



Egypt

Evaluation Report of the National Council for Human Rights

Report submitted to the Sub-Committee on Accreditation of National Human Rights Institutions as part of the re-accreditation of the Egyptian National Council for Human Rights (NCHR)

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1 Introduction

The Egyptian National Council for Human Rights (NCHR) was established in May 2003 by Law No. 94/2003. The provisions regarding the establishment of the NCHR were then amended by Law No. 197/2017 on 1 August 2017.¹ As of today, the NCHR has 27 members including 25 regular members, the president and a vice president.² It is comprised of seven committees each specialising in a particular area of human rights (such as the civil and political rights committee and the cultural rights committee) and six thematic units (such as legal affairs unit, disability affairs unit, human-trafficking unit, etc.).³

In October 2006, the Sub-Committee on Accreditation (SCA) of the Global Alliance of National Human Rights Institutions (GANHRI), granted A status to the NCHR.⁴ From October 2011 until May 2018, the review of the NCHR was deferred by the SCA multiple times.⁵ The NCHR was last reviewed in May 2018 and again granted A Status.⁶ In the SCA's second session of 2023, which will take place at the end of September and October 2023, the SCA will decide on the re-accreditation of the Egyptian NCHR based on an evaluation of the progress made since 2018.

We wish to highlight that following the Human Rights Committee's last periodic review of Egypt's compliance with the International Covenant on Civil and Political Rights (ICCPR) in March 2023, it held in its Concluding Observations the following:

While welcoming the establishment of the National Council for Human Rights in 2003, the Committee is concerned about the lack of safeguards to ensure its full independence and effectiveness, and the lack of information provided on the effective implementation of its

¹ NCHR Website, Establishment, <https://nchr.eg/en/establishment> (last accessed 12 April 2023).

² Ibidem.

³ NCHR Website, Committees and Units, <https://nchr.eg/en/CommitteePage> (last accessed 27 April 2023).

⁴ GANHRI Sub-Committee on Accreditation, *Report and Recommendations of the Session of the Sub-Committee on Accreditation (SCA)*, October 2006, p. 4, https://www.ohchr.org/sites/default/files/Documents/Countries/NHRI/GANHRI/2006_Oct_SCA_Report.pdf (last accessed 12 April 2023).

⁵ OHCHR, *Chart of the Status of National Institutions, Accreditation status as of 29 November 2022*, https://www.ohchr.org/sites/default/files/Documents/Countries/NHRI/StatusAccreditationChartNHRI_s.pdf (last accessed 12 April 2023).

⁶ GANHRI Sub-Committee on Accreditation, *Report and Recommendations of the Session of the Sub-Committee on Accreditation (SCA)*, May 2018, p. 20, https://www.ohchr.org/sites/default/files/Documents/Countries/NHRI/GANHRI/SCA_Report_May_2018-Eng.pdf (last accessed 12 April 2023).

recommendations, notably with regard to the onward referral of individual complaints submitted to it.”⁷

In light of the above, we would like to provide information that may serve to assist in the evaluation of the compliance of the NCHR with the Paris Principles in both legal and practical terms.

As an introduction to the last SCA report on Egypt in 2018, the SCA emphasised its expectation that “NHRIs that have 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.”⁸ The present report is based on this expectation towards the NCHR.

This evaluation report will first briefly introduce the recent human rights developments in Egypt. This will be followed by a section that shall lay out the mandate of the NCHR according to Law No. 197/2017 of 1 August 2017. The report will then analyse the compliance of the NCHR with the Paris Principles, particularly the ones the SCA highlighted in past recommendations. Therefore, this report will focus on issues such as the selection and appointment of members of the NCHR, functional immunity from criminal and civil liability, detention visits, and the encouragement of ratification or accession to international human rights instruments. Lastly, the evaluation seeks to tackle the issue of addressing human rights violations more comprehensively, and, to that end, will analyse the last published Executive Summary of the 15th annual report by the NCHR (2019/2020). Finally, the evaluation will close with a short conclusion and recommendations.

2 Recent political and human rights developments

Since the presidency of Abdel Fattah al-Sisi in June 2014, Egypt has seen one of its worst human rights crises in the last decades. President al-Sisi, who first took power in a 2013 coup while serving as Egypt’s defence minister and armed forces commander, governs Egypt authoritatively and repressively. Since he gained control, there has been virtually no meaningful

⁷ Human Rights Committee, *Concluding observations on the fifth periodic report of Egypt*, 14 April 2023, CCPR/C/EGY/CO/5, para. 5, https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CCPR%2FC%2FEGY%2FCO%2F5&Lang=en (last accessed 27 April 2023).

⁸ GANHRI Sub-Committee on Accreditation, *Report and Recommendations of the Session of the Sub-Committee on Accreditation (SCA)*, May 2018, p. 20, https://www.ohchr.org/sites/default/files/Documents/Countries/NHRI/GANHRI/SCA_Report_May_2018-Eng.pdf (last accessed 12 April 2023).

political opposition, as expressions of dissent can draw criminal prosecution and lengthy imprisonment. Civil liberties, including press freedom, freedom of assembly and association, were increasingly restricted over the years.⁹

In November 2016, the Egyptian Parliament adopted a new law on Non-Governmental Organisations ('NGOs'), which President al-Sisi ratified on 29 May 2017. The law was criticised for giving the authorities overbroad powers to oversee the registration, activities, funding and dissolution of NGOs. It restricts the activities of NGOs by limiting their work to "societal development", a vaguely defined concept which could be used to effectively ban human rights work. It further prohibits NGOs from conducting research and publishing their findings without prior authorisation from the authorities.¹⁰

In March 2018, the president was re-elected with 97% of the votes. Freedom House described the elections as "marred by low turnout, the use of state resources and media to support Sisi's candidacy, voter intimidation, and vote buying."¹¹ Furthermore, in August 2018, two laws were ratified: the Anti-Cyber and Information Technology Crimes Law and the Media Regulation Law, which further restricts civil liberties, especially freedom of expression and freedom of the press.¹² The newly ratified laws impose lengthy prison sentences on journalists who "incite violence," "giving the government wide latitude to block websites and granting security services broad surveillance powers over internet users, among other provisions."¹³

In April 2019, constitutional amendments added two years to al-Sisi's current term, "extending it through 2024, at which point he will be allowed to seek an additional six-year term",¹⁴ until 2030. The amendments also undermine the independence of the judiciary and strengthen the military's role in civilian governance.¹⁵

Tightly controlled parliamentary elections took place over several months in the second half of 2020. The polls were characterised by claims of fraud, vote buying, severe interference by

⁹ Freedom House, *Freedom in the World 2021, Egypt*, <https://freedomhouse.org/country/egypt/freedom-world/2021> (last accessed 20 April 2023).

¹⁰ Amnesty International, *Egypt: Independent civil society organizations at risk of closure after NGO deadline passes*, 12 April 2023, <https://www.amnesty.org/en/latest/news/2023/04/egypt-independent-civil-society-organizations-at-risk-of-closure-after-ngo-deadline-passes/> (accessed 1 June 2023).

¹¹ Freedom House, *Freedom in the World 2019, Egypt*, <https://freedomhouse.org/country/egypt/freedom-world/2019> (last accessed 20 April 2023).

¹² Ibidem.

¹³ Ibidem.

¹⁴ Freedom House, *Freedom in the World 2020, Egypt*, <https://freedomhouse.org/country/egypt/freedom-world/2020> (last accessed 20 April 2023).

¹⁵ Ibidem.

the security apparatus, and detention and intimidation of individuals who criticised the process. The elections granted the ruling regime control over both chambers (the House of Representatives and the Senate) of the parliament.¹⁶

Looking at the recent developments, e.g., extending the presidential term lengths and limits in 2019, controlling elections while at the same time intimidating presidential and parliamentary candidates, and denying credible opposition parties to function, engage and act, the regime makes it “nearly impossible for the opposition to gain power through elections.”¹⁷

Overall, the current government is especially targeting political dissidents and civil society actors: Tens of thousands of government critics, such as journalists, activists, and human rights defenders, remain imprisoned on the grounds of abusive “terrorism” charges, frequently on lengthy pretrial detention.¹⁸ Furthermore, the police and national security agents continue to “forcibly disappear opponents in unofficial detention places where detainees are subjected to torture and forced confessions.”¹⁹

Recently, Egyptian authorities repeatedly repressed the rights to freedom of expression, association, and peaceful assembly: According to Amnesty International, leading up to the UN Climate Change Conference (COP27) in November 2022, authorities released close to 900 prisoners held for political reasons but arrested almost triple that number, including people linked to calls for protests during COP27.²⁰ In this context, UN experts spoke about a “new wave of reprisals following years of persistent crackdowns on civil society and human rights defenders, using security as a pretext to undermine their legitimate right to participate in public affairs, they said in a statement.”²¹

¹⁶ Freedom House, *Freedom in the World 2021, Egypt*, <https://freedomhouse.org/country/egypt/freedom-world/2021> (last accessed 20 April 2023).

¹⁷ Ibidem.

¹⁸ Human Rights Watch, *Egypt*, <https://www.hrw.org/middle-east/n-africa/egypt> (last accessed 12 April 2023).

¹⁹ Human Rights Watch, *World Report, Egypt, Events of 2022*, <https://www.hrw.org/world-report/2023/country-chapters/egypt> (last accessed 13 April 2023).

²⁰ Amnesty International, *Report 2022/2023*, p. 150, <https://www.amnesty.org/en/location/middle-east-and-north-africa/egypt/report-egypt/> (last accessed 12 April 2023).

²¹ UN News, *Egypt urged to ensure civil society’s full participation in COP27 climate summit*, 7 October 2022, <https://news.un.org/en/story/2022/10/1129332> (last accessed 13 April 2023).

3 Compliance with the Paris Principles

3.1 The Mandate of the NCHR

The mandate of the NCHR, can be found in article 3 of Law No. 197/2017:

Without prejudice to the provisions of applicable laws, the Council shall have the following competencies in order to achieve its objectives:

1. Providing its opinion on draft laws and bylaws relating to the Council and the field of its competence.
2. Examining any allegations of human rights violations and submitting proposals and recommendations regarding all such issues to the State's competent authorities.
3. Preparing a national action plan for the promotion and protection of human rights in Egypt and proposing methods for carrying out such a plan.
4. Submitting proposals and recommendations to the competent authorities in whatever is aiming at better protecting and promoting human rights.
5. Expressing necessary opinions, proposals, and recommendations on all matters relevant to the protection and promotion of human rights submitted or referred to the Council from competent authorities and bodies.
6. Receiving, and examining complaints in the field of human rights protection, referring those the Council sees it deems necessary to refer to the competent authorities, following them up or counseling the concerned persons on the legal procedures due to be followed, and assisting them in undertaking them or settling and resolving them with the competent authorities (bodies).
7. Following up on the implementation of the international human rights treaties, covenants, and conventions ratified by Egypt and submitting necessary proposals, observations, and recommendations in this regard to the competent bodies.
8. Cooperating with international human rights organizations and bodies to contribute to the fulfillment of the objectives of the Council and promote its relations with them, in cooperation with the Ministry of Foreign Affairs.
9. Providing its opinion in the preparation of reports the State is committed to submitting periodically to the human rights committees and bodies in the implementation of international conventions and responding to the relevant queries of such bodies in this regard.
10. Coordinating with the State authorities in charge of human rights and cooperating in this field with the National Council for Women, the National Council for Childhood and Motherhood, the National Council for Disability Affairs, and other concerned national councils and bodies.
11. Working to disseminate human rights culture and raise the citizens' awareness of it by collaborating with competent institutions and agencies in charge of education, upbringing, information, and cultural affairs and assisting in preparing human rights education programs.

12. Holding conferences, seminars, and panel discussions on issues relevant to human rights or related events (events relating to such issues).
13. Providing necessary proposals to enhance institutional and technical capacities in the fields of human rights, including technical training in order to enhance the capacities of the employees in State institutions relating to public freedoms and economic, social, and cultural rights according to relevant laws.
14. Issuing bulletins, magazines, and publications relating to human rights and the objectives of the Council and its competence, according to relevant laws.
15. Issuing reports on the situation and development of human rights.
16. Visiting prisons and all places of detention, and treatment and correctional facilities and listen to prisoners and inmates of such places and facilities to ascertain their proper treatment and the extent of their enjoyment of their rights. The Council shall prepare a report on each visit, including significant observations and recommendations to improve the conditions of prisoners and inmates of the aforementioned places and facilities. The Council shall submit such report to both the attorney-general and the House of Representatives.
17. Inform the Public Prosecution of any violations of personal freedoms or of the inviolability of the private life of citizens and other public rights and freedoms provided within the Constitution, the law, international agreements, covenants, and conventions ratified by Egypt, and thus on the basis of solid (firm- viable) information availed to the Council regarding the occurrence of such violation or regarding the identity of the perpetrator and to inform the competent authorities as well. The Council may intervene in the civil action in support of the plaintiff and, upon its behest, in accordance with the provisions of relevant laws.

3.2 Selection and appointment

The Paris Principles on the composition and guarantees of independence and pluralism hold that:

The composition of the national institution and the appointment of its members, whether by means of an election or otherwise, shall be established in accordance with a procedure which affords all necessary guarantees to ensure the pluralist representation of the social forces (...).²²

In the past two reports of the SCA on the NCHR, the Committee stated that “the selection process currently enshrined in the existing legislation is not sufficiently broad and transparent.”²³ As of now, the selection process is enshrined in article 2 *bis* (a) of Law No. 197/2017, which reads as follows:

²² Paris Principles, Composition and guarantees of independence and pluralism, para. 1.

²³ GANHRI Sub-Committee on Accreditation, *Report and Recommendations of the Session of the Sub-Committee on Accreditation (SCA)*, May 2018, p. 21 and GANHRI Sub-Committee on Accreditation,

The Plenary of the House of Representatives shall nominate the selected candidates to be members of the Council, taking into consideration the adequate representation of all forces of the society. The President, the Vice-President, and the members of the Council shall be selected with the approval of the majority of the members of the House of Representatives.

In other words, the House of Representatives is the single entity that examines candidates and selects a list of potential members of the Council. With the approval of its majority, the members of the House of Representatives vote for the President, Vice-President, and the remaining members of the NCHR. Therefore, the Amendment under Law No. 197/2017 gave the House of Representatives a central role with regard to selection and appointment process. This severely impacts the independence of the selection process since the Egyptian legislative is not independent of the ruling executive.

Since the 2019 amendments to the Constitution of 2014, the Egyptian parliament is again a bicameral body in which members serve five-year terms. One of those bodies is the House of Representatives, with a total of 568 seats, and the other one is the Senate, with 300 seats.²⁴ The 2020 elections to both bodies of the parliament, which took place from August until November of the same year, “were neither free nor fair, and were marred by the widespread detention and intimidation of individuals who criticized the process, low turnout, claims of fraud, vote buying, and severe interference by security apparatuses.”²⁵ In the House of Representatives-elections, the regime-allied lists – headed by Mostaqbal Watan, the Nations’ Future Party – won all 284 allocated for party-list seats. The pro-regime parties and candidates easily secured the majority in the House.²⁶

Therefore, the House of Representatives is *de facto* controlled by the ruling power of the executive. Consequently, the selection of the members of the NCHR is conducted by the executive. Hence, the selection and appointment process is not independent, does not guarantee the independence of the members of the NCHR and is contrary to the requirement of an open selection process. This is a clear violation of the Paris Principles. To be compatible

Report and Recommendations of the Session of the Sub-Committee on Accreditation (SCA), March 2017, p. 35.

²⁴ In the House of Representatives 284 seats are elected through closed party lists, and the other 284 are elected to individual seats. Furthermore, the president has the right to appoint 28 additional members to the House, Freedom House, *Freedom in the World 2021*, Egypt <https://freedomhouse.org/country/egypt/freedom-world/2021> (last accessed 20 April 2023).

²⁵ Freedom House, *Freedom in the World 2021*, Egypt, <https://freedomhouse.org/country/egypt/freedom-world/2021> (last accessed 20 April 2023).

²⁶ *Ibidem*.

with the Paris Principles, the process should be controlled by an independent and credible body and include open and fair consultation with NGOs and civil society.

Furthermore, article 2 *bis* (a) does not provide details of the concrete process of how the House of Representatives selects candidates for the listing. As a result, the selection process also severely lacks transparency.²⁷ Therefore, the SCA raised concern that the current legislation “does not require the advertisement of vacancies, establish clear and uniform criteria upon which all parties assess the merit of eligible applicants, and specify the process for achieving broad consultation and/or participation in the application, screening, selection, and appointment process”.²⁸ The SCA asked the NCHR to “advocate for formalization and application of a uniform process that includes requirements to”:²⁹

- Publicize vacancies broadly,
- Maximize the number of potential candidates from a wide range of societal groups and educational qualifications,
- Promote broad consultation and/or participation in the application, screening, selection, and appointment process, and
- Assess applicants based on pre-determined, objective, and publicly available criteria.

Furthermore, the SCA noted in March 2017 and May 2018 that “the mandates of the current members have expired and that new members will need to be appointed.”³⁰

It is only on 29 December 2021 that President al-Sisi issued Decree No. 616 of 2021, reconstituting the National Council for Human Rights, for a period of four years.³¹ The decision was published in the Official Gazette and included the nomination of the current Council under the chairmanship of Ambassador Moushira Khattab, and Ambassador Mahmoud Karem Mahmoud as Vice-President.³² Civil society was not involved in the nomination process.

²⁷ Alkarama, *Egypt: National Council for Human Rights*, p. 14.

²⁸ GANHRI Sub-Committee on Accreditation, *Report and Recommendations of the Session of the Sub-Committee on Accreditation (SCA)*, May 2018, p. 21 and GANHRI Sub-Committee on Accreditation, *Report and Recommendations of the Session of the Sub-Committee on Accreditation (SCA)*, March 2017, p. 35.

²⁹ *Ibidem*.

³⁰ *Ibidem*.

³¹ Available in Arabic here: <https://manshurat.org/content/d-tshkyl-lmjls-lqwm-lhqwg-lnsn> (accessed 31 May 2023).

³² Other members nominated were: Dr Mohamed Anas Qassem Youssef Jafar; George Ishak Gerges; Dr Mohamed Sameh Ahmed Mohamed Amr Bandar; Dr Huda Ragheb Awad; Dr Nevin Abdel Moneim Massad; Dr Noha Ali Bakr; Abdul Jawad Ahmed; Abdul Hamid Ahmed; Rabha Fathi Shafiq Mohammed; Nihad Lutfi Sayed Mohammed Abu Al-Qomsan; Hani Ibrahim Fahmy Ibrahim; Dr Walaa Jad Al-Karim

We are extremely concerned over the fact that Ms Khattab is a former Egyptian official, namely the former Minister of Family & Population of Egypt, former Assistant Minister of Foreign Affairs, and Egyptian diplomat.³³ As for Mr Mahmoud, he is also a former Egyptian diplomat. In both 2014 and 2018, he was the coordinator of al-Sisi's presidential campaign, which clearly demonstrates a lack of independence from the executive.³⁴

3.3 The protection from criminal and civil liability for official actions and decisions undertaken in good faith

The Paris Principles on the composition and guarantees of independence and pluralism hold:

In order to ensure a stable mandate for the members of the national institution, without which there can be no real independence, their appointment shall be effected by an official act that shall establish the specific duration of the mandate. This mandate may be renewable, provided that the pluralism of the institution's membership is ensured.³⁵

Functional immunity is a crucial component to guaranteeing an independent and efficient NHRI. The SCA previously held that Laws No. 93/2003 and No. 197/2017 are silent on whether and how members are protected from criminal and civil liability for official actions and decisions taken in their official capacity in good faith. Furthermore, the SCA stated that external parties could initiate or threaten to initiate legal proceedings and, therefore, could try to influence the operation of the NCHR. For this reason, the SCA recommended that "members and staff of an NHRI should be protected from both criminal and civil liability for acts undertaken in good faith in their official capacity"³⁶ and that it "should advocate for these very changes in its enabling law."³⁷ These same recommendations were already made in March

Mahmoud Othman; Ghada Mahmoud Hammam Mahmoud; Mohammed Mamdouh Jalal Abdul Halim; Alaaa Sayed Kamel Shalabi; Ezzat Ibrahim Mikhail Youssef; Noha Talaat Abdulq Al-Sayyed Abdullatif; Mahmoud Mohamed Saad Metwally Bassiouni; Samirah Luqa Daniel Absakhrun; Dr Wafa Biny Basta; Issamuddin Ahmed Tah Sheeha; Mohammed Anwar Esmat; Dina Hamesh Mohammed Abbas; Saeed Saeed Saeed Ismail Ismail Ismaa; Dr Ayman Jaaman Ahmed.

³³ See: <https://www.moushirakhattab.com/about.php> (accessed 31 May 2023).

³⁴ MadaMasr, *Sisi's campaign shaping up*, 30 March 2014, <https://www.madamasr.com/en/2014/03/30/news/u/sisis-campaign-shaping-up/> (accessed 31 May 2023); Egypt Today, *Sisi names general coordinator of his pres. campaign*, 24 January 2018, <https://www.egypttoday.com/Article/1/40954/Sisi-names-general-coordinator-of-his-pres-campaign> (accessed 31 May 2023).

³⁵ Paris Principles, Composition and guarantees of independence and pluralism, para. 3.

³⁶ GANHRI Sub-Committee on Accreditation, *Report and Recommendations of the Session of the Sub-Committee on Accreditation (SCA)*, May 2018, p. 22.

³⁷ *Ibidem*.

2017.³⁸ It appears that the enabling legislation has yet to be amended so as to ensure that members are protected from criminal and civil liability for official actions and decisions taken in their official capacity.

3.4 Visits to places of deprivation of liberty

The Paris Principles do not mention detention visits explicitly. However, the General Observations specify the mandate of an NHRI in that regard:

When an NHRI is provided with a mandate to receive, consider and/or resolve complaints alleging violations of human rights, it should be provided with the necessary functions and powers to fulfill this mandate adequately. Depending on its mandate, such powers, and functions might include: the ability to investigate complaints, including the power to compel the production of evidence and witnesses and to visit places of deprivation of liberty.³⁹

Article 3 (16) of Law No. 197/2017 mandates the NCHR to visit prisons and all places of detention and interview inmates, and submit its reports to the Public Prosecutor and House of Representatives. However, the SCA correctly noted that the law is silent on whether prior notice is required in conducting these visits. According to the SCA, the NCHR confirmed that prior notice is necessary.⁴⁰ The SCA considered that “an NHRI should be mandated to conduct ‘unannounced’ visits to all places of detention within its jurisdiction as this limits opportunities for detaining authorities to hide or obscure human rights violations and facilitates greater scrutiny.”⁴¹ For this reason, the SCA recommended that the NCHR “advocate for the explicit mandate to conduct an unannounced visit to all places of detention.”⁴² These exact recommendations were already made in the SCA report from March 2017.⁴³ As it will be shown below, the Human Rights Committee has recently commented on that issue as well. It held that the visitations of the NCHR to places of deprivation of liberty are often denied and when granted are prearranged.⁴⁴ Not being able to conduct unannounced visits severely affects the

³⁸ GANHRI Sub-Committee on Accreditation, *Report and Recommendations of the Session of the Sub-Committee on Accreditation (SCA)*, March 2017, p. 36 f.

³⁹ GANHRI, *General Observations of the SCA*, 2.9 *The quasi-judicial competency of NHRIs (complaints-handling)*, p. 49.

⁴⁰ GANHRI Sub-Committee on Accreditation, *Report and Recommendations of the Session of the Sub-Committee on Accreditation (SCA)*, May 2018, p. 22.

⁴¹ *Ibidem*.

⁴² *Ibidem*.

⁴³ GANHRI Sub-Committee on Accreditation, *Report and Recommendations of the Session of the Sub-Committee on Accreditation (SCA)*, March 2017, p. 34.

⁴⁴ Human Rights Committee, Concluding observations on the fifth periodic report of Egypt CCPR/C/EGY/CO/5, 14 April 2023, para. 29, https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CCPR%2FC%2FEGY%2FCO%2F5&Lang=en (last accessed 27 April 2023).

effectiveness of detention visits. In an NGO report from 2018, it was stated that the NCHR is not independently choosing the places of detention, but rather the Ministry of Interior would choose and allow specific visits while overseeing the visit itself.⁴⁵ Therefore, we are highly concerned that the NCHR is not independently and effectively exercising its mandate.

According to Committee for Justice, the requests submitted by the NCHR to the Public Prosecution to visit prisons are not made public. They affirmed that the visits were conducted in a theatrical manner, aiming to exonerate the state, the Ministry of Interior and the prison administration by saying that prison conditions are excellent and that no violations are occurring.

The NCHR reportedly stated it intended to visit 300 police detention facilities, which are separate from prisons, to examine conditions following reports in August by human rights groups of inmates dying in custody. In addition, according to the U.S. Department of State, the NCHR completed multiple prison visits in 2022.⁴⁶

3.5 Encouraging ratification or accession to international human rights instruments

The Paris Principle A 3 (c) holds that NHRIs are required:

To encourage ratification of the above-mentioned instruments or accession to those instruments, and to ensure their implementation.⁴⁷

Furthermore, the Paris Principle A 3 (b) requires NHRIs:

To promote and ensure the harmonization of national legislation, regulations, and practices with the international human rights instruments to which the State is a party, and their effective implementation.⁴⁸

The SCA rightly expressed concern that Law No. 197/2017 does not “explicitly provide the NCHR with a mandate to encourage ratification or accession to international human rights instruments,”⁴⁹ even though this is a key function of any NHRI. Because of that, the SCA encouraged the NCHR “to advocate for amendments to the enabling law to provide it with an

⁴⁵ Alkarama, *Egypt: National Council for Human Rights*, p. 12.

⁴⁶ U.S. Department of State, *Egypt 2022 human rights report*, available at: https://www.state.gov/wp-content/uploads/2023/03/415610_EGYPT-2022-HUMAN-RIGHTS-REPORT.pdf (accessed 1 June 2023).

⁴⁷ Paris Principles, Competence and responsibilities, para. 3 (c).

⁴⁸ *Ibidem.*, para. 3 (b).

⁴⁹ GANHRI Sub-Committee on Accreditation, *Report and Recommendations of the Session of the Sub-Committee on Accreditation (SCA)*, May 2018, p. 23.

explicit mandate to encourage ratification or accession to international human rights instruments.”⁵⁰

To our knowledge, there has been no effort at all from the NCHR in that aspect, including in the latest report submitted during Egypt’s last cycle of the Universal Periodic Review.⁵¹ The NCHR could have for instance recommended the ratification of the Convention on Enforced Disappearances and the Additional Protocol to the Convention Against Torture. Instead, it simply draws a listing of Egypt’s latest ratifications without recommending any substantial change.

3.6 Cooperation with international human rights mechanisms

The Paris Principles hold that NHRIs shall:

Contribute to the reports which States are required to submit to United Nations bodies and committees, and to regional institutions, pursuant to their treaty obligations and, where necessary, to express an opinion on the subject, with due respect for their independence.⁵²

We are concerned over article 3 (8) of Law No. 197/2017, which provides that the cooperation of the NCHR with international organisations and agencies must be performed “in coordination with the Ministry of Foreign Affairs.”⁵³ We affirm that this provision is contrary to the Paris Principles and the safeguarding of independence because it puts the NCHR in the dependent role of having to comply with – and potentially adhere to – the given policies of the Ministry of Foreign Affairs.

3.7 Addressing human rights violations more comprehensively

Following the last review, the SCA encouraged the NCHR to strengthen its efforts to address all human rights violations.⁵⁴ The Committee pointed out concerns regarding “the

⁵⁰ Ibidem.

⁵¹ NCHR, *Submission Of the National Council for Human Rights To the Universal Periodic Review Mechanism 2014*, March 2019, available at: <https://nchr.eg/Uploads/publication/ar.pdf> (accessed 1 June 2023).

⁵² Paris Principles, Competence, and responsibilities, para. 3 (d).

⁵³ Egyptian Law 197/2017 of first of August 2017, Article 3 (8), Alkarama, *Egypt: National Council for Human Rights*, p. 10.

⁵⁴ GANHRI Sub-Committee on Accreditation, *Report and Recommendations of the Session of the Sub-Committee on Accreditation (SCA)*, May 2018, p. 20.

effectiveness of the NCHR in dealing with serious human rights issues, including torture, enforced disappearances, and the protection of human rights defenders.”⁵⁵

In 2021, the NCHR adopted a strategy that aims to address new challenges that Egypt may face over the years 2021 to 2024, taking into account the needs and arising issues that Egypt has been facing since June 2013. Interestingly, the strategy touches upon several challenges that has been faced by Egypt the past years, such as the Covid-19 pandemic and parliamentary changes. The NCHR has identified some thematic issues to stress upon such as social and economic rights, civil and political rights, climate change and the fight against discrimination. It is regrettable however to see that some important issues such as the crackdown on public dissent or the increasing use of torture in Egypt have not been mentioned in the strategy.

Importantly, the NCHR has expressed its appreciation for the National strategy for Human Rights, launched by President al-Sisi in 2021 in collaboration with the United States of America. It is also regrettable to see that the NIHCR did not further comment on this National Strategy, especially considering the fact that it had been heavily criticised by civil society actors.⁵⁶

3.7.1 Acting on complaints from victims of human rights violations

According to the Committee For Justice, hundreds of complaints have been submitted to the NCHR, including cases of enforced disappearance and arbitrary detention, to no avail. The NCHR is not considered to be an effective nor independent means of redress for victims of human rights violations. In a 2021 Opinion from the UN Working Group on Arbitrary Detention regarding the case of human rights lawyer and former member of parliament Ziad El-Elaimy, it was stated that:

Reportedly, Mr. El-Elaimy has been detained in inhumane conditions, in a small, humid cell, with poor ventilation and unhygienic facilities. On 10 July 2019, his family submitted a complaint to the National Council of Human Rights concerning the conditions of detention. The family received no response.⁵⁷

⁵⁵ Ibidem.

⁵⁶ See Cairo Institute for Human Rights Studies, *Egypt: National Strategy for Human Rights a ruse to show international community and donor states that political reform is underway*, 15 November 2021, available at : <https://cihrs.org/egypt-national-strategy-for-human-rights-a-ruse-to-show-international-community-and-donor-states-that-political-reform-is-underway/?lang=en#PDF> (last accessed 1 June 2023).

⁵⁷ UN Working Group on Arbitrary Detention, Opinion No. 79/2021, 19 November 2021, para. 17, <https://www.ohchr.org/sites/default/files/documents/issues/detention/opinions/session92/2022-08-05/A-HRC-WGAD-2021-79-EGY-AEV.pdf> (last accessed 25 May 2023).

3.7.2 Analysis of the Executive Summary of the 15th annual report by the NCHR (2019/2020)

First, it should be emphasised that the NCHR did not publish any annual reports since 2020, even though publications like this are a crucial part of executing their mandate effectively and independently (Article 3 (13) and (14) of Law No. 197/2017).

In order to assess the NCHR's commitment to addressing human rights violations across the country, the present report will analyse the last executive summary of the 15th annual report from 2019/2020. The report contains an introduction by the former president Ambassador Mohammad Fa'eq and was supervised by the former member Mohssen Mouawad. The present analysis will focus on what we consider to be the main issues of the annual report, i.e., addressing the violations of the right to life, freedom from torture, the right to a fair trial, the freedom of expression as well as the freedom of assembly and association.

a. The right to life

Under the title basic rights, the annual report starts with the right to life. It focuses on the non-governmental armed group Wilayat Sina⁵⁸ and their human rights violations *vis-à-vis* governmental actors. It examines the violations of the right to life of police and military personnel due to terrorist attacks and the fight against terrorism in the Sinai region.⁵⁹ While reporting on the human rights violations of the armed groups in Northern Sinai, it remains entirely silent on the violations of the right to life attributed to Egyptian authorities, primarily through the practice of torture (litera b) or the exercise of the death penalty (litera c), which are examined in the following sections. Not reporting on the widespread and well-documented governmental human rights violations of the right to life of the Egyptian people strongly indicates that the NCHR does not operate independently.

b. Freedom from torture and enforced disappearance

On the issue of torture, NCHR's initial criticism of the practice of torture focused on a total of three incidents while stating that "torture claimed the life of another victim in pre-trial detention".⁶⁰ In the other two alleged torture cases presented, the NCHR remarked that the victims lost their lives not because of the practice of torture but due to medical reasons such

⁵⁸ Human Rights Watch, *World Report, Egypt, Events of 2022*, <https://www.hrw.org/world-report/2023/country-chapters/egypt> (last accessed 13 April 2023).

⁵⁹ NCHR, Executive Summary of the 15th annual report by the NCHR (2019/2020), p. 12 f.

⁶⁰ *Ibidem.*, p. 9.

as pre-detention health issues or contracting COVID-19.⁶¹ The NCHR was entirely insufficiently addressing, reporting, and analysing cases where practicing of torture by Egyptian authorities led to the death of people. In that context, it is essential to highlight that the 2017 enquiry from the UN Committee against Torture (CAT) concluded that “torture is a systematic practice in Egypt” while further stating:

Torture occurs in police stations, prisons, State security facilities, and Central Security Forces facilities. Torture is perpetrated by police officers, military officers, National Security officers, and prison guards. However, prosecutors, judges, and prison officials also facilitate torture by failing to curb torture practices, arbitrary detention, and ill-treatment or to act on complaints. Many documented incidents occurred in greater Cairo, but cases have also been reported throughout the country. Perpetrators of torture almost universally enjoy impunity, although Egyptian law prohibits and creates accountability mechanisms for torture and related practices, demonstrating a serious dissonance between law and practice.⁶²

Furthermore, the CAT expressly stated that sources alleged that:

impunity for torture was widespread and was facilitated by the absence of an independent investigating authority for complaints of torture, the excessive use of military courts, a lack of regular independent monitoring of places of detention, and the inadequate independence and competence of the National Council for Human Rights.⁶³

Indeed, the NCHR did not acknowledge that torture was a widespread practice by Egyptian authorities but was instead trying to portray these cases as individual and isolated occurrences. Importantly, the NCHR mentioned the 2017 report of the CAT, noting that the conclusion that torture is a “systematic practice in Egypt”⁶⁴ was a “politicized categorization”⁶⁵ that would try to “undermine the efforts of the government”.⁶⁶ In its latest UPR submission, the NCHR went as as stating that the main issue surrounding torture in Egypt is the fact that it is a pretext “increasingly used by the defence to overturn confessions.”⁶⁷

⁶¹ Ibidem., p. 13 f.

⁶² Report of the Committee Against Torture, A/72/44 2017, Para. 69 https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=A%2F72%2F44&Lang=en (last accessed 27 April 2023).

⁶³ Ibidem, Para 66.

⁶⁴ Ibidem, Para 69.

⁶⁵ NCHR, Executive Summary of the 15th annual report by the NCHR (2019/2020), p. 18.

⁶⁶ Ibidem.

⁶⁷ NCHR, *Submission Of the National Council for Human Rights To the Universal Periodic Review Mechanism 2014*, March 2019, p. 3, available at: <https://nchr.eg/Uploads/publication/ar.pdf> (accessed 1 June 2023).

Those comments reveal the lack of impartiality of the NCHR towards the Egyptian government. The NCHR was defending the Egyptian government, their systematic practice of torture, and the continuing impunity for government officials while at the same time completely undermining the mandate that was handed to them. In sum, NCHR did by no means put into practice the recommendations stated by the SCA in 2018.

Furthermore, in the NCHR's annual report, there is no mention of enforced disappearances, even though this is equally one of the most pertinent human rights violations in Egypt and the SCA urged the NCHR to do so.⁶⁸ NGOs have reported that "police and National Security agents continued to forcibly disappear opponents in unofficial detention places where detainees are subjected to torture and forced confessions."⁶⁹ The Human Rights Committee noted in its Concluding Observations that it was "deeply concerned by the reportedly widespread use of incommunicado detention under anti-terrorism laws, which presents a significant systemic risk of short-term enforced disappearance, and reports of the enforced disappearance of individuals despite court orders for their release."⁷⁰ Moreover, there is a widespread lack of investigation of such crimes and a general state of impunity for security forces.⁷¹ In light of the scale of those human rights violations, it is extremely concerning that the NCHR would ignore such practices in their report. Furthermore, the NCHR consequently did not put into practice the recommendations stated by the SCA in 2018.

c. The right to a fair trial and due process

Since al-Sisi came to power in 2013, UN bodies and experts, Egyptian and international NGOs "have consistently documented and reported on the Egyptian authorities' abuse of the criminal justice system and counter-terrorism legislation to keep opponents and critics arbitrarily detained."⁷² Convictions and trials of government opponents remain "inherently unfair"⁷³ and oftentimes lead to the handing down of death sentences.⁷⁴ Officials such as prosecutors and

⁶⁸ GANHRI Sub-Committee on Accreditation, *Report and Recommendations of the Session of the Sub-Committee on Accreditation (SCA)*, May 2018, p. 20.

⁶⁹ Human Rights Watch, *World Report, Egypt, Events of 2022*, <https://www.hrw.org/world-report/2023/country-chapters/egypt> (last accessed 13 April 2023).

⁷⁰ Human Rights Committee, *Concluding observations on the fifth periodic report of Egypt*, 14 April 2023, CCPR/C/EGY/CO/5, para. 5, https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CCPR%2FC%2FEGY%2FCO%2F5_Lang=en (last accessed 25 May 2023).

⁷¹ Amnesty International, Research Briefing, *Disconnected from Reality, Egypt's National Human Rights Strategy Covers up the Human Rights Crisis*, September 2022, p. 18.

⁷² *Ibidem*.

⁷³ Amnesty International, *Report 2022/2023*, p. 152, <https://www.amnesty.org/en/location/middle-east-and-north-africa/egypt/report-egypt/> (last accessed 27 April 2023).

⁷⁴ *Ibidem*.

judges “routinely renewed the pretrial detention of thousands of people held on unfounded terrorism or security-related charges.”⁷⁵ Because of “security forces preventing private meetings with lawyers”,⁷⁶ defendants’ rights to a fair trial are violated. Furthermore, proceedings before the emergency or military courts are especially facing a lack of due process: violations of “the right to presumption of innocence and not to be compelled to self-incriminate; the right to a public hearing; the right to adequate defense; the right to examine witnesses and the right to a genuine review”⁷⁷ are frequent.

However, on the right to a fair trial, the NCHR first mentioned digital transformation efforts and the efforts to review the Penal Code. In connection with the death penalty, the NCHR stated that it is “alarmed by the endeavours of the terrorist organization of positioning execution sentences in the wrong context”.⁷⁸ It further noted that the “international discourse on the human rights situation in Egypt is misconceiving the issue of execution sentences”⁷⁹ and that the framing of the executions as “retaliation of political opponents”⁸⁰ was inaccurate.⁸¹ These statements are equally pointing to the fact that the NCHR is defending the Egyptian government and its policies. This further severely questions the independence and effectiveness of the NCHR.

d. Treatment and conditions of detainees

Concerning prison conditions, the NCHR emphasises the government’s pardon and release on probation measures.⁸² It further elaborates on conducted prison visits during the reporting period but refrained from reporting anything substantial about the treatment or conditions of the detainees. Even though the NCHR mentioned ‘summary reports’, these cannot be found on the webpage of the council. Therefore, it remains unclear how the NCHR is assessing the situation of detainees in Egyptian prisons. In summary, the NCHR fails to effectively address human rights violations in connection with the deprivation of liberty.

⁷⁵ Ibidem.

⁷⁶ Ibidem.

⁷⁷ Amnesty International, Research Briefing, *Disconnected from Reality, Egypt’s National Human Rights Strategy Covers up the Human Rights Crisis*, September 2022, p. 19.

⁷⁸ NCHR, Executive Summary of the 15th annual report by the NCHR (2019/2020), p. 16.

⁷⁹ Ibidem.

⁸⁰ Ibidem.

⁸¹ See: OHCHR, Press Release, *Press briefing notes on Egypt executions*, 15 March 2022, <https://www.ohchr.org/en/press-briefing-notes/2022/03/press-briefing-notes-egypt-executions> (last accessed 15 May 2023).

⁸² NCHR, Executive Summary of the 15th annual report by the NCHR (2019/2020), p. 19.

In that context, Human Rights Watch stressed in 2022 that “the dire conditions in Egyptian prisons and detention centers remained shielded from independent oversight.”⁸³ Amnesty International further reported that “prison officials systematically hold men and women in conditions that violate the absolute prohibition of torture and other ill-treatment, characterized by overcrowding and inadequate accommodation, poor ventilation, substandard sanitation and hygiene, shortage of nutritious food, and little or no access to fresh air and exercise.”⁸⁴ Another major violation of prisoners’ rights is the denial of adequate health care.⁸⁵ According to Amnesty International, in 2021, 56 detainees died in prison following medical complications while the Egyptian authorities do not carry out investigation into these deaths in order to establish cases of death and the circumstances they occurred.⁸⁶

In light of extensive and concrete documentation of countless internationally reputable and respected organisations regarding the grave situation in Egyptian detention facilities, it is unacceptable for the national human rights institution not to address this widespread issue and not to advocate for improvements and the respect of human rights. In our opinion, this equals an ineffective implementation of the NCHR’s mandate and shows the lack of impartiality from the Egyptian government.

e. Freedom of expression

While the NCHR noted in the foreword that there was no progress regarding “the file of the legal prosecution of human rights activists”⁸⁷, the chapter on freedom of expression does not cover the situation of human rights defenders comprehensively, even though the SCA explicitly urged the NCHR to engage with that particular human rights concern.⁸⁸ The NCHR was instead addressing the suffering of the national media landscape, the concerning “penalty regulations of the Supreme Council of Media Regulation”,⁸⁹ “the State Minister of Information’s plan for the modernization and development of the media”,⁹⁰ and the proposed freedom of information law.

⁸³ Human Rights Watch, *World Report, Egypt, Events of 2022*, <https://www.hrw.org/world-report/2023/country-chapters/egypt> (last accessed 13 April 2023).

⁸⁴ Amnesty International, Research Briefing, *Disconnected from Reality, Egypt’s National Human Rights Strategy Covers up the Human Rights Crisis*, September 2022, p. 22.

⁸⁵ Ibidem.

⁸⁶ Ibidem.

⁸⁷ NCHR, Executive Summary of the 15th annual report by the NCHR (2019/2020), p. 8.

⁸⁸ GANHRI Sub-Committee on Accreditation, *Report and Recommendations of the Session of the Sub-Committee on Accreditation (SCA)*, May 2018, p. 20.

⁸⁹ NCHR, Executive Summary of the 15th annual report by the NCHR (2019/2020), p. 22.

⁹⁰ Ibidem.

NGOs have on the other hand described the ongoing situation as the authorities continuing “to crush all forms of peaceful dissent and stifle civic space”.⁹¹ It is undisputed that the Egyptian authorities use “arbitrary travel bans to target key members of civil society for their peaceful work, including human rights lawyers, journalists, feminists, and researchers.”⁹²

Even though the NCHR reiterated “its call to immediately end the travel ban imposed on such activists and the freezing of their personal bank accounts”,⁹³ it proceeded by saying that the arrest of three members of the Egyptian Initiative for Personal Rights on the counts of supporting terrorism “angered the human rights activist community and triggered resounding international criticism.”⁹⁴ Clearly, the NCHR does not see itself as an actor part of the Egyptian human rights community that fulfils its mandate by addressing ongoing human rights violations.

UN officials criticised Egypt for “its crackdown on independent organizations and human rights defenders”⁹⁵. Accordingly, the current High Commissioner for Human Rights Volker Türk, in his Global Update on 7 March 2023 stated to following to the Human Rights Council: “In Egypt, continuing restrictions on civic space include crackdowns on dissent, arbitrary detention, and action to censor and block websites”⁹⁶ and urged the government to lift restrictions of civil space.⁹⁷

The NCHR did not address the ongoing human rights violations that so many Egyptians are suffering from, and there is an overall lack of critical reporting and assessing. In light of the above, we consider that NCHR did not implement the SCA’s recommendations encouraging the NCHR to strengthen its efforts to address all human rights violations.

⁹¹ Amnesty International, *Report 2022/2023*, p. 151, <https://www.amnesty.org/en/location/middle-east-and-north-africa/egypt/report-egypt/> (last accessed 27 April 2023).

⁹² Human Rights Watch, *World Report, Egypt, Events of 2022*, <https://www.hrw.org/world-report/2023/country-chapters/egypt> (last accessed 13 April 2023).

⁹³ NCHR, Executive Summary of the 15th annual report by the NCHR (2019/2020), p. 23.

⁹⁴ Ibidem.

⁹⁵ Human Rights Watch, *Egypt: New NGO Law Renews Draconian Restrictions*, <https://www.hrw.org/news/2019/07/24/egypt-new-ngo-law-renews-draconian-restrictions> (last accessed 30 April 2023).

⁹⁶ OHCHR, *Global update: High Commissioner outlines concerns in over 40 countries*, <https://www.ohchr.org/en/statements-and-speeches/2023/03/global-update-high-commissioner-outlines-concerns-over-40-countries> (last accessed 30 April 2023).

⁹⁷ Ibidem.

f. Freedom of assembly and association

Even though the NCHR stated that it “hopes that the governors would determine site where citizens, upon notifying the competent authorities, would be entitled to assemble in”,⁹⁸ it does not examine the widespread human rights violations in that regard, nor does it address or condemn the violations and its consequences for the affected citizens of Egypt.

On freedom of association, it is important to recall the 2019 NGO Law, which “constrains the activities of NGOs deemed to threaten national security, public morals, and public order and imposes onerous reporting requirements and intrusive monitoring systems.”⁹⁹ The Egyptian government required all NGOs “to register under the draconian 2019 NGO law by April 2023 or face closure.”¹⁰⁰ In the past years, NGOs have faced not only mass closures but also harassment by governmental officials, especially in the form of “office raids, arrests of members, lengthy legal cases, restrictions on travel”¹⁰¹ and arbitrary detention.¹⁰²

In our view, it is not acceptable for the NCHR to merely state hopes of improvement. The mandate of the NCHR demands thorough reporting and examination, advocacy for the protection of human rights, action, and recommendations. Also, in this point, the NCHR fails to implement its duties and leaves the impression of a biased institution.

3.7.3 Analysis of the NCHR’s submission to the UN Human Rights Committee

The NCHR’s report on the civil and political rights situation of Egypt submitted to the Human Rights Committee on 30 January 2023,¹⁰³ unfortunately, shows a very similar picture as the critique stated above. The report is characterised by a focus on the alleged achievements of the Egyptian government and is marred by an absence of any analysis of human rights violations, critical statements, or advocacy for compliance with human rights obligations.

⁹⁸ NCHR, Executive Summary of the 15th annual report by the NCHR (2019/2020), p. 23.

⁹⁹ Freedom House, *Freedom in the World 2023, Egypt*, <https://freedomhouse.org/country/egypt/freedom-world/2023> (last accessed 30 April 2023).

¹⁰⁰ Amnesty International, *Report 2022/2023*, p. 151, <https://www.amnesty.org/en/location/middle-east-and-north-africa/egypt/report-egypt/> (last accessed 27 April 2023).

¹⁰¹ Freedom House, *Freedom in the World 2023, Egypt*, <https://freedomhouse.org/country/egypt/freedom-world/2023> (last accessed 30 April 2023).

¹⁰² Amnesty International, *Report 2022/2023*, p. 151, <https://www.amnesty.org/en/location/middle-east-and-north-africa/egypt/report-egypt/> (last accessed 27 April 2023).

¹⁰³ NCHR, *Assessment of The Civil and Political Rights Situation in Egypt From November 2020-September 2022, Report presented to the 137th Session of the Human Rights Committee*, 30 January 2023, https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=INT%2FCPR%2FNHS%2FEGY%2F51554&Lang=en (last accessed 1 May 2023).

Furthermore, these alleged improvements are in very stark contrast with the Concluding Observations of the Human Rights Committee issued in April 2023.¹⁰⁴

For instance, regarding the right to life and freedom of torture, the NCHR exclusively reports on the achievements regarding harsher punishment for sexual harassment and FGM and the Law No. 214 of 2020, which regulates medical research.¹⁰⁵ Although this is an important issue, we note that the NCHR reports overlooks abuses committed by state actors. The UN Human Rights Committee noted that it is “deeply concerned by the reportedly systematic use of torture and cruel, inhuman or degrading treatment at the hands of law enforcement personnel.”¹⁰⁶ Further, it stated that reports show “that torture and ill-treatment are prevalent within places of deprivation of liberty and that such acts are widely practised by the police and State security services during the arrest, interrogation and investigation phases, often as a method of coercion to elicit information or to punish or intimidate opponents and critics, despite constitutional and legislative guarantees.”¹⁰⁷

Moreover, on the treatment of people deprived of liberty, the NCHR summarises the strategy of the Ministry of Interior for the management of detention facilities and calls for “the adaption of the modern punitive philosophy.”¹⁰⁸ Nothing in the section, however, addresses the vast human rights violations happening in Egypt’s detention facilities: Along these lines, the Human Rights Committee stressed its concern of “the persistence of severe overcrowding, poor ventilation, the lack of clean water and hygiene products, physical abuse and inadequate health-care provision in places of deprivation of liberty.”¹⁰⁹ Furthermore, it emphasised the allegations that “visits to places of deprivation of liberty by the National Council for Human

¹⁰⁴ Human Rights Committee, *Concluding observations on the fifth periodic report of Egypt* CCPR/C/EGY/CO/5, 14 April 2023, https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CCPR%2FC%2FEGY%2FCO%2F5&Lang=en (last accessed 27 April 2023).

¹⁰⁵ NCHR, *Assessment of The Civil and Political Rights Situation in Egypt From November 2020-September 2022, Report presented to the 137th Session of the Human Rights Committee*, p. 10, 30 January 2023, https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=INT%2FCCPR%2FNHS%2FEGY%2F51554&Lang=en (last accessed 1 May 2023).

¹⁰⁶ Human Rights Committee, *Concluding observations on the fifth periodic report of Egypt*, CCPR/C/EGY/CO/5, 14 April 2023, para. 27, https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CCPR%2FC%2FEGY%2FCO%2F5&Lang=en (last accessed 27 April 2023).

¹⁰⁷ Ibidem.

¹⁰⁸ NCHR, *Assessment of The Civil and Political Rights Situation in Egypt From November 2020-September 2022, Report presented to the 137th Session of the Human Rights Committee*, p. 12, 30 January 2023, https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=INT%2FCCPR%2FNHS%2FEGY%2F51554&Lang=en (last accessed 1 May 2023).

¹⁰⁹ Human Rights Committee, *Concluding observations on the fifth periodic report of Egypt*, CCPR/C/EGY/CO/5, 14 April 2023, para. 29, https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CCPR%2FC%2FEGY%2FCO%2F5&Lang=en (last accessed 27 April 2023).

Rights are often denied and, when granted, are prearranged and do not allow for unhindered access or confidential interviews with detainees.”¹¹⁰

Overall, the same conclusion as for the annual report of 2019/2020 can be drawn for the NCHR submission to the Human Rights Committee: The Egyptian government severely violates core human rights obligations in a systematic and widespread manner. The contributions of the NCHR portray Egypt’s human rights record very differently. The NCHR does not critically report and assess the state of human rights or advocate for compliance with human rights obligations while, almost without exception, focusing on the government's achievements. It is the view of the authors of the present report that this is attributable to the NCHR's partiality towards the Egyptian government and its inability to carry out its mandate in a manner that is impartial, unbiased and unrestricted.

Therefore, also in the recent efforts of the NCHR, the recommendations of the SCA have not been implemented.

4 Conclusion and recommendation

For the past 20 years, the NCHR has been operating primarily in the context of widespread human rights violations by the Egyptian authorities. Looking back at past reviews by the SCA, it becomes very clear that the NCHR repeatedly received the same recommendations; however, advocacy or change relating hereto remains absent. In consequence, the independence of the NCHR is not guaranteed:

The selection and appointment process reveals severe issues regarding the independence of the NCHR’s mandate since all the power belongs to the legislative, which is closely tied to the executive. We recall that both the President and Vice-President of the NCHR are former Egyptian officials; with the Vice-President being the presidential campaign coordinator of al-Sisi in both 2014 and 2018. Furthermore, the enabling law lacks a detailed and concrete description of a uniform selection process. Furthermore, the lack of unannounced visits to places of detention confirms the CNDH's perception that it does not provide effective remedies for victims of human rights violations. Lastly, the law still lacks the granting of functional immunity for the members of the NCHR, which has a clear impact on their independence of actions.

¹¹⁰ Ibidem.

On the other hand, the enabling law does not guarantee sufficient efficiency in several regards: The lack of unannounced and independent detention visits prevents the NCHR from conducting its mandate efficiently. The same is true for the lack of a provision stating that the NCHR is mandated to encourage ratification or accession to international human rights instruments. In conclusion, the NCHR is not acting independently and efficiently enough to be granted A-Status.

As demonstrated in its annual report of 2019/2020, the Egyptian NCHR has failed to react to and act on the major human rights violations occurring in the country and, therefore, fully fails to implement the recommendations of the SCA formulated in 2018. The Council does not effectively exercise its mandate, especially with respect to human rights issues such as torture, enforced disappearances, the conditions of detention, the situation of detainees and human rights defenders, fair trial rights and due process, as well as freedom of expression, peaceful assembly, and association since there is no substantial reporting, assessing, and examining of those violations. Furthermore, the NCHR entirely lacks the expression of recommendations to enhance those abuses. In sum, the NCHR does not address and examine the various human rights violations, there is an overall lack of critical reporting and advocacy for the protection and compliance with human rights. The various actions of the NCHR show an apparent absence of impartiality and independence of the institution towards the Egyptian government and the policies set forth by President al-Sisi and its allies.

The submitting NGOs' assessment is also in line with the recent assessment made by Human Rights Committee, which highlighted the lack of independence and effectiveness of the NCHR.¹¹¹

According to our research, there have been few efforts by the members of the NCHR to address and comply with these recommendations. For an NHRI with A Status, the SCA clearly demands "to 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."¹¹² The NCHR fails to achieve this expectation. Because there is no significant effort by the NCHR to implement

¹¹¹ Human Rights Committee, Concluding observations on the fifth periodic report of Egypt CCPR/C/EGY/CO/5, 14 April 2023, para. 5, https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CCPR%2FC%2FEGY%2FCO%2F5&Lang=en (last accessed 27 April 2023).

¹¹² GANHRI Sub-Committee on Accreditation, *Report and Recommendations of the Session of the Sub-Committee on Accreditation (SCA)*, May 2018, p. 20, https://www.ohchr.org/sites/default/files/Documents/Countries/NHRI/GANHRI/SCA_Report_May_2018-Eng.pdf (last accessed 12 April 2023).

recommendations or even advocate for the changes demanded by the SCA, it does not deserve to continue holding A-Status.

Therefore, we suggest the SCA to downgrade the Egyptian NCHR to B-Status during its 2023 reaccreditation procedure.



MENA Rights Group is a Geneva-based legal advocacy NGO defending and promoting fundamental rights and freedoms in the Middle East and North Africa (MENA) region.

Adopting a holistic approach, we work at both the individual and structural level. We represent victims of human rights violations before international law mechanisms. In order to ensure the non-repetition of these violations, we identify patterns and root causes of violations on the ground and bring key issues to the attention of relevant stakeholders to call for legal and policy reform.

The Human Rights Foundation is a nonpartisan, nonprofit organization that promotes and protects human rights globally, with a focus on closed societies.

The Committee for Justice (CFJ) is an independent association for the defense of human rights based in Geneva, Switzerland and established in 2015 by a diverse group of human rights advocates. It seeks to defend victims of and persons vulnerable to human rights violations with a focus on the Middle East and North Africa (MENA) region. CFJ strives to present a credible picture of the situation of human rights in the region to the international community, Civil Society Organizations (CSOs) and knowledge hubs; in which to support victims of human rights violations as well as enhance human rights situation through monitoring, documentation and presentation of human rights violations and developments in policy and practice in those countries where there is a lack of such information. Through its work, CFJ aspires to contribute to initiatives aimed at obtaining reparation and justice for victims as well as in countering impunity for perpetrators of human rights violations.