



Egypt: National Council for Human Rights

Egypt's national human rights institution before the Global Alliance of NHRIs

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Follow-up report to the SCA one year after deferral of review

Alkarama – 1 June 2024

Alkarama, 2 bis Chemin des Vignes, CH-1209 Geneva, Switzerland

Phone : +41 22 734 1006,

Email : info@alkarama.org

Web site : <https://www.alkarama.org/>

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1 INTRODUCTION

The Egyptian National Council for Human Rights (NCHR) was established by Law No. 94/2003 and was reviewed by the Sub-Committee on Accreditation of the Global Alliance of NHRIs (SCA) in 2006, for its initial accreditation.

The SCA decided to recommend the NCHR be granted with status B and requested the institution to provide further, “detailed assurances of its independence”.¹ In October 2006, following new information received from the NCHR, the SCA recommended that the NCHR be accredited with status A.

In May 2018, the SCA granted the NCHR status A, despite clear signs of a lack of effective independence and impartiality of the institution from the executive.

In its 2018 report, the SCA highlighted “its expectation that NHRIs that has been accredited with A status will take the necessary steps to pursue continuous efforts at improvement and to enhance their effectiveness and independence, in line with the Paris Principles and the recommendations made by the SCA during this review”.

Since then, it does not appear that the Egyptian authorities have addressed the issues raised in the 2018 review. Given the lack of progress highlighted by both independent UN experts and the EU Parliament, we proposed in our June 2023 report that the NHRC be downgraded to a B status.

During its second session of 2023, the Sub-Committee on Accreditation (SCA) decides to defer the review of the NCHR for 12 months pursuant to article 14.1 of the Statute.

The SCA encouraged the NCHR “to continue to actively engage with the OHCHR, GANHRI, NANHRI, other NHRIs, as well as relevant stakeholders at international, regional, and national levels to continue strengthening its institutional framework and working methods”.

Given the many shortcomings highlighted by civil society in alternative reports, the SCA advised that the review of the NHRI be deferred for one year, giving the opportunity to the NHRI to address the insufficiencies.

Thus, the SCA decided to defer consideration of the NCHR on several grounds encouraging the NHRC to take the actions necessary to address these issues and to provide further information and evidence.

The following report is based on a careful analysis of the following publicly available materials:

- all press releases published on the NCHR’s website from October 2023 to June 2024;

¹ ICC, Report and Recommendations of the Sub-Committee on Accreditation, Geneva, 12 April 2006, p. 3.

- reports submitted by the institution to treaty bodies, including to the UN Committee against Torture (CAT) in October 2023.
- the NCHR's consolidated annual report, published in January 2024, covering the period from 2020 to 2023;
- reports by civil society organisations and UN human rights mechanisms on issues raised by the NCHR in its publications.

After analysis, we find that the NCHR has failed to address the issues raised in our June 2023 report and by the SCA in its September-October 2023 Report and Recommendations of the Meeting of the Sub-Committee on Accreditation (SCA) (hereinafter referred to as the "September-October 2023 Report").

We reiterate our concern that the work of the NHRC, as exemplified in its public statements and reports to UN human rights mechanisms, clearly demonstrates that the institution has become a "showcase" for a government PR campaign rather than an impartial and independent human rights institution.

2 FAILURE TO ADDRESS SCA'S GROUNDS FOR DEFERRAL

In its September-October 2023 report, the SCA identified several issues that needed to be addressed during the deferral period in order for the NCHR to maintain its A status. Amongst these issues, the SCA highlighted:

- the effectiveness in addressing serious human rights violations
- the lack of unannounced visits to places of detention
- the lack of independence of the SCA in carrying out its missions.

2.1 Addressing human rights violations

In its September-October 2023 Report, the SCA urged the NCHR to strengthen its efforts to address all human rights violations and that its positions on these issues are publicly made available, as this will contribute to the credibility and accessibility of the institution for all people in Egypt (Paris Principles A.1, A.2, A.3, and D(d) and its General Observation 1.6 on 'Recommendations by NHRIs', 1.2 on 'Human rights mandate')

Alkarama would like to highlight the following issues which clearly show the failure of the NCHR to address these crucial issues which were grounds for deferral and should now be grounds for a downgrade.

2.1.1 Lack of effectiveness in addressing serious human rights violations

In its September-October 2023 Report, the SCA reported civil society's concerns about the NCHR lack of effectiveness in:

“[d]ealing with serious human rights violations, including torture, enforced disappearances, conditions of detention and detainees, situation of human rights defenders, fair trial rights and due process, as well as freedom of expression, peaceful assembly, and association”.

Alkarama reiterates its concerns raised in its June 2023 report that the NCHR does not distance itself from the government, its narrative in the human rights situation in the country and the National Human Rights Strategy adopted by the President Marshall Al Sissi.

2.1.1.1 Lack of clear condemnation of the arbitrary arrest and enforced disappearance of the former NCHR member and human rights defender.

Moreover, the situation does not seem to be improving, as the NCHR has not yet changed its approach in dealing with such violations, particularly in the case of human rights defenders. The case of Ms Hoda Abdel-Moneim, a lawyer, human rights defender and former member of the National Council for Human Rights, is illustrative of this issue.

She had been arbitrarily detained since 1 November 2018 and subjected to enforced disappearance before being brought before the Supreme State Security Prosecution (SSSP) on charges of “joining an unspecified terrorist organisation” and “receiving foreign funds to carry out its objectives”. While in detention, her health deteriorated significantly, as she was denied appropriate medical care for a condition of kidney failure and a suspected heart attack.

On 22 January 2024, several mandate holders sent an allegation letter in which it was reported that *“in early June 2023, Ms. Abdel-Moneim was transferred from Al-Qanater prison to the 10th Ramadan Prison”*, without the knowledge of her family or lawyer.²

It is worth noting that on 15 August 2023, the NCHR announced that it had conducted a visit to this prison and had held extensive discussions with inmates, praising the prison's health facilities.³

Despite this, the NCHR has not issued a press release calling on the authorities to respect the fundamental rights of the lawyer and former member of the institution since her arrest, even in the face of new public information about her health and an opinion of the Working Group on Arbitrary Detention calling for her immediate release.

² Egypt: enforced disappearance and use of repeated charges against HRDs Hoda Abdel-Moneim and Moaaz Al Sharqawy (joint communication), 28 March 2024, Official Letters and Statement, <https://srdefenders.org/egypt-enforced-disappearance-and-use-of-repeated-charges-against-hrds-hoda-abdel-moneim-and-moaaz-al-sharqawy-joint-communication/>

³ The National Council for Human visits the Correction and Rehabilitation Center in 10th of Ramadan, 15-08-2023, <https://nchr.eg/en/news-details/1087>

2.1.1.2 Failure to effectively act on report of human rights violations

In its September-October report, the SCA noted that the “NCHR reports undertaking various actions to address serious human rights issues in Egypt, including fact-finding missions, hearing sessions to investigate human rights violations, election monitoring, prison visits and monitoring of various government detention facilities”.

Alkarama sought information describing the various actions mentioned by the NCHR on its website and in its annual report covering activities from 2020 to 2023. However, it found recurring problems in the reporting of the NCHR's actions, namely a lack of critical assessment of government policies and a multiplication of workshops and meetings between the NCHR and government agencies followed by a praising press release.

For example, in its 2020-2023 report, the NCHR reported under the title “Arbitrary detention and fair trial guarantees”⁴ that:

“The Ministry of Justice has repeatedly affirmed the unwavering commitment of the Egyptian state to upholding the principles of a fair and just trial. It underscores that the national constitution diligently incorporates provisions to safeguard the standards of a fair and just trial, in harmony with international norms, particularly as articulated in Article 14 of the International Covenant on Civil and Political Rights”.

None of the challenges identified by the NCHR referred to the lack of implementation of WGAD Opinions, which found the detention of hundreds of individuals over the past decade to be arbitrary and called for their release. There was no mention of issues relating to the independence of the judiciary and the practice of mass political trials or the use of coerced confessions as evidence in political cases (pp. 55-56).

Similarly, in its section on freedom of association, the NCHR failed to address concerns expressed by UN mandate holders and treaty bodies regarding Law No. 149 of 2019, which regulates the activities of civil society. UN experts highlighted that the law unduly restricts the registration and work of CSOs, including regarding access to domestic and foreign sources of funding, and provides authorities with extensive surveillance powers and broad discretion to regulate and dissolve organisations.

In the same vein, it did not address the fact that activists and human rights defenders perceived as critical of the government have been subjected to harassment, intimidation, criminal investigation and arbitrary detention for their peaceful activism or criticism, and that

⁴ The National Council for Human Rights Sixteenth Annual Report (December 2020 – June 2023), p 41, <https://nchr.eg/en/annual>

a significant number have also been subjected to arbitrary travel bans and asset freezes under counter-terrorism legislation.⁵

Instead of bringing these issues to the attention of the government, the NCHR limited itself to describing and praising the efforts of the government and President Marshall Al Sissi, stressing that:

“In acknowledgment of the contributions made by civil society in advancing sustainable development and in the promotion of human rights awareness, and in the spirit of fostering collaboration between state institutions and civil society, President Abdel Fattah El-Sisi proclaimed the year 2022 as the “Year of Civil Society.”⁶

No mention is made of the recommendations of the Human Rights Committee or the communication previously sent to the government by UN experts regarding Law 149/2019 (hereafter: NGO Law) and its by-law (or by-laws) of 2021, which, according to the mandate holders, “limited civil society’s access to funding and enable the executive to carry out supervisory control and broad discretion to regulate and dissolve civil society organisations”.⁷

Both documents contained useful information and recommendations that could easily have been included in the NCHR's report. However, as the SCA recalled, “in fulfilling its protection mandate, an NHRI must not only monitor, investigate, and report on the human rights situation in the country, but it should also NHRI should monitor the implementation of recommendations from annual and thematic reports, inquiries, and other complaint-handling processes”.

No mention was made of the undue restrictions on civil society participation in the 27th Conference of the Parties to the UN Framework Convention on Climate Change (COP27), to be held in Sharm el Sheikh in November 2022.⁸

2.1.2 Lack of information on the follow-up given to those complaints

In its September-October 2023 report, the SCA noted “the information provided by the NCHR relating to 3,000 complaints of human rights violations received and that these complaints are being addressed or referred to the relevant authorities, it does not have information on the type of complaints handled nor on the categories of rights violations”.

Information contained in the annual reports and other documents of the NCHR cannot be sufficient to – as requested by the SCA – demonstrate how the NCHR “implements its full

⁵ Human Rights Committee Concluding observations on the fifth periodic report of Egypt *, CCPR/C/EGY/CO/5, 14 April 2023

⁶ The National Council for Human Rights Sixteenth Annual Report (December 2020 – June 2023), op.cit., p 44

⁷ 08 Jul 2021, **Egypt**, JAL , [EGY 6/2021](#)

⁸ 30 Sep 2022, Egypt, JAL, [EGY 9/2022](#)

mandate to monitor, promote, and protect the rights of everyone including human rights defenders”.

For example, in its annual report 2020-2023, the NCHR provides a table with summary information on 222 complaints of enforced disappearance it has received, only about 20 per cent of these cases have been resolved with the complainant found in detention. In the remaining 80 per cent or so of cases, the NCHR simply states that the complainant was either not detained, or "accused and at large", or released and not re-arrested, or not found due to lack of information, or that the complaint is still under investigation.⁹

Table 6: Complaints of Allegations of Disappearance/Forced Disappearance

Forced disappearance grievances categorization	Cases (222)	Percentage
The plaintiff is an inmate in a prison or a detention facility	41	18.5%
The plaintiff has not been detained	73	32.4%
The plaintiff is accused and on the run	8	3.6%
The plaintiff is release and has not been arrested again	7	3.5%
The plaintiff has not been found (due to lack of information)	44	19.8%
The grievance is under scrutiny and awaiting response	49	22%

However, the Working Group on Enforced Disappearances reported in its last report that there are 275 outstanding cases for Egypt and that it is still waiting for a response from the government to a country visit request that has been pending since 30 June 2011¹⁰. The NCHR did not call on the government to accept the Working Group's country visit and did not elaborate on the issue which led to such a low clarification rate in its reports.

2.1.3 Lack of independence in the treatment of complaints and human rights violations

In its September- October 2023 report, the SCA encouraged “the NCHR to address all violations of human rights and to ensure effective follow-up so that the State makes the necessary changes to ensure that human rights are clearly protected. The SCA further encourages the NCHR to ensure that its positions on these issues are made publicly available,

⁹ NCHR 2020-2023 annual Report, op.cit., page 82, Table 6: Table 6: Complaints of Allegations of Disappearance/Forced Disappearance

¹⁰ Report of the Working Group on Enforced or Involuntary Disappearances, 8 August 2023, A/HRC/54/22, para 74-76

as this will contribute to the strengthening of the credibility and accessibility of the institution for all people in Egypt”.

The SCA recalled that NHRIs are expected to promote and ensure respect for all human rights, democratic principles, and the strengthening of the rule of law in all circumstances, and without exception.

The content of the NCHR’s shadow report to the CAT is quite concerning in this regard. The NCHR reported having received complaints from various detention centres “concerning allegations of infringements on the right to physical safety”¹¹.

In its report to the CAT, the NCHR stated regarding the content of such complaints that:

These allegations range from assertions of physical assault, mistreatment, harassment, isolation, and restrictions on communication with the families of detainees. Predominantly, these complaints originate from inmates themselves and involve claims of torture purportedly committed by personnel working in various detention facilities, in addition to reports of abusive conduct.

Some complaints also raise concerns about police officers subjecting detainees to ill-treatment.

The information provided by the relatives of detainees to the Council is often fragmentary, rendering its credibility susceptible to scrutiny, especially when the source of information is not the affected party but rather another detainee who communicates such details during periodic visits with relatives.

This statement indicates that the NCHR does not investigate allegations of torture and ill-treatment, arguing that the sources may not be credible. The NCHR should be reminded that all such allegations of torture and ill-treatment should automatically trigger an independent investigation or at the very least a fact-checking procedure.

It is thus even more concerning that the NCHR would further state that:

“Examining the collective body of complaints, it becomes evident that they fall within the context of suffering from ill-treatment, isolation, which includes solitary confinement as a form of punishment within prisons, as well as deprivation of exercise and certain basic necessities of life for the inmates.

Based on the Council's diligent monitoring and ongoing assessment, it is noteworthy that the classic manifestation of torture, characterized by the use of specific tools and systematic methodologies for inflicting harm, has become considerably less prevalent. Instead, isolated instances of practices within certain detention facilities have been identified, falling short of compliance with established human rights norm”.

¹¹ Shadow report Submitted by The National Council for Human Rights in Egypt on the human rights situation with regard to the implementation of the Convention against Torture and All Cruel, Inhuman or Degrading Treatment or Punishment, CAT. on the occasion of the submission by the Egyptian state of its fifth periodic report due in 2004 and submitted in September 2021. CAT/C/EGY/., p. 9.

Again, it is highly problematic for the credibility of the review and notation mechanisms that such statements can be attributed to an NHRI that advertises itself as having been granted A status by the SCA, **in a country where the CAT, following an Article 20 inquiry, found that torture was widespread and systematic**, and where UN independent experts and independent international and local human rights organisations continue to document widespread use of torture and ill-treatment in detention.

The NCHR's ability to deal effectively and impartially with complaints of torture and ill-treatment in detention is illusory, given its lack of independence from the detaining authorities, as is clear from the NCHR's statement below:

The Council has duly observed a conscientious approach taken by relevant authorities in addressing torture-related complaints forwarded to the Council. These authorities have demonstrated a commitment to initiating requisite legal proceedings, involving both the Office of the Public Prosecutor and the Ministry of Interior. Numerous instances of such responsive actions have been prominently featured in the Council's annual reports

As for the Council's communication with relevant authorities regarding complaints of alleged torture, the Council promptly initiates communication with the Office of the Public Prosecutor and the Ministry of Interior concerning the complaint. In these communications, the Council urges an investigation into the alleged violation and the necessary actions to address it. The majority of responses received by the Council on this matter primarily revolve around conducting a medical examination of the detainee to assess their health status and the presence of any visible injuries.

Subsequently, the detainee is questioned about the complaint, whether they have been subjected to any violations, and the individuals involved in the alleged misconduct.

In most responses, the results indicate the detainee's physical well-being, the absence of visible injuries indicative of assaults, and the detainee's denial of experiencing any transgressions. Many detainees attribute their complaints to various factors, such as deteriorating mental health due to imprisonment, using the complaint as a means to pressure the prison administration to meet specific demands (e.g., transfer to another facility or obtaining privileges), or denying that they were the ones who filed the complaint due to concerns for their safety. These concerns often arise from misinformation conveyed to their families or due to visitation restrictions. **Consequently, the overwhelming majority of responses regarding complaints of alleged torture affirm the absence of any violations. (we underline)**

Such statements in a shadow report to the CAT should, per se, convince the SCA to downgrade the NCHR. Not only does it demonstrate a clear lack of independence on the part of the institution, but it also highlights an approach that cannot ensure the safety of victims of torture and ill-treatment in detention when they file complaints with the NCHR.

Understandably, the families of victims whose cases have been documented by Alkarama in recent years have repeatedly been confronted with the institution's unwillingness to give the slightest credibility to the testimonies of detained torture victims or their families, and even less to act on such complaints or testimonies.

Such statement directly contradicts the principles recalled by the SCA that “in fulfilling its protection mandate, the NCHR is encouraged to address and seek to prevent actual human rights violations. Such functions include monitoring, inquiring, investigating and reporting on human rights violations, and may include individual complaint handling (The SCA refers to Paris Principles A.1, A.2, and A.3, and its General Observation 1.2 on ‘Human rights mandate’.)”

2.2 Visits of places of deprivation of liberty

The SCA recalled that the Human Rights Committee (CCPR/C/EGY/CO/5) in 2023 expressed concerns about the lack of safeguards to ensure the NCHR full independence and effectiveness as well as concern on allegations that visits to places of deprivation of liberty by the NCHR are often denied and, when granted, are prearranged, and do not allow for unhindered access or confidential interviews with detainees. These concerns were also shared by the Committee against Torture in 2023 (CAT/C/EGY/Q/5/Add.1) and the Universal Periodic Review of Egypt (A/HRC/36/12) in 2017.

In light of the NCHR's press releases and reports on its visits to detention centres, it is clear that the institution does not enjoy the necessary guarantees to fulfil its mandate in accordance with the Paris Principles.

2.2.1 *Absence of independence in monitoring places of deprivation of liberty*

As reported by the SCA in its September-October 2023 report, the “NCHR reported that it regularly conducts announced visits places of detention and stated that these visits were facilitated by the Minister of Interior who helps them in accessing detainees records as well as providing immediate relief to detainees that may be required. The NCHR indicated that it has conducted 15 visits since the beginning of 2023 while there are more than 150 places of deprivation of liberty across the country”.

However, the SCA declared that it has not received substantive evidence of actions and follow-up by the NCHR regarding human rights violations in these facilities.

The NCHR described its visits to detention centres and issued recommendations in its 2020-2023 annual Report. However, the findings and recommendations of the NCHR are quite concerning for an NHRI with an A status. Its states under its section on “Second Pillar: Visits to prisons and rehabilitation centres” that:

*“NCHR continues its diligent commitment to monitor prison conditions and the application of relevant legal provisions. It **collaborated with the Ministry of Interior to organize visits** to various prisons during 2022 and 2021, notably after the gradual easing of COVID-19 pandemic restrictions. (...)*

The Council's delegations in 2021 primarily focused on assessing the evolution in the philosophy and conditions of detention centres and reform and rehabilitation facilities. Special attention was

given to healthcare services, aligning with governmental efforts to enhance economic, social, and cultural rights.” (...)

“Fourteen visits conducted by the council's delegations encompassed inspections of various facilities, including hospitals, mosques, church halls, conference halls, libraries, kitchens, bakeries, educational and recreational service buildings, workshop areas, and construction projects. Extensive discussions took place with Ministry of Interior officials and rehabilitation centre personnel to assess the status of complaints received from centre inmates. In light of these visits, the council makes the following observations:

Developed rehabilitation centres, exemplified by Wadi Natrun and Badr centres, set a benchmark for Egypt's penal institutions. They boast the necessary infrastructure for law enforcement agencies to implement prisoner treatment protocols, respect inmates' rights, and consider the well-being of their families and visitors. This includes areas for visitor entry, visiting halls, accommodation units, health and rehabilitation facilities, and dining facilities. The centres also demonstrate respect for inmates' rights and dignity in their operations, with excellent facilities aimed at prisoner rehabilitation and reintegration into society through, mental health care, professional training institutions and productive projects. (...)

The council emphasizes the need to expedite the Ministry of Interior's ambitious plan to replace old prisons with advanced rehabilitation centres like Wadi Natrun and Badr centers. The council appreciates the ministry's efforts to accelerate this plan, with three major centers completed and set to join Wadi Natrun and Badr centers. This will significantly reduce complaints related to prisoners' living conditions and fulfill a commitment outlined in the National Human Rights Strategy.

The council commends the Ministry of Interior for completing the vaccination of 100% of prisoners and detention centers with the specified doses to combat the Coronavirus, with the administration of booster doses to some prisoners”¹²

The NCHR has not made any reference to violations occurring in these facilities and that have been documented to the UN human rights mechanisms including the CAT which stated in its latest concluding observation on Egypt that:

While acknowledging the steps taken by the State party to improve conditions in places of detention, such as the closure of substandard detention centres and the construction of additional detention facilities, the Committee remains concerned at reports indicating overcrowding and poor material conditions of detention in places of deprivation of liberty, such as the Badr Rehabilitation and Correctional Centre, in particular insalubrity and inadequate hygiene, lack of ventilation, the poor quality and insufficient quantity of the food and water provided, and limited recreational and educational activities to foster rehabilitation. (...)

Furthermore, the Committee is concerned about allegations of violent acts committed by prison staff against detainees and reports indicating that detainees held for political reasons are frequently subjected to particularly harsh conditions, including extended periods of solitary confinement. Lastly, it is concerned that the suspension of all in-person visits, which was enforced in the context of the COVID-19 pandemic, has not yet been lifted in a number of places of detention (arts. 2, 11 and 16).¹³

¹² NCHR 2020-2023 Annual Report, op.cit., p.90

¹³ CAT/C/EGY/CO/5, op.cit. para 21

It was concerned at reports that detainees often do not lodge complaints owing to their fear of retaliation and, in cases where such complaints are lodged, the information on investigations carried out and their outcome is lacking. It is also concerned that there is still no specific, independent, effective and confidential mechanism for the receipt of complaints of torture or ill-treatment in all places of deprivation of liberty and that existing investigation bodies at times lack the necessary independence, as they belong to the same structure that employs the alleged perpetrators (arts. 2, 11–13 and 16).¹⁴

Further examples show this lack of independence of the NCHR in carrying out its visits. On 15 August 2023, the NCHR published a press release¹⁵ describing its visit of the Correction and Rehabilitation Centre in 10th of Ramadan featuring sanitized pictures of the detention centre and affirming the following:

NCHR indicates that it is reassured by the level and nature of the equipment of the Correction and Rehabilitation Center in the Tenth of Ramadan, and their suitability to the rights of inmates, both male and female. NCHR also appreciates what it saw during its inspections of the inmates' wards and attached facilities, and the members' direct conversation with them in an in-depth and individual manner, including not using any means of surveillance inside the cells that are inconsistent with the privacy of women, NCHR verified that no cameras or photographic equipment were used inside the wards, as well as the NCHR's appreciation for the quality of the center's medical, food, rehabilitation and recreational services, and the positive impressions and evaluation of the male and female inmates whom the NCHR members met regarding the treatment and practices of the center's officers and officials.

It is worth noting that at the same time, former NCHR member and human rights defender Hoda Abdelmoniem was detained in the facility, denied adequate medical care and denied confidential and regular visits from her family and lawyer. The prison authorities also banned the lawyer's family from visiting her without giving any reason.¹⁶

Furthermore, according to Amnesty's 2023 report on Egypt:

"Prisoners continued to be held in conditions violating the absolute prohibition of torture and other ill-treatment, including through deliberate denial of healthcare, prolonged solitary confinement, bombardment with bright lights, camera surveillance around the clock, and denial of family visits.⁴ Dozens of prisoners held in the Badr prison complex in Cairo governorate and the 10th of Ramadan prison in Sharqia governorate, to which hundreds of political prisoners were transferred from mid-2022 and mid-2023, respectively, staged hunger strikes in protest at detention conditions".¹⁷

These issues were also raised by Human Rights Watch in its report to the CAT in the following terms:

¹⁴ CAT/C/EGY/CO/5, op.cit. para 35

¹⁵ "The National Council for Human visits the Correction and Rehabilitation Center in 10th of Ramadan", op.cit.,

¹⁶ Seventh UA: 190/18 Index: MDE 12/7035/2023 Egypt Date: 21 July 2023, urgent action, unjustly jailed lawyer denied healthcare

¹⁷ Amnesty International, Annual Report 2023, Egypt, <https://www.amnesty.org/en/location/middle-east-and-north-africa/north-africa/egypt/report-egypt/>

The government-appointed National Council for Human Rights can visit prisons but only after requesting such visits and coordinating them in advance with the Interior Ministry, which has the power to grant or deny the visit permission. Such visits are far from adequate since they are pre-coordinated. In addition, inmates during these visits usually have no way of communicating their complaints confidentially to members of the council, who are usually accompanied by security officers.¹⁸

Once again, the blatant discrepancy between reports from detainees' families and international human rights organisations highlights the lack of independence of the NCHR in one of its most important functions, visiting prisons. As highlighted in our previous report, such press releases from the NCHR appear to merely gloss over credible allegations of serious and systematic human rights violations in detention.

2.2.2 Absence of advocacy for an explicit mandate to conduct unannounced visits and active collaboration with the prison administration

In its September-October 2023 report, the SCA highlighted that:

“In fulfilling its protection mandate, the NCHR is encouraged to address and seek to prevent actual human rights violations. Such functions include monitoring, inquiring, investigating and reporting on human rights violations, and may include individual complaint handling. Therefore, the SCA encourages the NCHR to continue to advocate for the explicit mandate to conduct unannounced visits to all places of detention”.

The SCA recalled that an NHRI's mandate should authorize unannounced and free access to inspect and examine any public premises, documents, equipment, and assets without prior written notice.

Concerns were raised by the CAT in its concluding observations dated 12 December 2023, after the review of the NCHR by the SCA:

“[a]bout the lack of information on any unannounced visits to places of deprivation of liberty by independent mechanisms and on the measures taken to implement the recommendations put forward by monitoring bodies. It also notes with concern that, as the mandate of the Council does not allow it to conduct unannounced visits to places of deprivation of liberty, its visits are allegedly prearranged and do not allow for unhindered access or confidential interviews with detainees (arts. 2, 11 and 16)”.

The CAT recommended that the authorities “ensure that monitoring bodies with a mandate to visit places of deprivation of liberty, including the National Council for Human Rights, are

¹⁸ Human Rights Watch Submission to the Committee Against Torture (CAT) in Advance of Its Review of the State of Egypt, 78th session, October 30- November 24, 2023, https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=INT%2FCAT%2FCSS%2FEGY%2F56384&Lang=en

*able to carry out regular, independent and unannounced visits to all civilian and military places of deprivation of liberty in the country and to speak confidentially to all detained persons”.*¹⁹

The CAT did not consider the NCHR as a sufficient mechanism “to ensure an effective independent national system to monitor and inspect all places of deprivation of liberty” by calling on the authorities to establish such a mechanism.²⁰

However, the NCHR did not follow the recommendation of the SCA and the CAT by failing to advocate for the possibility of carrying out such unannounced visits. Rather, press releases on visits to places of deprivation of liberty use the same laudatory approach towards the authorities, praising them for their efforts.

From their replies to the CAT's list of issues, it appears that the Egyptian authorities are not considering amending the law establishing the National Council for Human Rights to allow such unannounced visits.²¹

2.3 Independence

The SCA also noted in its report that a fundamental requirement of the Paris Principles is that an NHRI “is, and is perceived to be, and able to operate independent of government interference”, recalling that the Paris Principles require an NHRI to be independent from government in its structure, composition, decision-making and method of operation. (Principles A1, A2, and A3 and its General Observation 1.2 on ‘Human rights mandate’.)

2.3.1 Lack of independence of NCHR’s members

In its September-October 2023 report, the SCA noted that the NCHR was “made up of political representatives and members of political parties who are part of its decision-making body”. It also raised its concern over third-party submissions highlighting that “the NCHR members are politically aligned and lack independence citing as example the Vice President who serves as campaign manager for the presidential election”.

The SCA recalled that “government representatives and members of Parliament should neither be members of, nor participate in, the decision-making of organs of an NHRI”.

¹⁹ Committee against Torture, Concluding observations on the fifth periodic report of Egypt, CAT/C/EGY/CO/5, 12 December 202, para 24.

²⁰ *Ibidem*.

²¹ Committee against Torture, Replies of Egypt to the list of issues in relation to its fifth periodic report, CAT/C/EGY/RQ/5, 20 September 2023, para 30.

According to the NCHR's explanation, "the presence of politicians within the decision-making body of the NHRI is a demonstration of the pluralistic representation of the Egyptian society within the NCHR. The NCHR also reports that it has always acted in an independent manner".

However, it is clear from the content of the press releases and reports that the members are politically aligned with the government and the majority of the parliament - which is also politically aligned with the government.

It is worth recalling that major international and Egyptian independent human rights organisations have described the NCHR as one of the "state-controlled human rights agencies" created by the executive to "cover up" human rights violations.²²

This lack of structural independence from the government can be seen in public statements praising the president and government bodies, and in political positions that clearly side with the current government, which resulted from the military takeover of June and July 2013.

On July 1st, 2023, the National Council for Human Rights published a press release titled "The June 30 Revolution is a "major historical turning point" that provided lessons in upholding the national interest, coexistence and equality".

The communication refers to the military takeover of June/July 2013 which saw the military seize governmental authority, which remain up until today in the hands of President Marshall Al Sissi.

The NCHR expressed "sincere congratulations to the Egyptian people on the occasion of the tenth anniversary of the June 30 revolution, in which the masses of Egyptians came out to express their rejection of the policies of a group aimed at establishing a state that is not based on law, and discriminates between citizens in favour of a specific faction, which threatened the country with deep divisions and its slide into the dark ages", the statement referring to the ousting of an elected government after the Muslim brotherhood won the elections.

This kind of statement is problematic from both a human rights and a political point of view.

From a human rights perspective, it seems highly inappropriate for a human rights institution to congratulate Egypt on a situation described by the European Parliament in the following terms:

²² Civil Society Joint Alternative Report on Egypt, Submitted to the Committee against Torture, 78th CAT Session (30 October- 24 November 2023), Submitted on 02 October 2023, Joint submission by REDRESS, the Egyptian Initiative for Personal Rights (EIPR), the Egyptian Commission for Rights and Freedoms (ECRF), Dignity, Committee for Justice (CFJ) and the International Commission of Jurists (ICJ), p. 11, https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=INT%2FCAT%2FCSS%2FEGY%2F56389&Lang=en

*I. whereas the counter-terrorism legislation introduced under the rule of President al-Sisi is criticised by many human rights organisations for giving the authorities a dangerously large scope of interpretation and being misused to silence human rights defenders, their lawyers, activists and members of the opposition; whereas suspects in terror cases often do not receive fair trials, as they are referred directly to military courts; whereas according to Human Rights Watch, since the 2013 military coup, the Egyptian authorities have put around 3 000 people on terrorist lists, sentenced 3 000 people to death, and put 60 000 people in detention;*²³

From a political point of view, this unnecessary statement only highlights the clear bias on the part of the NCHR in favour of the military-led government, which has been imposing a severe crackdown on its political opponents of all ideologies, leading to the arbitrary detention of a record number of Egyptian citizens on the simple suspicion of real or perceived sympathy or affiliation with the Muslim brotherhood.

All in all, the victims of the crackdown are precisely those who need an NHRI with a reputation for exemplary impartiality, making itself available to all victims of human rights violations, regardless of their real or perceived political opinions.

Under such conditions, the NCHR cannot meet the SCA's demands that it must address all human rights violations and ensure effective follow-up so that the state makes the necessary changes to ensure that human rights are clearly protected.

It is also illusory in such a configuration that the NCHR would ensure that critical positions on these issues are made public, leaving little to no hope for improvement in strengthening the institution's credibility and accessibility to all people in Egypt.

2.3.2 Absence of an independent strategy and method of operation

In its September-October 2023 report the SCA underlined that to be considered independent an NHRI must be constituted and empowered to consider and determine the strategic priorities and activities of the NHRI based solely on its determination of the human rights priorities in the country, free from political interference.

However, the NCHR still interprets its role, mission and strategy as an integral part of the “National Human Rights Strategy” set by the President Marshall Al-Sissi. For example, in its 2020-2023 annual report, the NCHR clearly states that its plan’s general trends 2022-2025 is “aimed at supporting the National Human Rights Strategy”.²⁴

We recall that major NGOs such as Amnesty and Human Rights Watch have highlighted that Egypt’s National Human Rights Strategy (NHRS) “presents a deeply misleading and at times

²³ European Parliament resolution of 18 December 2020 on the deteriorating situation of human rights in Egypt, in particular the case of the activists of the Egyptian Initiative for Personal Rights (EIPR) (2020/2912(RSP)), 18 December 2020, https://www.europarl.europa.eu/doceo/document/TA-9-2020-0384_EN.html

²⁴ NCHR 2020-2023 Annual Report, op.cit., p. 138.

outright false picture of the human rights situation in Egypt”²⁵. More importantly, the drafting of the NHRS was done by a state institution and was characterised by the “exclusion of independent human rights NGOs from the process of developing the strategy, which lacked transparency and was carried out without meaningful public or civil society engagement”.²⁶

The many examples cited in our June 2023 report (attached), and the additional ones included in this report, show that the NCHR maintains this lack of critical distance from the government, going so far as to blindly support President Marshall Al Sissi's NHRS policy.

The NCHR still does not distance itself from the government, its narrative in the human rights situation in the country and the NHRS. In such a context, there can be no genuine impartiality, independence and effectiveness of the NCHR in implementing its mandate to protect human rights.

2.3.3 Absence of independent and effective reporting

In its September-October 2023 Report, the SCA highlighted that “in fulfilling its protection mandate, an NHRI must not only monitor, investigate, and report on the human rights situation in the country, it should also undertake rigorous and systematic follow-up activities to promote and advocate for the implementation of its recommendations and findings, and the protection of those whose rights were found to be violated”.

In October 2023, the NCHR submitted its shadow report to the CAT on the occasion of the submission of the fifth periodic report by the Egyptian State.²⁷ The content of the report shows that the NCHR reports as if it were a state agency and not an independent NHRI. The following illustrative statements can be found in the report:

“10.: NCHR’s efforts to combat torture.

10/a- Since its inception in 2004, the National Council for Human Rights in Egypt has demonstrated a steadfast commitment to promote human rights standards and support state commitment to honour its obligation under human rights instruments. NCHR also monitors the implementation by the state of its commitment under such instruments including the harmonization of national legislation with international human rights standards. Egypt’s

²⁵ Amnesty International, “Disconnected from reality”: Egypt’s National Human Rights Strategy covers up human rights crisis, September 21, 2022, <https://www.amnesty.org/en/documents/mde12/6014/2022/en/>, p. 3.

²⁶ *Ibidem*.

²⁷ Shadow report Submitted by The National Council for Human Rights in Egypt on the human rights situation with regard to the implementation of the Convention against Torture and All Cruel, Inhuman or Degrading Treatment or Punishment, CAT. on the occasion of the submission by the Egyptian state of its fifth periodic report due in 2004 and submitted in September 2021. CAT/C/EGY/.Info from NHRIs (for the session) National Council for Human Rights, 02 Oct 2023, online: https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=INT%2FCAT%2FNHS%2FEGY%2F56398&Lang=en

ratification of CAT signals a responsibility of diligently adhering to its commitment under the Convention”.

The NCHR also praised itself in organising workshops including a 2008 workshop gathering government officials with the following title “Mitigating Torture within the Context of Counter-Terrorism Policies”.

The NCHR referred to a conference co-organised with an NGO called the "Arab Organisation for Human Rights", which aimed to review Egypt’s criminal Code, especially provisions related to tortures a crime in the Egyptian legal system”. The "Arab Organisation for Human Rights" is an organisation set up in Cairo under an agreement signed with the Egyptian Ministry of Foreign Affairs and is equally laudatory of the Egyptian government's actions. The Arab Organization for Human Rights” is an organization established in Cairo under an agreement signed with the Egyptian Foreign Ministry²⁸, and also praises the Egyptian government's actions in the field of human rights.²⁹

The NCHR's shadow report to CAT also consists of a series of laudatory affirmations of positive steps taken by the NCHR to address or, as the report puts it, 'mitigate' torture and ill-treatment in detention. A cursory reading of the report, together with the contributions of independent civil society organisations, suffices to conclude that the NCHR does not report on the same violations with the necessary objectivity.

While it refers to the mechanisms put in place and the "high standards of work" in dealing with such complaints, it does not provide statistics or information on the nature of the complaints received and the steps taken with the government to ensure that victims receive adequate redress.

As in other reports, the NCHR reiterates in its report to the CAT that its work is included in the implementation of Egypt's first National Human Rights Strategy, launched by President Marshal Al Sissi in September 2021. This confirms the SCA's concern that the NCHR is unable or unwilling to identify its own key issues and agenda in carrying out its mandate. Rather, it is clearly subservient to the executive's strategy and agenda in carrying out its work.

More importantly, the report makes no reference to the inquiry procedure under Article 20 of the Convention, following which the CAT experts concluded that "torture is a systematic

²⁸ <https://aohr.net/en/about-us/>

²⁹ Intervention Mr. Alaa Shalaby President – Arab Organization for Human Rights (AOHR) Egypt’s National Strategy for Human Rights .. A Significant Milestone <https://aohr.net/en/2022/02/24/intervention-mr-alaa-shalaby-president-arab-organization-for-human-rights-aohr-egypts-national-strategy-for-human-rights-a-significant-milestone/>

practice in Egypt" and made several recommendations, all of which were rejected by the state.³⁰

It is highly problematic for the credibility of the SCA's notation system that such an institution would highlight in every report it produces that it has been granted A status by GANHRI, while at the same time aligning itself with the programmes and work of a government that still refuses to cooperate in good faith with the UN human rights mechanisms and is listed as having targeted those who cooperate with the UN human rights mechanisms with severe reprisals.³¹

Furthermore, under the title "18. Monitoring the State's Efforts to Combat the Crime of Torture", the NCHR's shadow report to CAT did not provide any information on the State's efforts to combat the crime of torture, but instead praised the Ministry of Interior and the Public Prosecutor's Office.

It described several measures taken by government bodies which were presented as positive executive actions, including the prolonged suspension of prisoner visits during the COVID-19 crisis to "ensure the welfare of prisoners". This somewhat bizarre description of technical measures under such a title, which only testifies to the Prison Administration's violations of prisoners' visiting rights in the pretext of COVID-19, only serves to underline the NCHR's apparent lack of independence and autonomy from the executive.

In sum, it seems that the NCHR organises many seminars but cannot provide any information on the steps taken to address the most serious human rights violations in a context where independent human rights experts have all highlighted the gravity and extent of the practice of torture and arbitrary detention in the country.

2.3.4 Perception of the NCHR as a governmental body

In its September-October 2023 report, the SCA noted "that a fundamental requirement of the Paris Principles is that an NHRI is, and is perceived to be, and able to operate independent of government interference".

³⁰ Conclusions of the Committee against torture on the practice of torture in Egypt – Article 20 procedure (2017), available at: http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=A%2f72%2f44&Lang=en.

³¹ A/HRC/54/61 Human Rights Council, Fifty-fourth session, 11 September–6 October 2023 Annual report of the United Nations High Commissioner for Human Rights and reports of the Office of the High Commissioner and the Secretary-General Human rights bodies and mechanisms Cooperation with the United Nations, its representatives and mechanisms in the field of human rights, Report of the Secretary-General*, ** A/HRC/54/61, 21 August 2023

In the present case, the perception of the NCHR as a government-affiliated body is not only the perception of independent civil society, but also seems to be the perception that the government has of the NCHR and that the NCHR has of itself.

As an illustrative example, during the interactive dialogue between the Egyptian delegation and the CAT experts on 15 November 2002, the Egyptian representative stated, regarding governmental strategies to combat human trafficking, that it had established a ministerial committee consisting of “30 members, who represented various government bodies, including the National Council for Human Rights”.³²

NHRIs are expected to promote and ensure respect for all human rights, democratic principles, and the strengthening of the rule of law in all circumstances, and without exception.

However, the NCHR website’s is filled with press releases praising the executive authorities over their commitment to human rights in all fields. For example, on 28 May 2024, the NCHR published a press release titled: “Mushira Khattab: The Public Prosecution is one of the most important guarantor authorities for the promotion and protection of human rights”.³³

With no critical appraisal whatsoever of the systematic violations of fundamental guarantees highlighted by UN independent experts, the head of the NCHR stated:

“Khattab praised the institutional cooperation between the Council, the Ministry of Justice, the Public Prosecution, the Human Rights, Women and Children Sector at the Ministry of Justice in implementing a series of these workshops that contribute to the protection, dissemination, promotion and implementation of human rights”.

2.3.5 *Effects of the absence of both real and perceived independence on the rights of victims of violations*

In its Annual Report 2020-2023, the NCHR reiterates its findings regarding the enforced disappearance and death in custody of Dr Ayman Hedhoud. The NCHR merely endorsed the prosecution's findings that the cause of death was not due to violence inflicted in custody by state agents. The NCHR did not question the investigation process, particularly its lack of independence from the executive, while the UN mandate holders expressed concern about the 'failure to adequately investigate the causes and circumstances of this death in accordance with applicable international standards'.

No mention was ever made of the UN experts' communication on the case or the fact that the experts were "alarmed by the 56 reported cases of deaths in custody in circumstances

³² Committee against Torture, seventy-eighth session, Summary record of the 2059th meeting, Held at the Palais Wilson, Geneva, on Wednesday, 15 November 2023, at 3 p.m. CAT/C/SR.2059, 28 November 2023

³³ In Arabic only: <https://nchr.eg/ar/news-details/1167>

allegedly similar to those of Mr Hedhoud, in which the State authorities appear to have systematically failed to conduct effective investigations".

3 CONCLUSION AND RECOMMENDATIONS

3.1 Conclusions to the SCA

In its September-October 2023 report the SCA urged the NCHR "to strengthen its efforts to address all human rights violations. The SCA further urges the NCHR to ensure that its positions on these issues are publicly made available, as this will contribute to the credibility and accessibility of the institution for all people in Egypt".

Since then, it does not appear that the Egyptian authorities have addressed the issues raised in the 2023 review. There remains a clear problem of lack of independence and effectiveness, which severely hampers the NCHR's ability to address, report and monitor human rights violations in a manner fully consistent with the Paris Principles.

The lack of independence remains evident on the NCHR's website. The latter consists mainly of press releases documenting the activities of its president, Ambassador Mushira Khatab, with laudatory statements about the institution's cooperation with state security agencies and praising the latter's efforts to promote human rights.

The NCHR appears to describe an alternative reality to that documented by independent Egyptian and international human rights NGOs and UN independent experts. This is deeply troubling for an institution that systematically praises itself with an A-status and the independence and effectiveness associated with it.

We cannot stress this enough: the NCHR and the State of Egypt have repeatedly praised the NCHR for its A status, whilst commending the government for a sterling human rights record. This can only serve to undermine the credibility of GANHRI and its accreditation process, and any programmes based on such an assessment, including participating in the UN Periodic Review on an equal footing with independent Human Rights NGOs.

As such, the content of the NHRC's reports to the UN human rights mechanisms, and in itself, testifies to the danger of granting an A status to an NHRC that is not effectively independent and impartial.

The work of the NHRC, as exemplified in its public statements and reports to UN human rights mechanisms, clearly demonstrates that the institution has become a "showcase" for a government PR campaign rather than an impartial and independent human rights institution. We stress that, as with any independent institution, the appearance of impartiality is crucial to the effective independence of any state body.

Re-granting an A status to what is today in effect, a body that engages in state-sanctioned propaganda, as documented by all major independent international and Egyptian civil society organisations, would be effectively condoning such practices on the part of the SCA. This would have a major impact on the SCA's credibility with Egyptian and international human rights and civil society organisations.

As noted by the GANHRI, “[e]ffective NHRIs are an important link between government and civil society, in so far as they help bridge the 'protection gap' between the rights of individuals and the responsibilities of the State”.³⁴

NHRIs must carry out their work independently from the government to ensure they have the freedom to report on serious human rights abuses and to take steps to hold the government accountable.

It is against this background that we submit to you that the NCHR currently falls far short of the criteria of autonomy and independence required for an NHRI to be fully compliant with the Paris Principles. In the context of what has been described as an "unprecedented human rights crisis" in the country, we believe that allowing the NCHR to retain its A status would be a great disservice to the people of Egypt and would undermine the credibility of the SCA's review process.

The NCHR has not been able to uphold to its role of promotion and protection of human rights. Its lack of independence from the executive and henceforth the legislative, its limited mandate made it an inefficient body and, in any case, a body that does not meet the requirements set out in the Paris Principles.

Furthermore, the lack of independence and autonomy from the executive as well as different governmental bodies – including the political majority on the Parliament – has direct consequences on the perception of the NHRC has a biased institution in favour of the executive and the ruling party. It is concerning that in this context of defiance from a large part of civil society and families of victims, members of the NHRI make public statements criticising reports from international NGOs and treaty bodies highlighting the systematic practice of torture by security services.

Last but not least, we emphasise that, in these circumstances, maintaining an A status for the NCHR would give international stakeholders unfamiliar with Egypt's political and institutional landscape the false impression that it is truly independent. Stakeholders would be able to adapt their approach when engaging with the NCHR more effectively if it was given an appropriate grade that better reflects reality.

³⁴ GANHRI, “Roles and types of NHRIs”, <https://nhri.ohchr.org/EN/AboutUs/Pages/RolesTypesNHRIs.aspx> ,

In light of the above, we consider that the NHRC does not comply with the necessary requirement in order to be granted with a status A and should instead be granted status B until the above-mentioned serious shortcoming are effectively addressed.

3.2 Recommendations to the National Council for Human Rights

In order to ensure its complete conformity with the Paris Principles, the NCHR should seek its effective and practical independence from any governmental, legislative and judicial interference and uphold its mandate in order to effectively promote and protect human rights in Egypt. In addition to our observations listed throughout this report, we thus recommend the NCHR to:

- Advocate for the adoption of a new enabling law in line with the Paris Principles and in particular that would guarantee a transparent, pluralist and participatory selection and appointment process of its members; to increase the term of office of its members and guarantee the security of their tenure.
- Increase its activities of commenting on draft legislation and propose new human rights-oriented laws and programs.
- Strengthen its collaboration with civil society as well as with international bodies, in particular UN Special Procedures and Treaty Bodies.
- Advocate for the submission of Egypt's overdue periodic reports to the UN Treaty Bodies and submit its own individual reports when applicable.
- Effectively monitor the human rights situation and follow-up on recommendations made to authorities.
- Be empowered to carry unannounced visits to all places of deprivation of liberty without any interference whatsoever; to submit complaints before courts and to seek enforcement of their decisions.
- Be provided with the possibility of compelling witnesses under protection measures to avoid retaliation measures; to obtain all documents required to conduct its investigations effectively.
- Effectively answer and act upon complaints submitted by victims and their relatives and follow-up on their situation until they obtain remedies and, when applicable, compensation.

- Be empowered to commence independent inquiries and to publish the outcomes of these investigations.
- **And, above all, to maintain a critical distance from the government and its NHRS in order to ensure that it follows its own priorities, which are determined solely by the reality of the human rights situation in the country, without any discrimination or bias.**

Attached:

- Alkarama, “Egypt: National Council for Human Rights, Egypt’s national human rights institution before the Global Alliance of NHRIs”, Report of 1 June 2023