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Orchestrated campaign against human rights organizations: Facts absent; the public intentionally misled

Press release

The undersigned organizations strongly condemn the ongoing slandering and intimidation of civil society organizations, particularly human rights groups, and note that the referral of 43 Egyptian and foreign nationals to a criminal court is politically motivated. The affected institutions have been operating for several years without being asked to suspend their activities and without their offices being shut down. Moreover, in October the Egyptian government asked two of these organizations to monitor the parliamentary elections, although Article 2 of Decree 20/2011 regulating the role of civil society in monitoring elections - issued by the chair of the Supreme Elections Commission - specifically bars non-Egyptian NGOs from monitoring elections unless they present a permit from the Foreign Ministry authorizing them to do so in Egypt. Although this permit is limited to election monitoring, it nevertheless legitimizes the licensed organizations, insofar as a permit to engage in such a specific activity necessarily assumes the organization's legal, legitimate presence in Egypt.

In a sudden disregard of these facts, the raiding the offices of these and other Egyptian organizations with armed forces and their referral to trial raise numerous questions. Indeed, it makes one question whether this development is in fact based on considerations for "the rule of law" and "judicial independence," as senior government officials claim.

The first to testify to the lack of judicial independence in Egypt are senior Egyptian judges themselves, along with those who struggle for the rule of law and truth in Egypt, regardless of their political affiliations.

Judges supporting the movement for judicial autonomy fought for decades and continue to fight to achieve this noble national goal, and they have paid a high price throughout this period. When esteemed judge Hossam al-Ghiryani assumed the presidency of the Supreme Judicial Council in July 2011, he formed a committee to draft a law that would guarantee judicial autonomy, making Ahmed Mekki, one of the most prominent advocates for judicial independence, the chair of the

committee. The president of the Supreme Judicial Council hoped to have the law approved before parliamentary elections so that the lack of judicial independence would not undermine the fairness of elections and so that judges supervising the elections would be given the respect they deserve. Although the committee welcomed amendments to the law, especially regarding the judiciary's relationship to lawyers, the Supreme Council of the Armed Forces (SCAF) refused to consider the proposed law. During the second round of elections, hundreds of judges were assaulted by military police, prompting some to resign as a result of the insult and mistreatment they endured. This led the Judges Club to threaten to abstain from supervising the third round of the vote. As these points illustrate, Egyptian judges continue to be denied the autonomy that the Egyptian government suddenly now refers to in order to legitimize a political battle that lacks any moral basis whatsoever. Even now, Egyptian judges are unable to identify those responsible for killing demonstrators during the revolution or the perpetrators of all the massacres that have occurred since. As a result, the indiscriminate, daily murder of Egyptians has become a crime that carries no punishment, even as measures continue to punish the advocacy organizations that demand the rights of the victims and expose the crimes committed against them.

The lack of judicial independence not only casts doubts on the credibility of this political attack on civil society that comes in the name of the judiciary and the law. The investigation of the case itself clearly refutes any claim of judicial autonomy. The investigations are taking place in a government office (the Justice Ministry), and the two investigating judges were handpicked by the president of the Cairo Appellate Court, a move criticized by many and condemned by one of the most prominent judges of the independence movement, Judge Hisham Geneina, the president of the Appellate Court. How, he wondered, could judges be appointed by name for such serious cases as these? (There are several other cases in which investigating judges have been handpicked, as well.) Perhaps a look at the professional record of the two judges will help to answer this question: both of them worked for a long stint as heads of the High State Security Prosecution—the prosecutorial body long subject to widespread criticism and demands for its abolition, as voiced by advocates of judicial autonomy, rights organizations, and various political forces. This office is complicit in covering up the torture of defendants by State Security Investigations in political cases and functioned as a tool of the Mubarak regime, as it was deployed to settle accounts with his political enemies.

The president of the Cairo Appellate Court, who chose the two judges, is also the chair of the Supreme Elections Commission, as well as the president of the Supreme State Security Court, emergency division, under Edict 3/2011, issued by the president of the SCAF.

The Egyptian government claimed that the raids on offices of several Egyptian and international organizations in December were a legal search authorized by the judiciary. In fact, the action was a crime for which the law was sacrificed. Armed forces were used to attack these offices, and no legal or non-legal explanation was given to justify the presence of these forces, who confiscated under force of arms hundreds of files and computers, without documenting the items taken from these offices in official reports legally approved by the competent parties. This permits the fabrication of evidence through either omission or addition. The offices of these organizations were also illegally sealed.

Even before the trial has begun, the Ministry of Justice, other government parties, and the two investigating judges have been conducting a one-sided trial in the media for the last five months, making vague accusations against groups and persons via leaks to the press, with the goal of smearing civil society, especially human rights organizations, and painting them as collaborators with foreign agendas and conspirators against the country's stability. This is a flagrant violation of the law and investigation rules, which require investigators and others connected to the case to maintain the confidentiality of the proceedings and findings, under Article 75 of the Code of Criminal Procedure. This violation is a crime punishable with prison time and fines under Article 310 of the Penal Code.

The press conference held by the Minister of Justice on December 21 following the massacre at the Cabinet building is perhaps the best example of how public opinion and even investigating judges (who are working in the office of the Justice Minister himself) are being manipulated regarding matters still under investigation. During the conference, prior assumptions were made about the findings of the investigation, which constituted clear interference in the ongoing inquiry. The Minister stated, "Preliminary inquiries revealed that a group of people, particularly civil society and advocacy and social groups, received money from foreign parties, and they distributed the money they received to certain individuals." This statement explicitly endorses the government and Justice Minister's unsupported fabrications as fact before investigating judges. The press conference was preceded by numerous statements to the press by "a high level judicial source," who stated that if the allegations against civil society were proven, these groups might face charges of high treason.

The disclosure of confidential investigations did not end here. In the press conference convened by the two judges investigating foreign funding on February 8, the judges revealed some findings and reviewed various pieces of evidence on the basis of which 43 Egyptian and foreign nationals working with international organizations were referred to a criminal court. The primary goal of this was to suggest to the public the existence of a wide-ranging conspiracy targeting the stability and unity of the country and to paint international civil society groups as a danger to state security, regardless of the fact that this entails disregard for the law, judicial ethics, and legal norms that dictate that the accused is innocent until proven guilty.

Of the lies told by the government, perhaps the biggest is the claim that the funding of human rights groups is political, similar to funding given to political parties during elections in the US and elsewhere. Yet, as is well known, rights organizations do not support one political party over another, during elections or at any other time. Their activities in this field are limited to raising citizens' awareness of their political rights, without discrimination based on political or partisan affiliation, and monitoring elections to ensure transparency, fairness, and freedom for all parties in the process.

The government willfully erred in leveling the charge of political funding, for the only area where this applies is in regard to political parties. On the other hand, there is one clear example of "political funding" in Egypt: aid received by the Egyptian government from the US for the last four decades since the signing of the Camp David Accords in order to ensure American political, strategic, and security interests in the region. The purposes of this political funding have been illustrated on a number of occasions, most significantly in the Mubarak regime's participation in the siege of the Palestinian people in Gaza in cooperation with the Israeli occupation authorities, and its cooperation with the CIA in extracting confessions under torture from persons abducted by the CIA and brought to Egypt on CIA planes specifically for this purpose.

The undersigned organizations thus reject all the insinuations and willful misrepresentations of human rights organizations. The attack on these groups has been in the works since 2010, in the era of the deposed president, as part of his efforts to secure the presidency for his son, Gamal Mubarak, in a calm environment with the fewest possible objections. It is thus no surprise that the memos prepared by State Security Investigations, used as evidence by the investigating judges, were prepared before the January revolution, nor is it odd that the newly proposed NGO law recently announced by the government dates to April 2010—again, prior to the revolution. Both

under Mubarak and now, the aim of the law is to further restrict civil society institutions and bring them wholly under the authority of administrative and security bodies.

Finally:

- The orchestration of fictitious battles with other states to distract attention from the catastrophic failure of the political administration and from the daily massacre of Egyptians without accountability for the real criminals cannot in any way be a national objective. Rather, it serves the interest of a small faction that seeks to seize power and wealth without accountability or oversight.
- The public pride taken daily by several ministers and senior officials in their lack of understanding and knowledge about human rights organizations and their role, and their willful misleading of public opinion about the laws and regulations applied to civil society in other Arab and non-Arab states is not in the national interest. These officials should be prosecuted for willfully misleading the public.
- The unethical conspiring against Egyptian civil society is in no way a national objective or in the national interest. Countries around the world advance by emancipating civil society, not by suppressing it. Parliament should make it a priority to achieve this goal by adopting the NGO law proposed by civil society organizations.
- The militarization of the civilian judiciary proceeding apace through its administration in accordance with military orders is destroying what remains of judicial independence and is transforming the judiciary into a cheap political weapon. This can in no way serve the national interest. There should be a comprehensive ban on the referral of civilians to the military judiciary. The Egyptian judiciary must exercise free will and judges be empowered to manage judicial affairs with complete autonomy, including by trying those responsible for human rights abuses committed in the three decades before the revolution, as well as the successive massacres seen since.
- The perpetuation of the Mubarak regime's deployment of judicial mechanisms to achieve narrow political objectives at the expense of the higher national interest must end. Pressure must be brought to bear to achieve judicial independence in Egypt, and parliament must adopt, without hesitation or delay, the judiciary law proposed by the president of the Supreme Judicial Council.

Signatory organizations

1. Cairo Institute for Human Rights Studies
2. Andalus Center for Tolerance and Anti-Violence Studies
3. Arab Foundation for Civil Society and Human Rights Support
4. Arab Office for Law
5. Arab Penal Reform Organization
6. Arab Program for Human Rights Activists
7. Arabic Network for Human Rights Information
8. Budgetary and Human Rights Observatory
9. Cairo Center for Development
10. Center for Egyptian Women Legal Aids
11. Center for Trade Union and Workers' Services
12. Community Workshop Band
13. Egyptian Association for Community Participation Enhancement
14. Egyptian Center for Economic and Social Rights
15. Egyptian Foundation for the Advancement of Childhood Conditions
16. Egyptian Initiative for Personal Rights
17. Egyptian Organization for Human Rights
18. Egyptians Against Religious Discrimination
19. Freedom of Assembly Campaign
20. Group for Democratic Development
21. Hisham Mubarak Law Center
22. Human Rights Legal Aid Group
23. Mobaderoun Foundation for Cultural Development and Media
24. Nazra for Feminist Studies
25. New Woman Foundation
26. Rights and Freedom Supporting International Center
27. Sae'ed Association for Development and Human Rights
28. Shomo'a Association for Human Rights Studies and Welfare of Disabled
29. The Human Rights Association for the Assistance of the Prisoners