



Egypt - Finding Scapegoats

Crackdown on Human Rights Defenders and Freedoms
in the Name of Counter-terrorism and Security

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Methodology

This study was developed with the aim of being used by human rights NGOs and individuals to advocate on the risks posed to HRDs by counter-terrorism and security-related measures in Egypt. It aims at complementing existing resources and should serve as a resource for a specialised audience. It also aims at being a source of inspiration for organisations dealing with other countries than Egypt.

In accordance with the UN Declaration on Human Rights Defenders of 1998¹, this study considers as a human rights defender anyone exercising their right *"individually and in association with others, to promote and to strive for the protection and realisation of human rights and fundamental freedoms at the national and international levels"*.²

The study brings together research made by Egyptian and international organisations as well as research institutes and investigative journalists covering the issues of HRDs, counter-terrorism and security measures and human rights in Egypt. It relies on publications by such groups, especially over the last five years, in addition to interviews conducted with several Egyptian HRDs on key issues raised in the following four chapters of the study as well as the recommendations.

1. Executive Summary

This study analyses the conditions under which human rights defenders (HRDs) in Egypt currently work, focusing on the period since July 2013, after the removal of former President Morsi, until the lead-up to the March-April 2018 Presidential elections. The study demonstrates with evidence how counter-terrorism and security measures, security related legislations and the judiciary have been increasingly used by the regime to repress HRDs, hinder the work of independent NGOs and curtail fundamental freedoms. If the authoritarian drift of the regime continues in this direction, it will devastate civil society for generations to come and eliminate independent civil society altogether. The study also shows how much resilience HRDs have shown in this difficult period and explores forms of peaceful resistance that could reinvigorate human rights work. It ends with recommendations to the Egyptian authorities and the international community.

In today's Egypt, human rights defenders and activists, including human rights lawyers and judges, democracy activists, independent journalists, feminists, student unions leaders, trade union leaders and minority groups activists, routinely have their phone calls tapped, face smear campaigns and hate speech from government-controlled media, and suffer harassment and intimidation by National Security Agency officers. For some, persecution reaches the level of travel ban, asset freeze, prolonged judicial investigation – most notably case 173 of 2011 (foreign funding case), arbitrary and prolonged detention, unfair trial, harsh sentences, torture or other ill-treatment, enforced disappearance, solitary confinement, medical negligence and even death in custody. The threats they face are similar to the ones

victims of the practices they are committed to fight against face.³ Repressive measures are sometimes based on repressive laws, and sometimes they have no legal basis. The ultimate aim of the Egyptian government seems to be the elimination of dissenting voices and control over the public domain for good.

Since July 2013, the existence of human rights organisations in Egypt has been threatened by a hostile environment which consists out of an increasingly repressive legal framework, security measures – legal or illegal – and constant judicial harassment.⁴ Facing the prospect of long-term imprisonment/pre-trial detention or closure decisions – as happened to the Al Nadeem Center for Rehabilitation of Victims of Violence in 2016 – many NGOs and NGO leaders have reduced their activities, closed down their offices in certain governorates, reduced staff members and fixed costs, or have sought to move some of their staff abroad, as did the Cairo Institute for Human Rights Studies.⁵ International human rights organisations have also been prevented from entering Egypt or have been faced with the inability to safely conduct research on the ground.⁶ North Sinai, for example, has virtually become a black hole with severely restricted access, leaving HRDs or journalists unable to investigate violations.⁷

Hundreds of activists have been arrested and face charges under protest or anti-terrorism laws. Some have been in pre-trial detention for over two years, the maximum legal period of pre-trial detention according to Egyptian law. Activism online is monitored by the government and websites of independent voices are being blocked. National Security summons activists to question them about their ideas and affiliations, and arbitrarily and excessively uses police probations against released activists, forcing them to spend 12 hours a day in a police station. HRDs who campaign against these crimes have suffered enforced disappearance and torture.

Since 2011, the Egyptian government has equipped itself with an increasingly repressive toolbox of legislation to fight dissent, whether peaceful or violent, in the name of preserving “national security”, “national unity”,

“public safety”, “social peace” and “public morals”, among other voluntarily ill-defined matters. Repressive legal provisions adopted even before the 30 years of the Mubarak era, in particular in the Penal Code and the Emergency Law remained in force. Since 2013, two new anti-terrorism laws have been adopted: a Protest Law and a Law on Associations. Both are more draconian than their predecessors and in violation of the progressive constitution of 2014.

Given the security-oriented philosophy behind the new Associations Law and its view of independence of civil society work as a threat to security, this law will not only make it impossible for independent human rights organisations to exist; it will also prevent any registered association or foundation from operating with a sufficient margin of manoeuvre to serve its community without risking punishment with prison or hefty fines. For example, the new law puts burdensome administrative obligations on organisations and allows the Ministry of Social Affairs and a new inter-Ministerial body – of which security agencies, the army and intelligence are members (the agency) – to interfere with the daily work of organisations.

This framework may dissuade the creation of new initiatives, organisations and charities and will most probably force NGO leaders to either cease their work or take the risk of operating illegally. Though new initiatives by HRDs and activists have proven they can mobilise sympathisers using new technologies and crowdsourcing techniques. Human rights lawyers have successfully been able to obtain favourable court decisions to release detained activists. Egyptian HRDs are greeted worldwide with human rights prizes recognising their resilience in the face of such a hostile environment.

This study's main recommendations to the Egyptian authorities are to:

- Immediately and unconditionally release all HRDs and activists that have been detained solely for exercising their rights to freedom of expression, assembly and association or have been imprisoned on charges based on draconian anti-terrorism or national security provisions;
- Stop judicial harassment against HRDs and activists facing charges under draconian anti-terrorism or national security provisions by closing judicial investigations against them for exercising their rights to freedom of expression, assembly and association. These includes case 173 of 2011 (foreign funding case) and other pending cases against journalists, lawyers, judges, democracy activists, minority rights activists, labour rights activists and union leaders, students' unions leaders and LGBT activists;
- Issue a presidential pardon for the 43 staff members of international organisations convicted of foreign funding, harming national security in case 173 of 2011;
- Lift travel bans and assets freeze orders against HRDs and activists in the framework of judicial harassment or harassment by security agencies;
- Cease to use terrorism charges and security-related charges against HRDs and activists for exercising their rights to freedom of expression, assembly and association;
- Repeal the Law on Associations (Law 70 of 2017) and replace it with a new law drafted after meaningful consultation with all civil society stakeholders – including individuals and groups working on civil and political rights as well as economic, social and cultural rights – to guarantee the right to freedom of association in accordance with Egypt's obligations under international human rights law;

- Unblock all internet sites in line with the right to freedom of expression and freedom of information, especially websites belonging to human rights organisations, news websites and others; and cease surveillance of and cyber-attacks on communications of HRDs, activists and members of human rights organisations, especially the surveillance of and cyber-attacks on their websites, blogs, emails, social media accounts and phone calls, in line with the right to privacy and right to freedom of information and expression;
- Invite the UN Special Rapporteur on the rights to freedom of peaceful assembly and of association, and the UN Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism for an official visit to Egypt.

The study's main recommendations to the European Union, foreign governments and the United Nations are to:

- Echo the recommendations addressed above to the Egyptian government in bilateral meetings and multilateral fora as well as in the framework of the implementation of the EU-Egypt association agreement;
- Urge the Egyptian government to respect freedom of expression, assembly and association including through statements at the Universal Periodic Review (UPR) session on Egypt at the UN Human Rights Council;
- Suspend the transfer of arms and equipment that could be used by the police or army in internal repression of peaceful dissent until a full and impartial investigation into serious violations of human rights by the security forces since 2011 has been carried out and those responsible have been brought to justice;
- Suspend transfer of mass surveillance technologies to Egypt that could be used to monitor, track or violate the privacy of HRDs and activists and prevent companies from transferring such technologies to Egypt.

2. Introduction

Following a bomb attack on a mosque in Northern Sinai in November 2017, which left over 300 dead, President El-Sisi ordered security forces to use “brute force” to restore security in the Sinai Peninsula within three months.⁸ The expression used reveals how little consideration is given to respect of human rights while facing terrorism and follows numerous comments relativising human rights in general.⁹ Human rights defenders (HRDs) and NGOs have been one of the targets of the regime in its rhetoric and actions in “fighting terrorism”. In June 2015, when the Public Prosecutor was assassinated in Cairo, the President said: “The hand of justice is tied by the law and this will not remain the case. We will modify the laws in a way that enables us to see justice done as fast as possible.”¹⁰ A new draconian Anti-terrorism Law was adopted in August 2015, and opponents of the draft law at the time – including human rights organisations – were portrayed in state and private media as sympathisers of terrorism.¹¹ In the context of the Egyptian presidential elections of 2018, the media have published articles labelling independent human rights organisations as having links with “terrorist organisations” and should therefore not be eligible to monitor the elections.¹²

While the threat of terrorism is real in Egypt and the state has an obligation to ensure the right to safety and security of every person, the regime actually exploits every opportunity to further undermine human rights in the name of security, restricting the participation in the public space – which had opened wide following the 2011 uprising – and to blame the human rights community and opposition in general for the government’s failure to prevent terror attacks. The Egyptian government has a long tradition of

using the rhetoric of “war on terror” and protection of national security to curtail human rights.¹³

Following an official visit to Egypt in 2009, the UN Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism recommended to the Egyptian government that “*any counter-terrorism measure, which results in the restriction of human rights, in particular pertaining to freedom of expression, peaceful assembly and association, be brought into compliance with the requirements of necessity and proportionality and applied in accordance with clearly defined legal criteria [...] and consistent implementation of explicit legal safeguards against abuse in order to prevent any deliberate use of counter-terrorism measures aiming at negatively affecting open dialogue and criticism, including against the Government.*”¹⁴

But such recommendations – and many others made by UN human rights treaty bodies and the UN human Rights Council and its special procedure – have unfortunately fallen on deaf ears. Today, most HRDs or political analysts agree that the level of repression in Egypt under President El-Sisi, sworn in office in June 2014, exceeds that of the Mubarak era.

Since July 2013, Egypt has witnessed mass arrests of political opponents, especially among the Muslim Brotherhood, but also among liberal and socialist groups.¹⁵ Mass death penalty and long-term prison sentences were handed by ordinary and military courts following unfair trials.¹⁶ Egypt has also witnessed a hike in enforced disappearances and extra-judicial killings.¹⁷ Today, torture or other ill-treatment remains systematic and widespread according to the UN Committee against Torture and national and international human rights organisations.¹⁸ The prevalence of prolonged pre-trial detention of activists¹⁹ – in inhumane and degrading prison conditions where medical negligence and death in custody occur – has increased.²⁰ Anti-government protests have been crushed by riot police using excessive and lethal force with virtual impunity²¹, while human rights and political activists witnessed several waves of arrests - many in dawn raids on their homes by National Security Agency officers. At least 25 journalists were in

prison in Egypt in 2016 and over 400 websites were blocked in 2017, including websites of human rights organisations.²² Egypt ranked third in Reporters Without Borders' 2017 ranking of countries jailing most journalists.

The negative impact of security measures on HRDs and on peaceful activism in general, has reached unprecedented levels. The government's approach to the "war on terror" is to expect uncritical support to the government, and is otherwise willing to label any dissent voice as "terrorist". Peaceful anti-government protests are generally considered a threat to national security by the Ministry of Interior. Online posts on social media platforms or critical articles in the press may warrant a judicial investigation or arrest and accusations, such as "belonging to a banned group", "spreading false news to undermine national security" or "incitement of illegal protest". Human rights lawyers themselves report facing fettered access to the state security prosecution building in Cairo, where such investigations often take place. In the name of security, lawyers must abandon their phones and bags before entering the building, are prevented from being able to provide full legal counsel to defendants, and are sometimes questioned by prosecutors for taking notes.²³

As to the legal framework under which NGOs must operate, it has become even more repressive with the adoption of the new Associations Law ratified by the President in May 2017. While the Egyptian government boasts that there are some 47,000 registered NGOs (under the old Associations Law)²⁴ to fend criticism about crackdown on NGOs, most of these are involved in purely charitable work and it is unclear how many are active or indeed will be able to continue to operate under the new Associations Law. While Egyptians face economic hardship exacerbated by hiking prices after the flotation of the Egyptian Pound (LE) – immediately losing about half of its value against US dollars in November 2016–, the parliament chose that same month to pass the new Associations Law, thus further obstructing charities from alleviating the effects of the economic measures on the poor.

Repression in the name of fighting terrorism is deemed by many analysts as counter-productive, providing a favourable environment for radicalisation and violence, especially in prisons where both peaceful dissenters and members of "terrorist groups" end up locked down together or accused of very similar charges. The increasing disbelief in the possibility of peaceful change creates frustration among youth who have participated in the 2011 uprising or who are opposed to the regime in general. In this context of repression, proponents of violent change find new recruits, especially among the Muslim Brotherhood members who witnessed the group's failure to remain in power after having won both the first democratic parliamentary and presidential elections in 2011 and 2012 respectively. The Muslim Brotherhood, along with other groups with grievances against the authorities, such as some Sinai Bedouins, is pushed into the arms of ISIS.²⁵

3. Egypt's security-oriented legislation: a sword of Damocles threatening human rights defenders and activists

Although the constitution of 2014 provides progressive articles to guarantee freedom of expression, assembly and association²⁶, Egyptian legislation is rich in provisions affecting these rights. Article 65 of the constitution guarantees freedom of expression, without adding “as regulated by law” as was the case in previous versions.²⁷ Article 73 guarantees the right to freedom of assembly “providing notification as regulated by law”. Article 75 regulates freedom of association and guarantees the right to form NGOs. They acquire legal status upon notification and may only be dissolved by court orders.²⁸ Article 93 states: “The State shall be bound by the international human rights agreements, covenants and conventions ratified by Egypt, and shall have the force of law after publication in accordance with the prescribed conditions.”

Egypt is a state party to the many human rights treaties, including the International Covenant on Civil and Political Rights of 1966 (ICCPR), ratified by Egypt in 1982. The Covenant guarantees the right to freedom of opinion and expression (article 19), the right to peaceful assembly (article 21) and the right to freedom of association (article 22). Article 19 states that the right to freedom of expression “carries special duties and responsibilities

and may therefore be subject to certain restrictions, but these shall only be such as are provided by law and are necessary: (a) For respect of the rights or reputations of others; (b) For the protection of national security or of public order (ordre publique), or of public health or morals. While articles 22 and 23 limit restrictions on the exercise of both rights only when such restrictions are in conformity with – or prescribed by – the law and “are necessary in a democratic society in the interests of national security or public safety, public order (ordre publique), the protection of public health or morals, or the protection of the rights and freedoms of others.”²⁹ Egypt is also a state party to the International Covenant on Economic, Social and Economic Rights of 1966, ratified in 1982. Article 8 of the Covenant provides for the right to form or join trade unions and restrictions placed on this right are also subject to the conditions very similar to those of the right to freedom of association and assembly.³⁰

Other pieces of legislation that affect HRDs and activists are provisions in the Penal Code (Law 58 of 1937 amended over the years); the Anti-terrorism Law (Law 97 of 1992, amending the Penal Code); the old Law on Associations (Law 84 of 2002); the Emergency Law (Law 162 of 1958); the Law on Assembly (Law 10 of 1914); the Thuggery Law (Law 10 of 2011, amending the Penal Code); the Protest Law (Law 107 of 2013); the Terrorism Entities Law (Law 8 of 2015); the new Anti-Terrorism Law (Law 94 of 2015) and the new Law on Associations (Law 70 of 2017). Most of the above-mentioned laws adopted after July 2013 were issued by presidential decree in the absence of parliament, which was elected in December 2015 and ratified all these laws in 2016. Other legal provisions may also affect human rights defenders, such as the Trade Unions Law and Student Unions’ Charter, but this study will not focus on those. Many of the provisions of these laws are in clear violation of the 2014 Constitution. For example, the constitutional court did find one provision of the Protest Law of 2013 unconstitutional.³¹

3.1. Anti-terrorism provisions affecting freedom of expression, assembly and association

Anti-terrorism legislation in Egypt is written in such way that it may criminalise the peaceful exercise of fundamental rights. Penal Code articles 86 to 102 (bis) were introduced or amended by the Anti-Terrorism Law (Law 97 of 1992), as Egypt faced political violence and terrorism at the hands of radical Islamic armed groups. The UN Human Rights Committee criticised the law in 1993 saying it affected articles 6 (right to life), article 7 (physical integrity), and article 9 (freedom and security), among others, of the ICCPR. In 2015, Egypt introduced two new anti-terrorism laws, the Terrorism Entities Law (Law 8 of 2015) and the new Anti-Terrorism Law (Law 94 of 2015). Several drafts of the new Anti-Terrorism Law had been criticised by human rights organisations in 2014 for their infringement on basic freedoms.³² The three laws are currently in force and used at the government's and judiciary's discretion.

The Terrorism Entities Law allows courts to label physical and moral persons as “terrorists” using a temporary court order request following the authorities’ petition. Hence, one may be labelled a terrorist for up to three years, subject to renewal without needing to present courts with substantiating evidence, case-files or witness examination, let alone being convicted for a terrorism crime. Entities labelled as terrorists are dissolved, persons may have their assets frozen and become ineligible for employment in public service or representative bodies since they are denied their political rights. The law relies on a broad definition of acts that would allow a person or entity to be designated as terrorist such as “infringing the public order, endangering the safety, interests, or security of society, obstructing provisions of the constitution and law, or harming national unity, social peace, or national security”, or engaging in acts “the purpose of which is advocating [for these acts] by any means.” Hence, peaceful actions such as publishing reports, participating in protests, or writing newspaper articles could mean that human rights defenders, political parties, or development associations may easily be labelled terrorist entities and their members terrorists.³³

The UN Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism had warned in 2009 in his report on the visit to Egypt that “The proscription of terrorist organisations, including the application of criminal responsibility of its members, must be made based on factual evidence of activities that are of a genuine terrorist nature as well as of the actual involvement of the individuals concerned. He strongly advises against criminalisation based on goals or ends, which would risk targeting legitimate associations, including human rights organisations and opposition groups that should not fall within the ambit of any counter-terrorism law.”³⁴

Article 86 of the Penal Code provides a definition of terrorism that is so broad that it includes “any use of force or violence or any threat or intimidation [...] aimed at disturbing the peace or jeopardising the safety and security of society and which is of such nature as to harm or create fear in persons or imperil their lives, freedoms or security; harm the environment; damage or take possession of communications; prevent or impede the public authorities in the performance of their work; or thwart the application of the Constitution or of laws or regulations.”³⁵ The new Anti-Terrorism Law provides for an even broader definition. The Egyptian Initiative for Personal Rights and the Cairo Institute for Human Rights Studies stated: “The law expands the scope of criminal acts to a worrying degree by using imprecise language or including unspecified actions, as in article 2(2), which criminalises any conduct committed in furtherance of a terrorist purpose. According to the law, such purposes include harming the environment and occupying, seizing, or damaging public or private property. As such, demonstrators protesting in front of government buildings or companies or holding sit-ins in them or on a public road may face terrorism charges. In addition, terms used such as infringing “the public order,” “the safety of society,” “society’s interests,” and “national unity” are general enough to be interpreted in diverse ways depending on the body with the interpretive power.”³⁶ Belonging to a terrorist group is one of the most frequently used accusations presented by prosecutors against activists and HRDs and political opponents.

The new Anti-Terrorism Law – besides undermining several constitutional and legal principles – criminalises legitimate human rights work that may fall within the freedoms of assembly, association, expression and information in media on the internet. It permits to block online content on vague grounds and provides prison sentences for users and content providers. It criminalises the promotion of ideas and beliefs, directly or indirectly, if they are deemed to advocate the commission of “a terrorist crime” (article 28). Article 35 carries a hefty fine for the publication of information contradicting official data published by the Ministry of Defence. Paragraph 2 of article 35 establishes the liability of the editor-in-chief of a newspaper for crimes committed through an article and thus punishes them as a main suspect for crimes committed by the newspaper. It reproduces article 195 of the Penal Code that has been declared unconstitutional by the constitutional court. Article 36 of the law prohibits the publication or dissemination of court proceedings except with the permission of the head of the competent court, which is a restriction on the public nature of trials. The law also gives powers to the President that are akin to state of emergency powers under the Emergency Law, including the evacuation or isolation of certain areas or the setting of curfews and “all appropriate measures to preserve public security”, hence opening the door to the possibility of an undeclared state of emergency when countering terrorism (articles 51 and 53).³⁷

Many other articles of the Penal Code introduced by the Anti-Terrorism Law of 1992 remain in force and continue to threaten freedom of expression, assembly and association:

- Article 98(b) of the Penal Code foresees up to a five-year sentence and a fine for anyone who “calls for changing the basic principles of the Constitution or the basic systems of the social community, or the domination of one class over the other classes, or for ending a social class, overthrowing the basic social or economic systems of the State, or pulling down any of the basic systems of the social community, through the use of force or terrorism, or any other illegal method”;

- Article 98(b) bis penalises the possession of “written documents or printed matter comprising advocacy or propagation of anything of what is prescribed in articles 98(b) and 174, if they are prepared for distribution or for access by third parties, and whoever possesses any means of printing, recording or publicity which is appropriated, even temporarily, for printing, recording, or diffusing calls, songs, or publicity concerning a doctrine, association, corporation, or organisation having in view any of the purposes prescribed in the said two articles”;
- Article 174 foresees a minimum of five years of prison for whoever “incites the overthrow of the system of government in Egypt”;
- Article 102(bis) punishes with prison and a fine anyone who “deliberately diffuses news, information/data, or false or tendentious rumours, or propagates exciting publicity, if this is liable to disturbing public security, spreading horror among the people, or cause harm or damage to the public interest”;³⁸
- Article 98(f) of the Penal Code punishes with up to five years prison or a fine whoever uses religion to propagate “extremist views with the aim of causing strife or defamation of heavenly religions or their followers or harm national unity”.

With regards to freedom of association, article 98(c)(1) of Egypt’s penal code punishes with up to six months prison and a fine “anyone who creates or establishes or manages an association or organisation or institution of any kind of an international character or a branch of an international organisation without a license [...] The maximum penalty shall be multiplied if any of the authorisation was based on false information.” While a punishment of three months or a fine is reserved “against anyone who joins an organisation or entity of those mentioned, as well as any Egyptian living in Egypt who joins or affiliates himself in any way without authorisation from the government to such entities based abroad.” Article 98(d) provides for a punishment of up to five years and a fine against “all those who receive or accept directly or

via an intermediary by any means money or benefits of any form a person or entity outside the country or inside it when the purpose is to commit a crime listed in 98(1), 98(1)(bis), 98(b), 98(c), or 174 of this code.”³⁹

3.2. Penal Code and Emergency Law provisions affecting freedom of expression, assembly and association

For 30 consecutive years, Egyptians lived under the state of emergency under former President Mubarak, which was only lifted in January 2012 by the then ruling military council, except for thuggery offences. Attacks on security forces or civilians have generally been used as a justification to further erode constitutional freedoms by adopting new laws and measures to repress dissent and crackdown on peaceful political opposition. On 9 April 2017, a nationwide state of emergency was declared for three months following bomb attacks against Coptic churches in the cities of Alexandria and Tanta, leaving some 45 dead and over 100 wounded. It has since then been renewed twice, though it has been in place in Northern Sinai since October 2014, which has been witnessing large military operations, attacks by armed groups, including ISIS, against civilians and security forces, and large scale human rights violations including forced evictions and displacement of residents. While the Penal Code contains most of the provisions that may criminalise the peaceful exercise of freedom of expression, assembly and association, in ordinary and exceptional times, the Emergency Law gives extraordinary powers to the executive branch often and traditionally used in Egypt to protect rulers’ grip on power rather than to protect the population from security threats.

Egypt retains a set of provisions in the Penal Code (under the chapter on offences by the press and others) affecting freedom of expression. These provisions criminalise insult or defamation of the President (article 179), the judiciary or the military or parliament (article 184), members of the pros-

ecution and public servants (article 185) or judges (article 186), as well as “offending by any means” foreign presidents or kings (article 181) or foreign representatives in the country (article 182). The same chapter criminalises the production or possession or publication of any photo or cartoon or anything else that is “indecent to the general public” (article 178) or modified photos that cause “harm to the country’s reputation” (article 178bis (2)).

In addition to the articles mentioned in the section above, several other articles of the Penal Code criminalise spreading “false” news or information. Article 80(d) of the Penal Code foresees up to five years prison for “deliberately diffusing news, information/data, or false rumours abroad about the internal situation in the country in order to weaken financial confidence in the country or its dignity, or [for taking] part in any activity with the goal of harming national interests of the country.” Article 188 foresees imprisonment for up to one year for any person who “publicises, with malicious intent, false news, statements or rumours that [are] likely to disturb the public order.”⁴⁰

On freedom of association, the most notorious provision is article 78 of the Penal Code, amended in 2014. It effectively bans foreign and local funding for violent and peaceful actions or activities alike. It punishes the acceptance of funds, weapons or ammunition “or other things” with life imprisonment and a fine. “Other things” leaves it open to the authorities to interpret any service the person may have received such as a flight ticket, accommodation expenses, per-diem, dinner, a scholarship or a training workshop abroad. If the crime is committed in times of war, by a state employee or members of the prosecution or to carry out a “terrorist objective”, the punishment is life imprisonment or the death penalty. While it is understandable that funding violent acts should be criminalised, Egyptian legislators used a vague formulation in the amendment to punish such funding for the commitment of “an act that could harm national interest”, “breach public peace and order” or affect “the country’s independence or unity”. This can possibly encompass the funding of human rights NGOs’ and HRDs’ peaceful activities that the authorities can interpret as harmful to the country’s interest or even as “terrorism”. The article punishes the receiver of the funding and the donor

alike. The article may also punish cooperation between HRDs and human rights organisations with international organisations.⁴¹ Article 78 of the Penal Code is the legal basis for the investigation against Egyptian HRDs in the case 173 of 2011 (known as the foreign funding case).

With regards to freedom of assembly, in March 2011, the ruling military council adopted added article 375bis to the Penal Code (Thuggery Law, Law 10 of 2011) as Egypt witnessed waves of protests and sporadic violence following the removal of President Mubarak from power. Article 375bis is vaguely worded and punishes with at least one year of prison whoever “displays force” or “threatens with violence” aiming at, among other things, the “obstruction of the implementation of the law [...] or due judicial orders or procedures or disturb security or public peace” when such acts cause “fear” for the victim or disturbs their security, safety or harms their interest. Human rights lawyers facing arbitrary measures in courts or in public offices are threatened by these provisions if they show their discontent or refusal to obey orders. The constitutional court refused to annul this article in 2017.⁴²

Under the Emergency Law, the executive authority – especially security forces - acquires wide powers and is authorised to restrict freedom of expression, assembly and association. It can arrest and detain persons in the name of preserving national security. The law gives the authorities the right to evacuate/cordon off certain areas and to impose curfews. It grants the President the right to monitor means of communication prior to publication, to confiscate printed materials or shut down print houses, and to prevent meetings and assemblies. It allows the President to form Emergency State Security Court, whose verdicts cannot be appealed but can be overturned or changed by the President.⁴³ Such courts were established in October 2017 with competence in cases involving laws on protest, assembly, terrorism, strikes and thuggery.⁴⁴ Cases involving peaceful protest and HRDs have indeed been referred to Emergency courts.⁴⁵

Since administrative detention under the Emergency Law had been ruled unconstitutional following the 2011 uprising, the current parliament passed

an amendment of article 3bis and 3bis (a) of the law in April 2017 allowing the prolonged detention of persons deemed dangerous to “public security”. Article 3bis now states that “judicial officers may arrest any person who shows indications that he committed a felony or misdemeanour [...]. After obtaining permission from the Public Prosecution, he may be detained for a period not exceeding seven days to complete the collection of inferences”. Article 3bis (a) states: “At the request of the Public Prosecutor’s Office, the emergency state security summary courts may detain a person who shows indications of his danger to public security for a renewable period of one month.”⁴⁶

3.3. Associations Law aims to transform NGOs into government-controlled entities

Since the 1990s the Egyptian government has been trying to tighten its grip on a growing civil society not only interested in human rights, but also in charity and development work. In 2002, Egypt issued Law 84 on Associations, which for long obstructed NGOs to acquire legal status. The law also prevented NGOs from working independently, operating freely or receiving funds in the name of preserving national security and public order. Under Mubarak’s rule, the government used the law to close down human rights organisations for “security reasons”.⁴⁷ Human rights NGOs prefer to gain legal status by registering as law firms or companies rather than associations or foundations to avoid interference from the government under the 2002 law.

Repealing the 2002 law to replace it by a new law guaranteeing freedom of association had been one of the key demands of the human rights community in Egypt. Following the 2011 uprising, this objective seemed achievable. But soon doubts emerged over the willingness of the then dominating political parties in the first freely elected parliament of 2012, especially the Muslim Brotherhood’s Freedom and Justice Party, to adopt a progressive law. Several draft laws were presented by NGOs, political parties and the government,

with relatively progressive provisions depending on the authors of the drafts. These were discussed but never adopted in the short-lived Lower House of parliament, dissolved by the constitutional court in 2012.⁴⁸ In 2013, former President Morsi sent a restrictive draft law involving large government interference in NGOs' work to the Upper house.⁴⁹ Following the ouster of President Morsi in July 2013, the Minister of Social Solidarity formed a committee to draft a new Associations Law with several HRDs involved. The proposed draft was generally progressive on registration, operation and funding, but there was no political will from the interim government to adopt it.⁵⁰ Instead, hundreds of charities were dissolved for suspected connections with the Muslim Brotherhood, which had been declared a "terrorist entity", and dissolved in December 2013 after a court order in September 2013.⁵¹ In June 2014, the new Minister of Social Solidarity presented a draft law with far more repressive provisions than the 2002 law.⁵² Generally, consecutive Egyptian governments have considered human rights organisations as a threat to national security and used various tactics to silence them, not the least by threatening with repressive draft laws.⁵³

Given the national and international resistance to the drafts presented in 2014, the Egyptian government did not issue a new Associations Law until a new parliament was elected. However, instead of engaging in a constructive discussion with NGOs and exchanging views over draft laws, the new parliament surprised the Egyptian and international NGO community, and even the Ministry of Social Solidarity, with a different draft produced in secrecy - though worse than the previous repressive drafts.⁵⁴ In November 2016, in a matter of days, the parliament adopted the Law of Associations and Other Foundations Working in the Field of Civil Work (Law on Associations), without any meaningful public consultation. Given the large criticism of the law, the President did not ratify it and stakeholders expected that it would be amended or repealed. However, against all expectations, the President ratified the parliament-approved law in May 2017 (Law 70 of 2017).⁵⁵ Bylaws, which according to the law should have been issued within two months, have yet to be adopted as of the time of writing. Meanwhile, the bylaws of the old law remain in force notwithstanding the provisions of the new law.

International reactions to the Associations Law

The UN High Commissioner for Human Rights said: "The new legislation places such tight restrictions on civil society that it effectively hands administration of NGOs to the Government." He called on Egypt to repeal the law.⁵⁶ Ahead of its ratification, the UN Special Rapporteur on the rights to freedom of peaceful assembly and of association had warned: "if the bill becomes law, it would devastate the country's civil society for generations to come and turn it into a government puppet" and that "it aims to destroy Egypt's foundation for peaceful, civic engagement at its very roots". He urged the authorities to halt the adoption of the bill.⁵⁷

National and international human rights organisations have made several legal commentaries on Law 70 of 2017.⁵⁸ These view many provisions of the law to be in contravention with Egypt's constitution and its obligations under international human rights law. The law effectively cripples NGOs and transforms them into government-managed entities. Article 1 states that "civic work is any work that does not seek profit and is practiced with the purpose of developing society in one of the fields identified in the articles of incorporation of the entity". The law does not give founders of NGOs the possibility to choose the legal form they deem adequate for their activities thus prohibiting "any entity to practice any of the activities of associations, and other entities stipulated in the enclosed law, without being subject to the provisions of the enclosed law. Any entity, other than the competent Administrative Entity pursuant to the attached law, may not, under any form or title, license the practicing of any activity of the activities of associations and entities provided for in the enclosed law. Such a license shall be void and invalid ab initio and may not bear any legal effect" (article 4 of the decree ratifying the law). This provision prevents human rights organisations from registering as companies under the investment law through the General Authority for Investment or as law firms with the Lawyers Syndicate, which has been the practice to avoid the repressive old Law on Associations. Members of these bodies who would give licenses to NGOs would face up to one-year prison or a fine of up to 500,000 LE (article 88). Any NGO that

does not register under the law within one year of its entry into force will be dissolved by the competent court (article 2 of the decree ratifying the law).

Consequences of the Associations Law for NGOs

The law requires NGOs to “work exclusively in the fields of social development” and not to engage in activities “that are part of the work of political parties, vocational or labour syndicates, any work of political nature, or any work that may cause harm to the national security, law and order, public morals, or public health” (article 13). NGOs’ work must be “within the scope of the state plan, development needs and priorities” and their activities not result in “destabilising the national unity, national security, public order and public morals” (article 14 b). These conditions are meant to prevent government critics from exercising their right to freedom of association. NGOs are banned from “conducting opinion polls and publishing or making their results available” (article 14 g). Notwithstanding harsher penalties in the Penal Code or other laws (article 86), the law punishes violations such as working as an NGO without registration, carrying out activities against “national security”, receiving foreign funds without authorisation or cooperation with an international organisation without government permission with up to five years prison and a hefty fine of up to one million LE (article 87).

While the law regulates the registration of NGOs through notification to the Ministry of Social Solidarity, which is an improvement compared to the authorisation system of the old law, it still subjects the completion of the process of registration and start of NGO operations to government discretion.⁵⁹

The law gives wide powers to the government to interfere and obstruct NGOs’ decisions, activities and funding through the Ministry of Social Solidarity and the “National Regulatory Agency for the Work of Foreign NGOs” (the agency), which is under the supervision of the Prime Minister (article 70). The agency is managed by a Board of ten directors among which are

representatives from the Ministry of Interior, the Ministry of Foreign Affairs, the Ministry of Defence and the General Intelligence Agency (article 72).⁶⁰ The Ministry of Social Solidarity and agency have “the right to take the necessary measures to rectify any procedures or works that are in violation of the provisions of the law” and to suspend the activity of the NGO for up to one year or request a court order to dissolve it or dismiss its board (article 26).⁶¹

With regards to funding, the law stipulates that NGOs must obtain consent from the Ministry of Social Solidarity 30 working days in advance of the receipt of funds (article 23). The agency must also be notified by the NGO within 30 days after receipt of local or foreign funding and may object to it within 60 days of receipt. During those 60 days, the NGO may not spend the funds. If the NGO does not receive an answer from the agency within 60 days, “inaction is considered as disapproval” (article 24).

According to the law, the dissolution of an NGO takes place by judicial order and can be based on vague grounds such as violating article 14, which includes grounds of national security and public order, cooperating, joining, subscribing, or affiliating with a foreign association in violation of the law, receiving funds from an external entity, spending funds without authorisation, or violations under article 42, such as performing activities that are not in its founding charter or moving premises without informing the competent authority (article 43). The Ministry of Social Solidarity may also suspend the activity of an NGO until a court ruling is issued (article 44).

International and foreign NGOs face additional obstacles as the law requires them to apply for a license of up to three years from the “National Regulatory Agency for the Work of Foreign NGOs” (article 59) and pay a fee of 300,000 LE, increased by 20% every five years (articles 61). Their license may be revoked “for reasons related to any threat to national security, public safety, or public order or in accordance with the reciprocity principle” (article 68). Their activities “shall be consistent with the needs and priorities of the Egyptian society based on the development plans. They shall not be involved in the work of political parties, vocational or labour syndicates, any work of

political nature, or any work that may cause harm to the national security, public order, public morals or public health” (article 62). They cannot “send, move or transfer any funds or donations allocated for implementing activities or projects in Egypt to any person, organisation, authority or entity inside or outside unless after obtaining an ad hoc authorisation from the agency” (article 64).

3.4. Protest laws harming the right to peaceful assembly

Egypt currently has two laws effectively banning peaceful protests: the Law on Assembly of 1914 and the Protest Law of 2013. The first law was adopted while Egypt was under British occupation as the British army consolidated its grip on Egypt with the start of World War I, although much of the political elite in Egypt at the time opposed the law seen as yet another tool of repression against opponents of the British occupation. In 2017, several human rights defenders and politicians in Egypt filed a lawsuit with an administrative court to annul the law, arguing that it had been repealed in 1928. At the time, although the King did not veto the annulment, he did not publish the repealing law in the official journal.⁶² Thousands of protesters have been detained, tried or convicted under this law especially during the rule of the military council in 2011-2012 and after the 2013 ouster of President Morsi. HRDs and activists continue to be detained on charges relating to this law and other charges linked to the Protest Law and/or charges of thuggery.

The Law on Assembly punishes with imprisonment and/or fines whoever refuses orders to disperse from a public assembly of more than five people aiming at endangering “public peace” (article 1). The law connects with other laws such as Law 14 of 1923 relating to public meetings and demonstrations which empowers security forces to disperse demonstrations endangering “public order” as well as Minister of Interior’s decree 156 of 1964 relating to the use of live ammunition.⁶³

Reach of the Protest Law of 2013

Following the ouster of former President Morsi in July 2013, interim President Adly Mansur issued the Protest Law in November 2013, as supporters of Morsi and other political groups used protest as a means to put pressure on the government in the interim period. The law was deemed unconstitutional by the Egyptian National Council for Human Rights. UN experts considered that it violated Egypt’s obligations under international human rights law. Article 1 of the Protest Law states that “citizens have the right to arrange public assemblies, processions, protests and joining them and this is in accordance with rules and regulations stated in this law”, but the subsequent articles provide wide powers to the authorities to restrict the right and little provisions to ensure security forces may not use excessive force. It defines a public gathering as “an assembly held at a public place, where people can enter without prior invitation, and the number of people is not less than 10, to discuss or exchange opinions of public concern”.

According to the law, the Ministry of Interior must be informed three days prior to the protest, in addition to giving information on the organisers, the goal of the protest, its place and its timing (article 8); information that could lead the ministry to actually arrest the organisers arbitrarily. The protest may take place with no prior notice only in areas designated by local governors (article 15). It restricts the locations that demonstrators can use for protest excluding legitimate places such as the vicinity of government buildings (article 14). The law allows the Ministry of Interior to disperse protesters on the basis of vague arguments such as “obstructing citizens’ interests”, “disturbing security and public order” or “obstructing production” (article 7). The law also allows a ban on processions and public assemblies before they start on the basis of “serious information or indications on the presence of a threat to public peace and order” (article 10). The law allows security forces to use water cannons, tear gas and batons by the security forces, if protesters refuse to disperse even if they are peaceful (article 12). It also permits the use of firearms if protesters do not comply with the

initial warning, whether protesters turn violent or not (article 13). The law provides for punishments of up to five years prison and fines.⁶⁴

The law attracted wide criticism from many Egyptian and international NGOs and from the UN High Commissioner for Human Rights.⁶⁵ In December 2017, the Egyptian cabinet adopted an amendment to article 10 of the law after the constitutional court found the initial article to be unconstitutional. The amendment will require the Ministry of Interior to get clearance from a court before it can ban a protest.⁶⁶

4. The Egyptian government's armada of security measures targeting human rights defenders and activists

Given the very vague terms used in the laws above, security forces are able to stop dissenting voices in the name of security. This often takes the form of arrest of HRDs, activists or protesters. But the attention given to the legal framework should not distract from examining the many tools of repression that are illegal even under those repressive laws. While the legal framework provides immense cover to the authorities to prosecute HRDs or dissuade them from carrying on with their work, in many situations security agencies use illegal means to intimidate or gather information from HRDs and activists. Such measures range from listening to phone calls, attempting to hack into emails or Facebook accounts, and enforced disappearance and torture. The judiciary provides cover for such violations as it fails to fully and impartially investigate them, and the perpetrators go unpunished. Even in situations where the victim manages to obtain a favourable judgment, after suing a TV presenter for libel for example,⁶⁷ such judgments are generally not enforced by the authorities. Torture or other ill-treatment, enforced disappearances, or killing of activists are virtually unaccounted for.

4.1. Arbitrary arrest, torture and ill-treatment

Since July 2013, Egypt has witnessed mass arrests among supporters of ousted President Morsi and several waves of arrests against HRDs and activists. In the name of enforcing the Protest Law adopted by the interim President Adly Mansour, activists were arrested, put on trial and given prison sentences for breaking the Protest Law on trumped-up charges. But in the following years the common charge against activists became “belonging to a banned/terrorist group” and “spreading false news” in addition to protest charges. The police and National Security arrest activists and accuse them of violating national security or belonging to a banned group for acts as simple as waving a rainbow flag in a concert⁶⁸ or wearing an anti-torture T-shirt,⁶⁹ knowing that they will be backed by a judiciary that will punish these peaceful acts with prolonged detention.

Blogger Alaa Abdel Fattah and the “No to Military Trials for Civilians” campaign

In November 2013, the “No to Military Trials for Civilians” campaign called for a protest in front of parliament against an article in the (then) draft constitution, which allowed military trials for civilians. Police brutally arrested 34 persons, including 13 female activists, and beat some of them. While male detainees were transferred to a police station, female protesters were left at midnight in the desert south of Cairo. Two days later activist and blogger Alaa Abdel Fattah was brutally arrested by special forces from his home without a warrant. They took some of his belongings such as laptops and phones, which is illegal in the absence of a warrant. He was charged of organising the protest and after a retrial received a five-year prison sentence in 2015. His 18 co-defendants were sentenced for three years and another was sentenced to five years as he possessed a knife.⁷⁰

Several activists from the 6 April Youth Movement and other affiliations were also arrested and sentenced to prison for participating or calling for protests

or strikes in 2014 and 2015. Many were tortured, ill-treated in detention or put in solitary confinement, as with activist Ahmad Douma.⁷¹ Some have resorted to partial hunger strikes to seek improvement of their detention conditions or protest against their continued detention. Activist Shaimaa El Sabbagh was shot dead by riot police as she marched with others to Tahrir Square on 24 January 2015.⁷² Security agencies have been nervous ahead of anniversaries of the 25 January uprising, searching homes in downtown Cairo and arresting activists living in the vicinity of Tahrir square.⁷³ In the days before 25 January 2016, several activists were arrested from their homes and tortured or otherwise ill-treated in detention. Ten were grouped in one case, accused of belonging to a fictional “25 January movement” and charged with incitement to protest on 25 January 2016.⁷⁴

Lawyer Malek Adly and the concession of two Red Sea islands to Saudi Arabia

2016 saw a return of large protests and mass arrests in the streets, mainly against protesters, HRDs and activists taken by National Security from home in dawn raids. This was due to a large mobilisation against an agreement signed between Egypt and Saudi Arabia demarcating their sea boundaries and conceding two Red Sea islands to Saudi Arabia. Over 1,200 people were arrested in April 2016.⁷⁵ Among those arrested were human rights lawyer Malek Adly, from the Egyptian Center for Economic and Social Rights - who claims to have been tortured in detention and remained in solitary confinement;⁷⁶ and human rights lawyer Haitham Mohamad, ⁷⁷ Ahmad Abdallah, Board director of the Egyptian Commission for Rights and Freedoms (ECRF), Mina Thabet, minority rights defender and staff member of ECRF;⁷⁸ and journalist and board member of the Journalists Syndicate Amr Badr, who was arrested from inside the syndicate itself in an unprecedented raid on the Journalists Syndicate.⁷⁹ They were charged under Anti-terrorism laws, the Assembly and Protest Laws as well as other provisions of the Penal Code violating freedom of expression. They were released on bail after up to five months in pre-trial detention. Three of the board members of the Journalists

Syndicate, including its former President Yehia Kalash, were referred to trial for “harbouring wanted journalists”.⁸⁰

Between April and June 2017, more than 190 activists from different opposition political backgrounds were arrested, mostly from their home in dawn raids, by National Security and police across 21 governorates, as parliament discussed and passed the agreement with Saudi Arabia despite an administrative court ruling annulling the agreement.⁸¹ By August 2017, less than half of them remained in detention. They were also accused of “belonging to banned/terrorist groups”; “incitement to protest” and “spreading false news” among other charges. Several human rights lawyers were also arrested for protesting in Alexandria and in Upper Egypt in the second half of 2017.

Inhumane detention of lawyer Ibrahim Metwally

In 2017, two HRDs were subjected to enforced disappearance while they were campaigning against enforced disappearances. Ibrahim Metwally, lawyer and coordinator of the Association of the Families of the Disappeared in Egypt, himself the father of a disappeared person, was arrested at Cairo Airport in September 2017 as he was flying to Geneva on an invitation to meet with the UN Working Group on Enforced Disappearances during the UN Human Rights Council. He disappeared for two days then appeared in front of State Security Prosecution. He was accused of “managing an illegal group”, “spreading false news” and “liaising with foreign entities to undermine national security”. He claims that during his disappearance he was undressed, electrocuted and beaten at the National Security premises. At Al Aqrab prison in Tora in Cairo he said he “was placed in a filthy cell with a toilet unfit for human use; the electricity in the cell was cut and the window - the sole source of light - was closed; the cell was then flooded with water. In addition, the prison administration denied entry to any personal hygiene products or underwear.” He is currently in pre-trial detention.⁸² Similarly, HRD Ahmad Amasha, active in the same association, was arrested and disappeared in March 2017. In his testimony he said: “on the first day of my

arrest, they took off all my clothes and hung me by my hands – which were still bound behind my back. I was forced to sleep on my back. I was given electric shocks on the 10th and 12th day of my detention. On the second day, they threatened to rape me if I did not admit that I did things which I had not done. When I refused to do so they inserted a stick into my anus. They threatened to bring my wife and my daughters and rape them”. He is currently in pre-trial detention.⁸³ Another co-founder of the Association, Hanan Badr El-Din, is still in detention to this day. She was arrested in May 2017 as she visited a detainee in prison who had re-appeared to question her about names of person who disappeared, including her husband. She is accused of belonging to a banned group and smuggling illicit objects in prison (paper with notes on it).⁸⁴

In addition to enforced disappearances and torture, death in custody has become a widespread phenomenon in Egypt since July 2013, mainly due to medical negligence. This has also affected HRDs and activists. In November 2017, Nubian activist Gamal Sorour died of medical negligence in a prison in Aswan as he was allegedly denied insulin to treat his diabetes. He had been arrested in September 2017 with other Nubian activists and protesters who organised a march to Nubian music during the Eid holiday.⁸⁵ His co-defendants were later released on bail. They face protest charges and are on trial before an Emergency State Security court.

4.2. Arbitrary National Security measures

The National Security Agency has unlawfully enforced travel bans on Egyptian HRDs and activists for “security reasons” without a judicial order and confiscated their passports, because they were to participate in meetings, workshop trainings or conferences abroad, during which they were expected to speak about the human rights situation in Egypt.⁸⁶ International advocacy, including with the UN human rights mechanisms, has become dangerous for HRDs living in Egypt who may face reprisals. Reprisals against HRDs

working with the UN most recently took place against Ibrahim Metwally, coordinator of the Association of the families of the disappeared in Egypt. He was arrested at Cairo airport when he was heading to Geneva in September 2017.⁸⁷ Similarly, journalist and researcher Ismail Al-Iskandarani - one of the few experts on the Sinai region - was arrested in November 2015 upon arrival in Egypt from Germany. Following interrogation at the airport, security officers found articles on the political and security situation in Sinai on his laptop. Since then, he has been in pre-trial detention on charges of being affiliated to the outlawed Muslim Brotherhood and spreading false news on human rights violations by security forces in the Sinai.⁸⁸

After confiscation of their passports, activists barred from travelling are usually summoned by National Security to their offices and questioned about the purpose of the trip, their activism, their opinion of the regime and political affiliations, and asked to inform and ask for National Security permission in the future before travelling to workshops or meetings abroad. Several members of international human rights organisations, journalists and researchers were also prevented from entering Egypt for security reasons.⁸⁹ Summons by National Security are used as a tool to intimidate activists including those working for human rights organisations or to put pressure on them to give information about other activists or colleagues in the same NGO. Many decide to leave their workplace to avoid this kind of harassment. Student unions leaders in universities and trade union leaders are particularly vulnerable to such intimidation or reprisals since they can be arbitrarily dismissed from university or their place of work.⁹⁰

Freshly released activists also suffer from intrusion from National Security into their lives. They may be re-arrested if stopped at checkpoints to verify their legal status. They may also be threatened before their release not to speak about their ill-treatment in detention to human rights organisations or media. Activists who are famous may find it difficult to find work again and reintegrate society especially after lengthy periods of detention. In some cases, courts give sentences with police probation to be served following release. These are used arbitrarily and excessively by National security

and police to further harass activists. In relation to a protest in November 2013, an appeals misdemeanour court confirmed in April 2014 the sentence against activists Ahmed Maher and Mohamed Adel, from the 6 April Youth Movement, and blogger Ahmed Douma, to a fine, three years in prison with labour and three years of police probation after their release.⁹¹ After the first two completed their sentence and were released, the police interpreted the probation as staying in the police station closest to their homes for 12 hours per day.⁹²

Difficulties to organise human rights conferences

Organising trainings, workshops and conferences has become a real challenge for human rights organisations. Venues for such events are wary of hosting human rights events because they may face harassment from National Security. Even the Press Syndicate meeting and conference venues have become inaccessible to human rights organisations most of the time. Typically, when an establishment accepts to host an event the reservation may be cancelled at the last minute on orders of National Security, or the host asks organisers to make a request to National Security who rejects it, or sometimes officers in plain clothes request the organisers to give photocopies of the IDs of the participants or cancel the reservation. As an indication of how difficult it has become to organise conferences or workshops in Egypt, in 2016, for the first time in 22 years, the Cairo Institute for Human Rights Studies cancelled its annual human rights youth summer school.⁹³ Many HRDs have graduated from that school in the past. Only short and low-profile workshops may still be possible when the name of the organiser is unfamiliar to National Security. Otherwise, such events must take place at NGOs' headquarters.

The threat of raids by police and National Security against human rights organisations premises is a constant worry for NGO workers. The office of the Egyptian Center for Economic and Social Rights in Cairo was raided by police in midnight in December 2013 without any search warrant. The police

ransacked the premises, confiscated computer hardware and arrested staff members present in the premises.⁹⁴ In April 2015, police raided the office of Radio Horytna, an online radio initiative by the Andalus Center for Tolerance and Anti-Violence Studies. Its director was arrested and accused of broadcasting audio-visual content without permission.⁹⁵ Staff members of human rights organisations also face harassment and the risk of arrest while conducting field research.⁹⁶

4.3. Surveillance, smear campaigns and censorship

HRDs and activists in Egypt assume that their phone calls are monitored by security agencies and that some of their movements and professional meetings are being watched. Before 2013, individual anecdotes of such intrusion were being discussed among HRDs, but since 2013, the broadcast of recorded phone calls to the public by government supporter TV hosts, confirmed with evidence the long-held belief of surveillance of HRDs and activists by security agencies.⁹⁷ Photos of HRDs are also taken furtively and broadcasted on TV to smear them. Such surveillance without judicial warrant and the broadcasting of communications or photos without consent is in violation of Egyptian law.⁹⁸ As the government monitors phone calls, HRDs and people in general opt for phone applications that are more secure and generally cheaper. But these were also targeted by the government in several occasions.⁹⁹

Leaked phone conversations have been used in smear campaigns against HRDs, activists or political opponents, who are usually not given any space to respond or defend themselves against such attacks. The smearing usually revolves around accusations of treason, foreign plots against Egypt, undermining national security and unity, incitement to hatred of the army and state institutions, foreign funding, receiving training abroad to spread chaos in the country, cooperation with "terrorist groups" and collaboration with the Muslim Brotherhood.¹⁰⁰ Human rights organisations are one of

the preferred targets of such smear campaigns, especially following terror attacks. They are presented as apologetic of terrorism and lacking sympathy towards security forces that die in such attacks. Human rights organisations were recently smeared for showing solidarity with detained LGBT persons and for opposing the candidacy of an Egyptian former ambassador for the position of Director-General of the UNESCO, given the state of freedom of expression in Egypt. The parliament speaker referred a complaint by a pro-government member of parliament to the Public Prosecutor in this regard.¹⁰¹ Ahead of the presidential elections of 2018, independent human rights organisations are described by newspapers loyal to the regime as having links with terrorist groups and advocates that they shouldn't be eligible to monitor elections.¹⁰²

Cyber-attacks and the violation of privacy

HRDs and activists are regularly subjected to attempts to hack into their email and Facebook accounts. Most recently the attacks on emails took a new dimension with the technique of “phishing”. The largest known cyber-attack against Egyptian HRDs is the one known as “Nile Phish”. Seven independent human rights organisations were targeted by the attack. An expert report described the attack as being “a large-scale phishing campaign,” where “almost all of the targets we identified are also implicated in Case 173” (see below), and that the “Nile Phish operators demonstrate an intimate knowledge of Egyptian NGOs, and are able to roll out phishing attacks within hours of government actions, such as arrests.”¹⁰³

Online and offline censorship

State and private Egyptian media are to a large extent controlled by the government. Virtually all critical voices are dismissed from TV shows. An exodus of critical TV programmes has taken place since 2013. Hosts have quit or were forced to quit, their shows were interrupted because of censor-

ship or threats against them.¹⁰⁴ Censorship also applies to intellectuals and critical writers.¹⁰⁵ Meeting spaces to discuss ideas and hold cultural artistic events, such as libraries and cultural spaces owned by HRDs and activists, gathering spaces for activists like cafes, have also been raided and closed under different excuses.¹⁰⁶ In 2014, an edition of a newspaper published by the Arabic Network for Human Rights Information was confiscated by police. The newspaper “Wasla” compiles the writings of online bloggers and activists to provide audiences with a hard copy of online writings.¹⁰⁷ But it is the internet that poses the main challenge to the government, especially social media platforms such as Facebook, Twitter and YouTube, where ideas can still be communicated freely and anonymously. The government’s approach has been to seek technologies and technical assistance abroad for mass internet surveillance, including from France, Italy and Germany.¹⁰⁸ Such deals were only partly successful thanks to the outcry of the international and national human rights community, which has obstructed some deals.¹⁰⁹

As a desperate measure to censor the internet, the government blocked independent, critical and opposition websites. Since May 2017, over 400 websites have been blocked, including news websites: Mada Masr, Daily News Egypt, Al-Araby TV, websites of human rights organisations: Arabic Network for Human Rights Information, the Egyptian Commission for Rights and Freedoms and Reporters Without Borders. VPN websites allowing internet users to access such blocked websites were also blocked.¹¹⁰

5. Judicial and legal prosecution of HRDs and organisations

All HRDs interviewed for this study have asserted that the judiciary has become the main tool used by the government to persecute HRDs and activists. Given the range of criminalised activities in multiple laws and the vague wording of the offences relating to terrorism or other state-security related provisions, it is easy for judicial police, prosecutors and judges to arrest, prosecute, try and punish HRDs and activists for such offences. But beyond that, prosecutors and judges have generally been acting on behalf of the government to punish the peaceful exercise of freedom of expression, assembly and association, condone violations of these rights and provide cover to security agencies for unlawful killings, enforced disappearance and torture or other ill-treatment. Harsh sentences were handed by certain judges. While there are independent judges, the government's claims of the independence of the judiciary could not be further from reality.

5.1. Case 173 of 2011: Travel bans, assets freezes and unending judicial harassment

In 2013, 43 staff members of international NGOs, including foreign nationals, were tried and found guilty of receiving foreign funding without permission in the highly politicised case 173 of 2011 (referred to as the “foreign funding case”). Based on the 2002 Law on Associations, they were sentenced to a

one-year suspended prison sentence (for 11 Egyptians living in Egypt), two years of prison and a fine (for three Egyptians and two foreigners) and five years of prison (for the 27 foreign nationals and Egyptians tried in abstentia). The foreign NGOs were closed, namely the International Republican Institute, the National Democratic Institute, Freedom House, the International Center for Journalists and the Konrad Adenauer Foundation.¹¹¹ The case started with the creation of a government fact-finding committee to look into foreign funding of NGOs and their status under the old Law on Associations. The report gathered information from several sources including the National Security Agency and General Intelligence. At the end of 2011, the offices of the foreign NGOs and two national human rights organisations (Arab Center for the Independence of the Judiciary and Legal Profession (ACIJLP), and the Budget and Human Rights Observatory) were raided by the police and staff members of those organisations were summoned for investigation.

To this day, case 173 of 2011 holds hostage a large number of HRDs, including women HRDs, who are at threat of being jailed and their organisations closed. At the end of 2017 – six years after investigations started – the case has neither been closed nor the defendants indicted and referred to trial. Most independent human rights organisations are either involved in the case or believed to be involved.

Organisations and human rights activists involved in the foreign funding case

Investigations are based on the old Law on Associations of 2002 and on articles 78, 98(c) and 98(d) of the Penal Code on foreign funding (mentioned in the chapter above). Investigative judges have been investigating the case. Since 2015, members or former members of several organisations were questioned or called to examine their documents, including the Egyptian Initiative for Personal Rights (EIPR), Hisham Mubarak Law Center (HMLC), the Cairo Institute for Human Rights Studies (CIHRS), Egyptian Democratic Academy (EDA), the United Group, Andalus Center for Tolerance and

Anti-Violence Studies, Nazra for Feminist Studies, Egyptian Center for the Right to Education and the Center for Egyptian Women Legal Assistance (CEWLA), whose co-founder Ms Azza Soliman was arrested from her home in December 2016 and brought before the investigative judge before being released on bail.¹¹² Other organisations that are believed to be investigated in the case include the Egyptian Center for Economic and Social Rights (ECESR), the Arab Organisation for Penal Reform, the Land Center for Human Rights, Appropriate Communications Technologies and the Egyptian Association for Community Participation and Enhancement.¹¹³

In 2016, several prominent HRDs and organisations had their assets frozen, including Hossam Bahgat, the founder of the Egyptian Initiative for Personal Right, Gamal Eid, the founder and director of the Arabic Network for Human Rights Information, the Cairo Institute for Human Rights Studies and its director Bahey El-Din Hassan, the Hisham Mubarak Law Center and its director Mostafa El-Hassan, and the Egyptian Right to Education Center and its director Abdelhafiz Tayel.¹¹⁴ The assets of CEWLA and its co-founder, Ms Azza Soliman, were also frozen in 2016.¹¹⁵ In January 2017, the assets of Nazra for Feminist Studies and its director Ms Mozn Hassan were frozen.

The investigative judge also subjected all these HRDs to travel bans. Many other HRDs were also banned from travelling, which they often learned while at passport control at the airport. Among those banned from travel by judicial orders are: Mohamed Zaree, Cairo office director of CIHRS, Esraa Abdelfattah, Hossam El-Din Ali, Ahmed Ghoneim and Bassem Samir from EDA, Ahmad Ragheb, former director of HMLC, Malek Adly, former staff member of HMLC and current director of ECESR, Nasser Amin and Hoda Abdelwahab from the ACIJLP, Negad El-Borei, director of United Group, Aida Seif El Dawla¹¹⁶ and Suzanne Fayyad from El Nadeem Center for Rehabilitation of Torture Violence.¹¹⁷

5.2. Other cases of judicial harassment

Several other cases that involve HRDs are under investigation, while some HRDs and activists have been detained beyond the maximum pre-trial detention period of two years prescribed by Egyptian law for crimes punishable by life imprisonment or death penalty.¹¹⁸ According to the Egyptian Initiative for Personal Rights (EIPR), by May 2017, over 1,400 detainees in four governorates had been detained for over two years without a sentence.

In 2015 and 2016, Negad Elborei, director of the United Group and lawyer of several of the foreign organisations sentenced in Case 173 of 2011, was investigated for drafting and discussing a draft law to combat torture. He is accused of “establishing an unlicensed entity, receiving illegal funds, and deliberately spreading false information with the purpose of harming public order or public interest.”¹¹⁹ Two judges who helped in the drafting of the bill were referred to judicial disciplinary investigation.

“ According to the Egyptian Initiative for Personal Rights (EIPR), by May 2017, over 1,400 detainees in four governorates had been detained for over two years without a sentence ”

Hesham Gaafar, director of the Mada Foundation for Media Development, was arrested from the organisation’s office in October 2015 after National Security and police searched it and confiscated documents and office laptops. Before his arrest he reportedly worked on democratic transformation and political integration of different currents in Egypt. He is accused of receiving foreign funding under article 78 of the penal code and of belonging to a banned group. He is detained in inhumane conditions in Al-Aqrab prison and has by now spent more than two years in pre-trial detention.¹²⁰ Similarly, US-Egyptian Aya Hegazy and her husband Mohamed Hassanein, founders of the Belady Foundation, and five volunteers arrested in April 2014, spent

close to three years in pre-trial detention before being acquitted following pressure from the US to release them.¹²¹

Photo-journalist Mahmoud Abu Zeid (known as Shawkan) has been detained since 14 August 2013 for over four years. He was arrested while covering protests by supporters of ousted president Morsi at Rabaa square and stands trial on protest and thuggery charges with some 700 defendants.¹²² Military courts have also been used to try journalists who work in the Sinai, as it were the case of journalists Ahmad Abu Deraa and Mohamed Sabry, they had been accused of harming national security for reporting on military operations in the Sinai.¹²³ In 2015, HRD and investigative journalist Hossam Bahgat was interrogated by military persecution and detained for several days for an investigative piece he wrote for MadaMasr on a case involving the military trial of army officers accused of plotting a coup. He was accused of *"deliberately spreading false information with the purpose of harming public order or public interest"* and *"publishing, with malicious intent, false news that are likely to disturb public order"*.¹²⁴ The trial of Aljazeera journalists by a criminal court in 2014 and 2015 remains the trial of journalists in Egypt that aroused the most interest and uproar among the international community.¹²⁵

5.3. Closure and threat of closure of human rights organisations

Human rights organisations live with the constant threat of government closure. Since they could not function independently under the old Associations Law of 2002 and they cannot either under the new Law on Associations of 2017, most human rights organisations operate as companies or law firms. Registering these entities is much simpler and the authorities directly overseeing them are generally not intrusive. Although these forms are not the most adequate for non-profit organisations – as tax laws fully apply to them and some human rights activities such as research or media work may not easily fit with their founding contracts - they still allow human rights organisations to operate with less intrusion from the government.

However, the new Law on Associations has removed these options. Un-registered human rights organisations may face closure as their founding contracts would be null and void, as the law provides for a one-year interim period for such entities to "rectify their status", which lapses on 24 May 2018. The clock is ticking for Egypt's human rights organisations. The government sometimes responds to criticism over the new law by saying that it is not being applied, but in fact HRDs already report difficulties registering law firms, especially in ratifying founding contracts – registered at the Lawyers Syndicate - with the Estate Registry, or difficulties registering companies with the Ministry of Investment.

Attempted closure of the Egyptian Commission for Rights and Freedoms (ECRF)

In September 2017, the Egyptian Commission for Rights and Freedoms (ECRF), whose legal status includes a company and a law firm, was visited by members of the General Authority for Investment. They were accompanied by an officer likely belonging to the National Security Agency, claiming to hold a decision to close down the company and wax-seal its main premises. There

“ The clock is ticking for Egypt's human rights organisations ”

was no prior notification of the decision and the alleged closure decision was never shown. ECRF was able to fend this closure attempt by saying that it operates as a law firm. This came one year after a sudden search of ECRF's premises after which the General Authority for Investment said it found the company to be in contravention with its founding contract for holding files on enforced disappearances deemed by the authority to be a "political matter". Observers believe the attempt to close the organisation has to do with its work on enforced disappearances.¹²⁶

Closure of renowned El Nadeem Center for Rehabilitation of Victims of Violence

In February 2016, the Ministry of Health issued a closure decision for El Nadeem Center for Rehabilitation of Victims of Violence "for breaching license conditions" without prior notification nor time to correct any violation.¹²⁷ El Nadeem Center provides psychological support to victims or violence, especially torture, and publishes periodic reports on prison conditions in Egypt, cases of torture and other forms of cruel and degrading treatment. Established in 1993, it is one of the oldest and most renowned organisations in Egypt, operating as a clinic and as a company depending on the activity. The Ministry of Health published a statement following its decision saying "the clinic committed two violations, the first being to change its name from clinic to centre despite a different license being required for each, and the second being to change its activities from medical practice to human rights advocacy".¹²⁸ El Nadeem Center filed a complaint with the administrative court to challenge the closure decision. After several attempts, the authorities wax-sealed the clinic in February 2017 before any final court decision was issued.

Success following Egypt's 2014 Universal Periodic Review

Out of fear of reprisal, no independent NGO sent representatives from Egypt to the November 2014 UN Human Rights Council's Universal Periodic Review (UPR) of Egypt, contrary to the Egypt's first UPR of 2010.¹²⁹ Still, joint UPR submissions were made by NGOs.¹³⁰ At the time the Ministry of Social Solidarity had announced an ultimatum for all unregistered NGOs to register under the Law on Associations of 2002 or face legal consequences. The ultimatum was delayed as it is believed that the government expected criticism at the UPR if it were to crackdown on human rights organisations. The UPR proved valuable to relieve the stress of the ultimatum as no immediate measures were taken by the Ministry of Social Solidarity after the ultimatum elapsed, which is widely believed among HRDs in Egypt to be the result of pressure by peer states in the UPR process through recommendations on freedom of association and to amend the 2002 Law on Associations.

6. Resilience of HRDs and new human rights initiatives in Egypt

In the last four years, several human rights defenders in Egypt were awarded international prizes recognising their resilience and offering them the possibility to advocate for the world to know that they continue to fight a perilous battle for human rights in Egypt.¹³¹ The level of repression and high risks entailed in defending human rights could appear as dissuading HRDs and activists from doing their work. However, resistance against repression has not stopped and may be going through a transformation. In Egypt's hostile environment to civil society, the reach of human rights organisations may have decreased since 2013, but their fight for human rights has carried on through pro-bono legal aid, research, campaigning and, to a more limited extent, capacity-building and human rights education. The Front to Defend Egyptian Protesters – founded in 2008 – remains a key platform providing pro-bono legal aid to detained activists through the coordination of the efforts of lawyers across human rights organisations in Egypt, especially in times of crisis and emergencies. Hundreds of arbitrarily detained protesters or activists were released, acquitted or pardoned thanks to their efforts.

Moreover, new forms of campaigns, such as initiatives and leagues of families of victims have emerged, often with some connection with human rights organisations or defenders – providing them with expertise, legal advice, aid and capacity-building among other tools. These initiatives face harass-

ment by state authorities and are described by government supporters as undermining national security or serving terrorism.

Growing solidarity and new campaigns

Families of victims have also formed groups to raise their grievances, such as the Association of the Families of the Disappeared in Egypt,¹³² a league of families whose relatives have disappeared since 2013 and where relatives of persons who have recently disappeared can find support and information. Al Aqrab Detainees' Families Association defends the rights of detainees in Cairo's Tora High Security Prison (known as "Scorpion prison" or "Al Aqrab prison" in Arabic).¹³³ These leagues organise collective action of families of victims, such as presenting petitions to the authorities, filing joint lawsuits, exchanging experience and information among members, such as the testimony of a re-appeared person about other disappeared persons they might have seen during their own disappearance, and in rare cases protests in front of parliament or the National Council for Human Rights. Such leagues facilitate liaison between families of victims, human rights organisations and media workers. A new generation of Nubian activists claiming Nubians' land and cultural rights has also emerged,¹³⁴ as well as new activists for LGBT rights.¹³⁵ These new leagues and groups are closely monitored by the authorities, face regular harassment and arrest of their members, but because they defend a cause that affects their constituency, they show a considerable level of resilience and potential to contribute to the Egyptian human rights movement in general.

In addition, many campaigns in solidarity with victims of human rights violations have emerged. They have successfully mobilised activists and attracted sympathisers, mostly online through Facebook and Twitter, relying on online crowdsourcing and verification of information to publish reliable statistics. Among those are the "Stop Enforced Disappearances" campaign¹³⁶, mainly concerned with enforced disappearances, and Freedom for the Brave

campaign, concerned with both disappearances and detained activists.¹³⁷ They post regular information and images about the disappeared or detained activists, mobilise for online writing and campaigning about specific victims or sign online petitions, produce educational and campaigning videos, and compile reported information into lists. They present new activists and human rights sympathisers with an opportunity to engage in the defence of human rights. Mobile phone applications may also become an important tool to report violations and protect activists in the near future.¹³⁸

Communications technology and social media equips HRDs and activists with new tools to counter government propaganda without a long-term, planned campaign. Limited campaigns relying on hashtags on social media also have huge potential for mobilisation.

#WeNeedToTalk

The latest example was #WeNeedToTalk, which attracted critical comments of Egypt's human rights record from thousands of contributors on social media showing solidarity with detained activists. The campaign used the slogan of an advertisement video "We Need to Talk" produced by the authorities for the World Youth Forum in November 2017 in Sharm El Sheikh.¹³⁹ The state-sponsored forum invited youth from around the world to purportedly speak freely in front of the Egyptian President and present their views of the challenges the world faces, while thousands of Egyptian youth languish in jail for expressing their opinions. The campaign played on this dichotomy to underline the government's hypocrisy at play in the forum.

Such online activism should not be underestimated, especially looking back at the role social media played in mobilising for the 2011 uprising, mainly through Facebook pages like "We are All Khaled Said", named after a victim of torture who died in police custody in Alexandria in 2010. Sarcasm or satire videos and cartoons are also powerful tools to express critical views of politics and society in general, including the human rights situation. They spread rapidly since they use everyday language that can reach a mass public.¹⁴⁰

Another form of resilience is that many Egyptian activists, faced with in absentia prison sentences, pending court cases or other threats, have chosen exile abroad to stay away from harm. They are mainly in Europe, the United States and in relatively safe Middle Eastern and North African countries. Many either knew the language of their host country or have learned it over the past few years. They are able to represent the human rights cause, carry the messages of the human rights community in Egypt, communicate and mobilise against human rights violations in Egypt in their host countries, as well as engage with other foreign governments, UN human rights mechanisms and other platforms.¹⁴¹

7. Conclusion

The political environment and legal framework in Egypt has become extremely hostile to civil society in general and unprecedentedly repressive to HRDs, activists and human rights organisations, threatening their very existence. The government continues to perceive independent civil society in general and human rights organisations in particular as a genuine threat to “national security” and “stability”. Through arbitrary security measures and unfair judicial orders, HRDs are both being disconnected from the outside world and their ideas prevented from reaching out to the Egyptian general opinion. Government-oriented discourse dominates the media, thus excluding critical or opposition voices.

The judiciary has become the most important tool in the hands of the executive power to repress HRDs, activists and human rights organisations. Instead of providing remedy for victims of human rights violations, the judiciary has generally been contaminated by the will to provide cover to violators of human rights – namely officers of security agencies. The 2014 constitution contains a progressive chapter on human rights. But Egypt's judicial bastions for the protection of the constitution, rule of law and human rights – namely the Constitutional Court, the Court of Cassation and State Council – have generally been ineffective in correcting violations by the executive or legislative branches. Indeed, the executive is tampering with the judiciary's independence as a whole, while the parliament circumvents rulings from the highest courts either by neglecting them or by issuing new repressive legal provisions to replace those ruled unconstitutional.

Ahead of Egypt's presidential elections of 2018, the public space has been closed down by the government, mainly through its security agencies. The elimination of any significant role for political parties, independent civil society and HRDs is a strategic mistake further undermining Egypt's path towards democracy and respect of human rights. The closure of public space and punishment of peaceful action fuels political violence in society and increases violent extremists' ability to gain new recruits, which threatens security and stability in Egypt and the region. Correcting this situation is crucial as Egypt will be holding its breath in 2018 as it navigates through potential political and economic breakdown.

8. Recommendations

To Egypt's executive branch:

- Immediately and unconditionally release all HRDs and activists detained solely for exercising their rights to freedom of expression, assembly and association, or detained or imprisoned on charges based on draconian anti-terrorism or national security provisions;
- Stop the closure of human rights organisations by administrative order and cease threats of closure;
- Stop torture or other ill-treatment, enforced disappearance, medical negligence in detention, solitary confinement, smear campaigns, attacks on the right to privacy, threats, intimidation and harassment against HRDs and activists;
- Lift arbitrary travel bans against HRDs and activists implemented by security agencies in contravention with Egyptian law and return their confiscated passports;
- Allow human rights organisations and others to hold conferences, meetings, workshops, trainings and peaceful assembly without harassment or intimidation by security agencies;
- Unblock all internet sites in line with the right to freedom of expression and freedom of information, especially websites belonging to human rights organisations, news websites and others;
- Cease cyber-attacks and surveillance of communications of HRDs, activists and members of human rights organisations, especially their internet websites, blogs, emails, social media accounts and phone calls, in line with the right to privacy and right to freedom of information and expression;
- Lift excessive and arbitrary police probation periods applied to HRDs and activists;
- Cease to intimidate members of human rights organisations and activists through summons by security agencies;
- Allow activists, including student union leaders, labour rights activists and union leaders to regain their positions in universities or workplaces from where they were dismissed because of their human rights activism;
- Re-open cultural spaces, including libraries, arbitrarily closed as a form of reprisal against HRDs and activists who own or manage them;
- Issue a presidential pardon for the 43 staff members of international organisations convicted on charges of receiving foreign funding in case 173 of 2011;
- Allow international human rights organisation to access Egypt, safely conduct research, dialogue with the Egyptian authorities and work with Egyptian human rights organisations;
- Stop reprisals against HRDs and activists for exercising their freedom of expression, assembly and association, including liaising with the UN human rights mechanisms and international human rights organisations ;
- Cease to interfere with the judiciary or to influence the course of judicial proceedings, including in cases involving HRDs or activists;

- Implement Egypt's pledges at the 2014 UPR with regard to freedom of expression, assembly and association;
- Invite the UN Special Rapporteur on the rights to freedom of peaceful assembly and of association and the UN Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism for an official visit to Egypt.

To Egypt's legislative branch:

- Repeal the Law on Associations (Law 70 of 2017) and elaborate a legal framework for NGOs after meaningful consultation with all civil society stakeholders - including human rights organisations and HRDs, charities and development organisations, international NGOs, political parties, the National Council for Human Rights, with the technical support of the UN Office of the High Commissioner for Human Rights and human rights experts – to guarantee the right to freedom of association in accordance with Egypt's obligations under international human rights law;
- Review the Terrorism Entities Law (Law 8 of 2015), the Anti-Terrorism Law (Law 94 of 2015), the Emergency Law (Law 162 of 1958) and the Penal Code - including articles introduced by the Anti-Terrorism Law (Law 97 of 1992), the Thuggery Law (Law 10 of 2011) and article 78 - after meaningful consultation with all civil society stakeholders, including those mentioned above, with the aim of de-criminalising activities that fall under the umbrella of freedom of expression, assembly and association, in accordance with Egypt's obligations under international human rights law;
- Annul the Law on Assembly (Law 10 of 914) and amend the Protest Law (Law 107 of 2013) after meaningful consultation with all civil society stakeholders, including those mentioned above, to guarantee the right

to freedom of assembly in accordance with Egypt's obligations under international law.

To Egypt's judicial branch:

- Immediately and unconditionally release all persons detained solely for exercising their rights to freedom of expression, assembly and association, including HRDs, journalists, lawyers, democracy activists, minority rights activists, labour rights activists and union leaders, student unions leaders and LGBT activists;
- Release all persons, including HRDs, activists, journalists and lawyers who have exceeded the maximum period of pre-trial detention under Egyptian law;
- Stop judicial harassment against HRDs and activists facing charges under draconian anti-terrorism or national security provisions by closing investigations against them for exercising their rights to freedom of expression, assembly and association, including case 173 of 2011 (foreign funding case) and other pending cases against journalists, lawyers, judges, democracy activists, minority rights activists, labour rights activists and union leaders, student unions leaders and LGBT activists;
- Lift travel bans and assets freeze ordered by the judiciary against HRDs and activists;
- Cease to use terrorism charges and security-related charges against HRDs and activists for exercising their rights to freedom of expression, assembly and association;
- Lift arbitrary complementary punishments against HRDs and activists, including police monitoring;

- Fully, independently and impartially investigate claims made by HRDs and activists of violations committed against them, including torture or ill-treatment, enforced disappearance, medical negligence in detention, travel bans, smear campaigns, attacks on their right to privacy, threats, intimidation and harassment, and bring those responsible to justice.
- Support requests by UN special procedures mandate holders to carry out official missions to Egypt especially the UN Special Rapporteur on the rights to freedom of peaceful assembly and of association and the UN Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism.

To the European Union, foreign governments, and the United Nations:

- Echo the recommendations addressed above to the Egyptian government in bilateral meetings and multilateral fora as well as in the framework of the implementation of the EU-Egypt association agreement;
- Emphasise to the Egyptian government that the presence of a free and vital civil society in Egypt is indispensable for Egypt's stability and one of Egypt's obligation under international human rights law;
- Urge the Egyptian government to respect the freedoms of expression, assembly and association including through statements at the UPR session on Egypt at the UN Human Rights Council;
- Suspend the transfer of arms and equipment that could be used by the police or army in internal repression of peaceful dissent until a full and impartial investigation into serious violations of human rights by the security forces since 2011 has been carried out and those responsible are brought to justice;
- Suspend transfer of mass surveillance technologies to Egypt that could be used to monitor, track or violate the privacy of HRDs and activists and prevent companies from transferring such technologies to Egypt

9. End Notes

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27. Article 65 of the constitution states: "Freedom of thought and opinion is guaranteed. Every person shall have the right to express his/her opinion verbally, in writing, through imagery, or by any other means of expression and publication." Other articles do also guarantee freedom of the press and media (Articles 70, 71, 72), artistic and literary creativity (Article 67), freedom of information (Article 68). See: www.sis.gov.eg/Newvr/Dustor-en001.pdf
28. Article 73 states: "Citizens shall have the right to organize public meetings, marches, demonstrations and all forms of peaceful protests, without carrying arms of any kind, by serving a notification as regulated by Law. The right to peaceful and private assembly is guaranteed without need for prior notification. Security forces may not attend, monitor or eavesdrop on such meetings." Article 75 states: "All citizens shall have the right to form non-governmental associations and foundations on democratic basis, which shall acquire legal personality upon notification. Such associations and foundations shall have the right to practice their activities freely, and administrative agencies may not interfere in their affairs or dissolve them, or dissolve their boards of directors or boards of trustees save by a court judgment. The establishment or continuation of non-governmental associations and foundations, whose statutes or activities are secretive or conducted in secret or which are of military or quasi-military nature is prohibited as regulated by Law". See: www.sis.gov.eg/Newvr/Dustor-en001.pdf
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 60. The Board of Directors of the Agency also includes representatives from the Ministry of Justice, the Ministry of International Cooperation, the Central Bank, the Anti-Money Laundering Unit, the Administrative Control Authority and the Competent Ministry.
 61. The Ministry of Social Solidarity may overturn or cancel a decision by the NGO if it is in contravention with the law (article 31). Both bodies may enter the offices of NGOs at any time to monitor their activities and inspect their records (article 27). Violating this article is punishable by up to one year prison or a fine of up to 500,000 LE (article 88 b). The same punishment is prescribed for NGOs who conduct field research or disclose their results "before presenting them to the agency to make sure of their integrity and neutrality" (article 14 g and 88 f), which amounts to banning research by independent NGOs or research centres, crippling charities and development organisations in conducting needs assessments for the communities they serve. The same

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