

**Office of the United Nations
High Commissioner for Human Rights**

**Report of the OHCHR Mission to Egypt
27 March – 4 April 2011**

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I. Introduction

1. Since the beginning of the popular protests in Egypt, OHCHR has been closely monitoring the human rights situation, calling on national authorities to refrain from the use of violence and to respect people's fundamental right to demonstrate peacefully. In a press conference held in Geneva on 4 February, the High Commissioner for Human Rights Ms. Navanethem Pillay, urged the Government "to follow through and make the necessary reforms to promote human rights and democracy", adding that "there must be an investigation into whether this violence was planned, and if so by whom" and that "this investigation must be undertaken in a transparent and impartial manner". On 17 February, the High Commissioner (HC) informed the Minister of Foreign Affairs of her intention to send an OHCHR delegation to Egypt in order to accompany national efforts to promote and protect human rights during the transitional period. On 1 March, the Egyptian Government welcomed the High Commissioner's request.

2. Thus, an OHCHR team visited Egypt from 27 March to 4 April 2011, with the following objectives:

- To establish contact with national and international stakeholders including the Government, local NGOs, the National Council for Human Rights, UN Agencies as well as representatives of the diplomatic community; and get their views on the current human rights situation, and;
- To explore the possibility of providing technical assistance activities to national actors/institutions to further human rights protection and compliance with international human rights obligations.

II. Mission Delegation and Programme

3. The delegation was composed of four OHCHR senior staff:

- Head of delegation: Mr. Anders Kompass, Director of the Field Operations and Technical Cooperation Division (FOTCD);
- Mr. Frej Fenniche, Chief of the Middle East & North Africa Section/ FOTCD;
- Ms. Nathalie Prouvez, Chief of Rule of Law & Democracy Section/Research and Right to Development Division (RRDD); and
- Mr. Fateh Azam, Regional Representative, OHCHR Regional Office for the Middle East.

The mission was accompanied by Mr. Mohamed Hojeij, Human Rights Officer in the Middle East and North Africa Section/ FOTCD, and supported by logistics and security officers.

4. The mission was undertaken in close coordination with the Office of the United Nations Resident Coordinator in Egypt, whose support throughout the mission was highly appreciated. After an initial consultative meeting with UN agencies and the UN Resident Coordinator, the delegation met with a large number of national stakeholders, including: The Vice Prime Minister; the Minister of Manpower and Migration; officials from the Ministries of Foreign Affairs, Interior, Justice and International Cooperation; members of the National Council for Human Rights; the representatives of 30 NGOs (active in the fields of civil and political rights as well as of economic, social and cultural rights); lawyers; judges; representatives of political parties; representatives of youth organizations and various Egyptian intellectuals. Throughout the visit the mission appreciated the support of the transitional Government, the National Council for Human Rights and the assistance it received from civil society organizations.

5. The delegation also met with representatives of the diplomatic community. Upon return to Geneva the delegation issued a press release (see attached annex).

III. Background

6. With a population of approximately 80 million, Egypt is one of the most populated countries in Africa and the Middle East. Since the advent of the Republic in 1953, Egypt has occupied an important and influential role in regional politics. Gamal Abdel Nasser, who assumed power as the second Egyptian President in 1956, was largely seen as an emblematic figure of the Arab world, symbolising Arab dignity and freedom. Following the assassination of Anwar El Sadat in 1981, Hosni Mubarak became the fourth President of Egypt and ruled the country with an uninterrupted state of emergency until his forced departure on 11 February 2011.

7. The Emergency Law (*Law No. 162 of 1958*) in place since 1967, save for an 18-month period in the 1980s (which ended with the assassination of President Anwar El Sadat in 1981), has been hindering the full consolidation of the rule of law in Egypt. Under this law, state security powers were extended, constitutional rights suspended and fundamental rights and freedoms restricted. President Hosni Mubarak relied on the state of emergency to control the country: The establishment of political parties was severely restricted. In addition, strikes, unregistered financial donations were formally banned, and thousands of opponents were arbitrarily detained and allegedly tortured. In fact, the Emergency Law gave the Government the right to detain individuals indefinitely, without any judicial safeguards.

8. In addition the country was characterised by a high level of corruption and virtual impunity. In a report published in 2010, the Transparency International's Corruption Perceptions Index (CPI), Egypt was ranked 98 (out of 178) with a CPI of 3.1¹, based on perceptions from business people and country analysts.

9. The chain of unrest that led to the departure of President Hosni Mubarak on 11 February 2011 started three weeks earlier, on 25 January, when groups formed on social networks called for massive demonstrations across the country. In less than three days their movement expanded considerably as hundreds of thousands of peaceful demonstrators joined the protests. Calls for political and constitutional changes and for respect for human rights were soon combined with

¹ On a scale of 10, 10 being very clean and 0 being highly corrupt).

socio-economic grievances. The fight against poverty, unemployment, corruption, social inequality as well as calls for dignity was also at the center of people's demands. With the multiplication of labor strikes, sit-ins and an increased risk of full-fledged civil disobedience, President Hosni Mubarak decided to step down. On 11 February 2011, Vice President Omar Suleiman officially announced the transfer of all presidential prerogatives to the Supreme Council of the Armed Forces (SCAF), which immediately pledged its full alignment with protesters' demands. On 13 February, the SCAF dismissed the Parliament, put the Constitution on hold, and promised to hand over power to civilian authorities within a six-month period.

10. The Government of Prime Minister Ahmed Mohammed Shafiq, which was formed towards the end of President Hosni Mubarak's rule, continued functioning, with some changes, until it collapsed on 3 March 2011. A new cabinet was sworn in on 7 March with Mr. Essam Sharaf² as Prime Minister.

IV. Observations and Findings

11. At the outset, the delegation pays tribute to the scores of Egyptians who lost their lives or were injured while taking their destiny into their own hands and bringing about the dramatic changes that have taken place. According to the latest reports, at least 840 Egyptians lost their lives and some 6467 were injured as a result of clashes between protesters, national security forces and/ or pro-Mubarak supporters.

12. During the OHCHR mission, the political and security situation in Egypt remained fluid or even, according to some interlocutors, tense and unstable. These interlocutors noted that "steps to be taken in the coming few months will most probably define the real path taken by the Egyptian "revolution". Meanwhile, youth organizations have been calling for the continuation of demonstrations every Friday to "save the revolution and its values", sending a clear message to the SCAF that they will not stop unless their demands for "dignity, freedom and social justice" are fully heard and met with results. During these weekly demonstrations, protesters have

² Mr. Sharaf was present and active during the protests that led to the departure of President Hosni Mubarak.

demanded to promptly ensure the accountability measures for leaders of the National Democratic Party, including former President Hosni Mubarak, in addition to expressing resentment and protest against the continuing trials of civilians by military tribunals, and the failure to investigate allegations of torture and ill-treatment committed by the military police.

13. The State of emergency remains in place, although representatives from the Government informed the delegation that the authorities intend to lift the state of emergency before September 2011.

14. Both the UNCT and donor representatives confirmed to the delegation the fears and concerns expressed by NGOs, intellectuals and lawyers about continuous human rights violations. They asserted the sensitivity of the upcoming period, with the organization of one of the most important legislative elections in the country's history. They all expressed particular interest in an OHCHR presence in Egypt.

1. Laying the foundations for a State governed by the Rule of Law, democracy and human rights

15. Since the departure of President Hosni Mubarak, the country has been under the control of the SCAF (headed by Field Marshal Mohammad Tantawi) which promised to hand over power back to a "civilian administration" once general elections are held. In the meantime, the SCAF has already undertaken some important reforms including: (i) the dismantlement of the State Security Intelligence (SSI), (ii) the adoption of constitutional reforms³, (iii) the issuing of a "constitutional declaration", (iv) the adoption of a new law governing political parties, (v) the launch of a national and inclusive dialogue on issues of national interest (such as the nature of the new political system, the electoral law and the constitution), (vi) the adoption of new measures in favor of "freedom of association", as well as (vii) the appointment of new press editors (as requested by the protesters and Press Trade Union). Additional measures, including the dissolution of the NDP, were undertaken following OHCHR mission to the country⁴.

³ On 19 March 2011, a referendum on constitutional reforms was held: Almost 18 million Egyptians casted their votes, of whom 77 % voted in favor of the proposed constitutional amendments.

⁴ On 16 April, an Egyptian Court ruled on the dissolution of the National Democratic Party and the handing over of its funds and property to the Government.

16. The delegation was informed by the Vice-Prime Minister that, in consultation with other political and social forces in Egypt, the SCAF has developed a political road map to accompany the transition towards an open and democratic society. The SCAF has officially announced that legislative elections will be held in September 2011, presidential elections in November/December 2011, and that the state of emergency will be lifted before September this year.

17. The debates over the timing and campaigns for elections and for the new constitution will most probably dominate the political scene over the next few months. In this connection, several interlocutors who met with the OHCHR delegation have expressed concern regarding the lack of sufficient safeguards to ensure free and fair elections with an adequate monitoring system.

2. Inclusive participation in public affairs/National dialogue and consultations

18. The delegation was informed by several official interlocutors of the need for consultations and of efforts undertaken to this effect, including through dialogue with various stakeholders at the invitation of the Vice-Prime Minister. Recently the Egyptian Government requested Mr. Abdel Aziz Hegazi (88-year-old former Prime Minister under President Anwar El Sadat) replace the Vice-Prime Minister, as coordinator of a broad national dialogue on issues of national interest.

19. Civil society representatives (including youth representatives) and representatives of some political parties, however, conveyed to the delegation their view that measures adopted so far by the SCAF have been taken in haste, with little or no consultations (including broadcasting short statements on national television). Some of them expressed their resentment of the fact that the SCAF is acting as if it were the Egyptian people's "custodian" and does not give sufficient space to civil society to take an active part in the decision-making process.

20. In conclusion, while acknowledging the efforts made by the authorities in such a short period, there is a sense from civil society actors that more needs to be done by the authorities to

engage meaningfully with all components of Egyptian society, in a transparent and inclusive manner around the reform processes.

3. Accountability and justice

21. Calls for accountability for the serious human rights violations committed during the recent period of unrest need to be met fully. The decision to establish two national commissions of inquiry – one established by the former government and the other established under the aegis of the National Council for Human Rights (NCHR) and the Arab Organization for Human Rights (AOHR), as well as the initiation of judicial proceedings against several individuals, including former President Hosni Mubarak and several high-ranking officials of his former government, constitute positive steps in this direction.

22. The national commission of inquiry formed by the NCHR and the AOHR released its first findings and recommendations on 23 March 2011, whereas the commission of inquiry formed by the Mubarak government released its report on 19 April 2011.

23. The one established by the NCHR and AOHR concluded that the Ministry of Interior, the National Democratic Party and state media are responsible for the different forms of violence used against protesters during the period of unrest. The commission presented its report to the General Prosecutor and requested the speedy prosecution of all those involved in assaults on protesters, including by members from the ministry of interior and other NDP leaders.

24. The second commission reported that some 846 persons were killed since the beginning of the protests on 25 January 2011. The report acknowledges what had been widely reported to the delegation by representatives of the civil society, documents cases of serious human rights violations and refers to the reliance on snipers from the counterterrorism unit of the state security apparatus, the use of police vehicles to run over protesters and the hiring of “thugs” by the NDP to attack peaceful demonstrators, particularly those present on Al-Tahrir square on 2 February 2011.

25. Taking into account the initial steps taken with regard to the violations that have occurred during the period of unrest, there is a need for a comprehensive approach to transitional justice with regard to all serious recent and past human rights violations, and for the organization of national consultations on transitional justice so as to identify the most appropriate options. In the short term, it is crucial to take the necessary measures to preserve all evidence, documentation and archives that could shed some light on human rights abuses perpetrated over the years. All perpetrators of serious human rights violations should be subjected to investigation, prosecution and trial while respecting the right to equality before courts and tribunals and to a fair trial. Finally, the victims of serious human rights violations or their families should be duly awarded reparations, including compensation.

4. Need to eradicate torture and ill-treatment, to improve prison conditions and to ensure the right to equality before courts and tribunals and to a fair trial.

26. The system of administrative detention and the emergency powers in place for the past 30 years have led to serious human rights violations, including arbitrary detention, disappearances, torture and ill-treatment. These practices were reportedly widespread in detention centres and prisons. Several reports of NGOs indicate that torture and other cruel, inhuman and degrading treatment have allegedly continued since the SCAF took over power.

27. The former State Security Investigations service (SSI) was widely known for its systematic human rights violations, including arbitrary arrests, ill-treatment and torture of detainees. Following its dismantlement, further measures need to be taken including a revision of national legislation so as to ensure that the definition of torture in the criminal code is in full compliance with international human rights norms, in particular with the Convention against Torture. Besides legislative changes, additional measures should be put in place so as to ensure that the law is complied with by law enforcement officers.

28. Credible reports of recent human rights violations made it difficult for civil society organizations to positively and openly engage with the SCAF. During meetings with the delegation, local NGOs and representatives from the youth coalitions expressed serious concerns about the current human rights situation in Egypt. They reported that the post-revolution period

has witnessed some serious cases of human rights violations that include, inter-alia, arbitrary detention, torture and other forms of cruel and inhuman treatment of prisoners as well as military trials of civilians.

29. Following demonstrations on Al-Tahrir Square on 9 March, numerous human rights abuses have been reported by human rights organizations, including allegations of ill-treatment and/or torture.⁵ Demonstrators arrested by the military in Al-Tahrir Square were presented before a military prosecutor and charged, inter alia, for breaking the curfew. Civil society representatives (and representatives of some political parties) stressed to the delegation the urgent need to put an end to the trial of civilians by military tribunals. Furthermore, they highlighted that an amendment to the military penal code adopted in 2007 restricts the possibility to lodge an appeal against decisions of military courts to appeals made on procedural grounds. The delegation met with a group of some 30 lawyers who noted the difficulties for them to have access to the individuals they represent when in detention.

5. Respect for freedom of association and expression

30. At the time of the mission, representatives of national NGOs informed the delegation that the Government was considering the adoption of a new law banning protests and strikes during working hours, as the SCAF argued that they disrupt the good functioning of the economy. “Law No. 34 of 2011” was adopted (subsequent to OHCHR’s visit) on 12 April; it stipulates a fine of up to 50,000 Egyptian Pounds for anyone participating or encouraging others to join a sit-in or any other activity that disrupts the good functioning of public institutions or public authorities. In case of violence or damage to public or private properties, that fine rises to 500,000 Egyptian Pounds, with at least a year’s imprisonment.

6. Economic, social and cultural rights

31. Among the triggers of the protests in Egypt that led to the fall of former President Hosni Mubarak were calls for an end to poverty, and demands for social justice and dignity. During 2010, thousands of demonstrations, strikes and sit-ins were staged by Egyptian workers in the

⁵ Similar reports were made following protests held on 9 April 2011 on Al-Tahrir Square, during which at least two persons were reportedly killed after Egypt’s security forces attempted to disperse demonstrators by force.

public and private sectors, protesting against the rising cost of living and demanding better wages and working conditions. Social inequalities, unfair distribution of national wealth, social security and the question of public education were recognized by the Egyptian Authorities as deeply- rooted issues, constituting long-term priorities. Civil society organizations call for workers' rights to be protected, and during recent demonstrations on Al-Tahrir Square, protestors have demanded the lifting of restrictions on forming trade unions, the introduction of an adequate minimum wage and the reinstatement of workers dismissed for their trade union activities.

7. Rights of women / Need to combat discrimination on all grounds

32. Women played an active and leading role in the planning and organization of protests that led to the departure of former President Hosni Mubarak. Women' s rights groups, however, have stressed the need to be vigilant to ensure progress with regard to women's rights and the role of women in Egyptian society and also to ensure that human rights violations specifically affecting women are fully addressed. In particular, this relates to discrimination in the public sphere and decision-making (there are few women in the current government) but also in the private sphere with regard to unequal pay, high unemployment rates, occupational segregation and discriminatory recruitment practices⁶. Sexual violence in police custody is also a concern, including reports of alleged forced "virginity tests" performed on women arrested on 9 March following protests on Al-Tahrir Square. Moreover, the rise of fundamentalist movements is seen as one of the most worrying potential restrictions to women rights and emancipation. Although very isolated in Egyptian society, radical movements have been allegedly conducting a systematic campaign of terror against women, including orchestrating a mass message (*SMS-Cellular*) campaign, threatening unveiled women with "acid attacks".

33. There are also reports of similar recent attempts at terrorizing members of the Coptic community. These reports are to be placed in the context of reports, over recent years, of civil society organizations of discrimination against members of religious minorities, including their under-representation in the security services and the army.

⁶ Committee on the Elimination of Discrimination against Women, concluding observations, 5 February 2010, CEDAW/C/EGY/CO/7

8. Engagement with the international human rights system

34. At the ministry of Foreign Affairs, the delegation had the opportunity to discuss issues of common interest, including future technical cooperation activities. OHCHR was informed that the Egyptian Government is considering the ratification of a number of international instruments:

- The Rome Statute of the International Criminal Court;
- The International Convention for the Protection of All Persons from Enforced Disappearance;
- The Optional Protocol to the Convention against Torture;
- The Optional Protocols to the Convention on the Elimination of Discrimination against Women, the International Covenant on Political and Civil Rights and the International Covenant on Economic, Social and Cultural Rights.

35. At the time of the visit, Officials at the Ministry of Foreign Affairs informed the delegation that the authorities were reviewing the composition of the Independent Committee that was established in May 2009 to follow-up on the implementation of UPR recommendations. In addition, they also conveyed the Government's readiness to respond positively to pending requests of Special Procedure mandate holders of the Human Rights Council for visits and of their intention to prepare overdue reports to human rights treaty bodies.

36. All Ministries' representatives met by OHCHR, expressed readiness to engage with OHCHR in technical cooperation activities. Notably, officials of the MFA stressed the need to develop programmes aimed at strengthening the rule of law, the independence of the judiciary and the media. A representative from the Ministry of interior, who was present during the meeting at the MFA, expressed interest in technical assistance relating to the reform of the security sector, in particular provision of human rights training to police officers.

37. During the mission the delegation had the opportunity to discuss future bilateral relations, including potential technical cooperation projects with representatives from the ministries of Foreign Affairs, Interior, and Justice. It should be noted that MFA Officials conveyed to the

delegation the Government's willingness to host the OHCHR Regional Office for North Africa in Cairo.

V. Conclusions and Recommendations

38. There have been a number of very important achievements in Egypt since 25 January, including the registration of political parties and new independent trade unions, and the ongoing investigations and prosecutions as well as the initiation of trials against perpetrators of human rights violations committed during the period of unrest and in cases of corruption. The delegation also noted the adoption of the Constitutional Declaration issued on 30 March as well as the ongoing preparations for parliamentary and presidential elections.

39. The delegation was encouraged by the commitments expressed by governmental representatives to institutionalize respect for human rights, including through the foreseen ratification of several human rights treaties or their optional protocols providing for individual complaints procedures, as well as by the commitment to increase engagement with the United Nations human rights mechanisms.

40. The delegation was also encouraged by the clarity of analysis presented by civil society representatives, especially the youth, and their vision for a new Egypt based on people's slogans of Dignity, Freedom and Social Justice. However, the initial euphoria in Egyptian streets has given way to a general feeling that while a huge hurdle has been overcome, there is still a very long way to achieve democracy and respect for all human rights. Most legitimate aspirations of the Egyptian people for change remain to be translated into concrete democratic institutional reforms. Expectations are high with regard to the people's inclusion and full participation in decision-making for the future.

41. Various and competing economic, social and security challenges lie ahead during this important transitional period where critical reforms remain to be adopted. Furthermore, the credibility of reform for any society in transition depends on the way past as well as current human rights violations are and will be addressed. The reversal of decades of abusive policies

cannot be easily achieved and if Egyptians are to trust the State and its institutions, authorities must remain vigilant and ensure full respect for human rights. It will be important for the authorities to ensure that tangible results are attained in the effort to combat past abuses and impunity and to ensure accountability at all levels, so that justice is both done and perceived to be done across the board. The two commissions of inquiry set up and that have already submitted their reports cannot be a substitute for a comprehensive and inclusive approach to transitional justice in Egypt to address all serious present and past human rights violations.

42. After discussion with a broad range of stakeholders, the OHCHR delegation recommends the following steps to accompany national efforts toward an open and democratic society and the building of a new Egypt governed by the Rule of Law and respect for human rights:

1. Restore a state of normalcy as soon as possible where full respect for international human rights norms can be secured, in particular through the lifting of the state of emergency in place since 1981 and the repeal of all decrees issued under it;
2. Ensure that the Egyptian people enjoy full freedom of expression, assembly and association and that peaceful demonstrators detained in the context of the period of unrest and subsequent events are released; adopt a targeted amnesty law ensuring the release of any remaining prisoners of opinion and; ensure that civil society organizations, including those representative of youth and women, are able to play their full role in the run-up to the elections;
3. Ensure that all measures are taken for the preparation and holding of free and fair parliamentary and presidential elections, including through an effective monitoring system; ensure that all Egyptians enjoy the right to participate freely and effectively in the conduct of public affairs, to be managed with full transparency, in particular through a national dialogue, inclusive of all sectors of society, all generations and with equal representation of women and men, on new policy or legislation, in particular for the drafting of the new Constitution and; ensure that the drafters of the new constitution take due account of international human rights standards and of the

principles of separation of powers between the executive, the legislative and the judiciary;

4. Ensure that torture and ill-treatment are eradicated, including through: a clear public statement issued by the highest authorities clarifying that the use of torture and ill treatment will not be tolerated under any circumstance and indicating that all perpetrators will be severely sanctioned if found guilty after independent investigation of all allegations; the review of the definition of torture in national law to ensure consistency with the definition provided in the Convention against Torture; the establishment of independent monitoring of prisons and all places of detention and; through ensuring the availability of a complaints mechanism for victims of torture;
5. Ensure full compliance with the right to equal access to courts and tribunals and to fair trial for all, including putting an end to trials of civilians before military courts;
6. Taking into account the initial steps taken with regard to the violations that have occurred during the period of unrest, adopt a comprehensive approach to transitional justice with regard to all serious recent and past human rights violations, including through seeking accountability, reparations and reconciliation mechanisms after consideration of different models and good practices and lessons learnt from examples considered close to the circumstances of the Egyptian transition; hold national consultations on transitional justice so as to identify the most appropriate options for Egypt; take the necessary measures to preserve all evidence, documentation and archives that could shed some light on human rights abuses perpetrated over the years; ensure that perpetrators of serious human rights violations are subjected to investigation, prosecution and trial while respecting the right to equality before courts and tribunals and to a fair trial and; ensure that the victims of serious human rights violations or their families are awarded reparations.

7. Undertake a comprehensive reform of the security sector, to include: vetting of members of the former security apparatus and other law enforcement officials, including both police and prison officers, ensuring that those against whom there is evidence of serious human rights violations do not remain or are not placed in positions where they could repeat such violations; creating an independent oversight mechanism as to hold security forces and all law enforcement officials to account for human rights violations and; considering the most effective ways and setting up new programmes so as to ensure adequate human rights training, including on international human rights norms, for law enforcement officials;
8. Ensure inclusion and participation of all parts of society, without discrimination, in the development of a new social contract and give due consideration to the people's expectations in relation to a more equitable system where corruption is systematically combated and duly sanctioned and due attention is paid to economic, social and cultural rights. Take immediate and concrete steps to work towards the progressive redress of disparities in standards of living and access to and quality of health, education, employment and social support structures for women, youth and marginalized communities across the country;
9. Following broad-based consultations, take steps towards nominating new members of the National Human Rights Council in a manner consistent with the Paris Principles on National Institutions;
10. Enhance cooperation with the UN, including: Implement recommendations by UN treaty bodies, the UPR and special procedures, and report to the Human Rights Committee, the Committee against Torture and the Committee on Economic, Social and Cultural Rights; Issue a standing invitation to all UN human rights experts, and facilitate immediately the visits requested by the special procedures, including the Special Rapporteur on torture, the Special Rapporteur on extrajudicial executions, the Special Rapporteur on the independence of judges and lawyers, the Special Rapporteur on the situation of human rights defenders, the Special Rapporteur on

freedom of religion or belief, and the Working Group on Arbitrary Detention; ratify the Rome Statute, the International Convention for the Protection of All Persons from Enforced Disappearance and OPCAT and accept individual complaints mechanisms related to human rights treaties to which Egypt is already party, in particular CCPR, CESCR, CEDAW, CAT and CERD, and enhance cooperation with OHCHR through the development of technical cooperation projects, including in the fields of justice, security sector reforms and Human Rights Education.