

*Permanent Mission of the Arab Republic of  
Egypt to the United Nations Office, WTO  
and International Organizations  
in Geneva*



البعثة الدائمة لجمهورية مصر العربية  
لدى الأمم المتحدة  
ومنظمة التجارة العالمية والمنظمات الدولية  
الأخرى في جنيف

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The Permanent Mission of the Arab Republic of Egypt to the United Nations Office, the WTO and other International Organizations in Geneva presents its compliments to the Office of the High Commissioner for Human Rights (OHCHR- Special Procedures Branch- Secretariat of the Working Group on Enforced or Involuntary Disappearance), and with reference to the call for inputs of the Working Group on Enforced or Involuntary Disappearances requesting contributions on the notion of short-term enforced disappearance, has the honor to attach herewith the contribution of the Government of the Arab Republic of Egypt.

The Permanent Mission of the Arab Republic of Egypt to the United Nations Office, the WTO and other International Organizations in Geneva avails itself of this opportunity to renew to the Office of the High Commissioner for Human Rights (OHCHR- Special Procedures Branch- Secretariat of the Working Group on Enforced and Involuntary Disappearances), the assurances of its highest consideration.

Geneva, 28 July 2023



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## **Contribution on the notion of Enforced or Involuntary Disappearances**

Regarding the letter sent by the Committee on Enforced Disappearances and Working Group on Enforced or Involuntary Disappearances to the Egyptian Government on 23 May 2023, requesting contributions on the notion of short-term enforced disappearance, kindly find herewith the contribution of the Egyptian Government:

### **First, the legal framework for enforced disappearances in Egypt:**

Articles 54 of the Constitution guarantees and protects individual rights and freedoms. Personal freedom is a natural right which is safeguarded and cannot be infringed upon. Except in cases of in flagrante delicto, citizens may only be apprehended, searched, arrested, or have their freedoms restricted by a justified judicial warrant necessitated by an investigation. Also, Freedom of movement, residence and emigration are guaranteed by virtue of Article 62 of the constitution. Any violation of personal freedom, which are guaranteed by the Constitution is considered as a crime. The criminal and civil lawsuit arising of such crime shall not abate by prescription. The affected party shall have the right to bring a direct criminal action. \

The Egyptian Penal Code incriminates all forms of arrest, detention, extra-judicial imprisonment, abduction or any other form of illegal deprivation of liberty, or aiding and abetting in these acts, and making available places where these offences are committed, as well as subjecting any person to enforced disappearance under any circumstances, even exceptional ones. (Articles 88 bis, 126, 129, 280-283, 289 and 290 of the Penal Code).

The crime of detention or arrest outside the scope of the law is defined by the Egyptian law as: depriving the victim of his freedom of movement and holding his physical body and restricting his freedom without regard to the time or the means of his arrest or its duration or justifications. It is only necessary that the person be arrested against his will and according to the Egyptian law it is considered as a continuing offence insofar as it takes the time of arrest.

The Code of Criminal Procedure and other associated laws set the conditions for the legality of arrest, and specify the objective and formal conditions under which arrest of individuals is legitimate.

According to the Egyptian law, the crime of kidnapping takes place by taking away the victim against his will from his community and keeping him away from his family, and relatives, by transferring and hiding him in an unknown place regardless of the prolonged or shortened period of disappearance. The crime occurs regardless of the motive or justifications of the perpetrator.

## **Second: the objective framework for implementing the provisions of the Egyptian law on enforced disappearances**

All prisoners in correction and rehabilitation centers are subject to the law, and no one may be detained there without judicial order or decision. According to article 41 of the Code of Criminal Procedure, officials in charge of such centers cannot place a person there, except by virtue of a judicial order signed by the competent authority. They should not keep any person there beyond the period specified in that order. The violation of these obligations entails criminal and disciplinary liability.

The correction and rehabilitation centers are subject to the judicial control of the public prosecutor and his deputies, the judges of the courts of appeal and courts of first instance and judges of investigations (Article 42 of the Code of Criminal Procedure and articles 85 and 86 of law no. 396 of 1956). Regular visits are organised to correction and rehabilitation centers and The National Council for Human Rights, civil society organizations, members of a number of diplomatic missions, the media and press agencies (local and international) to examine the living conditions of inmates.

The Public Prosecutor's Office investigates any reports received concerning allegations of enforced disappearance, whether written claims or electronic petitions, if the denouncer does not wish to divulge his or her identity. The Public Prosecutor's Office also conduct sudden inspection to correctional centers to detect any violations.

## **Third: problematic challenges related to the issue of enforced disappearances**

Several terrorist organizations have employed large number of their members to join other terrorist groups in conducting terrorist activities abroad in tension zones, specially ISIS terrorist group. Most of those members participated with ISIS during the period of its intensive terrorist attacks, conducted against some neighboring countries, and in coordination with Muslim's Brotherhood terrorist organization. These organisations promoted allegations of enforced disappearance of their members through the affiliated media and by launching misleading and systematic media campaigns. The allegations entail the involvement of state agencies in the disappearance of these elements, as mean of exerting pressure on the government. Investigations in many of these cases revealed the death of the elements claimed by the allied media in ISIS terrorist operations abroad.

Finally, it is important to highlight that the arrest and detention of the accused by virtue of a judicial warrant, issued according to article 40<sup>1</sup> of the Egyptian anti-terrorism law, should not be considered a case of enforced disappearance in accordance with the provisions of Egyptian law, as explained above.

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<sup>1</sup> Article 40 of the Egyptian Anti-Terrorism Law No. 94 of 2015 provides that:

“In the case of an eminent terrorist crime that needs to be confronted, law enforcement officers shall have the right to collect information on such crimes, search for the perpetrators, and keep them in custody for a period not exceeding 24 hours.

Law enforcement officers shall prepare reports on the procedures and the detainee(s) shall be referred along with the report to the public prosecutor or the relevant investigating authority, according to the case.

For the same necessity set forth in the first paragraph of this Article and before the expiration of the period specified, the Public Prosecution or the relevant investigating authority may order the extension of custody once for a period not exceeding seven days. The order shall be issued with the causes by at least an Attorney General or the equivalent.

The custody period shall be calculated as part of the precautionary detention, and the accused shall be kept in a legally-designated area.

The provisions of the first paragraph of Article (44) of this Law shall apply to grievances against continuation of custody”.