Egypt: Quash Verdicts and Stop Unfair Trials by Emergency Courts

Joint Statements · Egypt · 27 January 2022

We, the undersigned organizations call on Egyptian President Abdelfattah Al-Sisi to immediately quash the verdicts against seven arbitrarily detained human rights defenders, activists and politicians, convicted of bogus charges and sentenced to long prison terms in grossly unfair trials by emergency courts solely for peacefully exercising their human rights. The organizations also urge for an immediate end to all trials before emergency courts, where proceedings are inherently unfair and verdicts are not subject to appeal.

On 22 June 2021, student and researcher **Ahmed Samir Santawy** was sentenced by an Emergency State Security Court (ESSC) to four years in prison over social media posts he denied authoring. On 17 November 2021, journalists and politicians **Hisham Fouad** and **Houssam Moanis**; and politician, lawyer and former parliamentarian **Zyad El-Elaimy** were also sentenced by the ESSC to prison terms between four and five years simply for criticizing Egypt's human rights record, economic policy and living standards. Most recently, the ESSC sentenced prominent activist **Alaa Abdel Fattah** to five years imprisonment**,** and Director of the Adalah NGO and human rights lawyer, **Mohamed El-Baqer** and blogger and activist **Mohamed Ibrahim Radwan "Oxygen"** to four years in prison over their social media posts criticizing Egypt's human rights record.

In recent years, the Egyptian authorities have introduced legislation to undermine the independence of the judiciary and fair trial guarantees, and used overly broad charges to severely suppress the rights to freedom of expression, association and assembly, and to silence independent and dissenting voices in the country. In the months preceding the lifting of the state of emergency in October 2021, the Egyptian authorities referred at least twenty human rights defenders, activists and opposition politicians to trial before emergency courts, some of which are still ongoing.

Proceedings before ESSCs, which are activated with the enactment of a state of emergency, are inherently unfair. The law governing the state of emergency allows the President to determine the composition, appoint judges and determine the crimes that fall under their jurisdiction. Article 19 of the law stipulates that ongoing trials are to continue even after the state of emergency is no longer in force.

Fair trial standards are routinely flouted in trials before ESSCs, including the right to adequate

defense and rights to a public hearing. Defense lawyers have been prevented from communicating with their clients in private and prevented from photocopying the casefiles, indictments and verdicts.

Moreover, defendants tried before the ESSC are denied the various levels of litigation afforded in other criminal trials. Verdicts handed down by the ESSC are not subject to appeal, only to ratification by the President. Under various provisions of the law governing the state of emergency, the President has the authority, whether before or after ratification of verdicts, regardless of whether the state of emergency is in force, to commute the sentences or quash verdicts.

All of the above-mentioned activists and politicians have been held in pre-trial detention for lengthy periods of time in connection to separate cases that have not been referred to trial. Most of them have been held for over two years, the maximum period of pre-trial detention permissible under Egypt's Criminal Procedure Code. They face investigations by the Supreme State Security Prosecution (SSSP) into similar, if not identical, bogus charges, based on secret investigations by the National Security Agency, a specialized force, which they and their lawyers are not allowed to access. Further, the time spent in pre-trial detention in these separate cases will not count toward their sentences, further prolonging their unjust imprisonment.

All of the aforementioned individuals have been subjected to ill-treatment and are held in conditions of detention that violate the absolute prohibition of torture, and other ill-treatment in violation of Egypt's constitution and domestic legislation, as well as its obligations under the International Covenant on Civil and Political Rights and the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, to which the country is a state party.

Thus, we, the undersigned organizations, call on President Abdelfattah Al-Sisi to immediately quash the unjust verdicts issued against Ahmed Samir Santawy, Hisham Fouad, Houssam Moanis, Zyad El-Elaimy, Alaa Abdel Fattah, Mohamed El-Baqer and Mohamed Ibrahim Radwan "Oxygen." We call on the Egyptian authorities to immediately and unconditionally release them, drop all charges against them and provide them with comprehensive and adequate reparations for the arbitrary deprivation of their liberty and other harm suffered. Further, we call on the Egyptian authorities to bring an immediate end to the ongoing trials against human rights defenders and political activists whose cases were referred to emergency courts prior to the lifting of the state of emergency.

Please see the background information section below for detailed information about the cases.

Signatories:

- ACAT BELGIUM

- ACAT Germany (Action by Christians for the Abolition of Torture)
- ACAT Spain-Catalonia (Action by Christians for the Abolition of Torture)
- Al-Karama for Rights and Freedoms
- Amnesty International
- Asociación Pro Derechos Humanos de España (APDHE)
- Association Fanni Raghman Anni
- Association for Freedom of Thought and Expression (AFTE)
- Association for the promotion of the right to difference
- Association Marocaine des Droits Humains
- Association UMDPL (Ukraine)
- Bahrain Center Aganist Torture (B.CAT)
- Center for Reproductive Rights
- Center for Social Action Rehabilitation and Rehabilitation for Victims of Torture, War and Violence
- Citizen Dancers, South
- CIVICUS
- CNCD-11.11.11
- Committee for Justice (CFJ)
- DAMJ, Tunisian Association for Justice and Equality
- DefendDefenders (East and Horn of Africa Human Rights Defenders Project)
- Egyptian Commission for Rights and Freedoms
- Egyptian Front for Human Rights (EFHR)
- EuroMed Rights
- Forum Méditerranéen pour la mémoire
- The Freedom Initiative
- Greek Helsinki Monitor
- Human Rights Association (IHD)
- humanrights.ch
- HuMENA for Human Rights and Civic Engagement
- International Commission of Jurists
- International Federation for Human Rights (FIDH)
- International Service for Human Rights (ISHR)
- Justice and Rehabilitation Organization

- Karapatan Alliance Philippines
- Kenya Human Rights Commission
- The Libyan Anti-torture Network
- Tunisian Association Awladna
- Tunisian Association of Democratic Women
- Tunisian Organization Against Torture
- MENA Rights Group
- Mwatana for Human Rights
- My Foundation for Human Rights
- Network of Civil Society Organizations for the Observation and Monitoring of Elections in Guinea (ROSE)
- No Peace Without Justice
- Odhikar
- PEN International
- Project on Middle East Democracy (POMED)
- Remembrance and Loyalty Organization
- Reporters Without Borders (RSF)
- Robert F. Kennedy Human Rights
- Safeguard Defenders
- Salam for Democracy and Human Rights
- Scholars at Risk
- A step-by-step organization for the rule of law and human rights
- SUARAM, Malaysia
- The Tahrir Institute for Middle East Policy (TIMEP)
- Tunisian Alliance for Dignity and Rehabilitation
- Tunisian Association for the Defense of Individual Liberties
- Tunisian League for the Defense of Human Rights
- Tunisian Network for Transitional Justice
- Tunisian Observatory of Places of Detention
- Unit for Protection of Human Rights Defenders – Guatemala
- US Committee to End Political Repression in Egypt
- Women’s International League for Peace and Freedom
- World Organisation Against Torture (OMCT)

Background Information:

Ahmed Samir Santawy is an Egyptian researcher and anthropology student at the Central European University (CEU) in Vienna, Austria. He was arrested on 1 February 2021 and held incommunicado for the following five days. The Supreme State Security Prosecution (SSSP) ordered his detention pending investigations for "joining a terrorist organisation," "deliberately spreading false news and data" and "use of a private account on the Internet to spread false news or data" in Criminal Case 65/2021, based on a secret National Security Investigations (NSA) report and screenshots from a Facebook account which allegedly belongs to him. On 22 May 2021, the SSSP indicted him in a separate case over "spreading false news from outside the country about the internal situation" and referred him to trial in front of an emergency court. On 22 June 2021, the Misdemeanours Emergency State Security Court sentenced him to four years in prison and a fine of 500 Egyptian pounds in Case 774/2021. Ahmed Samir Santawy went on a total hunger strike for 40 days to protest against this ruling. He was initially detained in Tora Liman Prison, south of Cairo, in solitary confinement before being moved to Mazraet Tora Prison in December 2021. During his detention, he has been subjected to ill-treatment.

Hisham Fouad is a freelance journalist, columnist and politician, and **Houssam Moanis** is a reporter for the newspaper *Al-Karama* and a politician. Both of them were arbitrarily arrested by the NSA on 25 June 2019 in Cairo and accused of "involvement with a terrorist group" and "publishing false news" in Criminal Case 930/2019, known as the Hope Case. On 2 July 2019, the Supreme State Security Prosecution (SSSP) issued an order freezing their assets and banning them from travel. On 17 November 2021, the Misdemeanors State Security Emergency Court in Cairo sentenced them to four years of imprisonment and a fine of 500 Egyptian pounds on charges of "spreading false news to undermine the State and national security" in Case 957/2021. They were detained in Tora Investigations Prison, before being moved to Mazraet Tora Prison in December 2021.

Zyad El-Elaimy is a human rights lawyer, former member of Parliament (2011-2013) and a founding member of the Egyptian Social Democratic Party. He was a renowned figure of the 2011 uprising. He was arbitrarily arrested on 25 June 2019 by a dozen plain-clothes national security agents in Cairo and accused of terrorism-related and anti-state charges in Criminal Case 930/2019. On 17 November 2021, the Misdemeanors State Security Emergency Court in Cairo sentenced him to four years of imprisonment and a fine of 500 Egyptian pounds on charges of "spreading false news to undermine the State and national security" in Case 957/2021. He remains detained in Tora Prison Complex in Cairo. Since his detention, Zyad El-Elaimy's health has seriously deteriorated as a result of not receiving adequate medical care. Moreover, in addition to Case 930/2019 and Case 957/2021, Zyad El-Elaimy is facing two other criminal proceedings. On 10 March 2020, he was sentenced to one year in prison and a fine of 20,000 Egyptian pounds on charges of "spreading false news and statements" in relation to Criminal Case 684/2020. His conviction was upheld by a higher court on 2 June 2020. Separately, on 18 April 2020, the Cairo Criminal Court included him on Egypt's "terrorist list" for five years in relation to Criminal Case 571/2020. As a result of the

terrorism designation, he faces travel ban, asset freeze, and potential disbarment.

Alaa Abdel Fattah is a prominent rights activist, software developer, and blogger. He was arbitrarily arrested on 29 September 2019, while serving probation at the Dokki police station, where he was spending his daily 12 hours under police monitoring. He was on probation following release from Cairo's Tora prison on 29 March 2019, at the end of a five-year sentence. In September 2019, he was accused under Criminal Case 1356/2019 by SSSP on charges of "belonging to a terrorist group," "funding a terrorist group," "spreading false news undermining national security" and "using social media to commit publishing offenses." On 23 November 2020, the Cairo Criminal Court included him on Egypt's "terrorist list" for a period of five years in connection with Criminal Case 1781/2019. On 18 November 2021, the Court of Cassation rejected the final appeal against his inclusion in the "terrorism list." As a result of the terrorism designation, he faces travel ban and asset freeze. On 20 December 2021, the Misdemeanours Emergency State Security Court in Cairo sentenced Alaa Abdel Fattah to five years of imprisonment on charges of "spreading false news undermining national security" in Criminal Case 1228/2021. He remains detained in the Tora Maximum Security 2 Prison in Cairo. When he was first brought to the prison, he was beaten, stripped and threatened. He has been denied the right to go outside, to reading material, a watch, a mirror, adequate clothing and hot running water.

Mohamed El-Baqer is a human rights lawyer and the Director of Adalah Center for Rights and Freedoms. He was arbitrarily arrested on 29 September 2019, at the SSSP premises while he was attending an investigation session with his client Alaa Abdel Fattah. He was subsequently accused under Criminal Case 1356/2019 by the SSSP on charges of "belonging to a terrorist group," "funding a terrorist group," "spreading false news undermining national security" and "using social media to commit publishing offenses" and remanded in preventive detention in Tora Prison. In August 2020, El-Baqer was brought in for interrogation by the SSSP, and accused of a series of similar charges under a separate Criminal Case 855/2020 in a practice known as "rotation." On 23 November 2020, the Cairo Criminal Court included him on Egypt's "terrorist list" for a period of five years in connection with Criminal Case 1781/2019. On 18 November 2021, the Court of Cassation rejected the final appeal against his inclusion in the "terrorist list." As a result of the terrorism designation, he faces travel ban, asset freeze and potential disbarment. On 20 December 2021, the Misdemeanours Emergency State Security Court in Cairo sentenced Mohamed El-Baqer to four years of imprisonment on charges of "spreading false news undermining national security" in Criminal Case 1228/2021. He remains detained in the Tora Prison Complex in Cairo. He has been denied the right to go outside, to reading material, a watch, a mirror, a mattress, adequate clothing and hot running water.

Mohamed Ibrahim Radwan "Oxygen" is a prominent blogger who reported on politics and human rights issues in Egypt before his arbitrary detentions in 2018 and 2019. Most recently, he was arbitrarily arrested and forcibly disappeared on 21 September 2019 while complying with his precautionary measures at Al-Basateen Police Station, under Criminal Case 621/2018, for which he

had been detained from 6 April 2018 to 31 July 2019. On 8 October 2019, he appeared before the SSSP in Cairo. He was charged under Criminal Case 1356/2019 and ordered into pre-trial detention. On 3 November 2020 the Giza Criminal Court ordered the release of Mohamed Ibrahim with precautionary measures. However, the decision was not implemented and on November 10, 2020 the SSSP charged him with “joining a terrorist group” under Criminal Case 855/2020, ordering him back into pre-trial detention. In July 2021, after almost two years of pre-trial detention and without access to his family and lawyers, Mohamed Ibrahim attempted suicide while in prison. On 20 December 2021, the Misdemeanours Emergency State Security Court in Cairo sentenced Mohamed Ibrahim to four years of imprisonment on charges of “spreading false news undermining national security” in Criminal Case 1228/2021. He remains detained in the Tora Maximum Security 2 Prison in Cairo. He has been denied the right to go outside, to reading material, a watch, a mirror, a mattress, adequate clothing and hot running water.

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