

Shackling dissent

An analysis of pre-trial proceedings
in case No. 1360 of 2019

September 2025

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The prosecution of Dr Ahmad Amasha in Case No. 1360 of 2019 Supreme State Security Prosecution, Cairo

A joint analysis by the International Commission of Jurists (ICJ) and the Egyptian Commission for Rights and Freedoms (ECRF) of pre-trial proceedings

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I. Introduction

This briefer documents and analyses the Egyptian authorities' ongoing prosecution of Dr Ahmad Amasha (Dr Amasha), an Egyptian human rights defender, along with 56 other individuals, on "terrorism" charges in Case 1360 of 2019 before the Supreme State Security Court.¹ An analysis of the investigation case file has informed this legal briefer.

Following the military coup that removed then-President Mohamad Morsi from power in 2013, the Egyptian authorities instigated many arbitrary criminal prosecutions, such as in the criminal proceedings against Dr Amasha, including through the weaponization of the 2015 "counter-terrorism" law, in an effort to crush dissent and repress opposition leaders and members, civil society representatives, journalists and human rights defenders.²

In light of Egypt's binding obligations under international human rights law, the International Commission of Jurists (the ICJ) and the Egyptian Commission for Rights and Freedoms (ECRF) are gravely concerned that a number of serious violations of Dr Amasha's right to a fair trial have marred the pre-trial criminal proceedings in Case No. 1360 of 2019.

The present briefer concludes with recommendations to the Egyptian authorities to:

- i. cease the ongoing violations of Dr Amasha's human rights;
- ii. guarantee Dr Amasha's right to an effective remedy for the human rights violations that he has suffered; and
- iii. adopt legal and judicial reforms to guarantee the right to a fair trial in Egypt in a manner that complies with the country's international human right law obligations.³

The Egyptian authorities' prior arrest, detention and torture of Dr Ahmad Amasha

Dr Amasha co-founded the Association for the Families of the Disappeared through which he documented cases of enforced disappearances perpetrated by the Egyptian authorities since 2013 and provided domestic and international legal assistance to victims and their families, including before the United Nations Working Group on Enforced or Involuntary Disappearances.⁴ Dr Amasha is also a founding member of the *Kefaya*, an opposition movement founded during the Mubarak era, with which he has campaigned against the establishment of a petrochemical factory in Damietta, Egypt.⁵

Prior to the investigation of the criminal proceedings that are the subject to this legal briefing, the Egyptian authorities had already subjected Dr Amasha to arbitrary arrest and detention, enforced disappearance and torture for his legitimate human rights work in another criminal case, the facts of which are as follows:

- i. On 10 March 2017, police officers arrested Dr Amasha at Nasr City checkpoint in Cairo and held him for 21 days at the Abbasiya Police Station, Cairo, without informing his family or legal counsel as to his fate and whereabouts. While in detention, the State Security Officers

1. Registered under No. 4743 of 2022 before the Chorouq Felony Court, registered under No. 980 before the New Cairo Court, registered under No. 333 of 2022 before the Third Circuit Felonies Court, Cairo.

2. ICJ, Egypt: authorities must immediately release political opponent Ahmad Tantawi and quash his politically-motivated and wrongful conviction, 3 June 2024, available at: <https://www.icj.org/egypt-authorities-must-immediately-release-political-opponent-ahmad-tantawi-and-quash-his-politically-motivated-and-wrongful-conviction/>. See also: ICJ, Egypt: End crackdown on journalists, 1 August 2024, available at: <https://www.icj.org/egypt-end-crackdown-on-journalists>.

3. At the time of writing, the Egyptian House of Representatives is legislating a new Criminal Procedure Code that fails to address the major concerns outlined in this briefer. See: ICJ and others, Egypt: Reject Draft Criminal Procedures Code, 2 October 2024, available at: <https://www.icj.org/egypt-reject-Draft-criminal-procedure-code/>. See also: ECRF, The Egyptian Commission publishes its comments on the Draft law, published on 4 September 2024, available at: <https://www.ec-rf.net/the-egyptian-commission-issues-its-comment-on-the-draft-law/>.

4. UN Working Group on Arbitrary Detention, Opinion 78/2017, 28 December 2017, para. 26(c), available at: <https://documents.un.org/doc/undoc/gen/q17/369/77/pdf/q1736977.pdf>

5. Human Rights Foundation, HRF submits petition to the UN on Egyptian Human rights activist Ahmed Amasha, 30 July 2024, available at: <https://hrf.org/latest/hrf-submits-petition-to-united-nations-on-egyptian-human-rights-activist-ahmed-amasha/>.

- subjected Dr Amasha to electrocution and sexual assault, and threatened to rape his wife and daughters, following which they forced Dr Amasha to sign a pre-written document confessing to being a member a “banned group”.⁶
- ii. On 1 April 2017, Dr Amasha appeared before the public prosecutor at Tagamo El Khames, Cairo, where he was interrogated in the absence of a lawyer before being remanded into custody at the Scorpio Prison in the Tora Complex in Cairo, a facility known for its inhumane conditions of detention,⁷ without being given the opportunity to challenge the lawfulness of his detention.⁸
 - iii. On 13 April 2017, Dr Amasha appeared again before the public prosecutor at Tagamo El Khames, who charged him with “belonging to a banned group” under the 2015 “counter-terrorism” law, purportedly in relation to his legitimate work with the Association for the Families of the Disappeared.⁹ The Egyptian authorities then returned Dr Amasha once again to the Scorpio Prison in the Tora Complex. While he was detained there, a number of UN Special Procedure mandate-holders sent a communication to the Egyptian authorities to raise concern regarding his arbitrary detention, ill-treatment, the denial of access to legal and family visits, and inadequate medical treatment.¹⁰
 - iv. On 10 September 2019, the Cairo Criminal Court ordered Dr Amasha’s release on conditional bail. However, the Egyptian authorities continued to detain Dr Amasha, this time at Damietta Prison, until 4 October 2019, when he was eventually released, almost a month after his release had been ordered by the Cairo Criminal Court.¹¹

The above criminal case against Dr Amasha is still ongoing, and the human rights violations that the Egyptian authorities have perpetrated against him in the context of this case have been compounded by the further egregious violations of his human rights, including his rights to:

- i. not be subjected to enforced disappearance;
- ii. not be subjected to torture or other ill-treatment;
- iii. liberty, including freedom from arbitrary arrest and detention;
- iv. life; and
- v. adequate time and facilities for the preparation of a defence and access to counsel

all of which have marred Case No. 1360 of 2019.

Case No. 1360 of 2019, Supreme State Security Prosecution, Cairo

On 12 October 2019, the Supreme State Security Prosecution in Cairo opened an investigation into an alleged conspiracy by members of the Muslim Brotherhood, in Egypt and abroad, to plan violent attacks against, *inter alia*, public institutions and officials with the aim of forcibly changing the established regime.¹² In the context of this investigation, the Egyptian authorities purportedly identified Dr Amasha as a member of the Consultative Council of the Muslim Brotherhood and the head of its Legal Commission. However, at no stage in the pre-trial proceedings, analysed by the ICJ and the ECRF in this case, have the Egyptian authorities produced credible evidence to substantiate their accusations against Dr Amasha with respect to his supposed links to, or position within, the Muslim Brotherhood.

On 16 June 2020, National Security Agency (NSA) officers arrested Dr Amasha from his home

6. MENA Rights group, Egyptian trade unionist and human rights defender Ahmed Amasha rearrested in June 2020, 7 December 2023, available at: <https://menarights.org/en/caseprofile/egyptian-trade-unionist-and-human-rights-defender-ahmed-amasha-arrested-march-2017>.

7. HRW, “We are in Tombs”, Abuses in Egypt’s Scorpion Prison, 28 September 2016, available at: <https://www.hrw.org/report/2016/09/29/we-are-tombs/abuses-egypts-scorpion-prison>.

8. Ibid.

9. UN Working Group on Arbitrary Detention, Opinion 78/2017, 28 December 2017, para. 26(c), supra note 3.

10. UN Special Rapporteurs’ letter to the Egyptian authorities, 3 May 2017, available at: <https://spcommreports.ohchr.org/TMResultsBase/DownloadPublicCommunicationFile?gId=23107>. See also: UN Working Group on Arbitrary Detention, Opinion 78/2017, 28 December 2017, supra note 3.

11. MENA Rights group, Egyptian trade unionist and human rights defender Ahmed Amasha rearrested in June 2020, 7 December 2023, supra note 5.

12. The Muslim Brotherhood has been officially banned by the Egyptian authorities since 2013. For more, see Administrative Court of Urgent Affairs, Case No. 3343 of 2013 issued on 24 February 2014, available in Arabic at: <https://manshurat.org/node/1301>

in Halwan, Cairo Governorate. Upon arrest, the officers searched Dr Amasha's home, seized documents and 4900 Egyptian Pounds (approximately 300 USD). During the arrest, the officers failed to produce a warrant for his arrest or provide Dr Amasha with the reasons for his arrest, as required under articles 127 and 128 of the Criminal Procedure Code,¹³ respectively. The officers then removed Dr Amasha to an unknown location without informing his family or his lawyer of his fate and whereabouts.

On 17 June 2020, Dr Amasha's son requested the Supreme State Security Prosecutor to (i) ascertain the fate and whereabouts of Dr Amasha ; (ii) to be allowed to communicate with him; and (iii) to hold the Egyptian Security apparatus responsible for his safety, a request for which he received no response.

On 11 July 2020, the Supreme State Security Prosecution formerly issued a warrant for the arrest of Dr Amasha, calling for his production before it on 12 July 2020.

On 12 July 2020, Dr Amasha appeared before the Supreme State Security Prosecution of the Fifth Settlement in Cairo for interrogation. During questioning, the investigator asked Dr Amasha about his family, his upbringing, his work and his participation in the 2011 Egyptian revolution. In replying, Dr Amasha said that, following his arrest, NSA officers had interrogated him regarding his human rights work, his alleged links to the Muslim Brotherhood and the documents that had been seized from his house, which the Egyptian authorities alleged to be Muslim Brotherhood propaganda. On the same occasion, Dr Amasha also confirmed that he did not have links to the Muslim Brotherhood and did not know about the contents of the documents seized. Dr Amasha also informed the public prosecutor that during his interrogation by NSA officers, they stripped him naked and subjected him to physical beatings, to electrocution and hung him from the ceiling by his hands, causing one of his ribs to break. Further to interrogation, the prosecutor requested that Dr Amasha submit to a medical examination and, without providing reasons for his decision, remanded him in pre-trial detention at a location that the authorities failed to disclose to Dr Amasha's lawyer or family.

Between 12 and 20 July 2020, Dr Amasha's family and lawyer lodged formal petitions with the Supreme State Security Prosecution, the General Public Prosecutor and the Ministry of Interior to report his disappearance and to request that necessary measures be taken to ascertain his fate and whereabouts. The public prosecutor and Ministry of Interior both failed to respond to therequests.¹⁴

On 20 July 2020, Dr Amasha attended a medical examination with Dr Mohamad Farouq el Chichini, the General Director of Cairo Forensic Medicine. The examination was conducted "by sight" only, without further tests being carried out.

On 29 August 2020, despite the manifest absence of evidence against Dr Amasha, the Supreme Security Prosecution charged him and 56 other people with offences under the 2015 "counter-terrorism" law. Dr Amasha was specifically charged with "intentionally joining a terrorist organization"¹⁵ and "possession of terrorist propaganda, publications or recordings with an intention to distribute such".¹⁶ The prosecutor then remanded Dr Amasha once more into pre-trial detention without providing reasons for the decision, and Dr Amasha was removed to a location not disclosed to his family or his lawyer.

On 7 December 2020, Dr Amasha's lawyer discovered Dr Amasha's whereabouts by pure coincidence when he happened to see him through the observation window of a cell door in the Scorpio Wing of the Tora Prison Complex while visiting the facility on another matter.¹⁷ During the entirety of his detention at Tora Prison Complex, the prison authorities refused

to permit

13. Law No. 150 of 1950, available in Arabic at: <https://manshurat.org/node/14676>.

14. MENA Rights group, Egyptian trade unionist and human rights defender Ahmed Amasha rearrested in June 2020, 7 December 2023, supra note 5.

15. Article 86 bis paragraph 2 of the Criminal Code available at: https://sherloc.unodc.org/cld/document/egy/1937/criminal_code_of_egypt_english.html, and 12 of the Counter-terrorism law of 2015, available at: https://www.atlanticcouncil.org/wp-content/uploads/2015/09/Egypt_Anti-Terror_Law_Translation.pdf.

16. Article 86 bis paragraph 3 of the Criminal Code.

17. MENA Rights group, Egyptian trade unionist and human rights defender Ahmed Amasha rearrested in June 2020, 7 December 2023, supra note 5.

Dr Amasha visits with his family or his lawyer, and denied him access to adequate food and sunlight.¹⁸

On 23 March 2021, the prison authorities sent a request to the Supreme State Security Prosecution for authorization for Dr Amasha to undergo gallbladder surgery, which was denied.¹⁹

On 30 July 2022, the First Attorney General of the Supreme State Security Prosecution referred all 57 Defendants, including Dr Amasha, to trial before the Third Circuit Felonies Court in Cairo and extended each defendant's pre-trial detention without providing reasons for the decision.

On 24 September 2022, the Third Circuit Felonies Court held its first trial hearing at the Police Officers Institute in Tora, Cairo.²⁰ As of the date of this briefer, the trial is ongoing.

18. Human Rights Foundation, HRF submits petition to the UN on Egyptian Human rights activist Ahmed Amasha, 30 July 2024, supra note 4.

19. Ibid.

20. Egyptian Front, Case 1360 of 2019 National Security, last updated on 29 October 2023, available in Arabic at: <https://egyptianfront.org/ar/2022/09/1360-2019/>.

II. Violations of Dr Ahmad Amasha's human rights in Case 1360 of 2019

The ICJ and ECRF consider that the arrest, detention and ongoing prosecution of Dr Amasha have violated his rights to freedom from enforced disappearance, freedom from torture or other ill-treatment, liberty, life, and adequate time and facilities for the preparation of a defence and access to counsel, which Egypt is bound to guarantee in accordance with its international human rights law obligations.²¹

The right to freedom from enforced disappearance

Under international human rights law, Egypt is bound to guarantee the right of all persons to freedom from enforced disappearances.²² The 2010 International Convention for the Protection of All Persons from Enforced Disappearances (ICPPED) defines an enforced disappearance for the purposes of the treaty as: "the arrest, detention, abduction or any other form of deprivation of liberty by agents 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".²³ The Human Rights Committee has determined that all instances of enforced disappearance violate article 7 ICCPR.²⁴ Furthermore, under article 9(1) of the 1992 Declaration on the Protection of All Persons from Enforced Disappearance (DPPED), Egypt must guarantee "the right to a prompt and effective judicial remedy as a means of determining the whereabouts or state of health of persons deprived of their liberty and/or identifying the authority ordering or carrying out the deprivation of liberty".²⁵ Additionally, under articles 2(3) ICCPR and 14(1) 1984 Convention Against Torture, Egypt is also bound to guarantee victims' access to effective remedies and redress for any violations of their rights, including as a result of torture, which includes the rights to have their claims decided by a competent judicial, administrative or legislative authority, and to have any granted remedies enforced.

Following arrest, NSA officers detained Dr Amasha at an unknown location for 25 days without informing his family or legal representative as to his fate and whereabouts. While Dr Amasha's brother lodged petitions with the Supreme State Security Prosecutor to ascertain Dr Amasha's fate and whereabouts, these petitions were ignored. Furthermore, following Dr Amasha's interrogation before the Supreme State Security Prosecutor, on 12 July 2020, the Egyptian authorities again detained Dr Amasha at a location that was not disclosed to his family and lawyer. Again, despite Dr Amasha's family and lawyer lodging petitions with the Supreme State Security Prosecution and Ministry of the Interior, these petitions were ignored. Indeed, only after five months did Dr Amasha's place of detention become known to Dr Amasha's lawyer solely because he happened to come across Dr Amasha when visiting the Tora Prison for another matter. Consequently, the Egyptian authorities have not only been responsible for Dr Amasha's enforced disappearance, twice, but they have also failed to investigate these instances with a view to holding those responsible to account, in violation of the country's obligations under international human rights law.

The right to freedom from torture or other cruel, inhuman or degrading treatment or punishment, and the duty to protect his life

Under article 7 ICCPR, article 2(1) of the 1984 Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (UNCAT)²⁶ and article 5 of the African Charter

21. Egypt has ratified the following applicable International Human Rights Law treaties and as such is bound to comply with obligations therein: the International Covenant on Civil and Political Rights (ICCPR), The African Charter on Human and People's Rights, the Arab Charter of Human Rights, the United Nations' Convention against Torture.

22. UN Working Group on Enforced or Involuntary Disappearances, DA/HRC/51/31/Add.3, 31 August 2022, paras 74-76, available at: https://ap.ohchr.org/documents/dpage_e.aspx?m=119.

23. 2010 International Convention for the Protection of All Persons from Enforced Disappearance (ICPPED), article 2, available at: <https://www.refworld.org/legal/agreements/unga/2006/en/57490>.

24. UN Human Rights Committee, General comment No. 36 on article 6 of the International Covenant on Civil and Political Rights, on the right to life, 2018, para. 8, available at: <https://www.ohchr.org/en/calls-for-input/general-comment-no-36-article-6-right-life>.

25. DPPED, available at: <https://www.refworld.org/legal/resolution/unchr/1992/en/6987>.

26. UNCAT, available at: <https://www.ohchr.org/en/instruments-mechanisms/instruments/convention-against->

of Human and Peoples' Rights (ACHPR), Egypt is prohibited from subjecting any person to torture or other cruel, inhuman or degrading treatment or punishment and must take steps to protect persons from being subjected to such ill-treatment. In accordance with article 1(1) UNCAT, torture is defined as:

"Any act by which severe pain or suffering, whether physical or mental, is intentionally inflicted on a person for such purposes as obtaining from him or a third person information or a confession, punishing him for an act he or a third person has committed or is suspected of having committed, or intimidating or coercing him or a third person."

During Dr Amasha's initial detention, the NSA allegedly stripped him naked and subjected him to physical beatings, to electrocution and hung him from the ceiling by his hands, causing one of his ribs to break. Additionally, throughout the duration of Case 1360 of 2019, the Egyptian authorities subjected Dr Amasha to prolonged periods of detention without contact with his family members or legal counsel. The Human Rights Committee has stated that prolonged periods of incommunicado detention amount to a violation of article 7 ICCPR, prohibiting torture or other ill-treatment.²⁷ Furthermore, despite being presented with evidence of the injuries sustained by Dr Amasha in NSA detention, the Supreme State Security Prosecutor's request for a medical examination of Dr Amasha took eight days to be actioned, and led only to a summary medical examination that concluded that Dr Amasha had not been subjected to torture. The failure to promptly initiate an investigation into the credible allegations of torture, and the ostensibly cursory and insufficient nature of the medical examination itself, constitute a violation of Egypt's obligations under article 12 UNCAT to "ensure that its competent authorities proceed to a prompt and impartial investigation, wherever there is reasonable ground to believe that an act of torture has been committed".

Finally, while detaining Dr Amasha, the Egyptian authorities failed to provide him with access to adequate medical care by denying a request for him to receive gallbladder surgery and have a chest scan as prescribed by a medical examiner with potentially dire consequences for his health. Under article 6(1) ICCPR, Egypt must guarantee Dr Amasha's right to life. The Human Rights Committee has confirmed that, with regards to detained persons, the right to life includes the requirement to provide them with "the necessary medical care and appropriate regular monitoring of their health".²⁸ Consequently, the Egyptian authorities have perpetrated numerous gross violations of Dr Amasha's rights under articles 6, 7 and 10 ICCPR, article 5 ACHPR and articles 2 and 12 UNCAT.

The right to liberty and security of person

Under article 9(1) ICCPR and article 6 ACHPR, Egypt is bound to guarantee Dr Amasha's right to liberty, including protection from arbitrary arrest and detention. In the pre-trial proceedings of Case No. 1360 of 2019, the Egyptian authorities flagrantly violated Dr Amasha's right to liberty in the following ways:

- i. The Egyptian authorities failed to abide by provisions of the Egyptian Criminal Procedure Code (CPC) in executing Dr Amasha's arrest and detention. Under article 9(1) ICCPR, no one shall be deprived of liberty except on such grounds and in accordance with such procedures as are established by law. The violations of domestic law include:
 - a. The failure of the NSA to provide details of the reasons for his arrest and of the nature of the suspected charges against Dr Amasha on arrest, along with a copy of the warrant of arrest, as required under article 127 of the CPC. Indeed, the investigations file indicates that the Supreme State Security Prosecution only formerly issued the warrant for Dr Amasha's arrest on 11 July 2020, almost one month after NSA officers carried out his arrest. Under article 9(2) ICCPR, "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";

[torture-and-other-cruel-inhuman-or-degrading.](#)

27. Human Rights Committee, General Comment No. 35 Article 9 (Liberty and security of person), 16 December 2014, para. 56, available at: <https://documents.un.org/doc/undoc/gen/g14/244/51/pdf/g1424451.pdf>.

28. Human Rights Committee, General Comment No.36 Article 6 the Right to Life, 3 September 2019, para. 25, supra note 23.

- b. The failure of the Egyptian authorities to notify Dr Amasha’s lawyer as to his initial place of detention as per article 139 CPC. Under articles 9(2) and 14(3)(b) ICCPR,²⁹ Egypt must permit suspects access to legal representation from the outset of their detention to comply with the right of anyone arrested or detained to have the assistance of legal counsel to protect their rights and to help in their defence; and
 - c. The Supreme State Security Prosecution’s failure to provide substantive reasons as to why Dr Amasha’s pre-trial detention was necessary, as per article 143 CPC, including by producing evidence linking Dr Amasha to the alleged offences. Under article 9(3) ICCPR, detention pending trial must be based on an individualized determination that such detention is both necessary and proportionate, and must be reserved as a measure of last resort.³⁰
- ii. The failure of the Egyptian authorities to permit Dr Amasha access to counsel and contact with his family for extended periods of time while detained. According to the Human Rights Committee, “certain conditions of detention (such as denial of access to counsel and family) may result in procedural violations of paragraphs 3 and 4 of article 9”.³¹ Additionally, international standards require Egypt to permit detainees to receive visits and to correspond with the outside world, which is a right that may only be restricted “for a matter of days”;³²
 - iii. The failure of the Egyptian authorities to permit Dr Amasha access to prompt medical care for both his gallbladder and for injuries sustained following his alleged torture. The Human Rights Committee has confirmed that “several safeguards that are essential for the prevention of torture are also necessary for the protection of persons in any form of detention against arbitrary detention”, including, “prompt and regular access ...to independent medical personnel”;³³
 - iv. The failure of the Egyptian authorities to present Dr Amasha promptly before a judicial authority in relation to the criminal charges against him and to guarantee his right under article 9(3) ICCPR to have a judge rule on the lawfulness of his arrest or detention, including whether sufficient legal reasons existed for his arrest or detention, and to order release if not, and to safeguard his well-being and prevent violations of his rights. Under article 9(3) ICCPR, there is a presumption of release pending trial, which the authorities must ensure takes place within a reasonable time or else release the detainee. The State bears the burden of proving that the initial arrest or detention was lawful and that continuing detention, if requested, is necessary and proportionate.³⁴ Under article 9(3) ICCPR,³⁵ Egypt must ensure that anyone arrested or detained on a criminal charge be presented promptly before a judge. As such, any form of incommunicado detention that prevents compliance with this right amounts to a violation of it;³⁶ and
 - v. The Egyptian authorities’ ostensible use of arrest, detention and prosecution against Dr Amasha in retaliation for his legitimate human rights work as part of the Association for the Families of the Disappeared and Kefaya. Under article 9(1) ICCPR, arrest or detention as punishment for the legitimate exercise of the rights to freedom of expression and freedom of association is arbitrary.³⁷

29. Under DPPED, article 10(2), Egypt is also required to promptly provide accurate information on the detention of detainees to the detainees’ legal counsel.

30. Human Rights Committee, General Comment No.36 Article 6 the Right to Life, 3 September 2019, para. 38, supra note 23.

31. Human Rights Committee, General Comment No. 35 Article 9 (Liberty and security of person), 16 December 2014, para. 57, supra note 26.

32. 1988 Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment, articles 19 and 15, respectively, available at: <https://www.ohchr.org/en/instruments-mechanisms/instruments/body-principles-protection-all-persons-under-any-form-detention>.

33. UN Human Rights Committee, General Comment No. 35 on Article 9 (Liberty and security of person), para. 58, supra note 26.

34. *Id.*, para 32. As the Human Rights Committee has clarified, “the requirement [to bring any person arrested or detained on a criminal charge promptly before a judge] applies even before formal charges have been asserted, so long as the person is arrested or detained on suspicion of criminal activity. The right is intended to bring the detention of a person in a criminal investigation or prosecution under judicial control”.

35. Under DPPED, article 10(1), Egypt is also required to ensure that any person deprived of liberty is brought before a judicial authority promptly.

36. UN Human Rights Committee, General Comment No. 35 Article 9 (Liberty and security of person), para. 35, supra note 26.

37. *Id.* para. 17.

The right to adequate time and facilities for the preparation of a defence and to communicate with counsel

Under article 14(3)(b) ICCPR, Egypt must guarantee the right of the accused to adequate time and facilities for the preparation of a defence and to communicate with counsel. The Human Rights Committee has confirmed that this demands that States must ensure defendants are able to hold prompt and private consultations with their lawyers free from "undue interference from any quarter."³⁸ In the context of Case No. 1360 of 2019, the NSA and the Supreme State Security Prosecution failed to guarantee Dr Amasha's right to adequate time and facilities for the preparation of a defence and access to counsel by completely denying his access to a lawyer before and during interrogations, thus denying him the opportunity to receive legal advice, to prepare his submissions during interrogations and put forward his case in a thorough and prepared manner. These violations were compounded by the fact his lawyer was not authorized to access his case files. Additionally, throughout his detention in The Scorpio Wing of the Tora Prison Complex, the prison authorities have denied Dr Amasha access to his lawyer, thus preventing him from further preparing his case for trial.

38. Human Rights Committee, General Comment No. 32, Article 14, Right to equality before courts and tribunals and to fair trial, 23 August 2007, para. 34, available at: <https://www.refworld.org/legal/general/hrc/2007/en/52583>.

III. Recommendations

In light of the findings outlined above, and the fact that the violations perpetrated by the Egyptian authorities against Dr Amasha reflect wider patterns of violations against all perceived political opponents and dissidents, the ICJ and ECRF call on the Egyptian authorities to comply with their obligations under international human rights law by:

I. In relation to Case No. 1360 of 2019 against Dr Ahmad Amasha:

- i. Immediately and unconditionally releasing Dr Amasha and drop all charges against him;
- ii. Immediately ordering an independent and impartial investigation into the two distinct periods of enforced disappearance to which the Egyptian authorities have subjected Dr Amasha;
- iii. Immediately order an independent and impartial investigation into Dr Amasha's allegations of torture at the hands of the NSA officers, including by granting Dr Amasha access to an independent medical practitioner to conduct a medical examination; and
- iv. In the interim, guarantee Dr Amasha's access to a lawyer, family visits and medical treatment.
- v. Providing Dr Amasha with an effective remedy for the egregious human rights violations he has endured.

II. Ending the practice of incommunicado detention and all other form of arbitrary detention,

III. Becoming a party to the ICCPR and enacting legislation to criminalize enforced disappearances;

IV. Promptly, thoroughly, independently and impartially investigating all allegations of torture and ill-treatment of prisoners and detainees, and bringing to justice State officials and law enforcement officers suspected of carrying out, ordering, instigating or acquiescing in such practices;

V. Ensuring respect for the rights of detainees, including the right to receive regular visits, the right to have access to their lawyers to prepare their defence and the right to receive medical treatment whilst detained; and

VI. Reforming the pre-trial detention framework, including with a view to ensuring that such detention is an exceptional measure based on an individualized determination of its necessity and proportionality taking into account all the circumstances, including specific and relevant factors defined in the law.

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July 2025 (for an updated list, please visit www.icj.org/commission)

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Mr Michael Sfard, MENA

Justice Marwan Tashani, MENA



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