



Alive

in memory

August 2023

Legal and human rights report monitors and document the crime of enforced disappearance in Egypt.

Issued on the International Day against the Crime of Enforced Disappearance: Egypt

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About the Shehab Centre for Human Rights.

SHR is a voluntary right advocating center that supports freedom of the peoples and their will, and democracy. It combats injustice and discrimination in all its forms. It works for a world in which human beings enjoy a good life. SHR was founded in Egypt in 2006, with the approval of the British authorities to act as a human rights organization.

Report methodology:

This human rights report was issued to celebrate and commemorate the International Day against the Crime of Forced Disappearance. The report is a special publication focuses on the crime of enforced disappearance in Egypt and provides data and statistics generated by the SHR's Monitoring and Documentation Unit which rely on data collected from special sources of the Shahab Centre for Human Rights, specific media platforms, other human rights organizations that monitor and document cases of enforced disappearance, and the statements of the victims' families and lawyers in Egypt.

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Enforced disappearance in international instruments

Enforced disappearance is known as a crime to humanity and is a violation against human rights and is a humiliation to human dignity. The international community has therefore been called upon to consider enforced disappearance a crime against humanity in accordance with the Rome Statute of the International Criminal Court. International conventions are a legal basis for protection from this crime and the International and regional bodies are mechanisms by which the international community is combating this crime. 3

Legal criminalization of enforced disappearance in the international law

Article 1 of the International Convention for the Protection of All Persons from Enforced Disappearance, promulgated by the General Assembly of the United Nations in its resolution 47/133 of 18 December 1992, adopted on 23 December 2010, stipulates that:

1. No one shall be subjected to enforced disappearance.
2. No exceptional circumstances whatsoever, whether a state of war or a threat of war, internal political instability or any other public emergency, may be invoked as a justification for enforced disappearance.

The International Criminal Court has defined enforced disappearance as the arrest, detention, abduction or any other form of deprivation of liberty by agents of the State or by persons or groups of persons acting with the authorization, support or acquiescence of the State, followed by a refusal to acknowledge the deprivation of liberty or by concealment of the fate or whereabouts of the disappeared person, which place such a person outside the protection of the law.

Article 7 of the Rome Statute of the International Criminal Court, adopted in Rome on 17 July 1998, listed Enforced disappearance under class 1 of the crimes against humanity.
“ Article 7: Crimes against humanity

1. For the purpose of this Statute, "crime against humanity" means any of the following acts when committed as part of a widespread or systematic attack directed against any civilian population, with knowledge of the attack: (i) Enforced disappearance of persons”

Paragraph 2 of the above-mentioned article defines and explains the meaning of enforced disappearance as follows: "Enforced disappearance of persons" means the arrest, detention or abduction of persons by, or with the authorization, support or acquiescence of, a State or a political organization, followed by a refusal to acknowledge that deprivation of freedom or to give information on the fate or whereabouts of those persons, with the intention of removing them from the protection of the law for a prolonged period of time.”

Although Egypt is not a State party to the conventions mentioned above, it is a party to other conventions that contain provisions protecting individuals from enforced disappearance. The most important of these are:

1. The International Covenant on Civil and Political Rights (ICCPR), 1966 (Article No. 5).
2. Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, 1984 (Article No. 6)

Since the former contains safeguards against arbitrary arrest and incommunicado detention, which are factors conducive to enforced disappearance, the latter also obliges the State to take effective legislative, administrative, judicial, and other action to prevent acts of torture.

Article 9 of the International Covenant on Civil and Political Rights provides that:

1. Everyone has the right to liberty and security of person. No one shall be subjected to arbitrary arrest or detention. No one shall be deprived of his liberty except on such grounds and in accordance with such procedure as are established by law.
2. Anyone who is arrested shall be informed, at the time of arrest, of the reasons for his arrest and shall be promptly informed of any charges against him.
3. Anyone arrested or detained on a criminal charge shall be brought promptly before a judge or other officer authorized by law to exercise judicial power and shall be entitled to trial within a reasonable time or to release. It shall not be the general rule that persons awaiting trial shall be detained in custody, but release may be subject to guarantees to appear for trial, at any other stage of the judicial proceedings, and, should occasion arise, for execution of the judgement.
4. Anyone who is deprived of his liberty by arrest or detention shall be entitled to take proceedings before a

court, in order that that court may decide without delay on the lawfulness of his detention and order his release if the detention is not lawful.

5. Anyone who has been the victim of unlawful arrest or detention shall have an enforceable right to compensation.

Also, Article 2 of International Convention for the Protection of All Persons from Enforced Disappearance provides that: “For the purposes of this Convention, "enforced disappearance" is considered to be the arrest, detention, abduction or any other form of deprivation of liberty by agents of the State or by persons or groups of persons acting with the authorization, support or acquiescence of the State, followed by a refusal to acknowledge the deprivation of liberty or by concealment of the fate or whereabouts of the disappeared person, which place such a person outside the protection of the law.”

Article 4 of the same Convention obliges signatory States to “take the necessary measures to ensure that enforced disappearance constitutes an offence under its criminal law”.

Legal criminalization of enforced disappearance in national law

Article 54 of the Egyptian Constitution, 2014, states that:

- Personal liberty is a natural right, which is inviolable. Except in the case of flagrante delicto, no one may be arrested, searched, imprisoned or restricted in any way except by a reasoned warrant required by an investigation.
- Any person whose liberty has been restricted must be immediately informed of the reasons for this, informed in writing of his or her rights, be able to communicate immediately with his or her relatives and lawyers, and be brought before the investigating authority within 24 hours of the restriction of his or her liberty. An investigation shall be initiated only in the presence of his lawyer. If he does not have a lawyer, he shall be assigned a lawyer, with the necessary assistance provided to persons with disabilities, in accordance with the procedures established by law.
- Any person whose liberty has been restricted, and to others, has the right to appeal to the courts against such

action and to be decided within one week of such action, failing which he must be released immediately.

Article 55 of the Constitution also provides that any person arrested, imprisoned, or deprived of his liberty shall be treated with dignity and shall not be subjected to torture, intimidation, coercion, physical or mental harm and shall not be detained except in places intended for which he is humanly and healthily fit. The State is under an obligation to provide persons with disabilities with the means of access. Any violation of this offence shall be punishable in accordance with the law. The accused has the right of silence. Any statement found to have been made by a detainee under the influence of, or threat of, any of the foregoing is wasted and unreliable.

Article 40 of the Criminal Procedure Act provides that no one may be arrested or imprisoned except by order of the authorities legally competent to do so. They must be treated in a manner that preserves human dignity and cannot be physically or morally harmed.

Article 41 of the same Act provides that no one may be detained except in the prisons designated for that purpose. No one may be admitted by a warden except pursuant to an order signed by the competent authority.

Article 42 of the same Act provides that members of the Public Prosecutor and the presidents and the vice presidents of the first instance and appeal courts have to visit the public and central prisons in their jurisdiction, ensure that there are no prisoners illegally and they have access to prison books and arrest and detention warrants, take photographs of them, contact any prisoners and hear any complaints they wish to make, and the director and officers of the prisons must give them every assistance in obtaining the information they request.

Article 43 of the same Act provides that:

- Every prisoner has the right at any time to file a written or oral complaint with the prison warden and to request him to inform the Department of Public Prosecutions. The prison warden must accept receiving the written complaint and record it in an archive made for this purpose.
- Anyone who knows that he or she is being held illegally or in a non-custodial place must notify a prosecutor - he or she must immediately move to the place where the detainee is being held, investigate and order the release of the person held illegally and must make a record of it.

Although the above-mentioned constitutional and legal texts and the statement themselves alone can protect all Egyptian citizens and others from being subjected to the crime of enforced disappearance, the practical reality and application on the ground reflect a completely different picture from the constitutional and legal texts. In Egypt, any person is threatened at any moment and anywhere to be arrested and led to an unknown destination where he or she is subjected to enforced disappearance.

Forced disappearance in Egypt is a systematic and ongoing crime.

Forced disappearance is a new phenomenon in Egypt, but it has increased significantly after the events of July 3, 2013. and given the current situation that the Egyptian Government considers exceptional, it seems that this crime will continue for undefined period. Although the Egyptian Ministry of the Interior denies that any citizen is being detained in unknown places without investigation, the facts and evidence show that forced disappearance is used by the current regime's Ministry of the Interior as a strategy to spread terror among members of Egyptian society. The fear and insecurity caused by enforced disappearance are not limited to the relatives of the victims but affect the entire Egyptian society with its various communities and its intellectual and political differences.

Harms brought on by forced disappearance to victims, their families, and anybody else related to them.

The victims of enforced disappearance and the entire society are directly affected by the crime of enforced disappearance at several aspects as follows:

1. The fate of those who are subjected to enforced disappearance remains unknown not only to their families, but also to the official investigation and conviction authorities such as the Attorney-General, the Public Prosecutor office, and the judiciary. As a result, the government entity committing the crime—which frequently won't reveal the victims' whereabouts—becomes accountable for their destiny.
2. The victim of enforced disappearance is invariably subjected to harsh torture, coerced confessions related to false accusations, death threats or extrajudicial executions, and an uncertain fate.
3. The family of the disappeared person is exposed to financial hardships and social marginalization if the disappeared person is the sole breadwinner.
4. Since forced disappearance is used as a strategy to spread terror within society, the feeling of insecurity generated by

this practice is not limited to the disappeared victim, but extends to include human rights defenders, relatives of victims, witnesses, and lawyers.

Number of disappeared victims during previous years

Since 2013 and as of August 30, 2023, 18897 enforced disappearance cases have been recorded in Egypt.

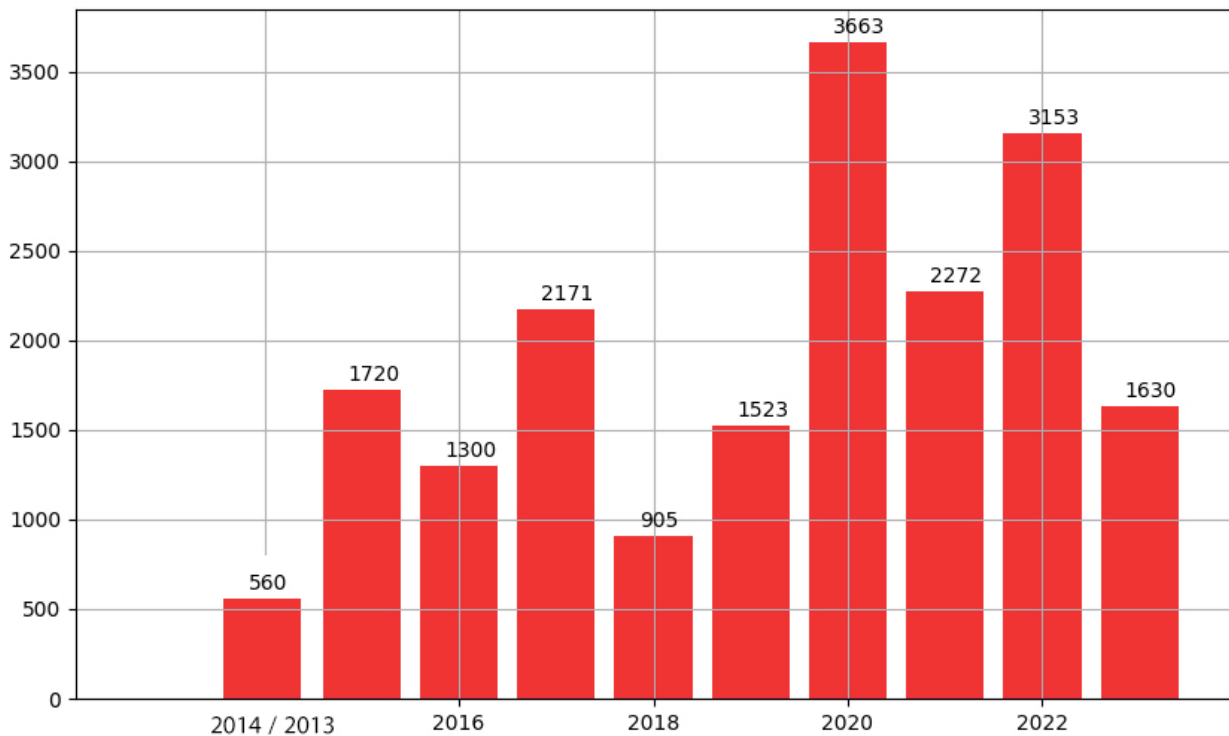
Disappeared persons who have been extrajudicially murdered.

The extrajudicial killing of 65 Egyptian civilians who have been forced disappeared has been documented. The Egyptian authorities have cited phony causes for their death such as being slain during skirmishes with the security forces or death by heart attack etc. This raises the risk that this crime will be dealt with in the context of the expansion of the policy of impunity. This policy is caused by the absence of accountability of the Egyptian security system's affiliates who have perpetrated enforced disappearance crimes, and the suspicious failure of the Public Prosecutor Office which closes every submitted case in weird and suspicious behavior.

(For a report of the enforced disappearance of those killed outside the law)

<https://drive.google.com/file/d/14cvNmdTwkGPLG-DIdUF282At-RLa7NFuE/view?usp=sharing>

Chart of the disappeared from 2013 until 2023



The number of disappeared victims from 2013 to 2023: annual distribution

- 2013 to 2014: 560 victims
- 2015, 1720 victims.
- 2016, 1300 victims.
- 2017, 2171 victims.
- 2018, 905 victims.
- 2019, 1523 victims.
- 2020, 3663 victims.
- 2021, 2272 victims.
- 2022, 3153 victims.
- 2023, 1630 victims.
- Total: 18897 victims.

Disappeared victims in the 2023: monthly distributed numbers

- Jan → 245
- Feb → 235
- March → 154
- April → 146
- May → 295
- June → 195
- July → 208
- August → 152
- Total: 1630

Recommendations and demands.

1. We call upon the Egyptian Government to sign and ratify the International Convention for the Protection of All Persons from Enforced Disappearance and to accept the competence of the Committee on Enforced Disappearances under article 31 of the Convention.
2. We demand that enforced disappearance, an offense not expressly covered by Egyptian law, be made a crime in Egypt through explicit and direct legal provisions.
3. We demand an end to all types of arbitrary detention that violate Egyptian law and the constitution, as well as their repercussions, especially the practice of forced or involuntary disappearance.
4. We demand the immediate disclosure of all missing persons' whereabouts, the launch of an in-depth investigation into all incidents of enforced disappearance, the prosecution of those responsible for the crime, and an end to impunity.
5. We demand that the Working Group on Enforced or Involuntary Disappearances be permitted to travel to Egypt in order to learn more about the circumstances of those who have been taken from their families and to meet with non-governmental organizations.
6. We urge all lawyers, journalists, activists, legislators, and other interested parties to use every tool at their

disposal to address the issue of forced disappearance
and strive to put a stop to it.

Our media windows.:

<https://www.facebook.com/elshehab.ngo>

<https://elshehab-ngo.net/>

<https://t.me/elshahab>

<https://twitter.com/ElshehabNgo?t=ZuMOQCiMlvuT-nlPguseZqQ&s=09>

<https://chat.whatsapp.com/K8rfmepjFxEOtXIiSA51Ry>