



Human Rights
Institute

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The Law Society
of England and Wales

17 December 2018

Dear Mr. President,

Egypt – arbitrary arrest and enforced disappearance of lawyers and human rights defenders

The Law Society of England & Wales (the “Law Society”) is the professional body representing more than 180,000 solicitors in England and Wales. It aims to promote and support solicitors while upholding the rule of law, legal independence, ethical values, and the principle of justice for all around the world. The Law Society holds Special Consultative status with the United Nations Economic and Social Council since 2014.

The International Bar Association, established in 1947, is the world’s leading organisation of international legal practitioners, bar associations and law societies. It has a membership of over 80,000 individual lawyers, and 190 bar associations and law societies, spanning over 160 countries. The IBA’s Human Rights Institute (“IBAHRI”), an autonomous and financially independent entity, works with the global legal community to promote and protect human rights and the independence of the legal profession worldwide.

The Law Society and IBAHRI are deeply concerned that, since late October 2018, the number of arrests, enforced disappearances, and incidents of detention against lawyers and human rights defenders has increased in the Arab Republic of Egypt. We understand that, since then and in particular following a series of raids that took place early in the morning on 1 November 2018, approximately 30 persons have been arrested and many of them forcibly disappeared. Among those arrested and disappeared were: Hoda Abdul Moneim, a former member of the National Council on Human Rights; Aisha El-Shater; Sumayyah Nassef; Mohamed Abu Horira (a lawyer and former spokesperson for the Egyptian Coordination for Rights and Freedoms, husband of El-Shater); Bahaa Ouda; and Mohamed al-Houdaiby. We understand that, after 20 days of enforced disappearance, these lawyers and human rights defenders re-appeared on 21 November 2018 at a state security prison. A pre-trial detention of 15 days was ordered and they are now allegedly facing charges of inciting harm to the national economy and belonging to an organisation that was established contrary to national law.

On 4 November 2018, the Egyptian Commission for Rights and Freedoms announced that it was suspending its operations after the enforced disappearance of its director and co-founder Ezzat Ghoneim. We understand that Azzouz Mahgoub, a lawyer at that organisation, has also been forcibly disappeared since 14 September 2018.

Both men were initially arrested in March 2018. Although their release was ordered on 4 September 2018, they have been forcibly disappeared since 14 September. We do not have any information concerning their whereabouts, the charges against them, or if pre-trial detention has been ordered. We would welcome any information you can provide regarding their situation.

We respectfully remind you that enforced disappearance, ill-treatment or torture, and arbitrary arrest and detention are all serious violations of international and regional human rights law. In that regard, the following international and regional standards are binding on the Arab Republic of Egypt:

The International Covenant on Civil and Political Rights 1966, ratified by the Arab Republic of Egypt on 14 January 1982, provides:

Article 6. Every human being has the inherent right to life. This right shall be protected by law. No one shall be arbitrarily deprived of his life.

Article 7. No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment.

Article 9 (1). Everyone has the right to liberty and security of person. No one shall be subjected to arbitrary arrest or detention. No one shall be deprived of his liberty except on such grounds and in accordance with such procedure as are established by law.

Article 9 (3). Anyone arrested or detained on a criminal charge shall be brought promptly before a judge or other officer authorised by law to exercise judicial power and shall be entitled to trial within a reasonable time or to release.

Article 14 (1). All persons shall be equal before the courts and tribunals. In the determination of any criminal charge against him, or of his rights and obligations in a suit at law, everyone shall be entitled to a fair and public hearing by a competent, independent and impartial tribunal established by law [...].

Convention against Torture and Other Cruel Inhuman or Degrading Treatment or Punishment 1984, acceded to by the Arab Republic of Egypt on 25 June 1986, provides:

Article 2.

(1) Each State Party shall take effective legislative, administrative, judicial or other measures to prevent acts of torture in any territory under its jurisdiction.



Human Rights
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The Law Society
of England and Wales

(2) No exceptional circumstances whatsoever, whether a state of war or a threat of war, internal political instability or any other public emergency, may be invoked as a justification of torture.

The African Charter on Human and Peoples' Rights, ratified by the Arab Republic of Egypt on 10 March 1984, provides:

Article 4. Human beings are inviolable. Every human being shall be entitled to respect for his life and the integrity of his person. No one may be arbitrarily deprived of this right.

Article 5. Every individual shall have the right to the respect of dignity inherent in a human being and to the recognition of his legal status. All forms of exploitation and degradation of man, particularly... torture, cruel, inhuman or degrading treatment shall be prohibited.

Article 6. Every individual shall have the right to liberty and to the security of his person. No one may be deprived of his freedom except for reasons and conditions previously laid down by law. In particular, no one may be arbitrarily arrested or detained.

Article 7. Every individual shall have the right to have his cause heard. This comprises:

- (a). The right to an appeal to competent national organs against acts of violating his fundamental rights as recognized and guaranteed by conventions, laws, regulations and customs in force;
- (b). The right to be presumed innocent until proved guilty by a competent court or tribunal;
- (c). The right to defence, including the right to be defended by counsel of his choice;
- (d). The right to be tried within a reasonable time by an impartial court or tribunal.

We also draw your attention to **The UN Basic Principles on the Role of Lawyers (1990)**, which provide that:

16. Governments shall ensure that lawyers (a) are able to perform all of their professional functions without intimidation, hindrance, harassment or improper interference; (b) are able to travel and to consult with their clients freely both within their own country and abroad; and (c) shall not suffer, or be threatened with, prosecution or administrative, economic or other sanctions for any action taken in accordance with recognized professional duties, standards and ethics.

17. Where the security of lawyers is threatened as a result of discharging their functions, they shall be adequately safeguarded by the authorities.

18. Lawyers shall not be identified with their clients or their clients' causes as a result of discharging their functions.

UN Declaration on the Protection of All Persons from Enforced Disappearance

Article 1

1. Any act of enforced disappearance is an offence to human dignity. It is condemned as a denial of the purposes of the Charter of the United Nations and as a grave and flagrant violation of the human rights and fundamental freedoms proclaimed in the Universal Declaration of Human Rights and reaffirmed and developed in international instruments in this field.

2. Any act of enforced disappearance places the persons subjected thereto outside the protection of the law and inflicts severe suffering on them and their families. It constitutes a violation of the rules of international law guaranteeing, inter alia, the right to recognition as a person before the law, the right to liberty and security of the person and the right not to be subjected to torture and other cruel, inhuman or degrading treatment or punishment. It also violates or constitutes a grave threat to the right to life.

Article 2

1. No State shall practise, permit or tolerate enforced disappearances.

Article 7

No circumstances whatsoever, whether a threat of war, a state of war, internal political instability or any other public emergency, may be invoked to justify enforced disappearances.

Article 11

All persons deprived of liberty must be released in a manner permitting reliable verification that they have actually been released and, further, have been released in conditions in which their physical integrity and ability fully to exercise their rights are assured.

UN Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognised Human Rights and Fundamental Freedoms (1999)

Article 6

Everyone has the right, individually and in association with others:

(a) To know, seek, obtain, receive and hold information about all human rights and fundamental freedoms, including having access to information as to how those rights and freedoms are given effect in domestic legislative, judicial or administrative systems;

(b) As provided for in human rights and other applicable international instruments, freely to publish, impart or disseminate to others views, information and knowledge on all human rights and fundamental freedoms;

(c) To study, discuss, form and hold opinions on the observance, both in law and in practice, of all human rights and fundamental freedoms and, through these and other appropriate means, to draw public attention to those matters.

Article 12



Human Rights
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The Law Society
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Everyone has the right, individually and in association with others, to participate in peaceful activities against violations of human rights and fundamental freedoms.

The State shall take all necessary measures to ensure the protection by the competent authorities of everyone, individually and in association with others, against any violence, threats, retaliation, de facto or de jure adverse discrimination, pressure or any other arbitrary action as a consequence of his or her legitimate exercise of the rights referred to in the present Declaration.

In this connection, everyone is entitled, individually and in association with others, to be protected effectively under national law in reacting against or opposing, through peaceful means, activities and acts, including those by omission, attributable to States that result in violations of human rights and fundamental freedoms, as well as acts of violence perpetrated by groups or individuals that affect the enjoyment of human rights and fundamental freedoms.

In addition, the **Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment** (1988) states:

Principle 1. All persons under any form of detention or imprisonment shall be treated in a humane manner and with respect for the inherent dignity of the human person.

Principle 6. No person under any form of detention or imprisonment shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment. No circumstance whatever may be invoked as a justification for torture or other cruel, inhuman or degrading treatment or punishment.

The **UN Basic Principles for the Treatment of Prisoners** (1990) provide that:

1. All prisoners shall be treated with the respect due to their inherent dignity and value as human beings.

The Law Society and the IBAHRI respectfully urge that the relevant authorities:

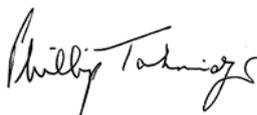
1. Disclose the location where those who were forcibly disappeared are being held and ensure that they have access to a legal representative of their own choosing;
2. Ensure that the conditions of those who are being detained comply with applicable international standards;
3. Ensure that any violation of physical integrity of those detained is fully and promptly investigated and the perpetrators brought to justice;
4. Release immediately the lawyers and human rights defenders currently in detention and revoke any charges pending against them, unless sufficient evidence is available which is served upon them and their guilt is established in proceedings carried out in accordance with international fair trial guarantees;
5. Ensure that any credible allegations of lawyers and human rights defenders being threatened, arbitrarily arrested, and intimidated are investigated promptly and fully; and
6. Comply with the Arab Republic of Egypt's international obligations so that lawyers and human rights defenders can carry out their professional functions without harassment and improper interference.

We will continue to monitor the situation of lawyers and human rights defenders in the Arab Republic of Egypt, especially those referred to in this letter.

Yours Sincerely,



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