rehabilitation to torture survivors. El-Nadeem Centre provides psychological management and rehabilitation to victims of torture as well as medical statements and testimony for survivors taking cases before various bodies. For more information see <https://elnadeem.org/>.
8. The Egyptian Commission for Rights and Freedoms (ECRF) is an Egyptian NGO supporting oppressed persons throughout Egypt. Seeking to establish “a homeland that protects our humanity,” the Commission takes peaceful, human rights-based actions in order to raise human dignity and preserve the rule of law in Egypt. In 2015 it launched the “Stop Enforced disappearance campaign”

¹ See Committee for Justice, *Justice Watch Archive - Database*, filtered for deaths in custody owing to lack of medical care for 2020-2022, at [https://cfjustice.uwazi.io/en/library/?q=\(allAggregations:lf,filters:\(violations:\(values:!\(%277j3vxoz7ucu%27\)\),year_of_death:\(value:!\(mkyznj8g85f,%278oie1991eh%27,ylpojocgnh\)\)\),from:0,includeUnpublished:lf,limit:30,order:asc,sort:title,types:!\(%275ec3d229adf3b96935bdc19a%27\),unpublished:lf](https://cfjustice.uwazi.io/en/library/?q=(allAggregations:lf,filters:(violations:(values:!(%277j3vxoz7ucu%27)),year_of_death:(value:!(mkyznj8g85f,%278oie1991eh%27,ylpojocgnh))),from:0,includeUnpublished:lf,limit:30,order:asc,sort:title,types:!(%275ec3d229adf3b96935bdc19a%27),unpublished:lf).

and has been since active also on torture issues though the “Torture Map” in cooperation with DIGNITY and El Nadeem Center. For more information see <https://www.ec-rf.net/>.

9. DIGNITY – the Danish Institute against Torture is an independent human rights and development organization whose work pursues a world free of torture and other cruel, inhuman, or degrading treatment. Founded in 1982, DIGNITY is one of the world’s first anti-torture NGOs and specialized treatment centres for torture survivors and currently operates programming spanning the health, legal and political sectors. For more information see <https://www.dignity.dk/en/>.

III. Egypt has not implemented recommendations on Torture and other Cruel, Inhuman or Degrading Treatment or Punishment

10. During its third cycle review Egypt accepted or considered implemented 16 recommendations on respecting, protecting and fulfilling the right to be free from torture and ill-treatment.²
11. However, despite making such pronouncements in the international arena, torture and ill-treatment in Egypt continue unabated and none of the 16 accepted recommendations have progressed. In particular, there is no independent or effective monitoring of conditions of detention, claims of torture are virtually never investigated, and the judiciary has increasingly lost its independence.
12. The use of torture and ill-treatment in Egypt is well-documented and far precedes Egypt’s third cycle review. For over a decade, countless reports from international and non-governmental organizations have shown that Egyptian police and security officials use torture and ill-treatment to punish, obtain information and force confessions. Reported methods of torture commonly include beatings, threats, electric shocks, stress positions, prolonged incommunicado detention and solitary confinement, and sexual violence.³ In 2017, the Committee against Torture determined that in Egypt, torture is widespread, deliberate and systematic, as is the near-universal inaction to investigate instances and allegations of torture.⁴
13. Such breadth and impunity evince a deeply intertwined system of complicity between the political authorities and different arms of the criminal justice system, including the police, prosecutors, courts and prison staff. Despite a clear prohibition on all forms of torture in Egypt’s 2014 constitution, trials and convictions of security officials for torture or deaths in custody are extremely rare.⁵ Claims of torture are virtually never investigated while the judiciary has increasingly lost its independence. In the

² Recommendations 31.5, 31.37, 31.69, 31.70, 31.71, 31.73, 31.74, 31.75, 31.76, 31.82, 31.83, 31.85, 31.86, 31.127, 31.185. See Report of the Working Group on the Universal Periodic Review, Egypt - Addendum, Views on conclusions and/or recommendations, voluntary commitments and replies, U.N. Doc. A/HRC/43/16/Add.1, 5 March 2020. presented by the State under review

³ See United States State Department, *Egypt 2021 Human Rights Report*, p.5, https://www.state.gov/wp-content/uploads/2022/03/313615_EGYPT-2021-HUMAN-RIGHTS-REPORT.pdf; Human Rights Watch 2017, *‘We Do Unreasonable Things Here’ Torture and National Security in al-Sisi’s Egypt*; The Freedom Initiative and Egyptian Front For Human Rights, *No One is Safe: Sexual Violence Throughout the Life Cycle of Detention in Egypt*, April 2022.

⁴ See UN Committee against Torture 2017, Egypt, UN Doc. A/72/44; Joint Universal Periodic Review Submission, Egypt, Third Cycle Review by Adalah Center for Rights & Freedoms (Adalah), Cairo Institute for Human Rights Studies (CIHRS), Committee for Justice, DIGNITY – Danish Institute Against Torture, El Nadeem Center for the Rehabilitation of Victims of Violence, Egyptian Commission for Rights and Freedoms – Europe; Human Rights Watch 2017, *‘We Do Unreasonable Things Here’ Torture and National Security in al-Sisi’s Egypt*.

⁵ Ruth Michaelson, *‘We’re Next’: Prisoner’s secret filming appears to show torture in Cairo police station*, The Guardian, 24 January 2022, <https://www.theguardian.com/global-development/2022/jan/24/cairo-egypt-police-station-secret-filming-appears-to-show-torture>.

words of the Committee against Torture: “prosecutors, judges and prison officials also facilitate torture by failing to curb practices of torture, arbitrary detention and ill-treatment or to act on complaints.”⁶

14. Notably, these long-term trends have not abated since Egypt’s commitment to take action during its third cycle Universal Periodic Review.
15. On 24 January 2022, the Guardian published still images (taken from two videos recorded inside a Cairo police station) showing the extent of torture and impunity inside Egypt.⁷ In one of the photos, detainees can be seen naked from the waist up, suspended from a metal grate by their arms, which are fastened behind their backs. One of the videos reportedly depicts “inmates in an overcrowded cell lining up to display injuries they say were inflicted by police officials and investigators, including open wounds on their heads and bruises across their chests and backs.”⁸ Such images of violence are corroborated by over a decade of human rights reporting showing widespread and systemic torture occurring in Egypt’s police stations and prisons. After the videos were released online “Egypt’s public prosecution claimed that the detainees had ‘inflicted injuries on themselves’, using a coin.”⁹ The torture victims seen in the videos were reportedly charged with belonging to a terrorist group, misusing the internet, spreading false information with the intent to undermine national security, and illegally receiving foreign funds.¹⁰
16. According to the El Nadeem Center for the Rehabilitation of victims of Violence, between January 2020 and April 2022 there were at least 148 recorded instances of torture. Similarly, the Committee for Justice has recorded 218 deaths in detention between January 2020 and September 2022¹¹—most of which were the result of torture, ill-treatment or wonton negligence.¹²
17. In August 2022, Mustafa Montasser Hamed al-Bijrami died while in Egyptian police custody. Al-Bijrami’s family found his body in a hospital with bruises and injuries to the head and ear, and fractures of his left leg and multiple ribs.¹³

⁶ UN Committee against Torture 2017, Egypt, UN Doc. A/72/44, §§58-71

⁷ Ruth Michaelson, *We’re Next: Prisoner’s secret filming appears to show torture in Cairo police station*, The Guardian, 24 January 2022, <https://www.theguardian.com/global-development/2022/jan/24/cairo-egypt-police-station-secret-filming-appears-to-show-torture>.

⁸ Ruth Michaelson, *We’re Next: Prisoner’s secret filming appears to show torture in Cairo police station*, The Guardian, 24 January 2022, <https://www.theguardian.com/global-development/2022/jan/24/cairo-egypt-police-station-secret-filming-appears-to-show-torture>.

⁹ Ruth Michaelson, *Egyptians seen in jail ‘torture’ videos charged with spreading fake news*, The Guardian, 2 March 2022, <https://www.theguardian.com/global-development/2022/mar/02/egyptians-seen-in-jail-torture-videos-charged-with-spreading-fake-news>.

¹⁰ Ruth Michaelson, *Egyptians seen in jail ‘torture’ videos charged with spreading fake news*, The Guardian, 2 March 2022, <https://www.theguardian.com/global-development/2022/mar/02/egyptians-seen-in-jail-torture-videos-charged-with-spreading-fake-news>.

¹¹ See Committee for Justice, *Justice Watch Archive - Database*, filtered for deaths in custody for 2020-2022, at [https://cfjustice.uwazi.io/en/library/?q=\(allAggregations:!f,filters:\(year_of_death:\(values:\(mkyzjn8g85f,%278oie1991e%27,ylpojocgnh\)\)\),from:0,includeUnpublished:!f,limit:30,order:asc,sort:title,types:\(%275ec3d229adf3b96935bdc19a%27\),unpublished:!f](https://cfjustice.uwazi.io/en/library/?q=(allAggregations:!f,filters:(year_of_death:(values:(mkyzjn8g85f,%278oie1991e%27,ylpojocgnh))),from:0,includeUnpublished:!f,limit:30,order:asc,sort:title,types:(%275ec3d229adf3b96935bdc19a%27),unpublished:!f)).

¹² See Committee for Justice, *Justice Watch Archive - Database*, filtered for deaths in custody resulting from torture and deprivation of liberty for 2020-2022, at [https://cfjustice.uwazi.io/en/library/?q=\(allAggregations:!f,filters:\(violations:\(values:\(x4sutt431vk,f0fiqyu28gu\)\),year_of_death:\(values:\(%278oie1991e%27,mkyzjn8g85f,ylpojocgnh\)\)\),from:0,includeUnpublished:!f,limit:30,order:desc,sort:creationDate,types:\(%275ec3d229adf3b96935bdc19a%27\),unpublished:!f](https://cfjustice.uwazi.io/en/library/?q=(allAggregations:!f,filters:(violations:(values:(x4sutt431vk,f0fiqyu28gu)),year_of_death:(values:(%278oie1991e%27,mkyzjn8g85f,ylpojocgnh))),from:0,includeUnpublished:!f,limit:30,order:desc,sort:creationDate,types:(%275ec3d229adf3b96935bdc19a%27),unpublished:!f)).

¹³ 41 killed in the Abu Seifin fire; “The Battle of Jalbana” Sinai Province, 5 km from the Suez Canal, Mada Masr, 14 August 2022, <https://www.madamasr.com/ar/2022/08/14/news/u/41-%d9%82%d8%aa%d9%8a%d9%84%d9%8b%d8%a7->

18. Independent of the political commitments to combat torture made during the Universal Periodic Review, Egypt, as a state party to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT) as well as the International Covenant on Civil and Political Rights (ICCPR), bears binding international legal obligations to prevent, investigate, and provide redress for torture and ill-treatment.¹⁴ Moreover, the prohibition of torture is a peremptory norm of international law, meaning that absolutely no circumstances justify violation of the fundamental and non-derogable right to be free from torture.¹⁵ Nevertheless, torture and impunity in Egypt proliferates.

IV. Egypt has not implemented recommendations on Conditions of Detention

19. Egypt accepted or considered implemented all (seven in total) of the recommendations put to it on conditions of detention during its third cycle Universal Periodic Review.¹⁶
20. However, the truth is that the dire situation of those detained in Egypt is part of an intentional policy to annihilate political opposition and human rights defenders.
21. Conditions of Egypt's detention facilities are squalid—health provision is grievously sub-standard, detainees suffer from irregular or non-existent medical care, there is a dearth of qualified medical personnel, appropriate medication, a critical lack of sanitation, ventilation, food, exercise, and meaningful contact, and requests for care and transfers to external specialist facilities are also routinely denied, causing suffering and death.¹⁷
22. The presence of any one of these factors—let alone several, which is often the case—may amount to ill-treatment or even torture.¹⁸ In Egypt, such conditions are the rule, rather than the exception.
23. In 2019 a consortium of human rights groups, including several of the authors of this report, found “at least 347 cases of denial of health care in places of detention in 2018 alone [and] since 2014 the coalition has reported at least 19 patients with cancer that were not allowed to access specialized medical facilities and that died in detention.”¹⁹ In 2018, 72% of all reported deaths in detention were attributable to denial of health care.²⁰

[%d9%81%d9%8a-%d8%ad%d8%b1%d9%8a%d9%82-%d8%a3%d8%a8%d9%88-%d8%b3%d9%8a%d9%81%d9%8a%d9%86-%d9%85%d8%b9%d8%b1%d9%83%d8%a9-%d8%ac%d9%84%d8%a8/.](#)

¹⁴ Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, arts. 2, 12, 13, 14, 16; International Covenant on Civil and Political Rights, art. 7.

¹⁵ See United Nations General Assembly Resolution of 18 December 2019 on torture and other cruel, inhuman or degrading treatment or punishment, UN Doc. A/RES/74/143.

¹⁶ Recommendations 31.4, 31.11, 31.84, 31.89, 31.107, 31.118, 31.185.

¹⁷ G. Caracciolo, E. Cakal, the Committee for Justice, and Egyptian Commission for Rights and Freedoms, *Torture in Egypt: Systemic and Systematic*, Dignity Publication Series on Torture and Organized Violence, Praxis Paper #38, 2021.

¹⁸ See Interim Report of the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, UN Doc. A/68/295, paras. 45, 50, Report of the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, Manfred Nowak, UN Doc. A/HRC/13/39, para. 64, 9 February 2010.

¹⁹ Joint Universal Periodic Review Submission, Egypt, Third Cycle Review by Adalah Center for Rights & Freedoms (Adalah), Cairo Institute for Human Rights Studies (CIHRS), Committee for Justice, DIGNITY – Danish Institute Against Torture, El Nadeem Center for the Rehabilitation of Victims of Violence, Egyptian Commission for Rights and Freedoms – Europe, p. 14.

²⁰ Joint Universal Periodic Review Submission, Egypt, Third Cycle Review by Adalah Center for Rights & Freedoms (Adalah), Cairo Institute for Human Rights Studies (CIHRS), Committee for Justice, DIGNITY – Danish Institute Against Torture, El Nadeem Center for the Rehabilitation of Victims of Violence, Egyptian Commission for Rights and Freedoms – Europe, p. 15.

24. 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 their transfers for treatment inside and outside prisons.”²¹
25. Specific cases of medical neglect and atrocious conditions of detention are too numerous for an adequate recounting here, but the following are a few emblematic and representative examples. In one case documented by ECRF, the victim was placed in a narrow, poorly ventilated cell in which she was exposed to second-hand smoking, which led to her severe bronchial asthma. She was initially denied medication but subsequently allowed to obtain it through her parents. Despite the medication, her health conditions worsened as a result of disc prolapse, stiffness in the knees and sciatica and she suffered a perforated ear drum as a result of lack of medical attention for more than a month despite her request. She was eventually taken to a prison doctor, rather than a specialist doctor as required by her condition. The prison doctor told her that she did not suffer from any ailments. When she was later presented to a specialist doctor and told him that she could not hear, he told her, ‘Why do you need to hear in the first place, you are stuck next to each other in the cell, it is not important to hear’.
26. In another case documented by ECRF, the victim was arrested from her home in Malloy, Minya, on 30 September 2019. She was detained under Case no. 1490 of 2019, charged with spreading false news, membership of a terrorist group, and planning and instigating violence. The victim, who was pregnant, reported to a family member that she was blindfolded at the local National Security Agency and transported to the National Security Agency in Cairo without anyone being notified. There, she was assaulted with beatings and insults with obscene words, threatened, and forced to confess to allegations she was totally unaware of. She was held in a dark, empty room and was forbidden to speak. She discharged a bloody uterine discharge four times inside Al-Qanater prison. No one responded to her requests for health care. Through her defence lawyer, her family applied to facilitate emergency care, but this was not carried out despite several requests. She was eventually taken to Benha University Hospital to give birth but returned to prison again on the day of the birth without the necessary health care, namely postnatal care both for herself and the baby. Normally, new-borns are kept with their mothers until the age of two years, after which they are given to a family member. She continues to suffer from a bad psychological condition, especially postnatal.
27. In sum, despite its performance during its third cycle Universal Periodic Review, Egypt continues to routinely violate detained persons’ rights to life, health, and to be free from torture and cruel, inhuman or degrading treatment or punishment by failing to address, and indeed in many cases intentionally facilitating grossly sub-standard conditions of detention.²²

V. Egypt has not implemented recommendations on Enforced Disappearances

28. Egypt accepted or considered implemented three recommendations on ending enforced disappearances during its third cycle Universal Periodic Review.²³
29. The intervening 2.5 years since the Review have made clear that Egypt has no intention of delivering on these recommendations—enforced disappearances and incommunicado detention remain a

²¹ See Amnesty International 2021, *What do I care if you die?, Negligence and Denial of Health Care in Egyptian Prisons*, p.9.

²² UN Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, arts. 2, 16; International Covenant on Civil and Political Rights, art. 6; International Covenant on Economic, Social and Cultural Rights, art. 12.

²³ Recommendations 31.9, 31.85, 31.127.

preferred tool of Egypt's law enforcement and security forces in attacking political opponents and human rights defenders.

30. The prevalence practices of prolonged incommunicado detention, secret detention and enforced or involuntary disappearances of people arrested by the Ministry of the Interior, including the National Security Agency, and by the Army is widespread. Authorities arrest individuals without producing warrants and hold them in incommunicado detention in unspecified National Security Sector offices and police stations.²⁴ Such persons are not included in official registers.
31. The practices of enforced disappearance and incommunicado detention is often entangled with the practice of “recycling” whereby security actors arbitrarily keep people under continuous cycles of detention orders (see “Fair Trial” section below). Similar to recounting instances of abject conditions of detention, individual cases are far too numerous to adequately reflect here. Still, the following examples are representative of the broader issue.
32. In February 2022, economic expert and member of the Egyptian Reform and Development Party, Mr. Ayman Hadhoud was forcibly disappeared. Mr. Hadhoud was held in custody before authorities transferred him to the Abbasseya Psychiatric Hospital, where the Egyptian prosecution stated that he grew ill and died. His body was stored improperly for weeks before his family was informed of his death. Without having conducted a proper investigation and despite visible signs of torture on Mr. Hadhoud's body, the prosecution issued a statement saying that he died of a pre-existing heart condition.
33. Photojournalist Hamdy al-Zaem was arrested on 4 January 2020 and held incommunicado in detention for 13 days, at which point he was brought before the Supreme State Security Prosecution and remanded to detention pending investigation into charges of spreading false news, joining an unspecified banned group, and misusing social media.²⁵ In a very similar case, journalist Ahmed Khalifa was arrested on 6 January 2020 (one day after he covered a labour protest) and was held without knowledge of his whereabouts by his family or attorneys until 16 January 2020 when, just like al-Zaem, he was before the State Security Prosecution who ordered his detention pending an investigation.²⁶
34. Egyptian authorities have yet to reveal Mr. Mostafa al-Najar's whereabouts, a former parliament member who has been forcibly disappeared since September 2018.²⁷
35. Another documented case demonstrates prosecutors' propensity to use their office punish accused persons. In this case, the victim was arrested on 24 October 2014 at 2am in Damietta and appeared, after a week of enforced disappearance, pending case no. 1217 of 2015 and remained remanded in custody for more than three years.²⁸ In a hearing on 24 January 2018, the victim obtained a court decision to be released and was therefore transported to a police station, where officers refused to release him for two weeks and then denied that he was detained there. The victim was then disappeared

²⁴ See United States State Department, *Egypt 2021 Human Rights Report*, p.4, https://www.state.gov/wp-content/uploads/2022/03/313615_EGYPT-2021-HUMAN-RIGHTS-REPORT.pdf.

²⁵ See United States State Department, *Egypt 2021 Human Rights Report*, p.4, https://www.state.gov/wp-content/uploads/2022/03/313615_EGYPT-2021-HUMAN-RIGHTS-REPORT.pdf.

²⁶ See United States State Department, *Egypt 2021 Human Rights Report*, p.4, https://www.state.gov/wp-content/uploads/2022/03/313615_EGYPT-2021-HUMAN-RIGHTS-REPORT.pdf.

²⁷ Committee for Justice, 14 April 2022 Press Release, *Egypt: Ayman Hodhoud, Another Victim of Extrajudicial Killing*, <https://www.cfjustice.org/egypt-ayman-hodhoud-another-victim-of-extrajudicial-killing/>.

²⁸ G. Caracciolo, E. Cakal, the Committee for Justice, and Egyptian Commission for Rights and Freedoms, *Torture in Egypt: Systemic and Systematic*, Dignity Publication Series on Torture and Organized Violence, Praxis Paper #38, 2021, p. 25.

on 8 February 2018 and appeared on 18 March 2018, detained pending a new case (no. 531 of 2018). Release was ordered again by a court in October 2018 and he was transported to another detention facility, which denied that he was detained there (amounting to enforced disappearance for nearly a month as the family learned of his location on 27 October 2018) after this detail was presented to the prosecution when the victim was again ordered to be detained pending a new case (no. 2409 of 2018). A court ordered his release on 13 February 2019, which was not implemented. On 23 February 2019, the detention authorities denied his detention. The victim reappeared before the prosecution on 13 March 2019 and was rotated under a new case (no. 568 of 2019), in which he was ordered to be released again on 28 March 2019. He was transferred to a police station in preparation for his release but was disappeared on 1 April 2019. The police denied knowledge of his whereabouts and his disappearance continued until 2 May 2019.

36. The above examples show the complicity and culpability pervading the many different parts in Egypt's criminal justice apparatus in operating a system of widespread and systematic enforced disappearances. Far from one-off or isolated cases, Egyptian politicians and government actors rely on extensive and repeated enforced disappearances as part of their sustained campaign to persecute political opponents and human rights defenders.
37. According to the Declaration on the Protection of all Persons from Enforced Disappearance, any act of enforced disappearance "constitutes a violation of the rules of international law guaranteeing, inter alia, the right to recognition as a person before the law, the right to liberty and security of the person and the right not to be subjected to torture and other cruel, inhuman or degrading treatment or punishment. It also violates or constitutes a grave threat to the right to life."²⁹ Similarly, the Working Group on Enforced or Involuntary Disappearances has acknowledged that enforced disappearance itself constitutes torture and other prohibited ill-treatment; "the very fact of being detained as a disappeared person, isolated from one's family for a long period is certainly a violation of the right to humane conditions of detention and has been represented to the Group as torture."³⁰ Moreover, the Working Group has stated that enforced disappearances violation the right to recognition as a person before the law, as established by article 6 of the Universal Declaration of Human Rights and article 16 of the International Covenant on Civil and Political Rights.
38. Thus, every enforced disappearance in Egypt, as well as the broader system of complicity allowing for such disappearances, constitutes myriad human rights violations by denying the right and the capacity of each human being to be treated with dignity as the holder of rights and obligations under the law.

IV. Egypt has not implemented recommendations on the right to Fair Trial

39. Egypt accepted or considered implemented 15 recommendations on the right to fair trial during the 3rd cycle review.
40. None of these commitments have been delivered upon. In Egypt, the right to fair trial is essentially absent and criminal justice processes are bent to fit the aims and desires of political and government actors. This is especially true where the accused has a political background, or the case is related to issues of "national security."

²⁹ General Assembly resolution 47/133 of 18 December 1992, art. 1.

³⁰ E/CN.4/1983/14, para. 131.

41. In some cases, judges arbitrarily convict accused persons even when they report that their confessions were made as a result of torture.³¹ Routinely detainees who are subjected to torture—and especially those who are disappeared—do not get access to a lawyer when they are presented before the prosecution for the first time. Even in these circumstances, prosecutors usually deny the accused’s right to report any ill-treatment to which they may have been subjected. According to a monitoring analysis of cases from 2019, a total of 212 defendants (belonging to 31 separate cases) were subjected to various forms of torture and other forms of ill-treatment.³² From the 212 accused, the prosecution referred only 88 defendants to forensic medicine following allegations of torture and failed to act on 124 requests for referral to forensic medicine.³³
42. Notably, Article 55 of the Egyptian Constitution provides that any statement that is proven to have been given by the detainee under torture, coercion or physical or mental harm is to be inadmissible. On the surface, Article 55 resembles the protection offered under article 15 of the UNCAT, which requires ‘...any statement which is established to have been made as a result of torture shall not be invoked as evidence in any proceedings, except against a person accused of torture as evidence that the statement was made’. In practice however, the inadmissibility such evidence is not implemented. Instead, forced confessions central to criminal justice processes and Egypt’s prosecutors collaborating hand-in-glove with the security actors – laying charges on what is clearly torture-tainted evidence, and overlooking and covering up flawed and violent methods.³⁴
43. Take, for example, the case of Father Isaiah, a Christian Coptic monk who was sentenced to death on the basis of torture-tainted confessions. During his trial, he was refused visits from his lawyer and family. When he argued that his confessions were obtained under torture, the trial judge made derogatory and mocking comments about his name and ignored his requests for further examination.³⁵ He was executed on 9 May 2021.
44. In a similar case, another judge justified his reliance on a tainted confession by simply explaining that its contents conformed ‘with the truth and reality’.³⁶ The Court extended to itself the prerogative to ‘rely on the witness’ statements at any stage of the investigation and trial without explaining the reason for that’ and that ‘the witness’ contradictions or inconsistencies does not deem the judgement flawed as long as the truth has led to a palatable conclusion that does not involve contradictions’.³⁷

³¹ See Joint Universal Periodic Review Submission, Egypt, Third Cycle Review by Adalah Center for Rights & Freedoms (Adalah), Cairo Institute for Human Rights Studies (CIHRS), Committee for Justice, DIGNITY – Danish Institute Against Torture, El Nadeem Center for the Rehabilitation of Victims of Violence, Egyptian Commission for Rights and Freedoms – Europe, p. 9.

³² See Joint Universal Periodic Review Submission, Egypt, Third Cycle Review by Adalah Center for Rights & Freedoms (Adalah), Cairo Institute for Human Rights Studies (CIHRS), Committee for Justice, DIGNITY – Danish Institute Against Torture, El Nadeem Center for the Rehabilitation of Victims of Violence, Egyptian Commission for Rights and Freedoms – Europe, p. 7.

³³ See Joint Universal Periodic Review Submission, Egypt, Third Cycle Review by Adalah Center for Rights & Freedoms (Adalah), Cairo Institute for Human Rights Studies (CIHRS), Committee for Justice, DIGNITY – Danish Institute Against Torture, El Nadeem Center for the Rehabilitation of Victims of Violence, Egyptian Commission for Rights and Freedoms – Europe, p. 7.

³⁴ G. Caracciolo, E. Cakal, the Committee for Justice, and Egyptian Commission for Rights and Freedoms, *Torture in Egypt: Systemic and Systematic*, Dignity Publication Series on Torture and Organized Violence, Praxis Paper #38, 2021, p. 22; POMED 2017, Project on Middle East Democracy (POMED) 2017, The Role of the Public Prosecution in Egypt’s Repression; Amnesty International (AI) 2016, ‘Officially you do not exist’, *Disappeared and Tortured in the Name of Counter-Terrorism*, London.

³⁵ ECRF and Reprieve 2020, *Torture and the death penalty in Egypt: The case of a Christian Coptic monk wrongfully sentenced to death*, p.5

³⁶ Case No. 9115 for 2016, South Giza, registered under No. 4359 for 2016, Badrashin Criminal Court, and registered under No. 163 of 2016, Supreme State Security Criminal and No. 513 of 2016, Supreme State Security.

³⁷ G. Caracciolo, E. Cakal, the Committee for Justice, and Egyptian Commission for Rights and Freedoms, *Torture in Egypt: Systemic and Systematic*, Dignity Publication Series on Torture and Organized Violence, Praxis Paper #38, 2021, p. 22.

In other words, the Court decided that it was empowered to rule as it sees fit, according to the reality that it perceives, without justification.

45. Egyptian authorities are increasingly partaking in the practice of “rotation,” undermining judicial orders and manipulating maximum pretrial detention limits. Under this practice, when a defendant is ordered released from a detention, reaches their maximum detention limit for a case, or has served their sentence, an entirely new case is brought against them, creating a new basis to hold them in pretrial detention. The new case brings the detention period back to zero, creating a scenario in which someone who has never been charged with a crime could be kept indefinitely in pretrial detention. An example of case rotation is summarized in paragraphs 32 above.
46. To date, no judge has formally questioned the actions of prosecutors when it comes to rotation, even if, in certain cases, the fabrication of the new charge was clearly deliberate.
47. In addition to being a violation of right to fair trial in itself by virtue of causing undue delay in a defendant’s trial,³⁸ subjecting people to rotation leads to other human rights violations resulting from the loss of hope of release on the part of the defendant and their family which may lead to hunger strikes (the case of Mohamed Adel), suicides, violent extremism,³⁹ psychological deformation of victims such as development of Stockholm syndrome⁴⁰, long-term psychological disorders, particularly when prolonged pretrial detention and/or recycling is coupled with prolonged solitary confinement.⁴¹
48. State Security Prosecution, a branch of the Public Prosecution specialized in investigating national security threats, plays a central role in the denial of fair trial, most notably by turning a blind eye to allegations of gross human rights abuses, admitting confessions extracted under torture as evidence, failing to address falsified police records, and denying the torture victims the right to be examined by forensic medicine for signs of torture.
49. Moreover, despite the formal lifting of the “state of emergency” in 2021, the Emergency State Security Court retains jurisdiction to hear cases under review.⁴²

³⁸ International Covenant on Civil and Political Rights, Art. 14(3)(c).

³⁹ Human Rights First 2020, Belady’s report on the radicalization of children inside Egyptian prisons. ‘Between ISIS and Egypt’s Counter-Terrorism Measures’, <https://www.humanrightsfirst.org/blog/new-report-details-abuse-and-radicalization-children-egyptian-jails>.

⁴⁰ See generally in the Egyptian context: <https://www.middleeasteye.net/opinion/military-complex-egyptians-and-stockholm-syndrome>

⁴¹ ‘Solitary confinement is frequently described as “a prison within a prison” – the human brain is ill adapted to such conditions of isolation. Solitary confinement can cause a specific psychiatric syndrome, characterised by hallucinations; panic attacks; overt paranoia; diminished impulse control; hypersensitivity to external stimuli; and difficulties with thinking, concentration and memory. Some inmates may lose the ability to maintain a state of alertness, while others develop crippling obsessions. Physically, the lack of sunlight, fresh air and space to move around can also cause symptoms such as heart palpitations, headaches, sensitivity to light and sound, muscle pain, digestion problem’. Amnesty International (AI) 2018, *Crushing Humanity: The Abuse of Solitary Confinement in Egypt’s Prisons*, London, p.40, <https://www.amnesty.org/download/Documents/MDE1282572018ENGLISH.PDF>; see also DIGNITY Factsheet on Solitary Confinement: <https://www.dignity.dk/en/dignitys-work/health-team/torture-methods/solitary-confinement/>

⁴² For example, on 20 December 2021, the Emergency State Security Court (ESSC) sentenced blogger Alaa Abd El Fattah, human rights lawyer Mohammed al-Baqer and journalist Mohammed Ibrahim "Oxygen" to 5 and 4 years for spreading fake news after an unfair trial. The sentence was ratified by the president.

50. Finally, security and judicial authorities have used the Covid-19 pandemic to arbitrarily renew detention orders.⁴³ Due to implemented covid restrictions, after a person is arrested and ordered to pretrial detention, their detention is being extended automatically every 15 days by the State Security Prosecution in the absence of the detainee and their lawyer. Prison authorities routinely do not bring detainees to the prosecution offices to attend their detention review, and when they do, detainees are not given an opportunity to meet with prosecutors. Consequently, a detainee is denied judicial review of their detention for 5 months until the case is reviewed by an appeal court, which can extend the detention up to 45 days.

VI. Recommendations

51. In light of Egypt's utter failure to make progress on its human rights obligations and commitments—including the recommendations it accepted or considered already implemented during its third cycle Universal Periodic Review—and instead further backtracking on respecting, protecting and fulfilling the fundamental rights of Egyptians, the groups authoring this report make the following recommendations:

To the United Nations and its Member States:

52. The Human Rights Council should establish without further delay an independent international mechanism to monitor and report on the human rights situation, and to investigate grave human rights violations in Egypt, including torture;
53. The Committee Against Torture should consider a follow up on the past UNCAT article 20 inquiries.

To Egyptian state officials and institutions:

54. Take prompt and tangible actions to implement the recommendations of the UN Committee against Torture in the inquiry report, such as:
- a. To immediately end the use of torture, ill-treatment, enforced disappearance and incommunicado detention;
 - b. Create an independent authority to investigate allegations of torture; enforced disappearance and ill-treatment.
55. Accept the mandate of the UN Committee against Torture to receive individual complaints (Article 22 of the UN Convention against Torture).
56. Accede to the International Convention for the Protection of All Persons from Enforced Disappearance.
57. Invite the UN Special Rapporteur on Torture to visit the country as well as the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism.

⁴³ *Imprisoned rights defenders in Egypt at 'grave risk' of COVID-19, warn UN experts*, <https://news.un.org/en/story/2020/08/1070882>.

58. Ratify the UN-OPCAT or in the absence of a ratification establish a National Preventive Mechanism (NPM) to conduct regular, unannounced, confidential visits to places of detention.
59. Before the establishment of a NPM, strengthen the mandate of the NCHR according to Article 3 law 197 of the 2017 by allowing for independent and unannounced visit to places of detention.
60. Allow access to places of detention by the International Committee of the Red Cross as well as by specialised national and international non-governmental organizations to provide basic services related to health or to psychological support or delivering basic goods.
61. End the practice of “rotating” persons in detention and enact legislative protections guaranteeing the right to fair trial in accordance with Article 14 of the International Covenant on Civil and Political Rights.
62. Take all legislative, administrative and other measures to ensure that statements or confessions made as a result of torture or ill-treatment are not invoked as evidence in any proceedings, except against a person accused of torture, as evidence that the statement was made.
63. Implement all aspects of the “First Seven Steps” Initiative, supported by more than 50 Egyptian human rights organizations, to create a fair and transparent process to release political prisoners in Egypt.