

**Submission to 64<sup>th</sup> session of the African Commission  
on Human and Peoples' Rights on the situation of  
human rights defenders**

# EGYPT

April 2019

The Arab Republic of Egypt's 3<sup>rd</sup> Periodic Report was presented to the 37<sup>th</sup> ordinary session of the African Commission on Human and Peoples' Rights (ACHPR) in 2005. The ACHPR concluded that despite the progress made to promote and protect human rights in the country, Egypt had failed to protect the right to freedom of expression and clarify the reports of the use of torture in Egyptian prisons. The ACHPR recommended, among other things, that Egypt take necessary measures to ensure the right to freedom of expression; interact more with civil society in particular those working in the field of human rights; ensure that the fight against terrorism is in conformity with international human rights standards; and implement the recommendations and concluding observations adopted by the United Nations Committee Against Torture.

The purpose of this paper is to highlight the situation for human rights defenders (HRDs) in Egypt since its last review by the ACHPR; the steps taken by the Egyptian government to implement the ACHPR's past recommendations; and key recommendations for the ACHPR to consider making to Egypt during its current review.

## **1. Risks facing human rights defenders**

- Human rights defenders face arbitrary arrests, detention, enforced disappearances, torture and ill-treatment, judicial harassment, travel bans, closure of NGO offices, restrictive legislation among other threats. They often face charges of alleged association with a banned organisation, spreading false news, and threatening national security. Trials are marred by violations of due process and lack of evidence of their involvement in alleged criminal activities.<sup>i</sup>
- Defenders and NGOs working on documenting torture and enforced disappearances have increasingly been targeted. In September 2017, the authorities attempted to close the office of the Egyptian Commission for Rights and Freedoms (ECRF).<sup>ii</sup> At least 32 staff members of the Egyptian Coordination for Rights and Freedoms (ECRF) were arrested in November 2018 which led the organization to suspend its work.<sup>iii</sup> In February 2017, the offices of El Nadeem Center for Rehabilitation of Victims of Violence and Torture were closed by an administrative court order citing breach of licence conditions.<sup>iv</sup>
- 37 human rights organisations are being investigated since 2011 in Case no. 173 (also known as the foreign funding cases). Investigative judges summoned at least 28 additional human rights defenders and NGO staff for interrogation in 2018, bringing the total to 66 people summoned or investigated in the case. They are facing charges of "receiving foreign funding to harm national security".<sup>v</sup> According to the Cairo Institute for Human Rights Studies' latest tally, at least 31 defenders are banned from travelling, 7 human rights organizations and 10 defenders had their assets frozen. Defence lawyers reported due process violations including being unable to view complete case files.

- In May 2015, two judges, Hisham Raouf and Assem Abdelgabar, were referred to the competency council after they participated in the drafting of anti-torture law and attended a panel organised by human rights lawyer Negad El Borei to discuss the draft.<sup>vi</sup>

### 2. Official restrictions on the space for human rights defenders

- The NGO law, or the “Law Governing the Work of Associations and Other Foundations Working in the Field of Civic Work,” (no. 70/2017)<sup>vii</sup> violates Egypt’s Constitution and international rights commitments. The law imposes restrictions on NGOs such as a ban on field research and surveys without government permission, government approval before receiving funding, creation of the National Agency to monitor the work of foreign NGOs, forcing NGOs to adapt their activities to government priorities. The law also authorizes the Ministry of Social Solidarity to dissolve NGOs, dismiss their board if it fails to inform the Ministry in advance of a move to new premises. It includes hefty fines and imprisonment sentences for NGO staff based on vague terms such as “harming national security and disturbing public order”.<sup>viii</sup>
- The Counter-terrorism law no. 94 of 2015 and state of emergency laws and courts are used to criminalise the work of journalists, defenders, and peaceful government critics. The law criminalises a wide range of acts including publishing or promoting news about terrorism if it contradicts official statements. Those arrested under this law include blogger Wael Abbas, satirist artist Shady Abou Zeid and woman human rights defender Amal Fathy.<sup>ix</sup>
- In September 2014, President Abdel Fattah Al-Sisi issued an amendment to Article 78 of the Penal Code which increased the penalty to life imprisonment for vague charges that include receiving money from abroad with the aim of harming national interest, destabilising general peace or the country’s independence and unity.<sup>x</sup>
- In February 2018, the Ministry of Interior amended the prison regulations to allow long periods of solitary confinement. A practice that can amount to torture and have also been used against defenders and journalists. Ahmed Douma spent his third year in solitary confinement in Tora Prison, confined to his cell for at least 22 hours a day.<sup>xi</sup>
- On 18 August, 2018, President Sisi ratified the Anti-Cyber and Information Technology Crimes Law (Cybercrime Law). Granting the government new powers to restrict digital rights and interfere with activists’ freedoms online. A month earlier, the parliament also passed the Media Regulation Law that would place anyone with a social media account that has more than 5,000 followers under government regulation and supervision as member of the media.<sup>xii</sup>

### 3. Human rights defenders facing particular risks

- In January 2017, a North Cairo criminal court ordered the freezing of the assets of the NGO Nazra for Feminist studies and its Executive Director Mozn Hassan. The charges faced by Hassan in the concerned case include: “inciting and calling for the irresponsible liberation of women”.<sup>xiii</sup>

- LGBTI defenders face specific risks such as subjection to forcible anal examinations and sexual harassment. Transgender persons in particular face risks of their physical integrity and psychological wellbeing while in detention as they could be detained in prisons not confirming with their gender. On March 6, trans activist Malak Al-Kashif was arrested on 6 March 2019 for reportedly calling for peaceful protests. She was subjected to forcible anal examination and charged with "aiding a terrorist organisation" and "misusing social media to commit a crime punishable by law". Al-Kashif has not been able to obtain official papers reflecting her gender, despite attempting to do so for nearly three years. She is therefore treated as a male in all official papers, which means that she could soon be detained in the men's prison. In October 2017, LGBT activists Sarah Hegazy and Ahmed Alaa were arrested for allegedly raising a rainbow flag at a concert in Cairo. They were charged with joining an illegal group and promoting its ideas (debauchery). They were released on bail in January 2018.<sup>xiv</sup>
- In May 2018, woman human rights defender Amal Fathy, who is also the wife of the executive director of the Egyptian Commission for Rights and Freedoms, Mohammed Lofty, was arrested after she published a personal video on Facebook critical of the government's role in failing to prevent sexual violence in Egypt.<sup>xv</sup> She was charged with "publication of false news, undermining national security, possession of indecent material and publicly insulting the state". Fathy was conditionally released from prison on probation in December 2018 but the Court rejected her appeal and confirmed the first-instance sentence of two years imprisonment.<sup>xvi</sup>
- In March 2019, Photojournalist Mahmoud Zeid was released after spending more than 5 years in prison. He was arrested at the Rabaa al-Adawiya protest in Cairo in August 2013 while covering the protests. He was charged with 24 offences including murder and was convicted in a mass trial with over 700 individuals. He is now required to spend 12 hours of each day at a police station from 6pm to 6am for the next five years, as part of his probation measures".<sup>xvii</sup>

#### 4. The response of the State regarding the protection of human rights defenders

- President Abdel-Fattah El-Sisi announced on November 5, 2018, that he welcomed revisions to Law 70, which he signed into law in May 2017. Despite assurances from the Egyptian government that the NGO law has yet to be implemented pending regulations and further review, the law remains a threat to NGOs' ability to function, with many organizations self-censoring, or closing their doors to avoid prosecution and intimidation, or because of an inability to access funding.
- On December 20, 2018, a Cairo court acquitted 43 civil society defendants in the "NGO foreign funding case."<sup>xviii</sup> However, the second part of the case involving national NGOs is still ongoing (see above).
- In November 2018, the government established the Permanent Committee for Human Rights. It is headed by the Minister of Foreign Affairs and includes representatives of several ministries and institutions such as Military Intelligence, Ministry of Defence and the National Council for Women, but not the National Human Rights Institution. The Committee is mandated, among other things, to develop a strategy and action plan on human rights.<sup>xix</sup>

### 5. Recommendations to the Government of Egypt

- Desist from restricting or criminalising the work of human rights defenders (HRDs) and immediately and unconditionally release all HRDs detained in association with the exercise of their rights to freedom of expression, association or peaceful assembly, and drop all charges against them.
- Ensure effective, credible and impartial investigations into all allegations of torture and ill-treatment against HRDs and ensure that perpetrators are held accountable.
- Close case no. 173/2011 and end all measures restricting civil society, HRDs and journalists such as the travel bans, assets freeze and closure of offices.
- Refrain from criminalising the legitimate activities of HRDs and repeal all laws and policies that restrict their activities and rights such as Law no. 70/2017 (NGO law), Counter-terrorism law no. 94 of 2015, Article 78 of the Penal Code, Anti-Cyber and Information Technology Crimes Law (Cybercrime Law), and Media Regulation Law.
- Enact laws and policies that give full force and effect to the African Charter on Human and Peoples' Rights, civic, political, economic, social and cultural rights, safeguard the right to safe and unhindered access to international human rights mechanisms, and prohibit acts of intimidation and reprisals against HRDs who engage with international and regional human rights systems, and investigate all acts of reprisals and intimidation, and hold all perpetrators accountable
- Publicly affirm the legitimate role of women human rights defenders and those working on women's rights and ensure that they can carry out their work without hindrance.
- Issue a standing invitation to the African Commission Special Rapporteur on Human Rights Defenders and Focal Point on Reprisals in Africa.

### Questions to the government:

1. What measures has the government taken to investigate allegations of torture against human rights defenders and to provide remedy to victims?
2. What measures has the government taken to ensure a safe and an enabling environment for defenders including to end the criminalisation of their work?
3. What measures has the government taken to specifically ensure that women human rights defenders are able to carry out their work without hindrance?

### **ABOUT THIS BRIEFING PAPER**

ISHR, Cairo Institute for Human Rights Studies and Committee for Justice encourage States to consult review submissions by local activists and make recommendations to Egypt regarding the protections of HRDs. This paper is a result of compiling public information and direct contact and experience in the protection of HRDs. Readers should consult sources provided for additional information

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- <sup>i</sup> CIHRS '20 Egyptian Organizations in Solidarity with NGO workers sentenced to prison." June 6, 2013, <https://bit.ly/2XJPZdg>
- <sup>ii</sup> FIDH, 'Egypt :Attempt of closure against the Egyptian Commission for Rights and Freedom', <https://bit.ly/2Nzh3r9>
- <sup>iii</sup> CIHRS, 'Egypt: Wide scale arrests of rights defenders target Egyptian coordination for rights and freedoms' <https://bit.ly/2Tk3u49>
- <sup>iv</sup> Frontline Defenders, 'Order of closure against El Nadeem Centre', <https://bit.ly/2T2I9gl>
- <sup>v</sup> CIHRS, 'Egypt: Imminent risk of prosecution of HRDs accused of committing human rights work' <https://bit.ly/2UcNONn>
- <sup>vi</sup> CIHRS, ' Rights groups: The referral of judges Hisham Raouf and Assem Abd al-Gabbar to a competency hearing is political retaliation', <https://bit.ly/2IIDThn>
- <sup>vii</sup> Refworld, Egypt Law 70 of 2017, <https://bit.ly/2UaY8W8>
- <sup>viii</sup> CIHRS, 'New law will cripple Egyptian NGOs', <https://bit.ly/2tFsFzE>
- <sup>ix</sup> Shady Abu Zeid; <https://bit.ly/2GU12eS>; Wael Abbas, <https://bit.ly/2NzyOXk> ; Amal Fathy, <https://bit.ly/2UcUg74>
- <sup>x</sup> <https://eipr.org/en/file/906/download?token=91GRM9mA>
- <sup>xi</sup> CIHRS, 'Hours before appeal of life sentence, Douma trail is evidence of a deteriorating system of justice', <https://bit.ly/2Sxy1XU>
- <sup>xii</sup> CIHRS, 'Statement opposing Egypt's legalization of website blocking and communications surveillance', <https://bit.ly/2TkzwwL>
- <sup>xiii</sup> Nazra for Feminist Studies, 'The Summon of Feminist and Woman Human Rights Defender Mozn Hassan to Investigation within the Context of the NGO Foreign Funding Case', <https://bit.ly/2U8DBkN>
- <sup>xiv</sup> EIPR, <https://bit.ly/2Y79VXL>; AFTE, 'Rainbow Case paper', <https://bit.ly/2uhxAav>; EIPR, 'Egyptian State wages unprecedented arrest campaign against LGBTIQ persons' , <https://bit.ly/2wB0e5N>
- <sup>xv</sup> CIHRS, 'Free Amal Fathy: end the crackdown of human rights organisations and defenders in Egypt', <https://bit.ly/2NAPQ7A>
- <sup>xvi</sup> Front Line Defenders, Detention of Amal Fathy <https://bit.ly/2FrMMLc>
- <sup>xvii</sup> Amnesty International, Photojournalist Shawkan released after five and a half years in prison, <https://bit.ly/2HH395j>
- <sup>xviii</sup> Amnesty International, 'NGO foreign funding case acquittals must lead to end of crackdown on human rights community', <https://bit.ly/2tQPukd>
- <sup>xix</sup> In Arabic, Decree no. 2396/2018 (Official Gazette, issue no. 45(B), issued on 14 November 2018.