



**Officially Documented**

**Manual on documenting human rights violations from official case documents**

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**Manual on  
documenting human  
rights violations  
from official case  
documents**



**EGYPTIAN FRONT  
FOR HUMAN RIGHTS**

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official case documents

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## Introduction

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This manual presents documentation methodology of violations of the rights of the accused through analyzing official documents of cases pending before Egyptian courts. It intends to monitor and analyze arbitrary measures and violations committed against the accused, especially in political cases, by judicial authorities and law enforcement personnel. Such measures violate rights guaranteed by the Constitution and International Conventions from the moment of arrest, through the process of investigation and trial, and until the accused is sentenced, after all litigation procedures established by Egyptian law are exhausted..

This documentation is important amid hardships that bodies and rights organizations face in absence of documents supporting the testimonies of victims and their families on violations committed against them. This makes it difficult to determine the responsibility of institutions and individuals involved as well as to accurately detect the imbalance in the judicial system during this period.

The closest example to this is what Truth and Dignity Commission in Tunisia faced in its mission to expose human rights violations and to hold officials accountable during the period from 1955 to 2013

The statement of the Commission head, Siham bin Sidrin, reveals that institutions such as the Military Court stalled in providing the Commission with documents that include testimonies of victims and merits of the cases and hence negatively impacting the work of the Commission.

The most important objective of this documentation is to monitor human rights violations included in the official case documents, written in a legal abstract form, and represent data that can be analyzed and statistically represented in order to reach conclusions and recommendations regarding the case, Advocacy tools can then be used to shed light on patterns of violations committed against the accused. This will encourage Rights researchers and lawyers to collect and keep documents of cases pending before different Egyptian courts which will benefit researchers who analyze violations contained therein as well as preserve the rights of the victims.

This type of documentation collects and documents testimonies of the victims themselves on violations committed against them from the moment of arrest. It analyzes their testimonies provided in the prosecution investigations or the court records, which were found to differ from the testimonies provided by the victims' families and lawyers.

This type of documentation makes it difficult to refute testimonies of human rights violations or claim it as false since it is based on statements and reports proved in prosecution or court official records during investigations and trial. Thorough analysis of the case documents reduces chances of accusations of selectivity and provides deeper and more general view on the ill-treatment of the accused in specific cases where they face arbitrary practices and accusations by the investigating authorities and law enforcement officials.

This guide primarily targets researchers, lawyers and law students interested in documenting and monitoring human rights violations committed against the accused in cases pending before Egyptian courts.

It also targets activists in advocacy campaigns and organizations working on documentation, memory preservation, and justice for victims of human rights violations.

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## **First: How to understand the case?**

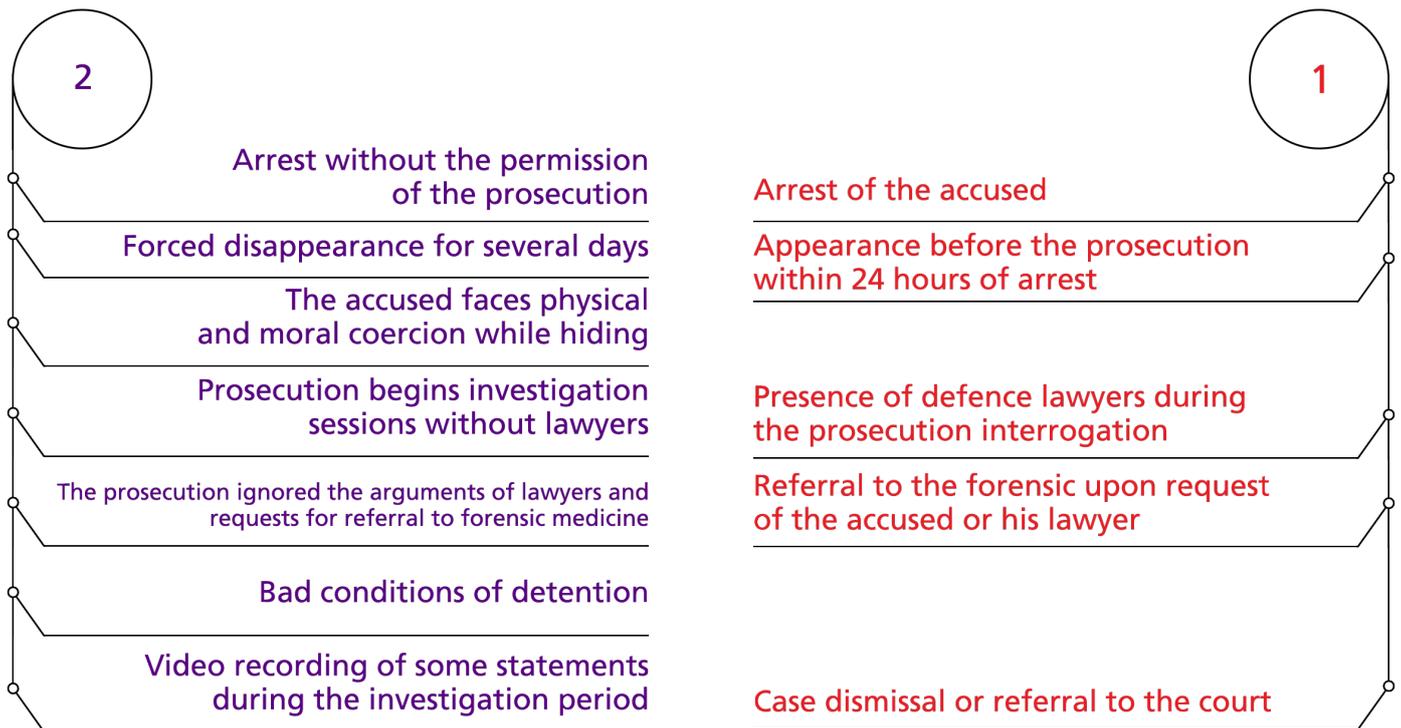
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### **1. The way through the case and violations associated with it**

According to the Code of Criminal Procedure, The litigation process hypothetically begins from the time of the arrest by the police forces, after issuing an arrest report describing the means through which the arrest took place, the persons performing it, and the timing in which it happened. The police forces detain the accused until he is brought before the Public Prosecution for investigation within 24 hours of arrest, as specified in Article 54 of the Constitution and Article 36 of the Code of Criminal Procedure.

The prosecution proceeds with the investigation proceedings with the accused, asking and confronting him with the accusations brought against him and the evidence on which these accusations are based, all in the presence of his lawyer and legal representatives. Based on the case in question, the Public Prosecution issues its decision regarding the accused immediately after the investigation, whether by releasing him or keeping him in detention until the investigation procedures are finalized or until the pre-trial detention period specified by law is exhausted. Investigations might be intervened by referring the accused to forensics, upon his or his lawyer's request, or if the prosecution decides to do so after visually examining him. Finally, the Public Prosecution must decide on the case either by referral to the competent court or dismissal for lack of evidence or for futility of proceeding with the criminal procedure. After referral to the competent court, the case enters a completely new stage, where the defense deals with the case and the court simultaneously to refute the accusations brought against the accused. Here the defense devotes careful attention to the rights of the accused, which should in turn be taken in consideration by the court. He shall request access to the case documents, submit requests regarding witnesses, then present his defense, and eventually the court pleads the accused innocent/guilty. The law specifies methods and procedures to appeal court decisions, including which the defense presents an appeal memorandum before the competent court within a legally specified time frame.

In reality, the accused experiences a series of violations throughout this whole process, which were found to be frequent in many cases, suggesting that these violations constitute a solid pattern in criminal procedures in Egypt. The accused gets arrested without a prosecution order or arrest warrant then gets subjected to enforced disappearance for several days, during which he is tortured with the aim of forcing him to confess certain statements, until he is brought before the prosecution. The Prosecutor might proceed with investigations without lawyers being present, and more often ignores the lawyers requests, if any, regarding the invalidity of the arrest and the obtained confessions or requests of referral to forensics. During investigations the accused are detained in inhumane conditions and their confessions are sometimes video recorded and published by the Ministry of Interior, with disregard to the rights of the accused and the legal rules. After the case is referred to the court, the court bases its decision on investigations conducted by security bodies, where the sources are most often anonymized



## 2. An overview on the sections and content of official case documents

The official documents of the case have a large number of components, important among them are:

- Arrest reports: contains the date, place, and conditions of arrest, data about the arrest authority and the name of the officer responsible for the arrest.
- Indictment/Referral Decision: contains the facts of the case, the indictment law articles, names of all the accused and their data, and the evidence of the accusations.
- Investigation report: contains the charges and facts attributed to the accused in the case from the perspective of the security agencies.
- Prosecution investigations: contain confrontation of the accused, visual examination, statements of accused about violations, and the defense lawyers requests and the prosecution's response to such requests
- Trial session records: contain trial proceedings, statements of witnesses, and the defense and accused requests and the court's response to such requests
- Court rules: The preliminary Judgments contains the names of the accused, the case facts, and the court's responses to the arguments of the defense. Here the court reveals its reliance on investigations conducted by the National Security. Eventually the court declares its decision of guilt/innocence,
- Defense arguments: contains the arguments of the defense lawyers regarding the factual errors in the case and the violations their clients experienced.

### **3. Tasks of the researcher conducting this type of documentation**

1- Ensure that the legal proceedings and the exposure of the accused in the case comply with international covenants and conventions (e.g. the Convention against Torture, the Convention for the Protection of All Persons from Enforced Disappearance, The principles of the protection of all persons subjected to any form of detention or imprisonment, and the Nelson Mandela Rules on the Treatment of Prisoners) and ensure adherence to the constitution and laws (e.g. the Code of Criminal Procedure and Penal Code).

2- Monitor the violations of the rights of the accused, including enforced disappearance, physical and mental coercion, stalling in referral to forensics, absence of lawyers during the investigation period, inhumane places of detention, and violation of the accused's right to a fair trials consistent with fair trial principles.

3- The documentation process should rely on several sources - the statements of the accused and witnesses of testimonies as well as the violations claimed by the defense or the prosecution.

4- Documentation of evidence proving violations of the accused's rights, substantiated in the forensics reports or during pre-trial or court investigations

5- Shedding light on the identity of the perpetrators committing the violations, whether they are arrestees or investigating authorities, or rather court judges.

6- Analysis of the patterns of violations against the accused and its build-up since the moment of arrest, and balancing those violations in relation to the charges against the accused.

7- Ensuring that all available case documents are analyzed to reach a general conclusion about the course of this case and the violations it unfolds, and any relevant grounds for advocacy campaigns.

### **4. Challenges posed by this type of documentation**

First: Difficulty of obtaining case documents

- It's difficult to obtain case documents as Egyptian courts refuse to submit any case documents to persons other than those involved in the case or their legal representatives, who, in turn, face the same difficulty due to the high cost of photocopying the original documents. Since the methodology advocated in this report is not common, it poses time and effort to reach out to the lawyers or courts to follow-up on the reception of documents, whether electronic or hard copy.

Second: Incompletion of the case documents

- The researcher faces great difficulty in obtaining all case documents for several reasons. To document using case documents, the research team should obtain all case documents, including referral orders, arrest reports, telegraphs sent to the Public Prosecutor, if any, the prosecution's interrogation reports, court sessions reports and the court rule. It's unlikely to find all the documents with one source.

- Third: Difficulty of readings the documents and extracting information,

The poor handwriting poses a difficulty in readings the documents and extracting information because the prosecution's interrogation reports, for instance, are written by the Investigation Secretary manually. The clarity of these documents is of importance as it is through these documents that the researcher can draw patterns of violations stated by the accused and determine the prosecution's response to these violations

- Forth: The methodology should be supported by other means of documentation such as documentation with lawyers or family members of the victims

## Second: Documenting the violations found in official case documents

### 1. Documenting the enforced disappearance

The enforced disappearance is an action taken by the official arrest body when they arrest and interrogate a person before referring him to the prosecutor, without permission or order from the Public Prosecution, followed by a refusal to acknowledge his/her whereabouts. This action was denounced by international agreements notably the International Convention for Protection of all Persons from Enforced Disappearance. Whereas Egypt did not sign this convention, Article 54 of the Egyptian Constitution provided that any detention procedures or arrest shall only be carried out after a judicial order, and the accused shall immediately be allowed to reach out to his relatives and lawyer and to be brought before the prosecution within 24 hours of arrest.

We shall look for especial details for each accused in the case documents in order to prove the enforced disappearance. Such details include:

1. The actual date of arrest mentioned by the accused and the official date of arrest found in the case documents

The enforced disappearance duration could be measured through calculating the time difference between the official date of arrest and the actual date of arrest according to the accused's own statements or the telegraphs sent by the families to report the disappearance, whereas in other cases the disappearance duration might be mentioned by the accused himself.

The special nature of certain geographic areas in Egypt and the difficulty it poses on meeting the condition that the accused shall be brought before the prosecution within 24 hours of arrest should be taken in consideration due to the security conditions that might not allow the transfer of the accused. This is the case in Sinai with its poor security conditions which makes it hard to immediately transfer the accused to the prosecution office located in Ismailia. In such cases, the enforced disappearance period should be calculated with consideration to both the reasonability of the actual difficulties and the length of the duration between the arrest date and the first day of appearance before the prosecution.

2. The actual place of arrest mentioned by the accused and the place of arrest found in the case documents

Here the comparison takes place between the actual place of arrest mentioned by the accused during interrogations or found in the telegraphs sent by the families to report the disappearance, and the official place of arrest mentioned in the arrest warrant issued by the police.

3. The place where the accused disappeared according to his statements

The place in which the accused states that he was subjected to enforced disappearance, which is mostly one of the detention places affiliated with the security or military agencies.

<sup>1</sup> The enforced disappearance according to Article 2, INTERNATIONAL CONVENTION FOR THE PROTECTION OF ALL PERSONS FROM ENFORCED DISAPPEARANCE, is defined as the arrest, detention, abduction or any other form of deprivation of liberty by agents of the State or by persons or groups of persons acting with the authorization, support or acquiescence of the State, followed by a refusal to acknowledge the deprivation of liberty or by concealment of the fate or whereabouts of the disappeared person, which place such a person outside the protection of the law.  
<https://www.ohchr.org/ar/hrbodies/ced/pages/conventionced.aspx>

من هذا لديك نسخة أقول تترجعت عن الإدلاء ببراهين  
 الشرف أمر من جنسك  
 أيوه أنا ما نرا أقول إن أنا ضمنت في أمن الدولة  
 لمدة ١٩ يوم وأن أنا تعرضت لتعذيب هناك  
 وما نرا أقول أن أنا نظري ضعيف وضعيت بشؤون  
 كويتية ونطلب منكم أن تكتبوا تقريراً  
 يثبت الكلام

(Picture No.1 one of the accused's testimony about his enforced disappearance, attorney general assassination case.)

"Q: Do you wish to make any further statements regarding the extension of your arrest order?"

A: Yes, I want to testify that I was in custody in the National Security headquarters for 19 days during which I have been subjected to torture. I want to say that I have a weakened eyesight that prevents me from seeing clearly and I request to submit a document that certifies my claim. "

#### **Model for a database monitoring this violation:**

After collecting the data regarding the enforced disappearance, an electronic database should be established to analyze the violations of the case in question. This database contains the main case facts such as the date and place of arrest, places of disappearance and detention, and the page numbers in which all of this was mentioned, in order to make it easy to recall such information. To make it easier, one column should be specified for documenting the distinction between the actual places of arrest and the official places stated in the arrest warrant. Another column could be added to classify the places of disappearance such as the national security headquarters, police stations, military prisons etc

## officially documented

Name	Arrest order page	Official arrest date	Arrest date according to the accused's confessions	Page of the arrest date according to the accused's confessions	Arrest date according to the families' telegraphs	Place of arrest according to the arrest order	Place of arrest according to the accused's confessions	Duration of disappearance (in days)	Place of disappearance
x	P 76 d 12	04/03/2016	20/02/2016	P 21 d 14		His home		20 days	
x	P 5 d 14	11/03/2016	23/02/2016	P 96 d 17		Tahrir Square	6th of October city	10 days	
x	P 26 d 14	04/03/2016	07/11/2015	P 8 d 19				120 days	
x	P 5 d 18	06/03/2016	20/02/2016	P 38 d 19				19 days	
x	P 18 d 19	09/03/2016	05/03/2016	P 82 d 19				20 days	
x	P 49 d 19	25/03/2016	27/02/2016	P 3 d 20				14 days	
x	P 89 d 19	12/03/2016	19/02/2016	P 38 d 20		10th district – Nasr City	6th of October city	21 days	
x	P 17 d 20	11/03/2016	24/02/2016	P 77 d 20				36 days	
x	P 47 d 20	01/04/2016	26/02/2016	P 17 d 21				25 days	
x	p 68 d 1	24/03/2016	27/02/2016	P 85 d 21				12 days	Nozha Police Station
x	P 23 d 21	11/03/2016	26/03/2016	P 84 d 10		His home		14 days	National security headquarters
x	P 105 d 10	04/03/2016				10th district – Cars Market			

## 2. Documenting the physical and mental coercion

Article 52 of the Egyptian Constitution provides: "Torture in all forms and types is a crime that is not subject to prescription". Article 55 stresses that "Every person who is either arrested, detained, or his freedom is restricted shall be treated in a manner that maintains his dignity. He/she may not be tortured, intimidated, coerced, or physically or morally harmed; and may not be seized or detained except in places designated for that purpose, which shall be adequate on human and health levels. The State shall cater for the needs of people with disability. Violating any of the aforementioned is a crime punished by Law. An accused has the right to remain silent. Every statement proved to be made by a detainee under any of the foregoing actions, or threat thereof, shall be disregarded and not be relied upon".<sup>2</sup>

Therefore, both physical coercion, performed through bodily harm and torture, and mental coercion by threatening and intimidating the accused using his family are considered to be the utmost violation of fair trial guarantees. If the investigation authorities find any indicators that this may have happened to the accused, they shall immediately take serious steps to carry a thorough investigation about these actions and reveal the motivation behind them in order to prosecute those responsible for it, and guarantee the accused's rights.

In order to search for physical and mental coercion in the case documents in question, the researcher needs to examine the case documents thoroughly and search for specific information in the the prosecution's interrogation files with the accused. Chief among them is:

### 1. Quoting the accused's testimony

Writing the testimony in which the accused said during his interrogation sessions that he was subjected to physical or mental coercion for the purpose of getting him to confess.

### 2. Types of physical and mental coercion

Classifying the types of coercion into physical coercion, like beating or electronic shocks, and mental coercion using threats of harming his family.

### 3. Visual examination before the Public Prosecution

Analysing and documenting the prosecution's findings at the first interrogation session, where the prosecutor notes his observations of the accused's body and its well-being as well as the accused's statements of any injuries that might not be visible.

<sup>2</sup> Egypt has signed the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT) which defines torture in its first article as " 1. For the purposes of this Convention, the term "torture" means any act by which severe pain or suffering, whether physical or mental, is intentionally inflicted on a person for such purposes as obtaining from him or a third person information or a confession, punishing him for an act he or a third person has committed or is suspected of having committed, or intimidating or coercing him or a third person...."

<https://www.ohchr.org/ar/ProfessionalInterest/pages/cat.aspx>

الذكري لمدة ساعتين  
 من وعاء من الاصباط التي لحقت بلعصه جراء ذلك  
 القدي  
 ج. انار كيتي الشمال نشاطت بعد الكهر باء وعلت  
 فثورة والاصرار اللان من السرافة الشمال  
 مدجوه حده بسبب ضرب بصباية جلد نقيه  
 ودطولي عليه فرهم مضاد صيوني واخذت  
 مسكنات وطبعا كما عذري ورسم من الخ حشيد  
 فقد ما يا حوالى اسبوع لكن بسببه مكشش  
 بقدر اهل تمام لمدة اربعة ايام ولا كبرانا  
 ماخذت علاج لورم الخ حشيد ولكن اخذت  
 علاج بيخليني اتبول وانبرز عبارة عن صباية  
 بنية وصباية تاسية لوني ابينجر مضطربه وصباية  
 مستدر لوني ابينجر في امض عبارة عن كيسولة  
 من وعاء القاطم القدي علا

(Picture No. 2, one of the accused's testimonies about "he being tortured", attorney general assassination case.)

"Q: How have you been violated?"

A: They got me completely undressed and tied each of my hands and legs to a heavy wooden chair with my back stretched on the floor and, for two hours, they were electrocuting every part of my body specially my testicles and my male organ.

Q: What injuries have you had as a result of this violation?"

A: My left knee has been burnt from the electrocution and the back of my lower left knee has been inflamed as a result of beating with a heavy leather cane but they treated it with an antibiotic cream and gave me pain killers. I had a swelling in my testicles for four days for which I received no medication except for only three pills, a brown pill and two white pills, which merely helped me urinate. "

### Model for a database monitoring this violation:

An informational database would be established after collecting and analyzing the information about torture in the case in question. This database contains quotations of the accused's testimony about the physical and mental torture he was subjected to, the date of testifying these statements, and the page numbers of the investigation files in which he testified. The researcher documents whether the accused or his lawyer requested medical examination before forensics, including the mentioned date and page numbers, as well as the prosecutor's response and visual examination of the accused, usually taking place at the beginning of the interrogation session.

Using torture and family as a threat

Torture by hanging

Electrocution

Beating

Name	Page of reporting torture and physical/mental coercion	Date of reporting torture	Statements of torture	Other statements of torture				Visual examination of the accused
	P 100 d 28	30/03/2016	They have beaten and electrocuted me for two days – They have beaten every part of my body – They threatened to hurt me and my family and to kill me and throw me in the desert	They electrocuted me in my genitalia, bottom, thighs and knees and hanged me from behind (p 100 d 28) They striped me of my clothes and physically violated me by inserting an object inside my bottom ( p 7 d 29 )	1	1	1	Yes (p 100 d 28)
	P 61 d 29	01/09/2015	When I denied their accusations, they kept on electrocuting my body with an electric taser. I couldn't identify the persons electrocuting me as I was blindfolded during the whole time. Eventually, I was forced to accept all charges they accused me of – They kept on electrocuting me, naked, and threatening me of hurting my mother and sister (p 3 d 30) – I want to be examined by a specialised neurologist, other than the prison doctor, as I feel cramps in my body, numbness in my left hand and bruises in my skin (p 17 d 30)	I don't know if the effects of electricity remain to be seen or not but I feel pain in the body parts they electrocuted– my hands, legs and scalp. I also feel burning during urination. And upon asking him about the reason why he didn't report this in previous interrogations he said: To be honest I was terrified of "National Security"		1		
	P 34 d 30	10/03/2016	In the national security headquarters I have been tortured by being hanged with handcuffs and electrocuted in my male organ (p 40 d 30) – My hands and legs are injured due to the metal handcuffs I was wearing during the hanging. I was electrocuted in my male organ that I started pleadings and lost control over my urination. I want to be hospitalized and referred to the forensic (p45 d 30)		1	1		Prosecution stated that the accused confirmed the presence of injuries in his male organ due to electric shocks and so injuries in his wrists due to tying him to metal chains

### 3. Documenting the absence of lawyers at the first interrogation sessions

The Egyptian Constitution and the Code of Criminal Procedures require the investigation authority to enable the accused to contact his family upon arrest and to grant him the right to seek legal representation. The significance of this right stems from the fact that the detained is unable to fully grasp the essence of the accusations brought against him, the case facts, or the clues that prove his innocence - all are of the expertise of lawyers. The absence of lawyers is a grave violation that detracts from the accused's rights.<sup>3</sup>

To examine the violation of the right to defense, the researcher looks up the interrogations files to documents three main things:

#### 1. Presence/absence of a lawyer during the first interrogation session.

The researcher examines the investigation files and follows the first session after the arrest of the accused in order to make sure that the accused was legally represented by his own lawyer.

#### 2. The lawyer's identity (being a private lawyer or an assigned counsel)

The researcher tracks the identity of the defense lawyer in order to identify whether he was a private lawyer or an assigned counsel. In case of hiring an assigned counsel, the prosecutor mentions that they hired one due to the absence of the accused's own lawyer.

In military and national security cases, it was frequently reported in many cases that the prosecution assigned certain lawyers to attend the interrogation sessions in advance, without waiting or allowing for a private lawyer. The researcher shall check and make sure that the present lawyer is in fact a private lawyer.

#### 3. Reason for starting the interrogation without a lawyer

The Prosecutor mentions these reasons before starting the interrogation. The Criminal Procedure Code gives the Prosecutor the right to start interrogations without a lawyer in some cases given that the accused was caught red-handed or the prevalence of a state of necessity that provokes a fear of losing the evidence.

**Every person whose freedom is restricted shall be immediately notified of the reasons therefore; shall be informed of his/her rights in writing; shall be immediately enabled to contact his/her relatives and lawyer.**

Article 54 of the Egyptian constitution amended in 2014.

<sup>3</sup> The eleventh principle of the Protection of All Persons under Any Form of Detention or Imprisonment provides: " A detained person shall have the right to defend himself or to be assisted by counsel as prescribed by law".  
<https://www.ohchr.org/ar/ProfessionalInterest/Pages/DetentionOrImprisonment.aspx>

المدة إجراءات التحقيق فأفاد  
بعدم وجود أحد وبنظره لتوافر حالة  
الضرورة فتمت إجراء الاستجواب من قبل المدعى  
فقد رأينا المستجواب به باللائحة ما فات.

(Picture No. 3 one of the accused's testimony, attorney general assassination case.)

“Due to the prevalence of a state of necessity and the fear of exhausting the pre-trial detention period, we decided to proceed with the interrogations. ”

### Model for a database monitoring this violation:

The researcher documents violation of the right to defense in this database through documenting the pages of the first interrogation session, its date, the presence/absence of a lawyer, name of the lawyer, if present, whether he was private or assigned, and the reason for proceeding with interrogations without a lawyer.

Name	page	Page of the first interrogation sitting	Date of the first interrogation sitting	Presence/absence of a lawyer	Type of the lawyer (private/Assigned)	Reason for starting interrogations without a lawyer
X	Imprisoned	1	12-8-2016	Absent	Assigned	Conditions of necessity
X	Imprisoned	1	17-12-2016	Absent	Assigned	Not specified
X	Imprisoned	1	21-12-2016	Present	Assigned	
X	Imprisoned					
X	Imprisoned	1	16-12-2016	Present	Assigned	
X	Imprisoned	1	19-12-2016	Present	Assigned	
X	Imprisoned	1	2-11-2016	Absent	Assigned	Lawyers syndicate was closed
X	Imprisoned	19	2-11-2016	Absent	Assigned	Lawyers syndicate was closed
X	Imprisoned	3	2-11-2016	Absent	Assigned	Conditions of necessity

#### 4. Documenting the Prosecutor's stalling and disregard for the accused's request of referral to forensics

According to Articles 440 and 429 in the Judicial Regulations of the Public Prosecution, the investigation authority shall conduct a medical examination for those injured in criminal procedures, including the accused, to provide an injury description, cause and date, and identify the device used to cause the injury. In case of torture, the Prosecutor should refer the accused to forensics in case any possible sign of torture was observed or if the accused claimed to have been subjected to any kind of torture.

The referral to forensics guarantees the rights of the accused to remain silent and to humane treatment, as provided in Article 55 of the Egyptian Constitution. It provides assurance that the accused's testimonies were testified by his own free will, and is by no means a result of coercion. It proves the independence and impartiality of the investigation authorities.

To examine violation of this right, the researcher documents six main things:

- **1. The time in which the accused said he was tortured**

Such information could be found through tracking the accused's testimony and the date of the interrogation sessions in which he testified that he was subjected to torture of any kind.

- **2. Visual examination of the accused by the prosecution**

The researcher observes the prosecution's statements about visually examining the accused and whether any signs of injuries were found and documents the prosecution's notes and the accused's response.

- **3. The accused's or his lawyer's request to be referred to forensics**

The researcher observes the accused's and the lawyer's requests for the prosecution including the request to be referred to forensics or the prison hospital and record the date of the first interrogation session in which such request was made.

- **4. The Prosecutor's response with regards to referral to forensics**

The researcher tracks the prosecutor's orders and checks whether it contains an order of referral to forensics issued to identify the cause of the accused's injuries and to prove/deny his claims of torture. The date of this session should be documented.

- **5. The forensics examination**

The researcher reviews the forensics reports found in the investigation files and documents the date of examination, found in the head front of the report, and the report findings, whether positive or negative.

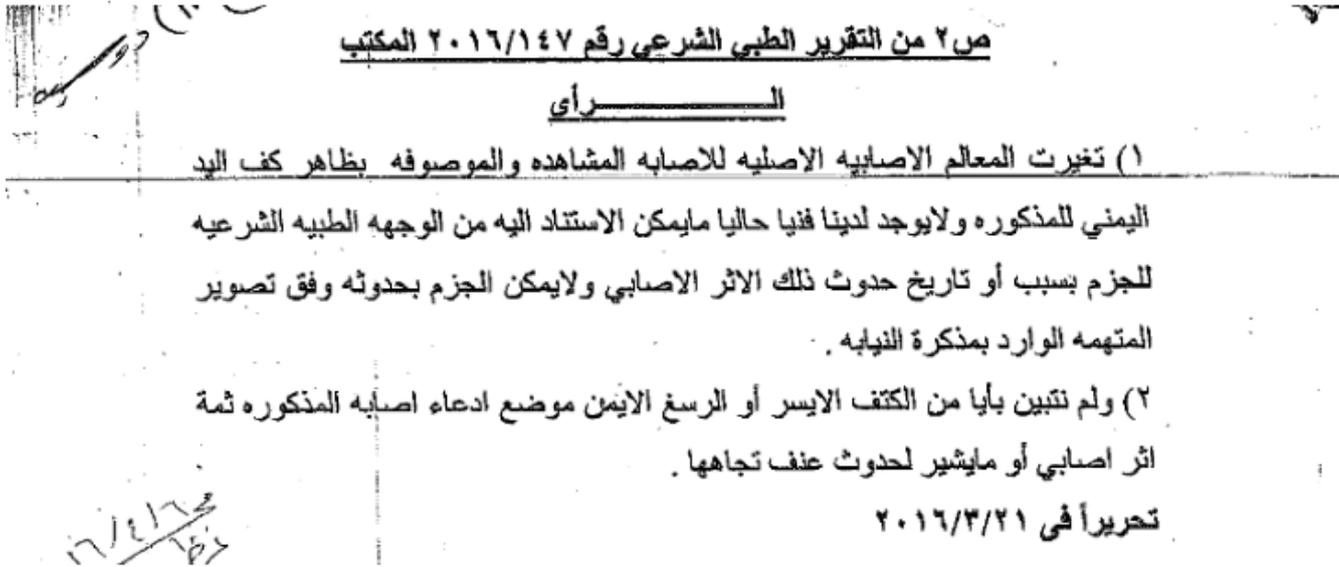
**Every person who is either arrested, detained, or his freedom is restricted shall be treated in a manner that maintains his dignity. He/she may not be tortured, intimidated, coerced, or physically or morally harmed; and may not be seized or detained except in places designated for that purpose, which shall be adequate on human and health levels. The State shall cater for the needs of people with disability. Violating any of the aforementioned is a crime punished by Law**

**An accused has the right to remain silent. Every statement proved to be made by a detainee under any of the foregoing actions, or threat thereof, shall be disregarded and not be relied upon.**

Article 55, The amended Egyptian constitution, 2014.

● **6.The duration between the accused's claims of torture and referral/examination at forensics**

The researcher compares the duration between the date in which the accused made his claims about torture/his request to be referred to forensics and the date the prosecution ordered the accused's referral to forensics as well as the day the forensics report was issued.



(Picture No. 4 the final say about one of the accused issued by the forensics office.)

“Page 2 of the forensics report number 147/2016

The prior features of the observed and described injuries occurring in the right palm of the (above mentioned) accused has been altered. Technically, we currently don't possess enough information to conclude our forensic medical review regarding the cause and date of this injury nor to confirm beyond doubt the occurrence of the injury in consistence with the accused description in the prosecution memorandum.

We couldn't discern any of the accused claims of injury or aggression directed against her in examining her left shoulder and right wrist

Edited in 21-03-2016 ”

**Model for a database monitoring this violation:**

The researcher logs the six points mentioned earlier in the database by documenting the interrogation session in which the accused stated that he was tortured, and the prosecution's visual examination of the accused. In addition, he documents the date and page of the accused's request of referral to forensics, and the prosecution's response whether by ignoring the request, or referring the accused to forensics. As for the forensics report, the date and page of the report and the findings in the report are documented, and then the comparison between the date of the request of the accused or his lawyer to be referred to forensics/ allegations of the accused or his lawyer that he was tortured/ the visual examination and the date of referral and examination at forensics.

## officially documented

Visual examination of the accused

Did the forensic report confirm the accused's claims?

name	Status	Date of their statements regarding torture	Visual examination of the accused	Have the accused or his lawyer request that he be referred to the forensic?	Date of their request	Prosecution's response	Date of referral	The page of the prosecution's order of referral to the forensic	Date of examination before the forensic	Page of the forensic report	Duration between examination before the forensic and the date of visual examination or the date of the accused's request to be referred to the forensic
X	absentee										
X	detained	28/10/2016		yes	14/11/2016	referred	14/11/2016	P 20	21/11/2016	P 36	7 days
x	absentee										
x	detained				13/01/2017	ignored					

## 5. Documenting the anonymization of the sources of Investigations

The importance of investigations stems from the fact that it creates the relationship between the crimes and the people accused of committing them. It is therefore necessary for the security body that investigates to mention the means and sources through which it was able to identify the identity of the accused, and prove that they committed the crime. Such information can never be random anonymous data, so it could be used as evidence for condemnation.

To find out if the interrogator has deliberately anonymized the sources from which he obtained his information, the researcher should observe 2 things while examining the records of the investigations and the interrogations/trial sessions:

### 1 - Whether the investigations sources in the prosecution / trial sessions are revealed/ anonymized

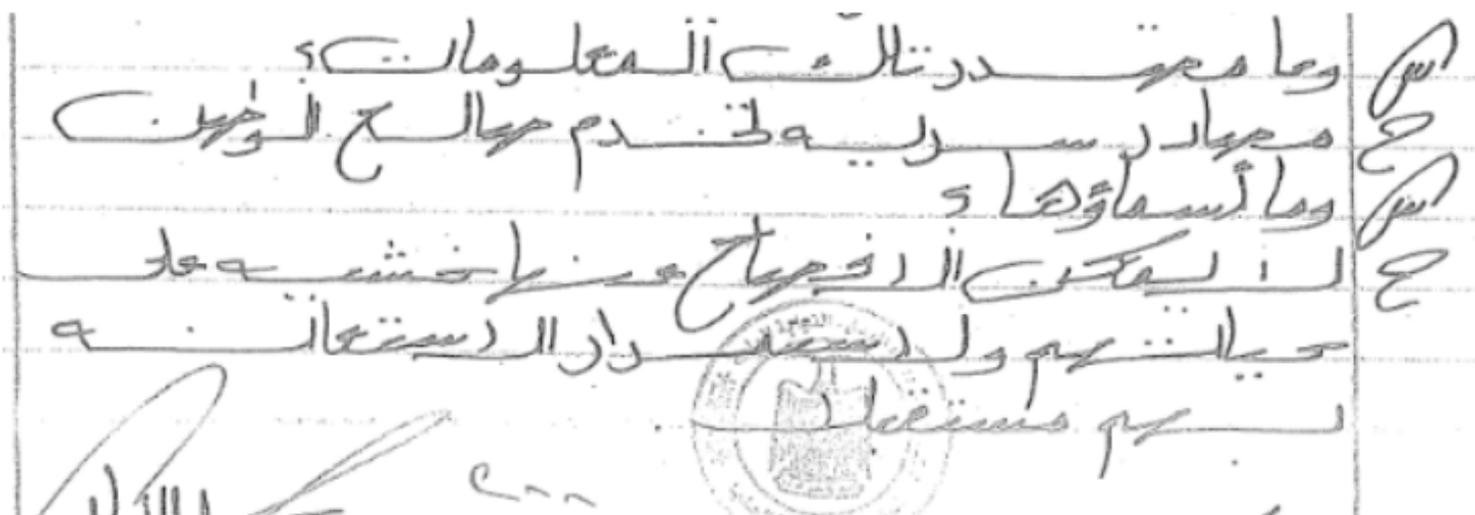
Here the researcher tracks the statements of the officer who conducted the investigations when talking about the sources from which he obtained his information during the investigation of the prosecution, or during the questioning in the trial, and records his answer in terms of whether it reflects announcing or anonymizing the source of information.

### 2. The reason for anonymizing the sources

It's not uncommon for the interrogator to repeat certain answers when asked about the sources on which he or she has relied upon to gain his or her information. The reasons can include: "fear for their lives", "public security", or because he "trusts them".

**"Investigations alone are not valid to be used as a proof or an evidence to substantiate the charge."**

Court of Cassation jurisprudence Y 57 session 2006/12/20 S 121 Appeal No. 79257 judicial year 75, p 1005.



(Copy no. 5 of the investigation records with the national security officer responsible for gathering the investigations information \*)

"Q: What is the source of these information?

A: They are secret sources who work to serve the public good

Q: What are their names?

A: I cannot reveal their identities as it might threaten their lives and to be able to seek their help as informants in the future. "

### Model for the database of monitoring anonymizing the sources:

You can search for the investigation records of the case, and document the page and the date of writing the record, and the name of the officer and his employer, then search for the records of the prosecution's investigation session with the same officer and documenting its date and page, then search the prosecution's questions about his sources and the reasons he anonymized them.

Page of the investigations report	Name of the investigations officer	Investigations officer's workplace	Date of the investigations report	Page of the interrogations with the national security officer	Date of interrogations with the officer	Anonymizing the sources	Reason for anonymizing the sources	Date of the officer's testimony in court	The officer's answer in court
117	X	Officer in the National Security	24/03/2015	86	05/07/2015	Yes	Secret sources whose identities cannot be revealed for the sake of their safety		

## 6. Documenting the prison conditions

The prosecution/court shall supervise the places of detention of the accused, and ensure that their constitutional rights as defined in the Article 56, which prohibits violating the dignity of the prisoner or endangering his health, are not violated; in addition to ensuring the prison administration's compliance with the prison regulations, which stresses the rights of prisoners to receive daily exercise, visits, education, food, good ventilation, etc. Any violation of these rights or stalling in taking action regarding them is a violation of the rights of the accused.<sup>4</sup>

In order to detect such violations, the researcher examines the investigation papers and the records of the sessions, observing two main things:

**“Prison is a place of reform and rehabilitation. Prisons and places of detention are subject to judicial supervision, where everything that endangers the individual's health or dignity is prohibited”**

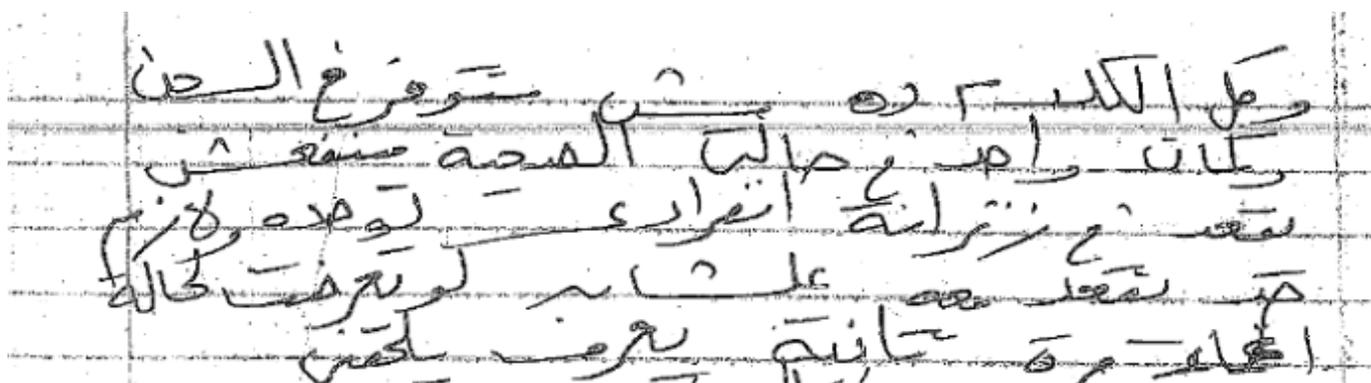
Article 56 of the amended Egyptian Constitution 2014

### 1. Requests of the accused in the investigation/trial sessions

The researcher tracks the requests of the accused or his lawyer during the investigation or trial sessions, such as asking for hospital admission due to medical problems, requesting permission for visits or seeing his family, requesting access to medications or books, etc.

### 2. Prosecution orders during investigation/trial sessions:

Tracking the orders issued by the prosecution / court at the end of the investigation / trial sessions, the response to requests by the accused and their lawyers to improve their conditions of detention shall be recorded as positive or negative.



\*copy 6 of the investigation session with one of the accused \*

“A personal with such deteriorated medical state shouldn't be placed in solitary confinement; I need someone to help in case I lose consciousness again. ”

<sup>4</sup> In accordance with article 1 of the Nelson Mandela Rules (Standard Minimum Rules for the Treatment of Prisoners): “All prisoners shall be treated with due respect for their dignity and inherent value as human beings.” No prisoner shall be subjected to torture or cruel, inhuman or degrading treatment or punishment, The safety and security of prisoners, staff, service providers and visitors must be ensured at all times.

[Http://www.un.org/en/events/mandeladay/mandela\\_rules.shtml](http://www.un.org/en/events/mandeladay/mandela_rules.shtml)

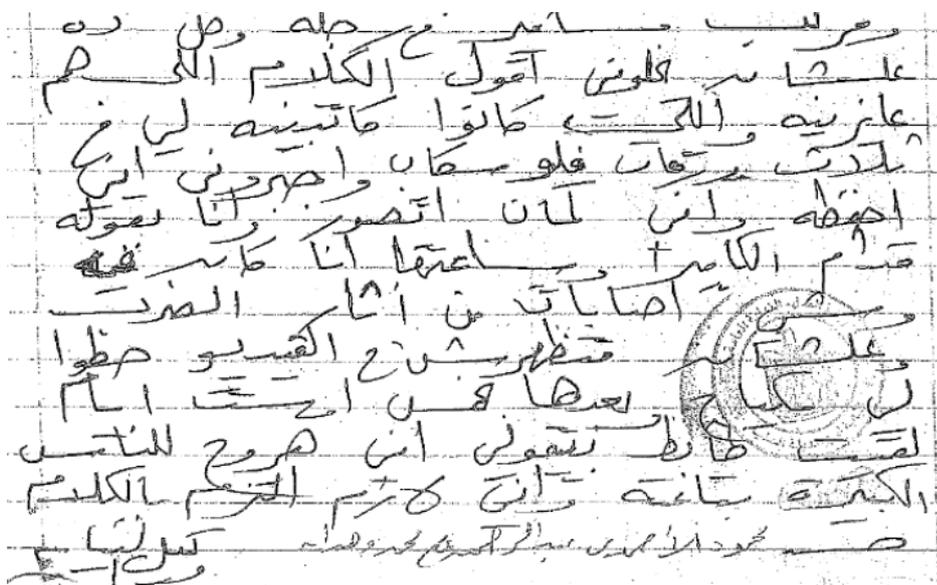
**Model for a database monitoring this violation:**

The researcher records the complaints and requests of the accused in the interrogation sessions and the sessions' records, for example: health status, solitary confinement, strike, exercise, visits, school situation, nutrition status, etc. Prosecution / court orders and responses to these requests are also monitored.

Name	Solitary confinement	Hunger strike	Daily exercise	Visits	Education	Ventilation	Food	Ill-treatment	Overcrowding	Prosecution's response to complaints
X		I will start a hunger strike from tomorrow and I hold national security prosecution and the prison head officer responsible for my medical state ( p 61 d 7)								An order has been issued to examine him at the prison hospital (p 61 d 7)
X	A personal with such deteriorated medical state cannot be placed in solitary confinement; I need someone to help in case I lost consciousness again ( p 84 d 10)		Prohibited from daily breaks	Prohibited from receiving visits						
X					Educational books and papers are prohibited in prison (p 44 d 19)					

## 7. Documenting the video recording of the suspects' confessions

In some cases, especially ones with political background, a recently emerged technique is followed by the MOI, which involves publishing clips for the suspects confessions before or during the trial. This challenges the constitutional principle of the suspect being innocent till proven guilty, as it necessarily establishes in the doctrine of the court and the public opinion that they have become convicted and not just accused. That violation is rarely mentioned in the official records of the trial, and can only be revealed by further external research, and if it is mentioned in official case records, its only by the suspects or their lawyers



Copy no. 7 of the investigation records with accused about the recording his confessions.

"They did all of this to force me into confessing what they wanted me to say, having it written in 3 papers for me to memorize it and utter it in front of a camera. To hide the facial injuries I had due to their beating, they put make-up on me. And after five or six days an officer told me that I will be taken to high rank officers and that I have to abide by every word they made me say. "

### Model for a database monitoring this violation:

This database should include: the suspects name and if he has been photographed or not, and the date of publishing the photographed material, and those responsible for the publishing whether it was the MOI or Maspero, and a link for the material. Also the stage of trial at which the video has been taken should be documented, which can be easily known from the publishing date of the clip, and finally the account of the accused about the filming incident and if it included any torture or forcing, and the page of the records where this account is mentioned, to be easy to get back to.

The accused shall be presumed innocent until proven guilty in a fair trial, in which he shall be guaranteed the defense of himself, and the law shall regulate the appeal of sentencing in the case of crimes.

The State shall provide protection for the victims, witnesses, suspects, and informants when needed, according to law regulations

Article 96 of the Egyptian Constitution amended in 2014

## officially documented

name	status	Have they been photographed?	Date of publication	The institution responsible for publication	Photography link	At which stage of the adjudication process have they been photographed?	The accused's statements about the photography incident	Page of the accused's statements about the photography incident
x	detained	yes	06/03/2016	Ministry of Interior		Prosecution investigations		
x	detained	yes	06/03/2016	Ministry of Interior		Prosecution investigations		
x	detained	yes	06/03/2016	Ministry of Interior		Prosecution investigations		
x	detained	yes	06/03/2016	Ministry of Interior		Prosecution investigations	They did all of this to force me into confessing what they wanted me to say, having it written in 3 papers for me to memorize it and utter it in front of a camera. To hide the facial injuries I had due to their beating, they put make-up on me	P 92 d 17

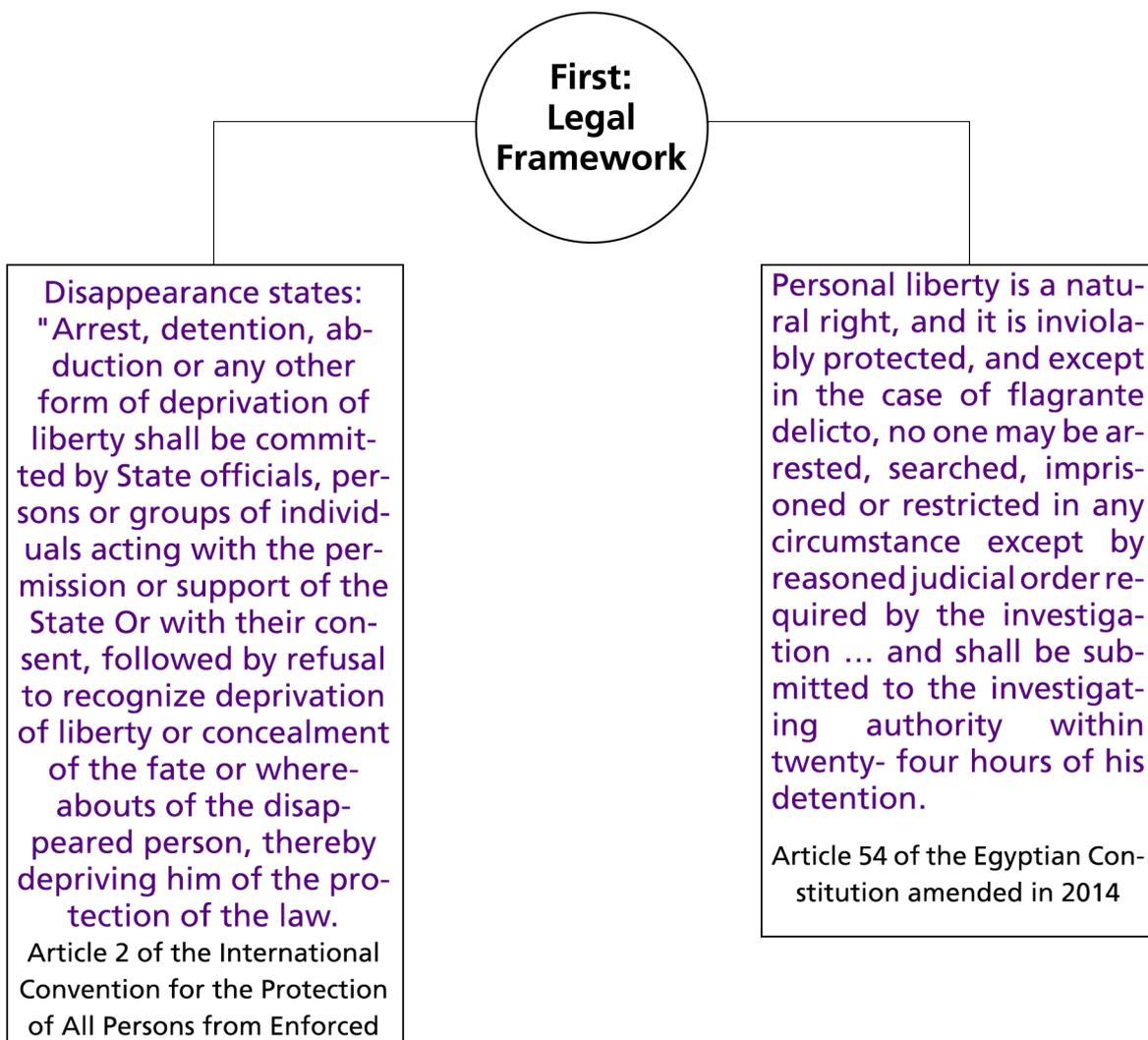
### Third: The outcome of the documentation process of official case documents

This information on violations of fair trial guarantees gained from the case documents can be used in more than one form. It is possible to produce a small profile/report on a case-by-case basis if all of the documents are available, and all aspects of the case are covered and reinforced by the testimony of lawyers or accused persons, or creating detailed statistical and monitoring reports on a range of cases over a given time period, or use them as advocacy material for supporting the victims of those cases.

#### 1. Case profile

The idea of the profile / mini-report is to review the statistics resulting from analyzing a violation or a number of violations against the accused in the case, and to document the statements of the accused who have been subjected to these violations, and comparing this to the constitutional and legal rights of the accused.

**Model of a mini-report on the exposure of the accused in one case to the violation of enforced disappearance:**



## Second: General Statistics

The majority of the accused in this case were subjected to enforced disappearances by the officers of the investigation who, in their words, subjected them to forms of physical and moral coercion in order to force them to confess to the charges against them. The official papers reveal that (...) people of the number (...) accused of being held in custody of this case were subjected to enforced disappearance for varying periods in the headquarters of national security.

## Third: tables/ Infographics of some of the violation aspects

Variations in  
places of arrest

Disappearance  
durations

	Name	Duration of disappearance (in days)	Date of arrest according to the accused's confessions	Official date of arrest
1	X	89	15/12/2016	14/3/2017
2	X	70	13/12/2017	21/2/2017
3	X	67	14/12/2017	19/2/2017

Duration of disappearance	less than 20 days	20 - 40 days	40 - 60 days	More than 60 days
Number of disappeared persons	6	6	7	4

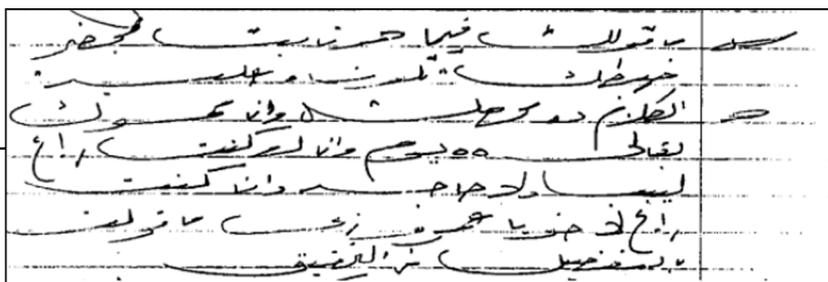
	name	Place of arrest according to the accused's confessions	Official place of arrest
1	X	His place of residence	A checkpoint in the street
2	X	His work place	A checkpoint in the street

**Fourth:**  
The accused's  
statements  
about the  
violations  
mentioned  
above

The accused .....says in the first hearing of his investigation dated ..... That he disappeared before presenting him to the prosecution for a period of ... days, he says in response to the date of seizing documented in the official record as.....:

**"I've been held for 55 days, I wasn't in Libya or anything, I was on my way to my brother.."**

**Fifth:**  
A copy 8 of the  
investigation  
record / trial  
session proving  
the accusation



"Q: What do you say regarding what have been written, and read to you by us, in your arrest warrant?

A: All of this did not happen; I have been arrested since 55 days while I was going to visit my brother, with no intention of going to Libya, as I explained in detail during interrogations. "

(A copy of the record of the investigation hearing with the accused ..... dated .....)

**Sixth:**  
Summary  
and final  
analysis

These documents reveal the extent to which the prosecution has ignored investigating the allegations of inconsistency in places and timing of the arrest and detention at the national security headquarters, in order to extract confessions and compel the accused to them, which if true would lead to the nullification of the arrest and detention processes, as they violate the Egyptian Constitution and the Code of Criminal Procedure.

## 2. Infographics of patterns of violations in the case

The idea of an infographic is based on the visual presentation of statistics resulting from analyzing the accused's exposure to a particular type or types of violations, and can be considered as a final product by itself, or as a visual aid to facilitate the assimilation of statistics in mini-reports on cases.

A model of an infographic showing why the prosecution began investigating the absence of lawyers



An example of an infographic showing the types of torture that the accused were subjected to in one case



## Conclusion

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This manual was designed to provide a detailed explanation of working according to a different methodology for rights monitoring and documentation, especially on projects to document violations of fair trial guarantees against the accused in some cases, and tracking any breaches that can occur in the course of litigation adopted by the Constitution and International Covenants. The methodology relies on collecting data from the various case documents, and organizing them into clear patterns of violations such as coercion, torture, initiating investigations in the absence of lawyers, ignoring requests of forensic admission, reliance on anonymized investigations, and video recording of the accused before completion of litigation.

This type of documentation serves several purposes. It allows researchers, lawyers and human rights activists in general, to have the opportunity to build databases and statistical reports on cases for documentation, analysis, advocacy and raising awareness. In the quest for transitional justice, it is important to pay attention to the victims of the previous political regimes, documented in the official records of the state, which preserves the rights of the victims and their families, and amends the damage that has befallen them, and ensures that those responsible don't go unpunished.

And despite the importance that the manual gives to the process of documentation from the official records of cases, it does not present itself as an alternative to other types of documentation, as the importance of consolidating all accounts and evidence remains multidimensional. However, the guide seeks to provide different options for researchers, lawyers and practitioners on various human rights issues, to help diversify their sources of information, and to develop their work methodologies, for which we hope this guide will be the beginning.