

TRIAL MONITORING REPORT

CASE NO. 1 OF 2018, EMERGENCY
STATE SECURITY CRIMES COURT, AKA
"DETAINEES OF THE HANGOUT CASE"

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Crimes Court, AKA "detainees of the hangout Case"**

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This is the trial monitoring reporting for case No. 1 of 2018, Emergency State Security Crimes Court, also known as "detainees of the Hangout", in front of Darb Ahmar Misdemeanor Directorate.

Introduction

Egypt has witnessed during the last ten years a huge number of trials against political activists and human rights defenders. Such trials were unfair, making the courts a field to liquidate political opponents and reduce the role of civil society.

At the same time, laws were drafted that wasted the rights of detainees and their defense rights and violated Egypt's international obligations according to the treaties and agreements. Among such laws, the most notable were the Demonstration Law which was approved by former President Adly Mansour in November 2013, the Law on NGOs which puts obstacles and led to the control of security agencies in preventing civil society organizations from performing their work; In particular human rights organizations and political parties, together with other laws that systematically restrict freedom of opinion and expression, exclusion of political opposition, and giving the green light to law enforcement officials in the Ministry of the Interior sector, specifically the national security sector, in expanding its violations against civilians, without fear of accountability or punishment to deter their violations.

Most of those violations occurred over the past four years, especially in the period following June 30th 2013, as the high rates of enforced disappearance and torture, the high rates of death sentences and executions, and most notably the execution of more than 28 death sentences at the end of last year and the beginning of the current one.

The presidential elections marked a shift in the course of democracy and human rights in Egypt, where the current president has shut off all opportunities for candidacy for the presidency to all those who announced their intentions to run for president.

The most prominent was former Prime Minister Ahmed Shafiq with the arrest of one of his advisers; the former head of the Central Auditing Organization Hisham Geneina, brigadier-general Ahmed Qonswa, and in a statement issued by Khalid Ali announcing his withdrawal from the presidential elections because they were not in a healthy democratic environment.

Also it was shown by the expansion of the national security apparatus in the arrest of some of those who had published news or expressed their opinions through the platforms of free communication of which the most prominent arrest was that of journalist Moataz Wednan, who had conducted an interview with the former head of the Central Auditing Organization Hisham Geneina, in case No. 441, before the prosecution Supreme State Security.

This case also includes political activists and journalists, and human rights activists including human rights defender Ezzat Ghoneim.

The consequences of the majority of the violations since June 30th 2013 have been to widen the waste of guarantees for fair trial before independent courts; each judge must have full independence, since that is the basis of the judicial system that guarantees respect for human rights in accordance with the International Covenant on Human Rights.

On April 10th 2017, President Abdel Fattah al-Sisi declared a state of emergency in the country, to be renewed after its expiration every three months. On the declaration of a state of emergency, the Emergency State Security Court exercises its functions in accordance with this declaration.

This report is based on the preceding period. One of the cases that are held before the Emergency State Security Court, is case No. 1 of 2018 Emergency State Security Offenses, which is known at the media by (the detainees of the hangout1), a term which was used because the all accused were arrested while hanging out in Al-Azhar Park, Cairo.

Methodology.

To prepare this report, the legal researcher monitored all the case's sessions, while conducting three interviews with lawyers who were in the defense team of the accused, as well as 2 interviews with 2 of the accused who were in custody and are being tried. Also, legal sources have been used both domestically and internationally to consider the trial criteria against the accused in the case, together with sources of reports from human rights organizations, and other press releases to complete the picture for the reader of this report.

The trial observer and the defense team also faced some challenges; they were prevented from having a copy of the case files, and the portrayal of the merits of the judgment, which may negatively affect this paper, as it has some important aspects in monitoring the trial of this case.

The right to a fair and equitable trial in Egyptian and international laws:

The right to a fair and equitable trial is an Egyptian citizen's right under the Egyptian Constitution of 2014, where the Egyptian Constitution² in Article 96 stated that:

"The accused is innocent until proven guilty in a fair court of law, which provides guarantees for him to defend himself. The law shall regulate the appeal of felony sentences. The state shall provide protection to the victims, witnesses, accused and informants as necessary and in accordance with the law.. "

¹ The term "the detainees of the hangout" was released on this case due to the arrest of the accused while they were hanging out in Al-Azhar Park.

² https://www.constituteproject.org/constitution/Egypt_2014.pdf

The Constitution also states in Article 97 that:

"Litigation is a safeguarded right guaranteed to all. The state shall bring together the litigating parties, and work towards speedy judgment in cases. It is forbidden to grant any act or administrative decision immunity from judicial oversight. Individuals may only be tried before their natural judge. Extraordinary courts are forbidden.. "

According to Article 98, the Egyptian Constitution affirmed the right of defense and the independence of lawyers;

"The right of defense either in person or by proxy is guaranteed. The independence of lawyers and the protection of their rights are ensured as a guarantee for the right of defense. For those who are financially incapable, the law guarantees the means to resort to justice and defend their rights. "

The Constitution criminalizes interference in justice or cases

In accordance with Article 184 of the Egyptian Constitution, where it states

"The judiciary is independent, which are governed by courts of different types and degrees. Its judgments are issued in accordance with the law. The law sets out its powers, and interference in the affairs of justice or cases, a crime does not fall statute of limitations"

While the Egyptian law – Code of Criminal Procedure preserves the dignity of all who deprive his freedom. Article 40 of the Code of Criminal Procedure provides for:

"No one shall be arrested or detained, except by order of the competent authorities by law, and it must also be treated in a way that preserves human dignity. And may not be harmed physically or morally"

Also, International human rights law, which is part of the Egyptian legislation, under Article 93 of the Egyptian Constitution, stated the legal standards for the right to a fair and fair trial, as it stated that:

"The state is committed to the agreements, covenants, and international conventions of human rights that were ratified by Egypt. They have the force of law after publication in accordance with the specified circumstances."

Article 9 of the International Covenant on Civil and Political Rights³ stipulates:

³ <https://treaties.un.org/doc/publication/unts/volume%20999/volume-999-i-14668-english.pdf>

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.*
2. *Anyone who is arrested shall be informed, at the time of arrest, of the reasons for his arrest and shall be promptly informed of any charges against him.*
3. *Anyone arrested or detained on a criminal charge shall be brought promptly before a judge or other officer authorized by law to exercise judicial power and shall be entitled to trial within a reasonable time or to release. It shall not be the general rule that persons awaiting trial shall be detained in custody, but release may be subject to guarantees to appear for trial, at any other stage of the judicial proceedings, and, should occasion arise, for execution of the judgment.*
4. *Anyone who is deprived of his liberty by arrest or detention shall be entitled to take proceedings before a court, in order that that court may decide without delay on the lawfulness of his detention and order his release if the detention is not lawful.*
5. *Anyone who has been the victim of unlawful arrest or detention shall have an enforceable right to compensation.*

These are some of the guarantees stipulated in the Constitution and Egyptian and international law guaranteeing the right to fair and fair trials, which we did not see through our monitoring of this case.

How the Emergency State Security Court resumed its operations:

On January 24th, 2012, the Supreme Council of the Armed Forces, which ruled Egypt at the time, issued a decision to abolish the emergency state security courts⁴, which were among the exceptional courts, and military courts then considered the trial of civilians primarily.

On April 10th 2017, after the bombing of the churches of Alexandria and Tanta, President Abdel Fattah al-Sisi declared a state of emergency throughout the country for three months⁵ – after which the announcement of the President of the Republic, Law No. 162 of 1958, known as the Emergency Law, became the one to govern Egypt during such period – and ordinary laws have become inoperative if they conflict with the Emergency Law.

⁴ Legal publications, Law No. 162 of 1958 on the state of emergency, year of issue / judicial year: 1958

<https://manshurat.org/node/12875>

⁵ Al-Masry Al-Youm, The Official Gazette Publishes Sisi Decision to Declare State of Emergency, April 10, 2017

<https://www.almasryalyoum.com/news/details/1116103>

Three days later, the state of emergency was renewed, noting that the state of emergency has been announced in North Sinai since 2014, therefore, emergency state security courts applies with the declaration of the President of the Republic state of emergency in the country, which is divided to;

First: to "Partial Emergency Court": Shall be held in the courts of first instance, which shall be punishable by imprisonment and a fine.

Second: "Emergency Supreme Court": Held in the courts of appeal and specializes in the consideration of crimes.

On October 11th 2017, the Prime Minister decided the return of emergency state security courts which opened another door to the exceptional courts, especially that the provisions of these courts cannot be challenged by any of the methods of appeal provided for in the second and third part of the third book of the Egyptian Code of Criminal Procedure, and the judgment shall be final after the ratification of the President by the President in accordance with Article (12) of the Emergency Law, where the President of the Republic is the head of the executive authority and has powers under the Emergency Law;

To commute or stop the sentence or order its annulment, but the penalty may not be increased. If he wishes to tighten the penalty, the President shall order a retrial before another Chamber in accordance with Article 14 of the Emergency Law which states that:

"The President of the Republic may challenge the ruling after it is represented to him, change it to a lesser sentence or cancel all or some of the penalties of any kind, original, supplementary or consequential, suspend the implementation of all or some of the sanctions, and cancel the ruling while keeping the case open or with the order to retrial before another court. In this latter case, the decision must be reasoned"

In this case, the sentence shall be applied regardless of any of the above reasons. It shall be sufficient to monitor the independence of the judiciary and to ensure the right of defense and guarantees of a fair trial.

Through the previous presentation, this case is considered to be the first to be referred to the State Security Emergency Court in 2018, as there was one case in 2017 before that court, which was the case of Hassan Malik, a member of the Muslim Brotherhood, who was trialed before the State Security Emergency Court, and it was difficult to gather information about that case.

ECRF pays attention to the defense of the accused in that case, hence information on that case was therefore available.

1- The facts of “ the detainees of the hangout” lawsuit:

On June 29th 2017, while Nancy Kamal, Sarah Ahmed, Ahmed Nasr, Inas Mohamed, Mohamed Mahfouz and Maha Magdi, were hanging out in Al-Azhar Park in Cairo.

Security started following and watching them for suspecting they were distributing brochures against the high prices and economic situation in Egypt, but they were not arrested in flagrant delicto, as they were arrested by uniformed and civilian members of national security, after taking their identifications, and their mobile phones, searching them, and then taking them to the Gamalia police station.

The next morning they appeared before the Total Southern Cairo Prosecution, in the Case No. 1 of 2018, with the presence of their lawyers, and they were charged with possession of publications containing false news that would disturb public security, and terrorizing the citizens.

The case was called "the detainees of the hangout" because of the arrest of all accused while they were hanging out in Al-Azhar Park, based on investigations by the national security sector of one of the accused.

All the accused were arrested while hanging out, on the grounds that they had formed an organization called (Union of the Tramps), which called for price cuts and social justice.

Charges against the accused in " the detainees of the hangout " case:

In accordance with Article 102 bis paragraph (1.3), of the Egyptian Penal Code, on possession of publications or editorial material:

"A punishment of imprisonment and a fine not less than 50 pounds and not exceeding 200 pounds, anyone who intentionally broadcasts news, statements or false rumors, if that would disturb public security, terrorize people or cause harm to the public interest. The penalty shall be imprisonment and a fine not less than 100 pounds and not exceeding 500 pounds, if the crime occurred in wartime."

The punishments by the penalties stated in the first paragraph are applied on anyone who has held directly or indirectly, or has made editorials or publications, that contain something that is stated in the previously mentioned paragraph, if they are intended for distribution or to inform others, and anyone who has held directly or indirectly any means of printing, registration or publicity which are intended – even if temporarily – to print, record or broadcast any of the above.

The accused were being trialed in this trial according to the first and third paragraphs, on the possession of publications containing false news that would disturb public security, and terrorize the citizens.

This article was added by Law No. 112 of 1957, issued on May 19th 1957, and published in the Egyptian gazette of the same date.

The second paragraph was added after the amendment Law No. 34 of 1970, on the possession or acquisition of the publications or publications containing anything contained in the preceding paragraph shall be punishable, when these publications are for distribution, as well as the possession or acquisition of means of printing, recording and broadcasting, which are designated as tools to promote lies, or broadcast propaganda.

The article explained that, of course, the burden of proof in this case lies with the Public Prosecution.

This report monitors the trial's procedures only, but how broad it has become to apply the above-mentioned article, is intended, as the continued use of this article is used to arrest political activists, human rights defenders and journalists generally, and the opposition groups specifically.

Those trials expanded to include anyone who expressed his opinion, in violation of the Egyptian Constitution in accordance with Article (65) which states that:

"Freedom of thought and opinion is guaranteed, and everyone has the right to express his or her opinion by saying, by writing, by filming, or by other means of expression and publication."

And also the 1966 International Covenant on Civil and Political Rights, in accordance with the second paragraph of Article (19) that states:

"Every human being has the right of freedom of expression. This right includes freedom to seek various forms of information and ideas, as well as receiving and transferring them to others, regardless of frontiers, and either in writing, print, in the form of art, or in any other medium of his choice."

Many human rights reports have reported on the arrests of activists, human rights defenders and journalists where the charges were in accordance with the preceding article, simply because they had expressed their views or objected to the Egyptian government's decision, especially on the border demarcation agreement between Egypt and Saudi Arabia (Tiran and Sanafir)⁶.

Some of the detainees of this case have suffered from medical negligence, including Ahmed Nasr El-din, who was injured as a result of poor detention conditions, immune deficiency, and the continued renewal. As his condition deteriorated, his family searched for a hospital that would treat him, but hospitals refused to receive him due to his deteriorating health condition, which led the total Southern Cairo Prosecution to issue a decision to release him for medical

⁶ Salmi Mustafa, 2017, Egypt: No Space for Political Alternatives, ECRF, July 22nd 2017, Last Access: 29/3/2018. <http://ecrf.net/?p=2002>

reasons since the hospitals under to their supervision could not handle his condition, and he was released to complete treatment on the expense of his family, because of his difficult condition.

Coinciding with the trial of the case, was the renewal of the detention of the accused, before the Southern Cairo Prosecution. And when the President of declared the state of emergency, the state has taken the lead in dealing with opinion issues and arresting political activists, with their jurisdiction coming before the Emergency State Security Court, which operates once the state of emergency is in force. These courts lack impartiality and independence, because of the intervention of the President in its work and his capacity for ratification, cancellation or mitigation of the sentences. It also detracts from the rights and defense of the accused to challenge these sentences by any means of appeal, in a return to the extraordinary court index once again, after the adoption of the Egyptian Constitution 2014 in Article (204); Trial of civilians before military courts.

The defendants:

- 1- Mohamed Mahfouz Abdel Latif, in presence, was kept in custody until the referral decision on Jan. 2nd 2018, and was sentenced to two years imprisonment and an L.E. 200 fine.
- 2- Inas Mohammed Hussein, in presence, was kept in custody until the referral decision on Jan. 2nd 2018, and was sentenced to two years imprisonment and an L.E. 200 fine.
- 3- Ahmed Nasr El Din Saad, sentenced in absentia, with two years' imprisonment and an L.E. 200 fine, and he was released by the Southern Cairo Prosecution for medical reasons.
- 4- Sarah Ahmed Mohamed, sentenced in absentia, with two years' imprisonment and an L.E. 200 fine, and she was released by the Cairo Criminal Court.
- 5- Maha Majdi Ali, sentenced in absentia, with two years' imprisonment and an L.E. 200 fine, and she was released by the Cairo Criminal Court.

Others whose their names were in the record of national security investigations:

- 6- Ahmed Said Meliji, sentenced in absentia, with two years' imprisonment and an L.E. 200 fine.
- 7- Sameh Ramadan Mohamed, sentenced in absentia, with two years' imprisonment and an L.E. 200 fine.
- 8- Nancy Kamal Abdel Hamid Ali, sentenced in absentia, with two years' imprisonment and an L.E. 200 fine.
- 9- Abdul Rahman Jamal Farouk, sentenced in absentia, with two years' imprisonment and an L.E. 200 fine.

And on Jan. 4th 2018, the first trial session began, after the case had been referred to the State Security Emergency Court. Defendants' defense requested access to view and copy the

proceedings, and the Court responded to the request with approving only the access to view but not to take copies.

The second session was on Jan. 18th 2018, where the defense was able to view the files of the case. The defense requested hearing the testimonies of the witnesses and those who performed the arrest, as well as the footage from the surveillance cameras surrounding the Azhar Park. The Court did not approve any of the requests, and postponed the processing of the case till the Feb. 1st, 2018 hearing,, at which the defense team argued their case and the case was seized.

On Feb. 22nd 2018, the court ruled; Sentencing Mohamed Mahfouz Abd El-latif, and Inas Mohammed Hussein, in their presence to two years in prison an L.E. 200 fine, and the rest of the defendants and others in absentia with the same sentence.

2- Trial proceedings as compared to fair trial standards in both Egyptian and international laws:

The most prominent violations against the accused, monitored during the monitoring of the case began since the arrest of the accused, by not informing them of their arrest cause, being taken to an unknown place, and isolating them from the outside world for 24 hours, until they were presented to the competent prosecution on the following day, also they were subjected to ill-treatment by law enforcement officials, during their detention without a clear justification from the prosecution authority. Most of the defendants were even subjected to health neglect, and lack of drugs, causing deterioration of the health situation of one of the accused, until the court ordered his release. They were also deprived from visitations for a while.

At the beginning of the trial, the court rejected the requests of the defense team to get access to view and make copies of the documents and dossiers of the case. Also the defense requested the footage of the surveillance cameras surrounding the arrest location, but the court rejected that request and the other to question and hear the testimonies of the witnesses or of those who performed either the arrest or the investigations.

Nevertheless, the Court decided to change the sentence issued against the accused, on the claim that there was a material error in the sentence, and the sentence was amended in the absence of the defense of the accused.

The Emergency State Security Courts generally lack independence and neutrality, and this is because its ruling are not finalized except after the approval of the presidential approval. Also, the defense teams cannot appeal against the sentences which undermines the principle of litigation on two levels.

Through the course of the case, the monitoring report found out that the detainees were arrested and detained without being informed of the reasons, which is contrary to the Egyptian Constitution in accordance with Article (54) which states that:

"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 causal judicial warrant necessitated by an investigation. All those whose freedoms have been restricted shall be immediately informed of the causes therefor, notified of their rights in writing, be allowed to immediately contact their family and lawyer, and be brought before the investigating authority within twenty-four hours of their freedoms having been restricted. Questioning of the person may only begin once his lawyer is present. If he has no lawyer, a lawyer will be appointed for him. Those with disabilities shall be provided all necessary aid, according to procedures stipulated in the law. Those who have their freedom restricted and others possess the right of recourse before the judiciary. Judgment must be rendered within a week from such recourse; otherwise, the petitioner shall be immediately released. The law shall regulate preventive detention, its duration, causes, and which cases are eligible for compensation that the state shall discharge for preventative detention or for execution of a penalty that had been executed by virtue of a judgment that is overruled by a final judgment. In all cases, the accused may be brought to criminal trial for crimes that he may be detained for only in the presence of an authorized or appointed lawyer."

As well as the International Covenant on Civil and Political Rights (ICCPR) in accordance with Article 9, this states:

"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. Anyone arrested shall be informed, at the time of arrest, of the reasons for his arrest and shall be promptly informed of any charges against him.

Anyone arrested or detained on a criminal charge shall be brought promptly before a judge or other officer authorized by law to exercise judicial power and shall be entitled to trial within a reasonable time or to release. It shall not be the general rule that persons awaiting trial shall be detained in custody, but release may be subject to guarantees to appear for trial, at any other stage of the judicial proceedings, and, should occasion arise, for execution of the judgment.

Anyone who is deprived of his liberty by arrest or detention shall be entitled to take proceedings before a court, in order that that court may decide without delay on the lawfulness of his detention and order his release if the detention is not lawful.

Anyone who has been the victim of unlawful arrest or detention shall have an enforceable right to compensation."

In addition, authorities must inform the arrested or detained individual of his legal rights upon his arrest, which are; the right to a lawyer, Medical assistance, and the right to challenge the legality of detention, in accordance with the above-mentioned Article (54) of the Constitution,

and the right of a person to remain silent in accordance with Article 55 of the Egyptian Constitution which states:

“All those who are apprehended, detained or have their freedom restricted shall be treated in a way that preserves their dignity. They may not be tortured, terrorized, or coerced. They may not be physically or mentally harmed, or arrested and confined in designated locations that are appropriate according to humanitarian and health standards. The state shall provide means of access for those with disabilities. Any violation of the above is a crime and the perpetrator shall be punished under the law. The accused possesses the right to remain silent. Any statement that is proven to have been given by the detainee under pressure of any of that which is stated above, or the threat of such, shall be considered null and void.”

The International human rights standards stated on a series of actions which ensure that individuals are not deprived of their liberty unlawfully, and provide protection guarantees of any form of human abuse that would jeopardize human dignity or subject them to torture in all its forms.

The Universal Declaration of Human Rights, in the above-mentioned article states that: *"Everyone has the right to life, liberty and security of person"*⁷

The International Covenant on Civil and Political Rights (ICCPR) states in Article 9 paragraph 1 states: *“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”*⁸

And as provided for in Article 9, paragraph 2; *" Anyone who is arrested shall be informed, at the time of arrest, of the reasons for his arrest and shall be promptly informed of any charges against him."*

Assuming innocence while waiting till the of the trial:

This is consistent with the right to liberty and the presumption of innocence, as there is a presumption that persons charged with a criminal offense are not detained during the period in which they await the start of their trial. Some international standards⁹ expressly state that, as a

⁷ United Nations, Universal Declaration of Human Rights, adopted by the General Assembly in Paris on 10 December 1948 by resolution 217 A, <http://www.un.org/en/universal-declaration-human-rights/index.html>

⁸ University of Minnesota, International Covenant on Civil and Political Rights, adopted and opened for signature, ratification and accession by General Assembly resolution 2200 A (XXI) of 16 December 1966, entry into force 23 March 1976, in accordance with article 49 <http://hrlibrary.umn.edu/arab/b003.htm>

⁹ Article 9 (3) of the International Covenant on Civil and Political Rights, article 37 (b) of the Convention on the Rights of the Child, article 16 (6) of the Migrant Workers Convention, article 14 (5) of the Arab Charter on Human Rights, 6 of the Tokyo Rules, the United Nations Standard Minimum Rules for Non-custodial Measures, Section 1 of the Principles of Fair Trial in Africa, Principle 3 (2) of the Principles on Persons Deprived of their Liberty in the Americas, and Rule 3 of the European Rules of Detention, Article 7 (5) of the American Convention, Article 5 of the European Convention, and Principle 3 (2) of the Convention Principles relating to

rule, detention is forbidden for persons charged with criminal offenses while awaiting the commencement of their trial. However, criteria that include the presumption of innocence and other criteria explicitly recognize that:

- The decision to release the person may be subject to guarantees to ensure his presence at the time of the trial, such as bail or the requirement to perform a review by the authorities on specified dates.
- There are circumstances in which the accused may be detained pending trial, exceptionally, and when necessary. The burden of proving that depriving a person of his or her liberty is necessary and proportionate, including awaiting trial, is the State's responsibility. It has to make a case that the release will create substantial risks, and that the person will escape, injure others, or tamper with evidence or investigation, in a manner that could not be met by other means. See also chapter 6 on the right to challenge the legality of detention, and chapter 7 on the right to a trial within a reasonable period of time or release from detention, in accordance with Article (166) of the Egyptian Code of Criminal Procedure which provides for "(Amended by Law No. 107 of 1962, and replaced by Law 145 of 2006)

The appeal shall be ten days from the date of issue of the order, for the prosecution, and from the date of its announcement, for the rest of the liabilities, except as provided in the second paragraph of Article (164) of this Law, then the date of appeal of the prosecution to the order of provisional release will be 24 hours. The appeal shall be adjourned within 48 hours from the date of its adjournment, and resumption of the accused at any time, if a decision is made to reject his appeal, he may submit a new appeal, whenever 30 days have pass from the date of the rejection decision.

Which we have not seen during the monitoring of the proceedings as 3 of the 5 suspects were released:

- 1) Ahmed Nasr El Din
- 2) Ahmed Mohamed
- 3) Maha Magdi Ali

While 2 were imprisoned:

1. Inas Mohammed Hussein
2. Mohamed Mahfouz Abdel Latif

This is though, through our monitoring, the defendants all had one legal position and there was no conflict of interest between all of them, so all of them should have been released pending trial.

The right to challenge the legality of detention, and the right to a fair trial within a reasonable timeframe:

persons deprived of their liberty in the Americas, rules 6 and 7 of the European rules on custodial detention, article 9 (3) of the International Covenant, article 16 (6) of the Migrant Workers Convention

Everyone stripped of his freedom has the right to take actions to challenge the legality of his detention before a court of law, and the court must order the matter immediately, and order the release of the arrested person if the detention was not lawful.

By monitoring the trial proceedings, the (Public Prosecution Authority has enabled the defense team to appeal the detention order against the accused, in accordance with article 166 of the Egyptian Code of Criminal Procedure of persons detained awaiting trial

That action against them should proceed expeditiously, especially as a matter of urgency, and unless the detained person is brought to trial within a reasonable period of time, he has the right to be released until his trial, in accordance with paragraph 3 of Article (14) of the International Covenant on Civil and Political Rights:

"In the determination of any criminal charge against him, everyone shall be entitled to the following minimum guarantees, in full equality:

(a) To be informed promptly, in details, and in a language which he understands of the nature and cause of the charge against him.

(b) To have adequate time and facilities for the preparation of his defense and to communicate with counsel of his own choosing.

(c) To be tried without undue delay"

These criteria have not been met in that specific case, as the case papers were referred to trial within six months, where the suspects were arrested on 29/6/2017, and then they were referred to trial of which the first hearing was 4/1/2018.

By law

The court must be competent to hear the case, and it is established by the constitution or by any of the laws of the State. It is one of the principles of the International Covenant on Civil and Political Rights, article 14 (1), which states:

"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. The Press and the public may be excluded from all or part of a trial for reasons of morals, public order or national security in a democratic society, or when the interest of the private lives of the parties so requires, or to the extent strictly necessary in the opinion of the court in special circumstances where publicity would prejudice the interests of justice; but any judgment rendered in a criminal case or in a suit at law shall be made public except where the interest of juvenile persons otherwise requires or the proceedings concern matrimonial disputes or the guardianship of children."

The State Security Courts were established in accordance with Law No. 162 of 1958, known as the Emergency Law, which was issued by the late President Gamal Abdel Nasser at the time of

unity with Syria. Then a special law was issued for its formation and scope of competence, namely Act 105 of 1980, on the establishment of state security courts, and was implemented until former President Hosni Mubarak canceled it by Law No. 95 of 2003, which was published in the Official Gazette in Issue No. 25 of June 19th 2003. Resolution No. 59 of 2012 was issued by the President of the Supreme Council of the Armed Forces, and provided for the termination of the provisions of the declaration of a state of emergency throughout the Republic, effective Jan. 25th, 2012, except for bullying crimes until the end of the state of emergency completely in late May 2012.

The first time the state of emergency was declared, was when the Prime Minister's decision was issued subsequently on April 10th 2017, appointing members of the Supreme and Partial Security Courts of the State of Emergency.

After the announcement of the application of the state of emergency at the level of the Republic on the same day, following the incidents of the bombing of the churches of Tanta and Alexandria for three months – the period that has been extended twice – and the latest of which was from 1 am on Friday October 13th.

The first paragraph of Article (14) of the International Covenant on Civil and Political Rights which is that the court was formed by force of Law No.

162 of 1958, but by applying the second paragraph, the trial of persons before an independent and impartial court.

The right to be heard by an independent court:

The most important cornerstone of a fair trial, which is the corner preceding the previous corner, on the establishment of the court by law. Each judge must perform with complete independence, because this is the basis of the judicial system that ensures respect for human rights, in accordance with the International Covenant on Human Rights, Principle 1 of the Bangalore Principles¹⁰ to protect judges from political pressure, and the separation of the 3 authorities which is the basis of any democratic system in the world.

Through our monitoring of this case, we examined the law of the Emergency State Security Court, and we found the articles of the law to allow the President of the Executive Authority (President of the Republic) to ratify or revoke the sentence of the State Security Court or order retrial before another court. This is what was stated in Article 7 of the Emergency Law:

"The sentences of State security shall be final, irrevocable and irrevocable in any form. The sentence shall be submitted to the President for ratification, and he has the authority under the law to reduce the sentence or stop it or order its cancellation, but the penalty may not be

¹⁰ Basic principles on the independence of the judiciary. Adopted by the Seventh United Nations Congress on the Prevention of Crime and the Treatment of Offenders, held in Milan from 26 August to 6 December 1985, as adopted and made public by General Assembly resolutions 40/32 of 29 November 1985, 40/146 Of 13 December 1985

increased. If he wants to tighten the punishment, the President orders the retrial before another court. In this case, the sentence shall be applied whatever it is. "

This is what has relinquished the most important principles; the independence of the judiciary and the interference of the executive authority in the work of the judiciary.

At the beginning of the first hearing of the trial, the defense team asked for access to view and make copies of the case papers. The Court approved the first request and rejected the second. This is contrary to the Code of Criminal Procedure Based on article 84, which states:

"All of the accused, the offender, the defendant for civil rights, and those responsible for them, have the right to request – at their expense –copies of case papers of any kind, unless it is obtained without their presence on the basis of a decision to do so."

International human rights standards provided some principles, which allow lawyers access to official documents of the case, including Principle 21 of the Basic Principles on the role of lawyers that states:

"It is the duty of the competent authorities to guarantee lawyers access to relevant information, files and documents which are in its possession or at its disposal, long enough to enable them to provide effective legal assistance to their clients, and such access should be secured within the shortest time limit."¹¹

- This was harmful to the defense because they had not able to carefully examine the case papers to give their defenses to the fullest, and to enable them to only view them.
- Calling and questioning witnesses: The defense requested to hear the testimonies of the witnesses and those who gathered the evidence and worked on the investigations. The Court did not approve this request. However, the discretionary power was left to the judge based on whether he finds it necessary to hear from witnesses, who the adversaries ask to hear, in accordance with the amendments to the Code of Criminal Procedure, which was approved by the Egyptian Parliament for Article 277 of the same law, which is amended to:

"The parties shall identify the names and statements of witnesses and their reasoning and the court decides on the need to hear his testimony. If the court decides not to hear the testimony of any of them, it must mention the reason for this in the reasons for its ruling. Accordingly, there will be no obligation on the Court to hear and discuss all prosecution witnesses, but has become the absolute authority to hear those who see the need to hear his testimony. "

¹¹ University of Minnesota, Basic Principles on the Role of Lawyers adopted by the 8th United Nations Congress on the Prevention of Crime and the Treatment of Offenders, held in Havana from 27 August to 7 September 1990 <http://hrlibrary.umn.edu/arab/b044.html>

This does not, however, justify the exclusion of witnesses' testimonies, which were essential in that case.

Through our examination of the evidence provided by the Public Prosecution against the accused during the trial hearings, it turned out that the Public Prosecutor's Office based the evidence on the statements of he who performed the arrest since this officer was alone in testimony, without the rest of members of the force participating in the arrest of the accused, and that he had created a case of flagellation for the reason for the arrest of the accused

Assuming that was correct, the allegedly distributed brochures and some citizens who took them should have been presented, and that should have been assisted by the officials or the prosecution in their records as witnesses of proof.

According to the accepted ruling of the Egyptian Court of Cassation, and the Egyptian judicial tradition that the course of investigations cannot be a convincing proof to the court, as well as the statements of those who performed the arrest, as they provide other evidence to prove their statements, which we did not see through our monitoring of the case. The defense has been notified of the sentence

(2 years imprisonment and a L.E. 3000 guarantee for temporary suspension and a L.E. 200 fine and confiscation and expenses), then the defenders' team was then informed by the head of the district prosecution that the operative part of the above sentence had been changed to the next one: (2 years imprisonment and L.E. 200 fine and confiscation and expenses)

Afterwards, the defenders' team has begun to apply for an official copy of the judgment, but the chief prosecutor refused to give them an official copy of it, so the team went to the chief prosecutor, and he did not approve that request without giving any justification. Later, they were able to view the judgment.

In view of the ruling, the defense was surprised by the following:

The sentence consisted of 4 printed papers, containing the merits of the sentence.

The sentence was: (In presence for the third and fourth and in absentia for the rest, with 2 imprisonment and a L.E. 3000 guarantee for temporary suspension and a L.E. 200 fine and confiscation and expenses).

The sentence papers have ended with this sentence. But later, the defense was surprised by a handwriting in the back of the last paper mentioning the following:

(We are the President of the Court, while viewing the papers of the sentence today, noticed there was a material error in the sentence, where a L.E. 3000 guarantee for temporary suspension was mentioned by mistake. The court therefore ruled to correct the material error contained in the sentence to be as follows:

(The Court ruled in presence of the third and fourth, and in absentia for the rest with 2 years' imprisonment of each accused and a L.E. 200 fine and confiscation and expenses.)

Article 337 of the Code of Procedure states that if a material error occurred in a sentence or an order issued by the investigating judge or from the resumed appeals court held in the counseling room that did not result in nullity, the body that issued the sentence or order shall correct the error on its own, or at the request of one of the litigants, after being assigned to attend, and the correction should be done in the counseling room, after hearing the words of the adversaries. The order is to be issued on the margin of the sentence or order, and this procedure is followed by correcting the name and surname of the accused.

In our case, the court corrected its sentence at the request of one of the litigants (Public Prosecution). However, the Court did not assign the litigants to appear before it, and the sentence was corrected in the absence of the parties, also without hearing the opponents and their opinion in this correction. Before the trial, more than one lawyer was present with each defendant, who had the right to a lawyer.

Case Facts:

On June 29th 2017, while Nancy Kamal, Sarah Ahmed, Ahmed Nasr, Inas Mohamed, Mohamed Mahfouz and Maha Magdi, were hanging out in Al-Azhar Park in Cairo.

Security started following and watching them for suspecting they were distributing brochures against the high prices and economic situation in Egypt, but they were not arrested in flagrant delicto, as they were arrested by uniformed and civilian members of national security, after taking their identifications, and their mobile phones, searching them, and then taking them to the Gamalia police station.

The next morning they appeared before the Total Southern Cairo Prosecution, in the Case No. 1 of 2018, with the presence of their lawyers, and they were charged with possession of publications containing false news that would disturb public security, and terrorizing the citizens.

Dates of important trial sessions:

- Jan. 4th 2018:

The first, after the case had been referred to the State Security Emergency Court. Defendants' defense requested access to view and copy the proceedings. The Court responded to the request with approving only the access to view but not to take copies.

- Jan. 18th 2018:

The second session was on, where the defense was able to view the files of the case. The defense requested hearing the testimonies of the witnesses and those who performed the arrest, as well as the footage from the surveillance cameras surrounding the Azhar Park.

The Court did not approve any of the requests, and postponed the processing of the case.

- Feb. st1, 2018:

The hearing at which the defense team argued their case and the case was seized.

- Feb. 22nd 2018:

The court ruled; Sentencing Mohamed Mahfouz Abd El-latif, and Inas Mohammed Hussein, in their presence to two years in prison an L.E. 200 fine, and the rest of the defendants and others in absentia with the same sentence.

The Charges:

In accordance with Article 102 bis paragraph (1.3), of the Egyptian Penal Code, on possession of publications or editorial material:

"A punishment of imprisonment and a fine not less than 50 pounds and not exceeding 200 pounds, anyone who intentionally broadcasts news, statements or false rumors, if that would disturb public security, terrorize people or cause harm to the public interest. The penalty shall be imprisonment and a fine not less than 100 pounds and not exceeding 500 pounds, if the crime occurred in wartime."

The punishments by the penalties stated in the first paragraph are applied on anyone who has held directly or indirectly, or has made editorials or publications, that contain something that is stated in the previously mentioned paragraph, if they are intended for distribution or to inform others, and anyone who has held directly or indirectly any means of printing, registration or publicity which are intended – even if temporarily – to print, record or broadcast any of the above.

The accused were being tried in this trial according to the first and third paragraphs, on the possession of publications containing false news that would disturb public security, and terrorize the citizens.

This article was added by Law No. 112 of 1957, issued on May 19th 1957, and published in the Egyptian gazette of the same date.

The second paragraph was added after the amendment Law No. 34 of 1970, on the possession or acquisition of the publications or publications containing anything contained in the preceding paragraph shall be punishable, when these publications are for distribution, as well as the possession or acquisition of means of printing, recording and broadcasting, which are designated as tools to promote lies, or broadcast propaganda.

The article explained that, of course, the burden of proof in this case lies with the Public Prosecution.

This report monitors how intentionally broad it has become to apply the above-mentioned article, as the continued use of this article to arrest political activists, human rights defenders and journalists generally, and the opposition groups specifically. Those trials expanded to include anyone who expressed his opinion, in violation of the Egyptian Constitution in accordance with Article (65) and the 1966 International Covenant on Civil and Political Rights, in accordance with the second paragraph of Article (19). Many human rights reports have reported on the arrests of activists, human rights defenders and journalists where the charges were in accordance with the preceding article, simply because they had expressed their views or objected to the Egyptian government's decision, especially on the border demarcation agreement between Egypt and Saudi Arabia (Tiran and Sanafir)¹².

The merits of the first-degree sentence:

- The defense has been notified of the sentence: (2 years imprisonment and a L.E. 3000 guarantee for temporary suspension and a L.E. 200 fine and confiscation and expenses).
- Then the defenders' team was then informed by the head of the district prosecution that the operative part of the above sentence had been changed to the next one: (2 years imprisonment and L.E. 200 fine and confiscation and expenses).
- Afterwards, the defenders' team has begun to apply for an official copy of the sentence, but the chief prosecutor refused to give them an official copy of it, so the team went to the chief prosecutor, and he did not approve that request without giving any justification.
- Later, they were able to view the sentence, where they were surprised by the following:
 - The sentence consisted of 4 printed papers, containing the merits of the sentence.
 - The sentence was (In presence for the third and fourth and in absentia for the rest, with 2 imprisonment and a L.E. 3000 guarantee for temporary suspension and a L.E. 200 fine and confiscation and expenses).
 - Nevertheless, later, the defense was surprised by handwriting in the back of the last paper mentioning the following:
 - (We are the President of the Court, while viewing the papers of the sentence today, noticed there was a material error in the sentence, where a L.E. 3000 guarantee for temporary suspension was mentioned by mistake. The court therefore ruled to correct the material error contained in the sentence to be as follows:
 - (The Court ruled in presence of the third and fourth, and in absentia for the rest with 2 years' imprisonment of each accused and a L.E. 200 fine and confiscation and expenses.)

Article 337 of the Code of Procedure states that:

¹² -Salma Mustafa, 2017, Egypt: No Space for Political Alternatives, Egyptian Commission for Rights and Freedoms, July 22, last accessed: 29/3/2018. <http://ec-rf.net/?p=2002>

"If a material error occurred in a sentence or an order issued by the investigating judge or from the resumed appeals court held in the counseling room that did not result in nullity, the body that issued the sentence or order shall correct the error on its own, or at the request of one of the litigants, after being assigned to attend, and the correction should be done in the counseling room, after hearing the words of the adversaries. The order is to be issued on the margin of the sentence or order, and this procedure is followed by correcting the name and surname of the accused."

In our case, the court corrected its sentence at the request of one of the litigants (Public Prosecution). However, the Court did not assign the litigants to appear before it, and the sentence was corrected in the absence of the parties, also without hearing the opponents and their opinion in this correction.

Before the trial, more than one lawyer was present with each defendant, who had the right to a lawyer.

Trial Procedures and Fair Trial Standards in Egyptian and International Law:

- The right to sufficient time and facilities to prepare the defense.
- Access to case files.

At the beginning of the first trial, the defense team asked for access to view and make copies of the case papers. The Court approved the first request and rejected the second. This is contrary to the Code of Criminal Procedure

Based on article 84, which states:

"All of the accused, the offender, the defendant for civil rights, and those responsible for them, have the right to request – at their expense – copies of case papers of any kind, unless it is obtained without their presence on the basis of a decision to do so."

International human rights standards provided some principles, which allow lawyers access to official documents of the case, including Principle 21 of the Basic Principles on the role of lawyers that states:

"It is the duty of the competent authorities to guarantee lawyers access to relevant information, files and documents which are in its possession or at its disposal, long enough to enable them to provide effective legal assistance to their clients, and such access should be secured within the shortest time limit."¹³

This was harmful to the defense because they had not able to carefully examine the case papers to give their defenses to the fullest, and to enable them to only view them.

¹³ University of Minnesota, International Covenant on Civil and Political Rights, adopted and opened for signature, ratification and accession by General Assembly resolution 2200 A (XXI) of 16 December 1966, entry into force 23 March 1976, in accordance with article 49 <http://hrlibrary.umn.edu/arab/b003.htm>

Calling and questioning witnesses:

Failure to respond to defense request to hear prosecution witnesses:

The defense requested to hear the testimonies of the witnesses and those who gathered the evidence and worked on the investigations. The Court did not approve this request.

However, the discretionary power was left to the judge based on whether he finds it necessary to hear from witnesses, who the adversaries ask to hear, in accordance with the amendments to the Code of Criminal Procedure, which was approved by the Egyptian Parliament for Article 277 of the same law, which is amended to:

"The parties shall identify the names and statements of witnesses and their reasoning and the court decides on the need to hear his testimony. If the court decides not to hear the testimony of any of them, it must mention the reason for this in the reasons for its ruling. Accordingly, there will be no obligation on the Court to hear and discuss all prosecution witnesses, but has become the absolute authority to hear those who see the need to hear his testimony. "

Evidence adequacy:

Through our examination of the evidence provided by the Public Prosecution against the accused during the trial hearings, it turned out that the Public Prosecutor's Office based the evidence on the statements of he who performed the arrest since this officer was alone in testimony, without the rest of members of the force participating in the arrest of the accused, and that he had created a case of flagellation for the reason for the arrest of the accused

Assuming that was correct, the allegedly distributed brochures and some citizens who took them should have been presented, and that should have been assisted by the officials or the prosecution in their records as witnesses of proof.

Darb-Ahmar Misdemeanor Court (1st degree)

Time of trials

Public hearings

Outside the courtroom: things were normal and the security measures were in their usual form.

Inside the courtroom – attendance of the trials

Journalists were banned from attending hearings by court guards.

At the beginning of the Feb. 22nd, 2018 session, the defense team requested a recorded proof that the case was at the end of the roll.

When their turn came, the hearing was adjourned for 45 minutes, leading the lawyer to feel that it was a special court and not equal to the rest of the cases.

Also, the lawyer requested from the President of the Court to order members of the Ministry of Interior who were present in the court to stay outside until the completion of the hearing; Hearing of Witnesses of Evidence, so as not to represent a threat to the accused, and the court approved the defense's request.

Detainees of the hangout and independence of the judiciary:

In terms of structure, the Misdemeanors and Irregularities Courts are formed by a single judge at the center of the podium, and the prosecutor is supposed to sit in a separate platform parallel to the platform of the advisor who is considering the case. But it happened in more than one trial that the prosecutor was sitting in the seat next to the counselor on the same platform, and when the meeting were adjourned, they waited in the same room.

As we previously mentioned in the purpose of monitoring the trial of this case, is that the court was formed as the Emergency State Security Court of which the sentences are final after the ratification of the President and where it may not be challenged in any of the ways provided for in the Egyptian Criminal Procedure Code.

Deficiencies:

Rights and freedoms violated in the pre-trial stage, (At the stage of arrest and investigation):

- The right to comply with international standards of the right to a fair trial (please refer to the Trial Watch Manual and the Fair Trial Manual)

The (detainees of the hangout) case and the international standards that have been violated:

- The right to liberty and the right of persons to know the reasons for arrest and detention:

Through the course of the case, we found out that the detainees were arrested and detained without being informed of the reasons, which is contrary to the Egyptian Constitution in accordance with Article (54) as well as the International Covenant on Civil and Political Rights (ICCPR).

In addition, authorities must inform the arrested or detained individual of his legal rights upon his arrest, which are; the right to a lawyer, Medical assistance, and the right to challenge the legality of detention, as well the right to remain silent.

The International human rights standards stated on a series of actions, which ensure that individuals are not deprived of their liberty unlawfully, and provide protection guarantees of

any form of human abuse that would jeopardize human dignity or subject them to torture in all its forms.

The Universal Declaration of Human Rights, in the above-mentioned article states that: "*Everyone has the right to life, liberty and security of person*"¹⁴

The International Covenant on Civil and Political Rights (ICCPR) states in Article 9 paragraph 1 states: "*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*"¹⁵

And as provided for in Article 9, paragraph 2; "*Anyone who is arrested shall be informed, at the time of arrest, of the reasons for his arrest and shall be promptly informed of any charges against him.*"

Assuming innocence while waiting till the of the trial:

This is consistent with the right to liberty and the presumption of innocence, as there is a presumption that persons charged with a criminal offense are not detained during the period in which they await the start of their trial.

Some international standards expressly state that, as a rule, detention is forbidden for persons charged with criminal offenses while awaiting the commencement of their trial.

However, criteria that include the presumption of innocence and other criteria explicitly recognize that:

- The decision to release the person may be subject to guarantees to ensure his presence at the time of the trial, such as bail or the requirement to perform a review by the authorities on specified dates.
- There are circumstances in which the accused may be detained pending trial, exceptionally, and when necessary. The burden of proving that depriving a person of his or her liberty is necessary and proportionate, including awaiting trial, is the State's responsibility. It has to make a case that the release will create substantial risks, and that the person will escape, injure others, or tamper with evidence or investigation, in a manner that could not be met by other means. See also chapter 6 on the right to challenge the legality of detention, and chapter 7 on the right to a trial within a reasonable period of time or release from detention, in accordance with Article (166) of the Egyptian Code of Criminal Procedure which we have not seen during the monitoring of the proceedings as 3 of the 5 suspects were released:

4) Ahmed Nasr El Din

¹⁴ United Nations, Universal Declaration of Human Rights, adopted by the General Assembly in Paris on 10 December 1948 by resolution 217 A, <http://www.un.org/en/universal-declaration-human-rights/index.html>

¹⁵ University of Minnesota, International Covenant on Civil and Political Rights, adopted and opened for signature, ratification and accession by General Assembly resolution 2200 A (XXI) of 16 December 1966, entry into force 23 March 1976, in accordance with article 49 <http://hrlibrary.umn.edu/arab/b003.htm>

5) Ahmed Mohamed

6) Maha Magdi Ali

While 2 were imprisoned:

3. Inas Mohammed Hussein

4. Mohamed Mahfouz Abdel Latif

This is though, through our monitoring, the defendants all had one legal position and there was no conflict of interest between all of them, so all of them should have been released pending trial.

The right to challenge the legality of detention, and the right to a fair trial within a reasonable timeframe:

Everyone stripped of his freedom has the right to take actions to challenge the legality of his detention before a court of law, and the court must order the matter immediately, and order the release of the arrested person if the detention was not lawful.

By monitoring the trial proceedings, the Public Prosecution Authority has enabled the defense team to appeal the detention order against the accused, in accordance with article 166 of the Egyptian Code of Criminal Procedure that states: "*The date of appeal shall be ten days from the date of issuance of the order in respect of the Public Prosecution and from the date of its declaration in respect of the rest of the litigants*", except as provided in paragraph 2 of Article (164) of this law that states: "The appeal must be within 48 hours from the date of its adjournment. The appeal of the accused shall be at any time. If a decision is made to reject his appeal, he may file a new appeal whenever thirty days elapse from the date the refusal decision" As for the action against them, it should be proceeded expeditiously, especially as a matter of urgency, and unless the detained person is brought to trial within a reasonable period of time, he has the right to be released until his trial

These criteria have been met in that specific case, as the case papers were referred to trial within six months, where the suspects were arrested on 29/6/2017, and then they were referred to trial of which the first hearing was 4/1/2018.

Rights and guarantees during the investigation stages:

The court must be competent to hear the case, and it is established by the constitution or by any of the laws of the State. It is one of the principles of the International Covenant on Civil and Political Rights, article 14 (1), which states:

"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. The Press and the public may be excluded from all or part of a

trial for reasons of morals, public order or national security in a democratic society, or when the interest of the private lives of the parties so requires, or to the extent strictly necessary in the opinion of the court in special circumstances where publicity would prejudice the interests of justice; but any judgment rendered in a criminal case or in a suit at law shall be made public except where the interest of juvenile persons otherwise requires or the proceedings concern matrimonial disputes or the guardianship of children."

Such principle was met as per our monitoring.

The State Security Courts were established in accordance with Law No. 162 of 1958, known as the Emergency Law, which was issued by the late President Gamal Abdel Nasser at the time of unity with Syria.

Then a special law was issued for its formation and scope of competence, namely Act 105 of 1980, on the establishment of state security courts, and was implemented until former President Hosni Mubarak canceled it by Law No. 95 of 2003, which was published in the Official Gazette in Issue No. 25 of June 19th 2003.

Resolution No. 59 of 2012 was issued by the President of the Supreme Council of the Armed Forces, and provided for the termination of the provisions of the declaration of a state of emergency throughout the Republic, effective Jan. 25th, 2012, except for bullying crimes until the end of the state of emergency completely in late May 2012.

The first time the state of emergency was declared, was when the Prime Minister's decision was issued subsequently on April 10th 2017, appointing members of the Supreme and Partial Security Courts of the State of Emergency.

After the announcement of the application of the state of emergency at the level of the Republic on the same day, following the incidents of the bombing of the churches of Tanta and Alexandria for three months – the period that has been extended twice – and the latest of which was from 1 am on Friday October 13th.

The right to be heard by an independent court:

The most important cornerstone of a fair trial, which is the corner preceding the previous corner, on the establishment of the court by law.

Each judge must perform with complete independence, because this is the basis of the judicial system that ensures respect for human rights, in accordance with the International Covenant on Human Rights, Principle 1 of the Bangalore Principles to protect judges from political pressure, and the separation of the 3 authorities which is the basis of any democratic system in the world.

Through our monitoring of this case, we examined the law of the Emergency State Security Court, and we found the articles of the law to allow the President of the Executive Authority

(President of the Republic) to ratify or revoke the sentence of the State Security Court or order retrial before another court.

This is what was stated in Article 7 of the Emergency Law:

"The sentences of State security shall be final, irrevocable and irrevocable in any form. The sentence shall be submitted to the President for ratification, and he has the authority under the law to reduce the sentence or stop it or order its cancellation, but the penalty may not be increased. If he wants to tighten the punishment, the President orders the retrial before another court. In this case, the sentence shall be applied whatever it is. "

This is what has relinquished the most important principles; the independence of the judiciary and the interference of the executive authority in the work of the judiciary.

Conclusion:

Lawyers face great difficulty to gain access to the case papers, as they were unable to make copies.

We recommend allowing lawyers to get copies of the case papers, so that they can study the case papers adequately.

International observers are normally entitled to interview the prosecutors and the accused in case of detention. The law enforcement authorities must enable them to do so.

Journalists and public should be allowed to attend the hearing as they were not public in regards to allowing the public and journalists to attend the hearings and that was limited to only lawyers

We recommend repealing article 102 bis of the Penal Code, because it violates the Egyptian Constitution and international treaties and conventions in order to use this article in the suppression of freedom of opinion and expression.

Lawyers face difficulty communicating directly with the accused, in violation of the Egyptian Criminal Procedure Code, the Constitution and international covenants.

We recommend the application of the need for the accused to communicate with his lawyer.

The main findings of the report, by observing the trial:

That there had been shortcomings on the part of the prosecution's investigations, for not adequately examining the evidence of conviction for the sentence of those accused of these provisions, among which; It did not approve the request of the defense team to release the

surveillance cameras in Al-Azhar Park where the arrest of the accused occurred, and they were not in case of flagrant delicto as alleged by the arresters.

As for holding the trials at the State Security Emergency Court;

It did not allow the defendants and their defense team to appeal the sentence of this Court, which is contrary to the Egyptian Constitution and international law, that include the right of the citizen to two degrees and grievance of the first degree.

Also, the Court has also rejected the defense requests in terms of; to make copies of the documents of the case, and to hear the testimonies of the witnesses of the prosecution and those who performed the arrest, which is a violation of the defendants' right.

The court also reversed its ruling, which was a suspended sentence, and replaced it by 2 years imprisonment and for that, the court claimed that there was a material error in the first sentence.

Lawyers faced great difficulty to review the case papers.

Lawyers were also unable to make copies of the case papers and we recommend that lawyers be permitted to do so so that they can study the papers adequately.

International observers are normally entitled to meet prosecutors and accused in the event of their detention, so the law enforcement authorities must enable them to do so.

Journalists and the public were not allowed to attend the hearings because they were not public in that sense and both the public and journalists were prevented from attending the hearings and only lawyers were allowed.

From our observation of this case, we believe that the President must exercise his authority in accordance with Article 14 of the Emergency Law to repeal the sentence by this Court, and to order that the case to be tried before the natural judge, which is then entitled to the accused to litigate in two degrees, then the President is not entitled to intervene in the sentences of the judiciary.

We also call for an end to the emergency law, because in accordance with the declaration of the state of emergency and the law, constitutional and legal guarantees that are contrary to the provisions of the Emergency Law are disrupted and legal and constitutional principles become irrelevant.

Recommendations of the report:

- The President's annulment of the sentence issued in the case as it was the result of a breach of Egypt's international obligations, the Constitution and Egyptian law regarding the right to a fair trial.
- The immediate and unconditional release of those imprisoned in this case because that was the result of their exercise of the right to freedom of opinion and expression.
- Amending article 102 bis of the Penal Code for violating the provisions of the Egyptian Constitution and international treaties and conventions in order to use this article to suppress the freedom of opinion and expression and all articles restricting this right.
- Suspension of the emergency law known as No. 162 of 1958, intending to suspend the state of emergency.