



EURO-MEDITERRANEAN HUMAN RIGHTS NETWORK
RÉSEAU EURO-MÉDITERRANÉEN DES DROITS DE L'HOMME
الشبكة الأوروبية - المتوسطية لحقوق الإنسان

SECOND INTERIM REPORT

Public Prosecution

v.

Alaa Abd El-Fattah and Twenty-four others

The Special Chamber of the Criminal Court
Sitting at the Police Academy, Tora District Cairo, Egypt

Dates of the Hearings Listed in the Case

23 March 2014, 6 April 2014, 17 May 2014, 25 May 2014, 11 June 2014,
22 July 2014, 6 August 2014, 10 September 2014 and 15 September 2014

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Executive Summary

Since 6 April 2014, the Euro-Mediterranean Human Rights Network (EMHRN) and the Solicitors' International Human Rights Group¹ (SIHRG) have been monitoring the proceedings taking place in a criminal case being brought by the General-Prosecutor in Egypt against a well-known human rights activist and open internet campaigner, Alaa Abd El-Fattah. Alaa Abd El-Fattah is facing charges of offences under the Egypt's controversial Protest Law, as well as for assault and the theft of a walkie-talkie. A number of other persons are prosecuted in the same proceedings, but the focus of this observation has been on Alaa Abd El-Fattah's case. SIHRG members have attempted to attend all the hearings that have taken place in this case since 6 April 2014.

On 15 September 2014, the judges presiding over Alaa Abd El-Fattah's case recused themselves and referred the case to a higher court for the appointment of a new panel. The observers publish this second interim report to highlight unfair processes and procedures that they have witnessed so far.

Though conscious that the trial is still ongoing, the observers are of the opinion that court driven delays in this case should not shield the judiciary from criticism in the interim where breaches of international fair trial standards have been observed.

For the reasons provided in this report, the observers are of the opinion that Alaa Abd El-Fattah's right to a fair trial, as guaranteed by international law, has been breached in the following ways:

- He should not have been held in custody.
- Complaints concerning his treatment in detention have not been investigated.
- His right to be present and follow the proceedings has not been fulfilled.
- Central evidence in the prosecution's case has not been disclosed for evaluation by his defence.
- The court has appeared to be partial to the cause of the prosecution.
- There has been undue delay in concluding the proceedings.

¹ SIHRG is a member of EMHRN and is based in the UK.

Recent Political and Historical Background

In October 1981, Hosni Mubarak gained the presidency of Egypt and ruled the country for thirty years. In early 2011, a popular uprising led to his removal. Mubarak resigned as the Egyptian President on 11 February 2011. On 12 February 2011, Egypt's top military body, the Supreme Council of the Armed Forces (SCAF) took control of the government, dissolved the Egyptian Parliament and suspended the constitution. SCAF promised a transition to democracy. However, the ensuing process has been bloody and the struggle for democracy in Egypt continues.

Between November 2011 and January 2012, parliamentary elections were held and the Muslim Brotherhood, through the Freedom and Justice Party, won the greatest share of the vote. However, in June 2012, the Supreme Constitutional Court declared the elections unconstitutional and called for fresh elections. Parliament was dissolved and the upper chamber of the parliament assumed legislative power.

On 30 June 2012, the candidate of the Freedom and Justice Party, Mohammed Morsi was sworn in as the President of Egypt. However, discontent against his presidency grew rapidly. This was particularly so after 22 November 2012, when Morsi passed a decree which stated that his decisions were "final and unchallengeable by any individual or body until a new constitution has been ratified and new parliament has been elected." Masses of Egyptians took to the street in protest.

Egypt's most senior judges condemned Morsi's decision, saying that the new powers amounted to an "unprecedented assault" on the independence of the judiciary. On 5 December 2012, deadly clashes took place outside the presidential palace. On 10 December 2012, Morsi agreed to rescind most of his decree, save his decision to hold a referendum on Egypt's new draft constitution.

Despite many legal challenges being filed against Egypt's second constitutional panel, the drafting committee published its draft constitution in December 2012 and a referendum was called. Leaders of the largest association of judges, the Judges' Club, threatened to block the referendum. But it took place on 15 and 22 December 2012 and the constitution was passed.

In April 2013, Tamarod (meaning rebellion or revolt in Arabic) was founded by members of the Egyptian Movement for Change. By 29 June 2013, Tamarod claimed to have gathered twenty two million signatures demanding that Morsi step down. Millions of Egyptians took to the streets on 30 June 2013, the first year anniversary of Morsi's appointment. The movement gave Morsi until 2 July 2013 to step down. If he did not step down, they said they would initiate a campaign of civil disobedience.

On 3 July 2013, SCAF intervened and removed Morsi from office. Abdul-Fattah al-Sisi, the General Commander of Egypt's armed forces, said the military had no interest in politics and that they were ousting Morsi because he had failed to fulfill "the hope for a national consensus." Under a "road map" for a post-Morsi government, SCAF announced the constitution would be suspended, and plans would be expedited for new parliamentary and presidential elections under an interim government. Adly Mahmoud Mansour, head of Egypt's Supreme Constitutional Court, was appointed Egypt's Interim President.

A committee of ten legal experts was appointed in July 2013, with the task of amending the constitution. Their proposed changes were sent to a larger fifty member committee of politicians and representatives

from various different groups and a final draft was sent to the President in December 2013. A referendum on this draft constitution took place on 14 and 15 January 2014. It passed, but against a backdrop of fear.

Since July 2013, the repression of dissent and opposition has been marked. Thousands of Morsi supporters have been arrested and in August 2013, a large number of people were killed when the authorities stormed and dispersed two protest camps, at Rab'aa al-Adawiya Square and al-Nahda Square in Cairo.

It did not take long for the state's repression to move from Muslim Brotherhood supporters to other opponents of SCAF, including human rights activists like Alaa Abd El-Fattah, and those who dared to criticise the authorities' decisions and its manner of rule. On 23 November 2013, a presidential decree was issued, The Arab Republic of Egypt Law No. 107 for 2013 for Organising the Right to Public Meetings, Peaceful Processions and Protests ("Protest Law"). It is set out in full in Appendix 1. This law gives extensive powers to the police and governors in Egypt to circumscribe and prevent varied forms of public protest and the assembly of civil society.

On 26-28 May 2014, Egypt's second presidential election since the fall of Mubarak took place and on 3 June 2014, Sisi was confirmed as the President of Egypt. The country's electoral commission announced that he had won the presidential election by 96.1% with only one candidate having stood against him. To date, no parliamentary elections have taken place.

Alaa Abd El-Fattah

Alaa Abd El-Fattah was born on 18 November 1981. An open internet and human rights activist, he has been at the forefront of the struggle for change in Egypt for many years, working relentlessly for the "bread, freedom and social justice" called for by the 2011 revolution. As a result, he has the distinction of having been arrested not only by Mubarak but also all the different regimes that have ruled Egypt since the 2011 revolution.

In 2006, under the Mubarak regime, he was detained at a protest calling for the independence of the judiciary and was jailed for forty five days. In 2011, having emerged as a leading face of the revolution, under SCAF's rule, he was jailed again, this time for fifty six days. His son Khalid was born while he was behind bars. Then, during the rule of Morsi, an arrest warrant was issued against him.



Information about the Case and the Proceedings to date

To assist the reader to understand the context of this trial, the observers set out below relevant facts obtained from a range of different sources. We do not suggest that the matters stated below have been proven by tested evidence in court.

On 26 November 2013, an activist group, No to Military Trials for Civilians, called a demonstration. This demonstration was to take place in front of the Shura Council. The group called the demonstration to protest against the draft constitution which failed to legislate against the military trial of civilians. The observers understand the demonstration started at around 4pm on Kasr Al Aini Street. Thirty minutes later, security forces issued a warning to the protestors to immediately end their protest.

Water cannon and tear gas were used to disperse the demonstrators. Some of the police officers present at the protest were in uniform; some in plain clothes. It is reported that some of those attending the demonstrations were hit by the police. The protestors have repeatedly stated that the protest was peaceful and that it was ended by unjustifiable police violence. The Prosecution disputes these claims.

On 27 November 2013, the authorities issued an arrest warrant for Alaa Abd El-Fattah, who informed the authorities that he would turn himself in on 30 November 2013. Three separate communications were sent confirming his position: a telegram to the Office of the Prosecutor, a communication by registered mail to the Prosecutor, and a telegram sent to the Attorney-General for Cairo Central.

Despite this, on 28 November 2013 at around 9pm, approximately twenty armed police officers, some in plain clothes, some masked, broke down the door to his family home. The street on which his house is located was sectioned off by armed policemen. Both he and his wife, Manal Hassan, report that they were beaten by the police when Alaa Abd El-Fattah was arrested. Their baby son was present in their home at the time.

Property was seized, including two laptops and two mobile phones, two of which were owned by Alaa Abd El-Fattah, the other two by Manal Hassan. Alaa Abd El-Fattah reports that no search warrant was produced by the police officers at the time of his arrest, voluntarily or upon request. Indeed, Manal Hassan reports that it was the request to see a search warrant that led to the beatings she suffered from the police.

Alaa Abd El-Fattah reports he was dragged from his home. He was blindfolded and escorted into a police vehicle. He later learnt he was taken to Cairo Security Headquarters. He remained there for approximately twenty four hours. He reports being left in a cell for twelve hours, lying on the floor, blindfolded and with his hands cuffed behind his back for six, and in front of his body for the other six hours. He was hit over his head with a weapon. The next day the prosecutor visited him in the Headquarters. Alaa Abd El-Fattah refused to speak to him until he had had an opportunity to talk to his lawyers. He was then transferred to Tora prison.

On 4 December 2013, twenty three of those arrested outside the Shura Council protest were released on bail. Alaa Abd El-Fattah and another defendant remained in prison. On 9 December 2013 it was announced

that twenty five people who had been under investigation by the police in relation to the Shura Council protest would face criminal charges.

On 15 March 2014, the Public Prosecutor announced that the cases of Alaa Abd El-Fattah and the other twenty four men would be referred to the Special Chamber of the Criminal Court at Tora Police Academy. All defendants face charges of blocking roads, assembling illegally, protesting without a permit, assaulting and injuring a public servant and stealing his personal wireless device. Alaa Abd El-Fattah alone is charged with organising the protest. The Judge appointed to preside over Alaa Abd El-Fattah's case at the Special Chamber was Judge Mohamed El-Fikki.

On 23 March 2014 Alaa Abd El-Fattah's application for bail was heard and having been held in prison for nearly four months, the court released him. 10,000 EGP bail money was paid. Subsequent hearings in Alaa Abd El-Fattah's case have taken place on 6 April, 17 May (Cairo Appeals Court), 25 May, 6 August, 10 September and 15 September 2014. A hearing was listed for 22 July 2014 but this was adjourned the night before it was due to take place.

On 11 June 2014, the Special Chamber handed down an in absentia judgment, sentencing Alaa Abd El-Fattah to fifteen years imprisonment, 10,000 EGP fine and a five year probationary period following the service of his sentence. A professionally translated copy of this in absentia judgment can be found in Appendix Two. The observers understand that no hearing took place before or during the handing down of this judgment.

Alaa Abd El-Fattah and two other defendants were arrested as soon as the in absentia judgment was announced. He was outside the court at the time. On 18 August 2014, Alaa Abd El-Fattah went on hunger strike to protest the conditions and grounds of his detention. On 6 August 2014, the Special Chamber refused his application for bail. It did the same on 10 September 2014.

On 15 September 2014, Judge Mohamed El-Fikki announced that he and the other two judges appointed to this case were recusing themselves from it and granted Alaa Abd El-Fattah bail, this time upon receipt of 5,000 EGP bail money.

The Egyptian Judiciary and Prosecution

The general principle of judicial independence has been constitutionally guaranteed in Egypt for several decades. Article 184 of the latest 2014 Constitution provides that "[t]he judiciary is independent". The same article makes interference in judicial affairs a criminal offence to which the statute of limitations does not apply.

There are a number of challenges to this "on paper" judicial independence in Egypt. The Ministry of Justice is given wide powers over judges, which provide scope for abuse. These include the right to assign judges to courts around the country, the ability to decide which judges are seconded to work in government ministries and the right to initiate disciplinary action against judges. These powers threaten the judiciary's independence as they allow the Minister to reward or punish serving judges, and therefore provide an incentive for judges to please the government. The legal framework also gives a role to the executive branch in the judicial appointment system, particularly at the higher levels, allowing for politicised decision-making.

According to the International Bar Association's (IBA) Minimum Standards of Judicial Independence, "[t]he power to transfer a judge from one court to another shall be vested in a judicial authority and preferably shall be subject to the judge's consent". The current system does not comply with these recommendations.

Until recently, the Prosecutor General in Egypt has been directly appointed by the President. This has led to allegations of politicisation. The 2014 Constitution provides that this authority is now with the judge-led Supreme Judicial Council (SJC). However, the 2014 Constitution still allows the Minister of Justice to have a role in the appointment of investigating judges and transferring prosecutors to other posts.

The Mission's Terms of Reference

The Mission is to report on whether the trial of Alaa Abd El-Fattah complies with the standards set under the International Covenant on Civil and Political Rights, the African Charter of Human and People's Rights (came into effect 1986), and the Egyptian Constitution.

In particular, the Mission will assess compliance with the standards of:

1. RIGHT TO PRE-TRIAL LIBERTY
2. RIGHT TO FAIR TREATMENT IN PRE-TRIAL DETENTION

RIGHTS TO FAIR TRIAL:

3. IMPARTIAL TRIBUNAL
4. PUBLIC HEARING
5. PRESUMPTION OF INNOCENCE
6. RIGHT TO DISCLOSURE OF CASE
7. RIGHT TO PREPARE DEFENCE
7. RIGHT TO TIMELY TRIAL
8. RIGHT TO BE PRESENT
9. RIGHT TO LEGAL ASSISTANCE
10. RIGHT TO EXAMINATION OF WITNESSES
11. RIGHT AGAINST SELF-INCRIMINATION
12. RIGHT TO LEGAL CERTAINTY OF CRIMINAL CHARGES

The First Interim Report (which can be accessed [here](#)), this Second Interim and any Final Report will comply with the following trial observation guidelines:

This Second, Interim Report will comment only on the rights set out above as is possible from the hearings to date.

- Trial Observation Manual for Criminal Proceedings – Practitioners Guide of the International Commission of Jurists, 2009.
- The Guidelines contained in the Guidelines for Human Rights Fact Finding Missions - A joint publication of the Raoul Wallenberg Institute of Human Rights and Humanitarian Law of the Lund University and International Bar Association, September 2009.
- Amnesty International's Fair Trial Manual, Second Edition, 2014.

Composition of the Delegation

EMHRN invited experts from the Solicitors International Human Rights Group (SIHRG) to undertake this trial observation mission.

SIHRG is a United Kingdom based non-governmental organisation with a membership drawn principally from the solicitors' profession of England and Wales. A solicitor is a qualified lawyer and there are 138,000 solicitors practising in the United Kingdom and overseas. The objects of SIHRG include raising awareness of international human rights law within the solicitors' profession and motivating solicitors to participate in the movement to deepen respect for universal human rights around the world. It provides training in the UK and overseas on international human rights law.

The delegation has included a number of different lawyer members of SIHRG.

Rosa Curling has attended all the hearings in Alaa Abd El-Fattah's case from 6 April 2014 onwards.

Lionel Blackman, Chair of the Solicitors International Human Rights Group and UK criminal and human rights lawyer.

Lionel Blackman attended the hearing held in Alaa Abd El-Fattah's case on 6 April 2014.

Ibrahim Al-Hamadi, member of SIHRG, UK and Iraqi human rights lawyer.

Ibrahim Al-Hamadi attempted to attend the hearing schedule for 11 Jun 2014. He was refused entry to the court and was outside when the in absentia judgment in Alaa Abd El-Fattah's case was handed down.

Anne Marie Irwin, member of SIHRG and UK human rights lawyer.

Anne Marie Irwin attempted to attend the hearing scheduled for 22 July 2014 but at 10pm on 21 July 2014, the judge informed Alaa Abd El-Fattah's lawyers that the hearing was going to be postponed.

The delegates have been greatly assisted by Nermin Serhan, Manu Abdo and Mohammed A. Gaafar, who have provided instant Arabic-English interpretation at court hearings and in many of the mission's meetings.

The Mission's Meetings

The observers wished to obtain as wide as possible insight into the trial and decided it was appropriate to meet and interview several individuals and meet with many human rights organisations in Cairo. They are mentioned below.

- The defendant, Alaa Abd El-Fattah, several members of his family and a number of his lawyers.
- Civil society representatives: Cairo Institute for Human Rights Studies, the Egyptian Centre for Economic and Social Rights, the No Military Trials for Civilians movement, the April 6 Youth Movement, the Arab Network for Human Rights Information, the Andalus Institute for Tolerance and Anti-Violence Studies, the New Woman Foundation, and the Egyptian Initiative for Personal Rights.
- Various European Embassy representatives and delegates from the European Union.
- Two members of the Egyptian judiciary, who have asked that their names not be referred to.
- The Presiding Judge determining Alaa Abd El-Fattah's case, Judge Mohamed El-Fikki. Two meetings took place with the Judge. Both were short and took place at Tora Police Academy, in the Judge's room before the hearings on 10 and 15 September 2014.
- The observers are still trying to arrange a meeting with the Prosecutor.

The Charges against Alaa Abd El-Fattah

Quoting directly from a professional translation of the case summary served on the Defence by the Public Prosecutor, the charges are as follows:

"Participated, along with other unknown individuals, in a gathering made up of more than five individuals, jeopardising public peace, in the aim of committing assault crimes against individuals, public and private properties, and influencing public authority figures as they performed their duties through the use of force and violence, as one of them carried a tool that is used in assaulting individuals. The intended aim of the gathering was achieved, and [protesters] were aware of the [commitment] of the following felonies:

- (a) They stole a radio device owned by the Ministry of Interior, which was carried by the victim Lieutenant Colonel Imad Tahoun. This was done through coercion as some [protesters] encircled him while others beat him, weakening his resistance. They were able, through this kind of coercion, to accomplish the theft. The coercion caused injuries to the victim as shown in the investigations.
- (b) They displayed, and other unknown individuals, force and threatened with violence, and proceeded first with using force and violence, in the aim of resisting police forces. The accused and other unknown individuals gathered at the incident scene and surprised police forces with the attack, putting their safety at risk, and disturbing security and public peace as shown in the investigations.
- (c) They took part in a protest, during which they disrupted security and public order, blocked the road, and disrupted traffic as shown in the investigations.
- (d) They attacked two policemen, Lieutenant Colonel Imad Tahoun and soldier Ahmad Mohammad Abdel Aal as they performed their duty, injuring them as described in the two annexed medical reports, as shown in the investigations.

The first accused [Alaa Abd El-Fattah] also:

- (a) Formed a gathering made up of more than five individuals, jeopardizing public peace, in the aim of committing assault crimes against individuals, public and private properties, and influencing the figures of public authorities as they performed their duties through the use of force and violence as shown in the investigations.
- (b) Staged a protest without informing the competent police station about the location of the protest as shown in the investigations..."

Summary of the Evidence

The Prosecution relies on the evidence of several witnesses, all of whom are members of the police, summarised by the Prosecutor in the following paragraph:

"They Testified: that they were assigned to head to the vicinity of Shura Council after information was received about the two members of April 6 Movement, Alaa Abd El-Fattah, and another, calling on citizens to protest in front of the Shura Council against the new protest law at 4pm of that day, without acquiring a prior permit.

The witnesses went to the location with a number of security cadres including Mohammed Hamed Mohammed al-Sharbini, Ali Tahoun, Samir Moujdi, Amro Talaat, Mohammad al-Sharkawi, in addition to central security members. They saw around 350 protesters on the sidewalk off the Shura Council holding banners denouncing the new protest law, the constitution, and military trials, and chanting against police and armed forces. Accordingly, they were warned to break up the protest given that they did not acquire a prior permit and were thus violating the new protest law.

Yet, they did not abide by the orders. Loudspeakers were used and protesters were given a deadline to leave. Yet, again, they did not abide by the orders, which led [the security forces] to fire water cannons on protesters to break them up. However, protesters assaulted police forces, throwing stones and empty bottles, and cursing the forces. Meanwhile, a number of protesters encircled and beat Mohammed Tahoun, injuring him and stealing his radio device. They also blocked the road, and disrupted the traffic. Yet the forces were able to arrest the second to the last [on the list] of the accused, knowing that the second was carrying a steel blade."

Four of the Prosecution's witnesses gave evidence to the Court on 10 September 2014.

The Prosecution also relies on video evidence which was also presented to the Court on 10 September 2014. One of the three CDs, which contain the video evidence on which the Prosecution seeks to rely, was excluded by the Court at the hearing on 10 September 2014.

At the hearing on 15 September 2014, Judge El-Fikki held that the contents of the second CD presented by the Prosecution on 10 September 2014, a small section of which was shown to the court, breached Alaa Abd El-Fattah's right to privacy, in violation of Articles 51, 57 and 59 of the Egyptian Constitution. The videos on the second CD had come from Manal Hassan's personal computer. The court asked the General Prosecutor to investigate who was responsible for providing this evidence to the court and subsequent violation of the defendant's rights.

The Court Room and Dynamics

All the hearings in Alaa Abd El-Fattah's case have taken place in a Special Chamber of the Criminal Court at Tora Police Academy. This Police Academy is located in the heavily fortified Tora police compound. The prison in which Alaa Abd El-Fattah has been detained, at various points during this trial, is also located in this compound.

Armed police men control both entries into the section of the compound in which the court building is located. At all hearings, army tanks have been stationed at these entries. Armed policemen also guard the entry into the courtyard of buildings in which the court is located. These policemen take each individual's ID card before they are allowed entry into the court area. It is clear that only those who have been granted permission to attend a hearing by the judges are allowed past these policemen.

The court room itself is in fact a lecture hall. It is a short distance from this entrance. There are three sections to the seating area in the lecture hall. The first section, on the left, is guarded by policemen in white uniforms. One policeman sits at the end of each row to make sure no one enters it. From August 2014 onwards, at the end of each of these rows, there is a section of one of the two glass cages which have been installed. The defendants have to stand or sit in these cages during the hearings. Large wires hang down the corner of the glass.

The second section of seating, in the middle of the court, is for the defendants' lawyers. The third section, on the right is for all other people who have been granted permission to enter, namely the media and the observers. The observers were directed to this section of the seating by the armed policemen stationed at the door of the court.

There is a tall, wooden rail, with a guarded door way, between the seated section of the court and the front section, in which the judges and the prosecution sit. The judges enter the court room from a different entrance to the observers, at the front of the lecture hall. Their seats are raised and a table is positioned in front of them. The court clerks sit to their right.

The Prosecutor's lawyers enter the room from the same entrance as the judges. Their seats are positioned to the left of the judges' chairs. Their chairs and table are positioned diagonally across the floor, so they can face, with relative ease, the defendants in their cages, the defendants' lawyers, the media and the judges. Their seats too are raised, like the judges.

A passage from the Qu'ran is hung above the judges' seats. It includes the words: "Justice must be the basis of any ruling. If you are in a position to judge, you must be fair and apply justice."

The court never confirms at what time their hearings will start. The defendants' lawyers are simply informed of the date on which the hearing will take place. When the judge postponed a hearing scheduled for 22 July 2014, he informed a journalist of his decision first. Only later did he confirm this decision to Alaa Abd El-Fattah's lawyers following a telephone call from them to him, at around 10pm the night before the hearing was due to take place.

There is no waiting area for the defendants or their families in the police compound. The defendants, their relatives and most of their lawyers have established a make shift "waiting area" at a local coffeehouse, located just outside the compound. The defendants' lawyers have a small waiting room immediately outside the lecture hall. When a hearing is due to start, the lawyers waiting in this area inside Tora compound call the defendants and other lawyers waiting in the cafe, so they are aware they should come to the court.

The Trial Rights in Question for this Second, Interim Report

The applicable legal standards found in the International Covenant on Civil and Political Rights 1966 (ICCPR), to which Egypt is a signatory, are set out below.

1. RIGHT TO PRE-TRIAL LIBERTY

Article 9 (3) ICCPR

Anyone arrested or detained on a criminal charge shall be brought promptly before a judge or other officer authorised by law to exercise judicial power and shall be entitled to trial within a reasonable time or to release. It shall not be the general rule that persons awaiting trial shall be detained in custody, but release may be subject to guarantees to appear for trial, at any other stage of the judicial proceedings, and, should occasion arise, for execution of the judgment.

Pre-trial detention should not be the general rule: it should only be used in criminal proceedings as a last resort, and for the shortest possible time period, when required to meet the needs of justice or of the investigation of the alleged offence or in order to protect society and the victim. Pre-trial detention should be the exception and bail should be granted, except in situations where there is a likelihood that the accused would abscond, destroy evidence, influence witnesses or flee from the jurisdiction of the State. Anyone who is deprived of their liberty as a result of detention has the right to bring proceedings before a court in order for that court to decide, without delay, on the lawfulness of their detention and order their release if the detention is unlawful.

FACTS

Alaa Abd El-Fattah has been held in detention for two separate periods of time both before and during his trial.

Following his arrest, he was held in detention from 28 November 2013 to 23 March 2014, a total of 115 days before a court considered his application for bail. During this period of time, Alaa Abd El-Fattah's lawyers made a number of applications seeking his release, both to the General Prosecutor and to the main criminal court in Cairo. Alaa Abd El-Fattah's case was not allocated to a specific court until 15 March 2014, so his lawyers were not able to make a bail application to the particular court considering his case, as the observers understand is the normal procedure in criminal cases in Egypt.

No responses, let alone decisions, were received to any of the applications submitted by Alaa Abd El-Fattah's lawyers. The lawyers informed the observers they think his case was purposely not allocated to a court for over three months specifically to keep Alaa Abd El-Fattah in detention. During this initial period of detention, Alaa Abd El-Fattah was held with another defendant, Mr Rahman. All the other defendants were released on bail.

Alaa Abd El-Fattah was detained for a second period, from 11 June until 15 September 2014, a total of 96 days. He was arrested on 11 June 2014 outside the Special Chamber. Alaa Abd El Fattah reports arriving at Tora compound at 9:30am on 11 June 2014. His lawyers had notified him that a hearing would take place that day. Alaa Abd El-Fattah arrived at court with his father, Ahmad Seif, who was also one of his lawyers. Mr Seif and another of the defendants' lawyers, who was waiting outside the court when the two men arrived, were permitted to enter the court but Alaa Abd El-Fattah was refused entry. Another of Alaa Abd El-Fattah's lawyers was already in the court building, in the lawyers' waiting room, by this point and had been there for some time. Alaa Abd El-Fattah and two of the other defendants went to the cafe outside the Tora compound to wait for permission to enter the court building, as was their normal routine for the hearings held in the Special Chamber at Tora.

At around 11 am, Alaa Abd El-Fattah and the two other defendants with whom he was sitting, were approached by police officers and told that their hearing was due to start. They walked the short distance to the court building. Once outside the court building, they were informed that an in absentia judgment had been handed down at 10:30 am and that an order for their arrest had been made. They were handcuffed and taken into custody at approximately 11:06 am.

Upon learning about this in absentia judgment, Alaa Abd El-Fattah's lawyers attempted to make an immediate application for a review of this judgment and for Alaa Abd El-Fattah's release on bail. But this was not possible. They were informed that Judge El-Fikki had left the building and so the court could not consider either application.

The court chose not to sit again in this case until 6 August 2014, which meant Alaa Abd El-Fattah's application for bail could not be considered until this date. On 6 August 2014, his application for bail was refused. No reasons were provided by the Court for this decision. And no reasons were provided either, on 10 September 2014, when the Court decided to extend his detention again.

The observers note that Alaa Abd El-Fattah, when released on bail, attended every hearing held in his case between 23 March and 11 June 2014.

During his second period of detention, it was only Alaa Abd El-Fattah and the two other defendants who were arrested with him, that were held in custody pending the outcome of their trial. All the other defendants remained on bail following the in absentia judgment. The authorities chose not to re-arrest them as they had Alaa Abd El-Fattah. The observers understand all, except two of the other defendants, have submitted the same application for a review of the in absentia judgment, like Alaa Abd El-Fattah.

FINDING

The observers find that Alaa Abd El-Fattah's right to personal liberty and right not to be arbitrarily deprived of his liberty have been breached as well as his right to challenge the lawfulness of his detention without delay.

2. RIGHT TO FAIR TREATMENT IN PRE-TRIAL DETENTION

Article 10 (1) ICCPR

All persons deprived of their liberty shall be treated with humanity and with respect for the inherent dignity of the human person.

States must ensure that all persons deprived of their liberty are treated with humanity, with respect for the inherent dignity of the human person and are not subjected to cruel, inhuman or degrading treatment or punishment. Prolonged solitary confinement is prohibited under international law.

FACTS

Alaa Abd El-Fattah reported being beaten up by the police officers who arrested him. The Special Chamber has accepted as part of the defendants' evidence, a tissue on which Alaa Abd El-Fattah's blood is allegedly found. This blood was collected by Alaa Abd El-Fattah's wife following her husband's arrest and alleged beatings by the policemen.

Whilst detained at the Cairo Security Headquarters Alaa Abd El-Fattah reported being blindfolded, handcuffed and left on a cell floor for twelve hours. For six hours, his hands were cuffed behind his back. For the other six hours, they were cuffed in front of him. He reports being hit on the back of his head with a weapon and he suffered a blood clot in his left eye. His wife informed the observers that she suspects this clot was caused by the tightness of the dirty cloth that was used by the policemen to blindfold him.

Following Alaa Abd El-Fattah's arrest, his family was not immediately told of his whereabouts.

During his first detention, Alaa Abd El-Fattah reports being held in an individual cell for twenty of every twenty four hours. During his second detention, he reports being held in an individual cell initially for twenty two of every twenty four hours. However, following a hunger strike of several detainees, this was reduced to eighteen out of twenty four hours.

Alaa Abd El Fattah, Manal Hassan and his lawyers report that those in charge of his detention liked "playing games" with him. Sometimes they allow him to have a radio in his cell, other times not, sometimes they allow his family to bring him in food, other times not.

FINDING

The observers recommend that the Prosecutor-General investigates, without further delay, Alaa Abd El-Fattah's and Manal Hassan's complaints of police brutality upon his arrest and the unlawful seizing of their property without a search warrant.

3. RIGHT TO FAIR TRIAL – IMPARTIAL TRIBUNAL

Article 14 (1) ICCPR

In the determination of any criminal charge against him, or of his rights and obligations in a suit at law, everyone shall be entitled to a fair and public hearing by a competent, independent and impartial tribunal established by law.

The right to an independent, impartial and competent tribunal is an absolute right that may suffer no exception. All tribunals, courts, and judges must be independent from the executive and legislative branches of government as well as the parties to the proceedings. The independence of courts and judicial officers must be guaranteed by the constitution, laws and policies of a country as well as being respected in practice by the government, its agencies and authorities and the legislature. The criteria for the appointment to judicial office should be transparent and subject to strict selection criteria.

FACTS

Judge Mohammed El-Fikki was one of twenty two judges, about whom Alaa Abd El-Fattah and others submitted a complaint, shortly after the 2011 revolution, accusing him and the others of allowing and permitting election fraud in 2005. A copy of this complaint (in Arabic) can be found at Appendix Three.

The evidence submitted in the complaint was compiled at the time, in 2005, by a fact finding committee of the Syndicate of Judges. While Mubarak remained in power, it was considered pointless to submit a complaint about this issue, but after 2011, the complainants had some hope that their evidence might be taken more seriously and they treated more fairly. As far as the observers are aware, three years on, no finding or decision has been taken in regards to this complaint.

On the basis of this animosity between the men, Alaa Abd El-Fattah submitted an application to Judge El-Fikki, on 6 April 2014, asking that he recuse himself from the case. The observers understand that Egyptian law requires that there be no "rivalry" between judges and defendants. "Rivalry" includes previous complaints and legal disputes. Alaa Abd El-Fattah's lawyers argued that there was clear "rivalry" between the two men and Judge El-Fikki lacked impartiality and should not hear the case. In response to this application, on 6 April 2014, Judge El-Fikki adjourned the case pending a Cairo Appeals Court's decision about it.

On 17 May 2014, the Cairo Appeals Court ruled that Judge El-Fikki could continue to preside over Alaa Abd El-Fattah's trial, despite the animosity between the two men and fined Alaa Abd El-Fattah 5,000 EGP. The observers have not been able to obtain a copy of the Appeals Court's decision but they are informed by Alaa Abd El-Fattah's lawyers that the application was refused because the Appeals Court held it had been submitted too late. The Appeals Court found that application could not be granted because the Judge had already started to consider the defence evidence in the case.

Alaa Abd El-Fattah's lawyers told the observers that this was untrue. They had not started to present their case to the Court at this stage. The Appeals Court's judgment relies on the fact that, at the hearing on 23 March 2014, Judge El-Fikki noted, and confirmed, four pieces of evidence from the defendants were before him. Alaa Abd El-Fattah's lawyers agree that this is true. But they informed the observers they had specifically confirmed to the Judge, at the hearing on 23 March 2014, that they did not wish to start to present their evidence yet and did not intend to do so.

On 15 September 2014, Judge El-Fikki and the other judges considering Alaa Abd El-Fattah's case recused themselves from the proceedings. No reasons were provided for this decision, as the observers understand is normal practice for these interim decisions in Egyptian criminal proceedings.

FINDING

The prosecution began the presentation of its evidence at the hearing on the 10 September 2014. The presentation was not complete by the time the court adjourned proceedings to 15 September 2014. The observers note, of the evidence presented so far, the majority of the witnesses and video evidence failed to link the defendant specifically to the charges of which he is accused. The one witness who did identify Alaa Abd El-Fattah provided conflicting and unclear evidence.

At the hearing on 6 April 2014, Alaa Abd El-Fattah applied for the recusal of the judges presiding over his case. This application was refused by a higher court and so the same judges continued to hear Alaa Abd El-Fattah's case in Tora's Special Chamber. However, having heard the evidence on 10 September 2014, the judges decided on the 15 September, before further evidence was called, to announce their recusal.

Though Alaa Abd El-Fattah had renewed his application at the hearing on 10 September for the judges to stand aside, the judges' decision to withdraw on 15 September was neither reasoned nor expected. It remains to be seen whether a motivation behind this recusal was the requirement for a fresh trial before new judges, which provides the prosecution with an opportunity to strengthen its case in the interim.

The decision in absentia of 11 June 2014, leading to the further remand into custody of Alaa Abd El-Fattah, appears to the observers to suggest a bias towards the prosecution.

4. RIGHT TO FAIR TRIAL – PUBLIC HEARING

Article 14 (1) ICCPR

In the determination of any criminal charge against him, or of his rights and obligations in a suit at law, everyone shall be entitled to a fair and public hearing by a competent, independent and impartial tribunal established by law.

All trials in criminal matters must in principle be conducted orally and publicly. Having a public hearing ensures transparency of proceedings and thus provides an important safeguard for the interest of the individual and society at large. Courts must make information regarding the time and venue of the oral hearings available to the public and provide adequate facilities for the attendance of interested members of the public, within reasonable limits, taking into account the potential interest in the case and the duration of the oral hearing.

FACTS

All the hearings in this case have been held at Tora, a fortified police compound. Access to the compound at each of the hearings was controlled by armed policemen. Access to the court within the compound was restricted to those granted permission by the judge. There is no public listing regarding the hearings that take place at the Special Chamber in Tora.

On 6 April, 25 May and 6 August 2014 Alaa Abd El-Fattah's family was not granted access to Tora police compound, and thus to the court. On 10 and 15 September 2014, members of Alaa Abd El-Fattah's family were granted permission to attend the hearings. The defendants and their lawyers were granted access to all the hearings listed above, along with members of the media, the observers and their interpreters.

No reasons have ever been provided by the Judge for his exclusion of ordinary members of the public or the defendants' families. There has never been any restriction of space in the court gallery. In fact, the court room is of considerable size, probably large enough to accommodate over two hundred people. Moreover, the prosecutors and judges are seated some distance away from all other court users and any observers. There is a barrier/gate between them.

On 11 June 2014, Alaa Abd El-Fattah was refused entry to the court and an in absentia judgment was handed down while he waited for permission outside.

FINDING

The observers find that all the hearings held in this case were in breach of the right to a public hearing as guaranteed in Article 14 (1) ICCPR.

5. RIGHT TO FAIR TRIAL – RIGHT TO DISCLOSURE OF CASE

Article 14 (3) a ICCPR

To be informed promptly and in detail in a language which he understands of the nature and cause of the charge against him.

Article 14(3) makes clear that a fair trial requires defendants to be provided with certain procedural minimum guarantees. This includes the right of the accused to be informed promptly and in detail, in a language which he understands, of the nature and cause of the charges against him. The right to be informed promptly requires that the information provided must give details on both the law and the alleged facts on which the charges are based.

FACTS

Alaa Abd El-Fattah's lawyers have received a copy of the written evidence upon which the Prosecution seeks to rely. However, to date, they have still not received a copy of the CD evidence upon which the Prosecution seeks to reply.

Alaa Abd El-Fattah's lawyers requested this CD evidence from the Prosecution direct. On 25 May 2014 and 6 August 2014, they also submitted applications to the court for a copy of this evidence. On 25 May 2014, no comment was made by the judges about this application. On 6 August 2014, the Court refused the request.

FINDING

The court's decision to refuse Alaa Abd El-Fattah proper access to the CD evidence, on which the Prosecution seeks to rely, breaches Article 14.

6. RIGHT TO FAIR TRIAL - RIGHT TO BE PRESENT

Article 14 (3) d ICCPR

To be tried in his presence...

FACTS

The Presiding Judge at the Special Chamber in Tora granted Alaa Abd El-Fattah permission to attend the hearings held in his case on 6 April, 25 May, 6 August, 10 September and 15 September 2014. The defendant was refused entry into the court on 11 June 2014, when an in absentia judgment was handed down. For the hearing held on 6 August 2014 and onwards, Alaa Abd El-Fattah and all other defendants were placed into the two glass cages which had been installed in the court.

The cages prevent all noises in the cage being transmitted into the court, and vice versa. The observers understand that the judges sitting in Tora's Special Chamber have a button which controls whether noises are allowed in or out of the cages. Microphones are provided for all those who wish to speak in the court. The observers understand that it is only when people speak into the microphones that the defendants can hear the words being spoken in the cages.

The use and quality of these microphones was not consistent during the hearings held on 6 August, 10 September and 15 September. The observers noted that at times it was difficult for them to hear what was being said and by whom, so they assume it would have been impossible for the defendants to have done so. At several times during the hearings of 6 August and 10 September, the defendants made clear, through banging on the glass, that they were unable to hear the evidence being presented.

The glass of the cages is brown so it is not possible to see the defendants properly through it. The silhouettes of their bodies were visible from the observers' section of the court but not much more. The observers assume the same is true for them.

On 11 June 2014, Judge El-Fikki handed down a judgment in absentia finding Alaa Abd El-Fattah guilty of the offences of which the Prosecution accuses him. This judgment sentenced Alaa Abd El-Fattah to fifteen years imprisonment, a 10,000 EGP fine and a five years probationary period following the service of his sentence.

At the time this judgment was handed down, Alaa Abd El-Fattah was waiting for permission to enter the court. His request to enter the court with his father, who is also his lawyer, had been refused. At the time the in absentia judgment was handed down, Alaa Abd El-Fattah was waiting in the cafe just outside Tora compound which has become the unofficial "waiting area" for defendants and their lawyers in this case. Several policemen found Alaa Abd El-Fattah at this cafe shortly after the judgment had been handed down, and informed him to come to the court as his session was due to start shortly.

FINDINGS

The observers find all hearings from 6 August 2014 onwards and the in absentia judgment of 11 June 2014 in breach of Article 14 ICCPR. The observers find that the relevant authorities failed to take steps to inform Alaa Abd El-Fattah of the proceedings that were to take place at the Special Chambers in Tora on 11 June 2014. The sound proof glass cages did not allow Alaa Abd El-Fattah to be truly present during this trial on 6 August, 10 September and 15 September 2014.

7. RIGHT TO FAIR TRIAL - RIGHT TO EXAMINE WITNESSES

Article 14 (3) e ICCPR

The accused has the right to examine, or have examined, the witnesses against him and to obtain the attendance and examination of witnesses on his behalf under the same conditions as witnesses against him.

The Prosecution should, within a reasonable time, provide the defence with the names of the witnesses that it intends to call at trial so as to allow the defence lawyer sufficient time to prepare his or her case.

FACTS

The Prosecution provided Alaa Abd El-Fattah's lawyers with a list of the witnesses on whose evidence it seeks to rely, in March 2014.

On 10 September 2014, four of the Prosecution's witnesses provided oral evidence to the Court. Judge El-Fikki, the Prosecutor and Alaa Abd El-Fattah's lawyers were able to ask questions of them.

The trial observers understand the Prosecution intends to rely on the testimony of another eight witnesses.

FINDING

Alaa Abd El-Fattah's lawyers were permitted during the course of the hearing of the 10 September 2014 to examine prosecution witnesses and therefore this part of the trial process was compliant with right to examine witnesses.

8. RIGHT TO FAIR TRIAL - RIGHT TO LEGAL ASSISTANCE

Article 14 (3) d ICCPR

... to defend himself in person or through legal assistance of his own choosing; to be informed, if he does not have legal assistance, of this right; and to have legal assistance assigned to him, in any case where the interests of justice so require, and without payment by him in any such case if he does not have sufficient means to pay for it.

FACTS

During all the hearings held in this case so far, Alaa Abd El-Fattah has been adequately represented.

FINDING

The hearings have not been in breach of Article 14 ICCPR in this regard.

9. RIGHT TO FAIR TRIAL - RIGHT TO PREPARE DEFENCE

Article 14 (3) b ICCPR

To have adequate time and facilities for the preparation of his defence and to communicate with counsel of his own choosing.

The right of the accused to have adequate facilities to prepare their defence requires that they should have the ability to communicate, consult with and receive visits from their lawyers without interference or censorship and in full confidentiality. The right requires that the accused and his or her lawyers are guaranteed access to all appropriate information, documents and other evidence that the prosecution plans to offer in court against the accused.

FACTS

Alaa Abd El-Fattah's lawyers have received a copy of the written evidence upon which the Prosecution seeks to rely. However, to date, they have not received the CD evidence upon which the Prosecution seeks to rely. Alaa Abd El-Fattah's lawyers have requested copies of this evidence from the Prosecution and the Court. On 6 August 2014, the Court refused this request.

The three CDs relied upon by the Prosecution were played to the Court on 10 September 2014. During this hearing, Alaa Abd El-Fattah and the other defendants were placed in the glass cages. As a result, his lawyers could not take instructions from him and he was not able to provide any instructions about the evidence being shown, which they were all seeing for the first time. Despite this, the defence lawyers had to make representations about this CD evidence immediately following its screening.

During Alaa Abd El-Fattah's two periods of detention, his lawyers were allowed access to him, initially every thirty days, which was then reduced to every fifteen days. They had to request permission to visit Alaa Abd El-Fattah from the Public Prosecutor and this permission was granted. Alaa Abd El-Fattah's lawyers have informed the observers that never, during any of the meetings held between them and Alaa Abd El-Fattah at Tora prison, have they been able to speak in private. Police personnel were present and in earshot throughout these privileged discussions.

FINDING

The observers find the relevant authorities in breach of the right to prepare a defence as stipulated in Article 14 (3) b ICCPR.

10. RIGHT TO FAIR TRIAL - RIGHT TO TIMELY TRIAL

Article 14 (3) c ICCPR

To be tried without undue delay.

The right of the accused to be tried without undue delay means that he or she must be tried within a reasonable time. The authorities must ensure that the entire criminal proceedings, from the pre-trial investigation stages until the final appeal, are completed within a reasonable time.

FACTS

Alaa Abd El-Fattah's alleged offences took place on 26 November 2013 and the trial started just over four months later. Since that date, the proceedings have been adjourned on a number of occasions. On 6 April 2014, following an application by the defendants that Judge El-Fikki recuse himself from the case, the case was adjourned until 17 May 2014. On 17 May 2014, it was adjourned because Judge El-Fikki has the flu. The hearing scheduled for 22 July 2014 was cancelled on the evening of 21 July 2014 because of "maintenance work" at the court. On 6 August 2014, the court adjourned proceedings following the refusal to grant Alaa Abd El-Fattah and the two other defendants held in custody, bail. The Prosecution only began to present its evidence to the court on 10 September 2014, nine and a half months after Alaa Abd El-Fattah was arrested.

FINDING

The observers believe the delay in concluding this case has been "undue". Though the length of the time that has passed is not yet beyond international norms, the lack of sufficient reasons for the delays in the proceedings is in breach of Article 14. Some of the delays could clearly have been avoided. For example if

the reasons that led Judge El-Fikki to recuse himself from the case on 15 September 2014 had occurred to him when the application requesting him to do so was made in April, then a substantial delay could have been avoided.

11. RIGHT TO FAIR TRIAL - RIGHT TO LEGAL CERTAINTY OF CRIMINAL CHARGES

Article 15 (1) ICCPR

No one shall be held guilty of any criminal offence on account of any act or omission which did not constitute a criminal offence, under national or international law, at the time when it was committed.

A moot point in this case will be whether the charge of organising a protest "without a permit" is retrospective. The Protest Law was issued on 24 November 2013 and imposed a requirement of three days' notice for any protest. The protest in question took place on 26 November 2013. It might therefore be argued the law could not apply as it would not have been possible to give three days' notice for a protest planned two days after the Protest Law was issued. The observers wish to investigate this further and reach no definite findings at this stage.

Conclusion

For the reasons provided in this report the observers are of the opinion that Alaa Abd El-Fattah's right to a fair trial, as guaranteed by international law, has been breached in the following ways:

- He should not have been held in custody.
- Complaints concerning his treatment in detention have not been investigated.
- His right to be present and follow the proceedings has not been fulfilled.
- Central evidence in the prosecution's case has not been disclosed for evaluation by his defence.
- The court has appeared to be partial to the cause of the prosecution.
- There has been undue delay in concluding the proceedings.

In addition, the observers find the events which led to in absentia judgment of 11 June 2014, which led to a second period of detention for Alaa Abd El-Fattah, fell so far short of domestic and international standards of procedural fairness, as to amount to a judicial act lacking in legality.

The observers recommend the continued observation of this trial process.

The observers hope that the judiciary's awareness that they are being observed will have a positive influence on it, will encourage it to improve the standards of justice dispensed in this case.

Appendix 1 – The Protest Law

(as adopted in November 2013)

Presidential Decree, The Arab Republic of Egypt

Law No. 107 for 2013

For organizing the right to public meetings, peaceful processions and protests

The Interim President

After viewing the Constitutional Declaration issued on July 8, 2013;

The Penal Code;

The Criminal Procedures Law;

Law 10 for 1914 regarding Gathering;

Law 14 for 1923 for determining the provisions of public meetings and protests in public roads;

Law 394 for 1954 regarding Weapons and Ammunition;

Police Authority Law issued by law 109 for 1971;

The Judicial Authority Law issued by law 46 for 1972;

The State Council Law issued by law 47 for 1972;

The Local Administration System Law issued by law 43 for 1979;

The Environment Law issued by law 4 for 1994;

Law 94 for 2003 regarding the establishment of the National Council for Human Rights;

Law 113 for 2008 regarding the protection of the sanctity of worship places;

And after the approval of the Cabinet;

And based on the view of the State Council:

The following law's text has been decided upon:

Chapter One

General Provisions and Definitions

(Article 1)

Citizens have the right to organize and join peaceful public meetings, processions, and protests, in accordance to the provisions and rules stipulated in this law.

(Article 2)

A public meeting is every gathering that takes place in a public place or site, entered by or could be entered by individuals without a prior personal invitation, not less than ten to discuss or exchange views on an issue of general interest.

Electoral meetings that abide to the following conditions are considered as public meetings in applying the provisions of this law:

- 1- When the aim of it is to select a candidate or candidates for the memberships of parliaments or to listen to their electoral programs.
- 2- When it's limited to the voters, and candidates, or both of them.
- 3- When the meeting takes place in the time designated for electoral campaigning.

(Article 3)

A procession is every march of individuals in a public place, or road, or square that exceeds ten to peacefully express opinions or issues that are not political.

(Article 4)

A protest is every gathering of individuals in a public place, or proceeds on the public roads and squares that exceeds ten to express their opinions or demands, or political discontentment in a peaceful manner.

(Article 5)

Public meetings for political purposes are prohibited in places of worship or their arena, or their annexes. It is also prohibited to conduct processions to them or from them, or protest in them.

(Article 6)

Participants in public meetings, processions, or protests are prohibited to carry any weapons or ammunition or explosives or fireworks or incendiary material or any other tools or material that subjects individuals or buildings, or properties to damage or danger.

They are also prohibited to wear masks or coverings to hide facial features with the intention of committing any of these acts.

(Article 7)

Participants in public meetings or processions or protests are prohibited to disrupt public security or order or obstruct production, or call for it, or hamper citizens' interests or harm them or subject them to danger or prevent them from exercising their rights and work, or affecting the course of justice, public utilities, or cutting roads or transportation, or road, water, or air transport, or obstructing road traffic or assaulting human life or public or private property or subjecting it to danger.

Chapter Two

Organizational Procedures and Rules

For public meetings, processions, and protests

(Article 8)

Whoever wishes to organize a public meeting, or conduct a procession or protest should submit a written notification to the police station or point that falls within the zone of the place of public meeting or the start point of the procession or protest. The notification should be submitted at least three working days

prior to the start of the meeting, procession, or protest, with a maximum of 15 days. In the case of electoral meetings, this duration will be 24 hours. The notification is to be delivered by hand or by a notice served by a bailiff and should include the following data and information:

The place of the public meeting or the place and route of the procession or protest.

The start and end time of the public meeting, procession or protest.

The subject of the public meeting, procession, or protest, its purpose, the demands requested by the participants in any of them, and the mottos used.

The names of individuals, and their titles, or entities organizing the public meeting or procession or protest, their residences and contact information.

(Article 9)

The Minister of Interior shall issue a decree to compose a Standing Committee in each governorate, headed by its Security Chief. It is responsible for putting in place the rules and guaranteeing measures that would ensure securing the notified public meetings, processions, and protests and methods of dealing with them in case they become non-peaceful, according to the provisions of this law.

(Article 10)

If serious information or evidence is found before the scheduled time for starting a public meeting, procession, or demonstration, indicating the presence of threats to security of peace, the Minister of Interior or the specialized Director of Security may issue a justified decree prohibiting the public meeting, procession, or demonstrations, or suspending it, or relocating it, or altering the route; the organizers [submitters of the request] should be notified with the decision, at least 24 hours prior to the scheduled date.

Without prejudice to the jurisdiction of the Administrative Court, organizers [submitters of the request] may appeal against the prohibition or postponement decision before the Judge of Urgent matters at the appropriate First Instance Court. The Judge shall issue his verdict swiftly.

(Article 11)

Within the framework of procedures, measures, and methods of treatment placed by the committee mentioned in article 9, security forces shall take the necessary measures and procedures to secure notified public meetings, processions, or demonstrations, while protecting lives, the well-being of the participants, and the public and private properties, without obstructing the purpose [of the demonstration].

Officially dressed security forces – based on an order from the appropriate field commander – may disperse the public meeting, procession, or demonstration, and arrest suspects, if the participants in the public meeting, procession, or demonstration take any action that constitutes as a crime punishable by law or violate the peaceful nature of expressing opinions.

The Security Director, with geographic jurisdiction, may request from the Urgent Matters Judge at the appropriate First Instance Court - prior to the dispersal, break-up or arrest - to second whoever he may see fit, in order to authenticate the non-peacefulness of the public meeting, procession, or demonstration. The Judge shall issue his verdict swiftly.

(Article 12)

In the cases in which the law permits the dispersal or break up of a public meeting, procession, or demonstration, the Security Forces shall abide by the following methods and stages:

Firstly: Requesting from the participants in the public meeting, procession, or demonstration to voluntarily depart by directing repetitive verbal warnings at an audible level to disperse the public meeting, procession or demonstration, while specifying and securing the departure routes for the participants.

Secondly: In case of the non-responsiveness of the participants in the public meeting, procession, or demonstration to the departure warning, the Security Forces shall disperse them in accordance with the following order:

Using water cannons;

Using tear gas canisters;

Using batons

(Article 13)

In the case of the failure of the previously stipulated methods in dispersing or breaking up the participants in the public meeting, procession, or demonstration, or in cases in which the participants undertake acts of violence, sabotage, destroying public and private properties, or assaulting individuals or forces, the Security forces may gradually use force, as follows:

- Firing warning shots;
- Firing sound bombs or gas bombs;
- Firing rubber cartouche bullets;
- Firing non-rubber cartouche bullets

In case the participants in the public meeting, procession, or demonstration resort to using firearms, thus providing a legitimate basis for self-defense, they [demonstrators] shall be dealt with using tools proportionate to the danger posed against life, money, or property, in response to the assault.

(Article 14)

In coordination with the appropriate governor, the Minister of Interior shall, by issuing a decree, determine a 'specified safe area' in front of vital facilities, such as presidential premises, parliamentary councils, international organization offices, foreign diplomatic missions, premises of governmental, military, security and auditing agencies, courts and prosecution offices, hospitals, airports, oil facilities, educational institutions, museums, monumental areas, and other public facilities.

Participants in the public meeting, procession, or demonstration are prohibited from trespassing the boundaries of the specified safe areas, stipulated in the previous paragraph.

(Article 15)

The appropriate governor shall issue a decree determining sufficient space inside the governorate, in which public meetings, processions, or demonstrations, with the purpose of peaceful expression of opinions are allowed without prior notification.

Chapter Three

Penalties

(Article 16)

Without prejudice to any severer penalty stipulated in the penal code or any other laws, the acts stipulated in the following Articles will be punished as specified.

(Article 17)

Anyone who possessed or obtained weapons or explosives or ammunition or incendiary material or pyrotechnic material while participating in a meeting, procession or protest shall be punished by strict imprisonment not less than 7 years, and a fine not less than EGP 100,000 and not more than EGP 300,000, or either penalties.

(Article 18)

Anyone who offered or received cash or any benefit or mediated to organize public meetings or protests, with the intention of violating Article 7 of this law, shall be punished by imprisonment and a fine not less than EGP 100,000 and not more than EGP 200,000, or either penalties

The same punishment will be applied to whoever incited to commit the crime even if it didn't occur.

(Article 19)

Anyone who violated the prohibitions stipulated in Article 7 of this law shall be punished by confinement not less than two years and not more than five years and a fine not less than EGP 50,000 and not more than EGP 100,000, or either of these two punishments.

(Article 20)

Anyone who wore masks or coverings with the intention of hiding facial features during the meeting, procession or protest, or violated the prohibitions stipulated in Articles 5 and 14 of this law shall be punished by imprisonment for a period not exceeding one year and a fine not less than EGP 30,000 and not more than EGP 50,000, or either of these two punishments.

(Article 21)

Anyone who organizes a public meeting or procession or protest without the notification stated in Article 8 of this law shall be punished by a fine not less than EGP 10,000 and not more than EGP 30,000.

(Article 22)

Without violating the rights of those who don't practice goodwill, the court shall confiscate the materials, tools, and money used in any of the crimes stipulated in this law.

Chapter Four

Procedural Provisions

(Article 23)

The referenced Law No. 14 for 1923 shall be cancelled, as well as any provisions that is contrary to this law

(Article 24)

The Cabinet shall issue necessary decrees to implement the provisions of this law.

(Article 25)

This law shall be published in the Official Gazette and shall be enforced one day following the day of its publishing.

Issued by the Presidency on November 24, 2013

Adly Mansour

Appendix 2 - In absentia judgment

11/6/2014

In the name of the people
Cairo Criminal Court
D/16 south of Cairo

Publicly adjourned, headed by the president of the court, magistrate Mohammad Ali [illegible], with the membership of the two advisors of Cairo Court of Appeal, Mohammad Ismail Hassanen and Mahmoud Fathi, and the presence of Prosecutor Mohammad Fouad, and the Secretary of court Adel Abdel Halim,

The following ruling was issued:

In the case of public prosecution no. 12058/2013, Qasr al-Nil no. 1343/2013 vs.

- 1- Alaa Ahmad Saif al-Islam Abdel Fatah
- 2- Ahmad Abdel Rahman Mohammad Ali
- 3- Yehya Mahmoud Mohammad Abdel Shafi
- 4- Abdel Hamid Mahmoud Mohammad Qassem
- 5- Mohammad Sami Mokhtar Zaki
- 6- Mohammad Husni Imam Ibrahim
- 7- Ahmad Housam al-Din Mohammad Abdel Aziz
- 8- Abdel Rahman Atef Sayyed Ali
- 9- Ahmad Mohammad Nabil Hassan
- 10- Mohammad Abdel Rahman Mohammad Hassan
- 11- Abdullah Gamal Zaki Mohammad
- 12- Mamdouh Gamal ad-Din Hassan Abdel Wahhab
- 13- Abdel Rahman Sayyed Mohammad al-Sayyed
- 14- Abdel Rahman Tarek Abdel Samih Ahmad
- 15- Mohammad Hussam al-Din Mahmoud Ali
- 16- Mahmoud Yehya Mohammad Abdel Shafi
- 17- Mohammad Abdel Hakim Taymoor Abdel Aziz
- 18- Mohammad al-Rifai al-Baz Youssef
- 19- Mohammad Yusri Mustafa Abdel Wahhab
- 20- Wael Mahmoud Mohammad Metwali
- 21- Hatem Ahmad Shawqi Hamed Qalada
- 22- Peter Galal Youssef Faraj
- 23- Mahmoud Mohammad Abdel Aziz Awad
- 24- Hani Mahmoud Mohammad al-Gamal
- 25- Salah al-Din Mohammad Hamed al-Hilali

The public prosecution accused the aforementioned individuals of the following: on 26/11/2013, in the Qasr al-Nil police station/ Cairo governorate, all the accused participated, along with other unknown individuals, in a gathering made up of more than 5 individuals, jeopardizing public peace, in the aim of committing assault crimes against individuals, public and private properties, and influencing public authority figures as they performed their duties through the use of force and violence, as one of the [protesters] carried a tool that is used in assaulting individuals. The intended aim of the gathering was achieved, and [protesters] were aware of the [commitment] of the following crimes:

- (a) They stole a radio device owned by the Ministry of Interior, which was carried by the victim Lieutenant Colonel Imad Tahoun. This was done through coercion as some [protesters] encircled him while others beat him, weakening his resistance. They were able, through this kind of coercion, to accomplish the theft. The coercion caused injuries to the victim as shown in the investigations.
- (b) They displayed, and other unknown individuals, force and threatened with violence, and proceeded first with using force and violence, in the aim of resisting police forces. The accused and other unknown individuals gathered at the incident scene and surprised police forces with the attack, putting their safety at risk, and disturbing security and public peace as shown in the investigations.
- (c) They took part in a protest, during which they disrupted security and public order, blocked the road, and disrupted traffic as shown in the investigations.
- (d) They attacked two policemen, Lieutenant Colonel Imad Tahoun and soldier Ahmad Mohammad Abdel Aal as they performed their duty, injuring them as described in the two annexed medical reports, as shown in the investigations.

The first accused also

- (a) Formed a gathering made up of more than 5 individuals, jeopardizing public peace, in the aim of committing assault crimes against individuals, public and private properties, and influencing the figures of public authorities as they performed their duties through the use of force and violence as shown in the investigations.
- (b) Staged a protest without informing the competent police station about the location of the protest as shown in the investigations,

The second accused also

Carried a tool used to assault individuals without having any legal justification for carrying, obtaining, and possessing it, and without having any professional necessity [to justify its possession].

The accused were referred to this court to be duly tried according to the description mentioned in the referral order.

The session of today looked into the case as shown in details in the minutes of the court hearing.

The court, after reviewing the documents, hearing the pleading, and after legal discussion

Whereas all the accused were informed through the referral order and the summons to attend the specified session and none of them showed up to the session held on 17/6/2014, therefore issuing the ruling in absentia is applicable pursuant to the article 1/384 of the law of criminal procedures;

Whereas the court [illegible] deduced from the documents and investigations that on 26/11/2013, the April 6 Movement issued calls on the internet for demonstration in front of the Shura Council, in protest of the new protest law. Among those who called for and instigated the protest was the first accused Alaa Ahmad Saif al-Islam Abdel Fatah. In implementation of and response to the call, more than three hundred and fifty [350] individuals gathered on the sidewalk off the Shura Council holding banners denouncing the new protest law, the constitution, and military trials, and chanting against police and armed forces. Accordingly, police forces warned them through loudspeakers that these acts were violating the protest law no. 107 of 2013, since no request was filed to competent authorities to organize such a demonstration and no organizational procedures were duly taken. The police asked demonstrators to break up the protest and leave, specifying the roads to be taken and giving a deadline of 10 minutes to do so. Yet, they did not abide by the orders and continued to chant against the police forces, using profanity, and did not leave after the deadline was over. They, instead, blocked the road and disrupted traffic, violating security and public order. Police forces were then compelled to deal with them by firing water cannons from fire trucks. Protesters did not abide by the order of breaking up the protest and leaving. While police forces tried to break up the gathering, protesters threw stones on them and ran away. During that time, the first accused and the others encircled Tahoun, supervisor of the criminal research services in the area, and pushed him to the ground. They assaulted him physically and verbally, wounding him as shown in the medical report. They also seized his radio device. Protesters also attacked soldier Ahmad Mohammad Abdel Aal with stones, and the forces were able to arrest the accused, and found a metal tool with the second accused.

Whereas the aforementioned incidents were proved through valid evidence and were rightly attributed to the accused according to the accounts of Alaa Azmi Hassan, police brigadier general in the Public Directorate of Cairo Investigation Department; Mohammad Mahmoud al-Sharkawi, police Lieutenant colonel, director of Sayida Zeinab Investigation Department; Mohammad Hamed Mohammad al-Sharbini, officer in the general directorate of Cairo Investigation Department; Samir Moujdi Salama, police commandant, director of Investigation Unit in al-Dareb al-Ahmar; Amro Mohammad Talaat Ahmad, police lieutenant colonel and Director of the Investigation Department of al-Muski; Imad Hamdi Tahoun, lieutenant colonel and officer in the general directorate of the Investigation Department of Cairo; Abdul Aziz Mohammad Abdul Aziz, police captain, assistant investigator in the Police Investigation Department in al-Zawiya al-Hamra; Karim Mahmoud Ibrahim Mansour, police captain, officer in al-Basatin Office for Central Security; Ahmad Mohammad Abdel Aal, second in command of al-Marej Central Security Force; Hani Gerges Najib, police brigadier general, officer of the Qasr al-Nil police station; Mohammad Mohammad al-Sayyed Jomaa, police lieutenant colonel- director of the Investigation Department of Qasr al-Nil; and Mahmoud Mohammad Ahmad Ismail, police captain, assistant director of the Investigation Department of Qasr al-Nil; and as proved in the report of the documentation and information directorate in the Ministry of Interior, the first accused Alaa Ahmad Saif al-Islam Abdel Fatah called on citizens to protest on 26/11/2013 at 4pm in front of the main gate of the Shura council, using expressions that read: "take to the streets, defy the null law and pressure to stop the ratification of unconstitutional military trials." It was shown that the followers of the page amounted to 515779, and all Twitter users could see these tweets by just logging in to the page. According to the confession of the accused before the public prosecutor, Yehya Mahmoud Mohammad Abdul Shafi, Sami Mokhtar, Mohammad Hussin Imam, Abdel Rahman Atef Sayyed, Mamdouh

Gama led-Din Hussein, Abdel Rahman Abdel Samih, Mohammad Hussam ad-Din Mahmoud, Mohammad Abdel Hakim Taymour, Mohammad Yehya Mohammad, Peter Galal Youssed, Mahmoud Mohammad Abdel Aziz, Hani Mahmoud Mohammad, that they participated in the protest that was staged in front of the Shura Council on 26/11/2013 without notifying the police department, and the confession of Ahmad Saif al-Islam Abdel Fatah before the public prosecution that he called on staging a protest in front of Shura council on 26/22/2013 and took part in it; and according to the public prosecution and the reviewing of the recordings of the ministry of interior, showing that people were gathered in front of the Shura Council holding banners, and that the police was trying to break them up. In the recordings, Fatah was seen at the incident scene; and according to two medical reports that confirmed the injury of Lieutenant Colonel Imad Tahoun, with bruises found all over his body; and the left elbow injury of soldier Ahmad Mohamad Abdel Aal.

Alaa Azmi Hassan, police brigadier general in the Public Directorate of Cairo Investigation Department; Mohammad Mahmoud al-Sharkawi, police Lieutenant colonel, director of Sayida Zeinab Investigation Department; Mohammad Hamed Mohammad al-Sharbini, officer in the general directorate of Cairo Investigation Department; Samir Moujdi Salama, police commandant, director of Investigation Unit in al-Dareb al-Ahmar; Amro Mohammad Talaat Ahmad, police lieutenant colonel and Director of the Investigation Department of al-Muski, they testified that they were assigned to head to the vicinity of Shura Council after information was received about the two members of April 6 Movement Alaa Abdel Fatah, and another, calling on citizens to protest in front of the Shura Council against the new protest law at 4 pm of that day, without acquiring a prior permit. The witnesses went to the location with a number of security cadres including investigation and central security members. They saw around 350 protesters on the sidewalk off the Shura Council holding banners denouncing the new protest law, the constitution, and military trials, and chanting against police and armed forces. Accordingly, they were warned to break up the protest given that they did not acquire a prior permit and were thus violating the new protest law. Yet, they did not abide by the orders. Loudspeakers were used and protesters were given a deadline to leave. Yet, again, they did not abide by the orders, which led [security forces] to fire water cannons on protesters to break them up. However, protesters assaulted police forces, throwing stones and empty bottles, and cursing the forces. Meanwhile, a number of protesters encircled and beat Mohammad Tahoun, injuring him and stealing his radio device. They also blocked the road, and disrupted the traffic. Yet the forces were able to arrest the second to the last [on the list] of the accused, knowing that the second was carrying a steel blade.

Mohammad Hamdi Tahoun confirmed the accounts of previous witnesses. He added that he was present in the vicinity of the Shura Council to participate with the security forces in breaking up the protest, since protesters did not acquire a prior permit. As water cannons were fired against them, a number of protesters, including the accused Alaa Abdul Fatah, encircled, beat, and dragged him on the floor, injuring him, and stealing his radio device after they crippled his resistance. He was able to recognize Alaa Abdel Fatah because he was a public figure and appeared on television many times. Afterwards, they all ran away, but security forces were able to arrest some of them.

Abdul Aziz Mohammad Abdul Aziz, police captain, assistant investigator in the Police Investigation Department in al-Zawiya al-Hamra confirmed that he saw the accused Alaa Abdel Fatah assaulting and injuring Lieutenant Colonel Imad Tahoun.

Karim Mahmoud Ibrahim Mansour, police captain, officer in al-Basatin Office for Central Security He that he was with Lieutenant Colonel Imad Tahoun and saw the accused Alaa Abdel Fatah assaulting and beating the latter, and stealing his radio device.

Ahmad Mohammad Abdel Aal Second in command of al-Marej Central Security Force testified that he was among the forces participating in securing the protests. His left elbow was injured due to an attack with a stone.

Hani Gerges Najib, police brigadier general, officer of the police station of Qasr al-Nil testified that as he was informed about the protest staged in front of the Shura Council, he immediately headed to the location and saw the forces as they arrested the accused after the [protesters] refused to break up the protest.

Mohammad Mohammad al-Sayyed Jomaa, police lieutenant colonel and Mahmoud Mohammad Ahmad Ismail, police captain, assistant director of the Investigation Department of Qasr al-Nil testified that their secret investigations showed that Alaa Ahmad Saif al Islam Abdul Fatah, and another, called on a protest on 26/11/2013 in front of the Shura Council without acquiring a prior permit, and that the accused Ahmad saif al-Islam Abdel Fatah was among the protesters, throwing stones and bricks on police forces. Abdel Fatah assaulted Tahoun and stole his radio device. Abdel Fatah was among other protesters who assaulted Tahoun and prevented the arrest of Fatah. The aim of protesters was to violate the laws on demonstration and gathering, carry out violent acts, and assault police forces.

The Ministry of Interior's report of information and documentation directorate showed that the accused Alaa Seif al-Islam Abdul fatah called on citizens to protest at 4 pm on 26/11/2013 in front of the main gate of the Shura Council, using expressions that read: "take to the streets, defy the null law and pressure to stop the ratification of unconstitutional military trials." It was shown that the followers of the page amounted to 515779, and all Twitter users could see these tweets by just logging in to the page.

The accused Yehya Mahmoud Mohammad, Mohammad Sami Mokhtar, Mohammad Hussni Imam, Abdul Rahman Atef Sayyed, Mamdouh Gamal al-Din Hassan, Abdul Rahman Tarek Abdul Samih, Mohammad Hussam al-Din Mahmoud, Mohammad Abdul Hakim tyamour, Mahmoud Yehya Mohammad, Peter Jalal Youssef, Mahmoud Mohammad Abdul Aziz, and Hani Mahmoud Mohammad, admitted their taking part in the protest staged in front of the Shura council on 26/11/2013, without notifying the competent police station.

The accused Ahmad Saif al-Islam Abdel Fatah admitted during investigations that he called on the staging of a protest in front of the Shura Council and took part in it on 11/26/2013.

It was shown through the recordings of the ministry of interior that people were gathered in front of the Shura Council holding banners, and that the police was trying to break them up. In the recordings, Fatah was seen at the incident scene.

The two medical reports confirmed the injury of Lieutenant Colonel Imad Tahoun, with bruises found all over his body; and the left elbow injury of soldier Ahmad Mohamad Abdel Aal.

Whereas the accused were asked during the public prosecution investigations and denied the charges;

And whereas during the session of 23/3/2014 all the accused appeared before the court, except the third, fourth, sixth, seventh, eighth, thirteenth, seventeenth, twenty first, twenty fourth, and twenty fifth, and

the accused denied the charges, and the nineteenth accused Mustafa Yusri Mustafa Abdel Wahhab and the defense lawyers pleaded to see the recordings and have a copy of it, and also pleaded to release the first and second accused, the court [illegible], the first bag comprised a handkerchief with blood on it, the second a translucent bag containing a 20 cm steel tool, the third a white mobile, a CD and a technical report, the fourth a number of CDs, the court [illegible] released the first and second accused on bail and postponed the case to call for experts from the technical help department to check the CDs. During the session of 6/4/2014, the accused appeared before the court, except for the third, sixth, eighth, ninth, eleventh. Fourteenth, fifteenth, seventieth, twenty first, and twenty third, and the lawyer of the first accused requested recusal, and the court postponed the case to look into the request. On 10/5/2014, the court decided to stop the looking into the case until the recusal request is settled. On the session of 25/5/2014, the court resumed looking into the case after the recusal request was refused, and the first, second, fifth, tenth, twelfth, fourteenth, fifteenth, and eighteenth accused appeared before the court, while the rest didn't, the court postponed the case till 11/6/2014 to call for one of the technical help experts to review the CDs and to call on the witnesses [illegible]. On the of 11/6/2014 session, none of the accused showed up and the court called on the head of the guards, and those in charge of the courtroom and prison, it was noted that the witnesses decided not to attend and it was affirmed that all doors were open and that the accused were not inside or outside the courtroom, the representative of the public prosecutor decided [illegible] to issue summons.

Whereas the court was decidedly convinced with the incriminating evidence against the accused 1- Alaa Ahmad Saif al-Islam Abdel Fatah, 2- Ahmad Abdel Rahman Mohammad Ali, 3- Yehya Mahmoud Mohammad Abdel Shafi, 4- Abdel Hamid Mahmoud Mohammad Qassem, 5- Mohammad Sami Mokhtar Zaki, 6- Mohammad Husni Imam Ibrahim, 7- Ahmad Housam al-Din Mohammad Abdel Aziz, 8- Abdel Rahman Atef Sayyed Ali, 9- Ahmad Mohammad Nabil Hassan, 10- Mohammad Abdel Rahman Mohammad Hassan, 11- Abdullah Gamal Zaki Mohammad, 12- Mamdouh Gamal ad-Din Hassan Abdel Wahhab, 13- Abdel Rahman Sayyed Mohammad al-Sayyed, 14- Abdel Rahman Tarek Abdel Samih Ahmad, 15- Mohammad Hussam al-Din Mahmoud Ali, 16- Mahmoud Yehya Mohammad Abdel Shafi, 17- Mohammad Abdel Hakim Taymoor Abdel Aziz, 18- Mohammad al-Rifai al-Baz Youssef, 19- Mohammad Yusri Mustafa Abdel Wahhab, 20- Wael Mahmoud Mohammad Metwali, 21- Hatem Ahmad Shawqi Hamed Qalada, 22- Peter Galal Youssef Faraj, 23- Mahmoud Mohammad Abdel Aziz Awad 24- Hani Mahmoud Mohammad al-Gamal, 25- Salah al-Din Mohammad Hamed al-Hilal, who on 26/11/2013, in the Qasr al-Nil police station/ Cairo governorate, participated, along with other unknown individuals, in a gathering made up of more than 5 individuals, jeopardizing public peace, in the aim of committing assault crimes against individuals, public and private properties, and influencing public authority figures as they performed their duties through the use of force and violence, as one of the [protesters] carried a tool that is used in assaulting individuals. The intended aim of the gathering was achieved, and [protesters] were aware of the [commitment] of the following crimes:

- (a) They stole a radio device owned by the Ministry of Interior, which was carried by the victim Lieutenant Colonel Imad Tahoun. This was done through coercion as some [protesters] encircled him while others beat him, weakening his resistance. They were able, through this kind of coercion, to accomplish the theft. The coercion caused injuries to the victim as shown in the investigations.
- (b) They displayed, and other unknown individuals, force and threatened with violence, and proceeded first with using force and violence, in the aim of resisting police forces. The accused and other unknown individuals gathered at the incident scene and surprised police forces with the attack, putting their safety at risk, and disturbing security and public peace as shown in the investigations.

- (a) They took part in a protest, during which they disrupted security and public order, blocked the road, and disrupted traffic as shown in the investigations.
- (b) They attacked two policemen, Lieutenant Colonel Imad Tahoun and soldier Ahmad Mohammad Abdel Aal as they performed their duty, injuring them as described in the two annexed medical reports, as shown in the investigations.

The first accused also

- Formed a gathering made up of more than 5 individuals, jeopardizing public peace, in the aim of committing assault crimes against individuals, public and private properties, and influencing the figures of public authorities as they performed their duties through the use of force and violence as shown in the investigations.
- Staged a protest without informing the competent police station about the location of the protest as shown in the investigations,

The second accused also

Carried a tool used to assault individuals without having any legal justification for carrying, obtaining, and possessing it, and without having any professional necessity [to justify its possession].

Therefore, and according to articles 2/304, 348/313 of the Code of Criminal Procedures, and Articles 2, 3, 1/3 bis, and 4 of law number 10 of 2014 on gathering, and the articles 136, 1/137, 314, 375 bis, 1/1/ bis 375, and 5 of the Penal Code, and article 7, 8, 19, 21, 22 of the law number 107 of 2013 on organizing the right to public meetings, convoys, and peaceful protests, and article 1/1, 1/ 25 bis, 1/30 of the law number 294 of 1954 on weapons and ammunitions, amended by the laws number 26 of 1978 and 165 of 1981, and the clause 7 of the first table annexed to the first law amended upon the order of the minister of interior number 1956 of 2007.

Whereas these crimes attributed to the accused were all closely correlated, they shall all be considered as one and shall be punished according to the article 32 of the Penal Code;

And whereas among the seizures, a steel blade was found with the second accused, and the court decided to seize it according to the article 30 of law no. 394/1954, replaced with article 26 of 1978, in addition to having the accused pay the court costs according to the article 313 of the Code of Criminal Procedures,

For all these reasons,

After reviewing the aforementioned articles, the court sentenced in absentia all the accused to 15 years of rigorous imprisonment according to their charged, a fine of 100,000 EGP to be paid by each, and ruled to put them under the monitoring of the police for 5 years, and compelled them to pay the [court] costs.

This ruling was issued and read explicitly on Wednesday 11/6/2013

Secretary

President of court

Signed

Appendix 3 - Complaint of Fattah against Judge El-Fikki

To / The minister of Justice

بسم الله الرحمن الرحيم
السيد المستشار / وزير العدل .
تحية طيبة و بعد ،،،

①

مقدمة لسيادتكم / ١- علي محمد علي طه المحامي و مدير مركز عقل للقانون و الحريات و حقوق الإنسان .
٢- راجية محمد عبد المنعم عمران .
و محلها المختار ٣٢ شارع عبد العظيم راشد الدور ١٢ - مركز للقانون و الحريات و حقوق الإنسان .

Lawyers

كلأ من :
أولا :

against

السادة القضاة و المستشارين الذين قلموا بتزوير الانتخابات البرلمانية عام ٢٠٠٥ اثناء رئاستهم اللجان العامة و هم علي سبيل المثال

- ١- المستشار / محمد عبد المجيد عن دائرة مدينة نصر و مصر الجديدة .
- ٢- المستشار / محفوظ شومان عن دائرة المعادي و البساتين .
- ٣- المستشار / سيد حسن طلبة عن دائرة بولاق الذكور .
- ٤- المستشار / عبد السميع شرف الدين عن دائرة بولاق أبو العلا .
- ٥- المستشار / محمد مصطفى الغني عن دائرة الدقي .
- ٦- المستشار / محسن محمد داود عن دائرة الهرم .
- ٧- المستشار / أحمد صابر عن دائرة الزاوية الحمراء و الشرايية .
- ٨- المستشار / أحمد عبد الستار نصار عن دائرة دمنهور .
- ٩- المستشار / رضا رشدي ميخائيل عن دائرة مركز و بندر دمياط .
- ١٠- المستشار / فاروق إسماعيل عن دائرة العجوزين بكفر الشيخ .
- ١١- المستشار / محمد ناجي شحاتة عن دائرة الزرقا بدمياط .
- ١٢- المستشار / النمر عن دائرة الزقازيق
- ١٣- المستشار / عبد العليم عبد العليم عطية عبد الله عن دائرة المنزله بالدقهلية .
- ١٤- المستشار / محمد حمادي عبد الهادي عن دائرة كرداسه و بندر المنصورة .
- ١٥- المستشار / محمد رمزي علي عسكر عن دائرة دكرنس بالدقهلية .
- ١٦- المستشار / أحمد نادر عبد المنعم عن دائرة السنبلوين بالدقهلية .
- ١٧- المستشار / محمود صديق برهان عن دائرة نبروه بالدقهلية .
- ١٨- المستشار / محمد صفوت هلال عن دائرة بني عبيد بالدقهلية .
- ١٩- المستشار / محمد الطوخي أحمد محمد نجم شومان عن دائرة شربين بالدقهلية .
- ٢٠- المستشار / محمد موسى عن دائرة زفتي و فاقوس .
- ٢١- المستشار / عزيز فهمي عبد العزيز عن الدائرة الأولى العريش .
- ٢٢- المستشار / محمد عزت عجوه عن دائرة قلين بكفر الشيخ .

The Judge

و الذين ورد أسمائهم بتقرير لجنة نقصي الحقائق بنادي القضاة عام ٢٠٠٥ و بالقائمة الصادرة عن لجنة الحريات نقابة المحامين و نادي قضاة مصر و المعروفة إعلاميا بالقائمة السوداء .

ثانياً : السيد المستشار / النائب العام طلعت إيراهيم عبد الله لسماع شهادته و ليقدم ما تحت يده من أوراق يصفته أمين عام لجنة نقصي الحقائق تزوير الانتخابات البرلمانية بنادي قضاة مصر عام ٢٠٠٥ .

ثالثاً : السيد المستشار / وزير العدل لسماع شهادته و ليقدم ما تحت يده من مستندات بصفته رئيس لجنة نقصي الحقائق تزوير الانتخابات البرلمانية بنادي القضاة عام ٢٠٠٥ .

رابعاً السيد المستشار / زكريا احمد عبد العزيز لسماع شهادته و تقديم ما تحت يده من أوراق يصفته رئيس نادي قضاة مصر عام ٢٠٠٥ .

خامساً السادة المستشارين و القضاة أعضاء مجلس إدارة نادي قضاة مصر و أعضاء لجنة نقصي حقائق تزوير الانتخابات البرلمانية بنادي القضاة عام ٢٠٠٥ لسماع شهادتهم .

سادساً المستشار محمد السيد عمر رئيس اللجنة العليا للانتخابات البرلمانية عام ٢٠١٠ .

سابعاً المستشار محفوظ صابر عبد القادر بصفته أمين عام اللجنة العليا للانتخابات البرلمانية لعام ٢٠١٠ .

ثامناً المستشارون أعضاء اللجنة العليا و أعضاء الأمانة العامة للانتخابات البرلمانية لعام ٢٠١٠ .

تاسعاً السيدة المستشارة نهي الزيني عضو هيئة النيابة الإدارية لسماع شهادتها بشأن ما قرره بوسائل الاعلام من وجود تزوير بالانتخابات .
الوقائع

أولاً : بشأن المشكو في حقهم عن الانتخابات البرلمانية لعام ٢٠٠٥ :

حيث انه وفي غضون الربع الأخير من عام ٢٠٠٥ أجريت الانتخابات البرلمانية المصرية علي ثلاث مراحل و التي أسفرت في نتائجها النهائية عن نجاح الحزب الوطني الحاكم بمرشحيه الفرديين في أغلب دوائر الجمهورية عدا قرابة التسعون مقعداً حصلت عليها المعارضة و قد واكبت هذه الانتخابات أكبر عملية تزوير مادي و معنوي لإرادة الناخبين في تاريخ مصر تحدث عنها العالم أجمع و قد بذل صغار القضاة و شبابههم في اللجان الفرعية جهداً مشرفاً لتحقيق نزاهة الانتخابات إلا أنهم أصيبوا بخيبة أمل عظيمة هم و جموع الشعب المصري عندما كانوا يفاجئون أثناء إعلان النتائج الانتخابية بمعرفة المشكو في حقهم و هم رؤساء اللجان العامة : حيث كانوا يفاجئون بإعلان نتائج مزورة و علي خلاف حقيقة الأصوات التي حصل عليها المرشحون في الانتخابات و تزوير هذه النتائج بإعطاء الأصوات الأعلى لمرشحي الحزب الوطني أو من عقد صفقة مع الحزب الحاكم دون أن يكون حاصلها علي هذه الأصوات و إعلان فوزه .

وحيث أن مصر جميعاً قد هالها ذلك التزوير و بدء الحديث عنه تلميحاً ثم قامت السيدة المستشارة نهي الزيني عضو هيئة النيابة الإدارية و رئيس احدي اللجان الفرعية بدائرة مركز دمنهور محافظة البحيرة بالظهور إعلامياً و فضح ما تم من تزوير

وحيث أن نادي قضاة مصر كما أعلن في هذا الوقت قد أساءه ما نسب للقضاة من تزوير للانتخابات فشكل لجنة لتقصي الحقائق بشأن هذا التزوير برئاسة المستشار أحمد مكي وزير العدل الحالي و أمانة المستشار طلعت عبد الله النائب العام الحالي و التي انتهت في تقرير أعدته إلي ثبوت تزوير عدد يصل إلي ٢٢ لجنة عامة علي مستوى الجمهورية و في نفس الأونة أعلنت لجنة الحريات بنقابة المحامين قائمة بأسماء القضاة الذين زوروا تلك الانتخابات

وحيث أن نادي القضاة أيضاً أعلن في جمعية عمومية شاهدها العالم بأثرة علي شاشات التلفزيون أنه حصل علي محاضر الفرز الأصلية (نموذج ٤٨ ش) للجنة العامة بندر دمياط و تقدم النادي ببلاغ للنائب العام في ذلك الوقت المستشار / ماهر عبد الواحد و لمجلس القضاء الأعلى الذان لم يتخذا أي إجراء من إجراءات التحقيق و لم يقيدا البلاغات بأي أرقام .

الإسناد

وحيث أن الوقائع علي النحو السالف بيانه تشكل الجرائم المنصوص عليها في المواد ٢١١ و ٢١٢ و ٢١٣ و ٢١٤ من قانون العقوبات و المواد ٤٩ و ٥٠ و ٥١ من قانون مباشرة الحقوق السياسية .

ثانياً بالنسبة للانتخابات البرلمانية لعام ٢٠١٠ :

الوقائع

حيث أنه في غضون عام ٢٠١٠ أجريت الانتخابات البرلمانية المصرية بعد إلغاء الإشراف القضائي الكامل و ت لجنة عليا للإشراف علي الانتخابات برئاسة و عضوية المشكو في حقهم السادس و السابع و الثامن . و كانت مهمة هذه اللجنة هي ادارة العملية الانتخابية و ضمان نزاهتها بالكامل بيد أن هذه الانتخابات قد زورت . كما أن جموع الشعب المصري أصيبوا بخيبة أمل عظيمة هم و جموع الشعب المصري عندما كانوا يفاجئون أثناء إعلان النتائج الانتخابية بمعرفة المشكو في حقهم و هم رؤساء اللجان العامة : حيث كانوا يفاجئون بإعلان نتائج مزورة و علي خلاف حقيقة الأصوات التي حصل عليها المرشحون في الانتخابات و تزوير هذه النتائج بإعطاء الأصوات الأعلى لمرشحي الحزب الوطني أو من عقد صفقة مع الحزب الحاكم دون أن يكون حاصلها علي هذه الأصوات و إعلان فوزه .

و لم يكتفوا بذلك بل أعلنوا أن هذه الانتخابات هي أنزهه انتخابات في تاريخ مصر .

الإسناد

وحيث أن الوقائع علي النحو المتقدم تشكل الجرائم المعاقب عليها بالمواد ٢١١ و ٢١٢ و ٢١٣ و ٢١٤ عقوبات و المواد ٤٩ و ٥٠ و ٥١ من قانون مباشرة الحقوق السياسية .

الطلبات

وحيث أن الشاكي و الموقعين أدناه قد أيقنوا أن دعايات أن القضاء يطهر نفسه بنفسه ليس إلا شعارات لا تطبق و

لم يتخذ القضاء و لا أياً من قياداته إجراء واحد يدل علي رغبتهم في تحقيق هذه الاتهامات و إبراء أنفسهم مما أثبتته رجال منهم بشأن هذه الوقائع و رغم أن اثنين من المطلوب شهادتهم و هم النائب العام الحالي و وزير العدل الحالي كان كلاهما من أعلنا تزوير هذه الانتخابات و نادوا بتطهير القضاء و حملوا راية استقلال القضاء إلا أن شيئاً من ذلك لم يحدث عندما تولوا مدة المناصب القضائية و لم يحققوا فيما قرروا هم من اتهامات و لم تخرج أكذوبة استقلال القضاء عن كونها شعارات رددوها و لما تولوا مدة الحكم أهملوها الأمر الذي حدا بالشاكين لتقديم هذا البلاغ ابتغاء اتخاذ الإجراءات القانونية علي النحو الآتي :

التحقيق في هذا البلاغ بمعرفة النيابة العامة بصفة أصلية و بصفة احتياطية ندب قاضي للتحقيق عند وجود مانع لدي النيابة العامة عملاً بالمادة من قانون الإجراءات الجنائية .