Road Blocks To Justice

An Account of a Two-year Futile Effort to Gain Access to Justice

Summary Report issued by the Unit for Legal Assistance to the Victims of Torture and Cruel Treatment

United Group, Attorneys at law, Legal Researchers, and Human Rights Advocates

Prepared by

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September 2014
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Introduction

This report provides a brief summary of a comprehensive 150-page report prepared by the Unit for Legal Assistance to Victims of Torture and Cruel Treatment (thereafter referred to as Unit) established by United Group (UG). The Unit and its local auxiliaries are established under the “Legal Support for Victims of Torture” project funded by the Swedish International Development Cooperation Agency (Sida) and the Embassy of Finland in Cairo.\(^{(1)}\)

In carrying out its mandate, the Unit partners with the eleven branches of the Lawyers’ Syndicate at the local level (Cairo; Qalubiya; Mina; Sohag; Aswan; Behira; Beni Suef; Gharbiya; Daqahliya; Alexandria and Fayoum). The Unit is staffed with a team of 25 lawyers, who are further supported by a network of 163 volunteer lawyers in addition to a network of seventy civic organizations working in the areas of social development, legal awareness, and human right defense in the respective governorates.

\(^{(1)}\) To learn more about the project, you can visit its webpage at http://free.ug-law.com/ar/
The report focuses on highlighting the hurdles and obstacles that face lawyers in their quest to access justice for the victims of torture. Operating primarily on behalf of the victim, this quest begins with filing a complaint to the public prosecution against those alleged to have violated the bodily integrity of the victim. However, the manner with which prosecutors handle torture-related complaints defy all international principles and standards on investigation of torture allegations. Lack of vigour and effectiveness in conducting investigations of filed complaints, if they are investigated in the first place, aborts the opportunity for instituting legal proceedings thereby, leaving victims with no redress, and perpetuates the impunity for torture and ill-treatment enjoyed by the offenders. It should be noted though, that notwithstanding the importance of reforming the legal and regulatory frameworks addressing crimes of torture and the use of cruelty, under the current legal framework, it is still possible to identify and prosecute alleged perpetrators in such crimes. That said, the prosecution needs to act in a determined manner in excersing its authority, and pursue criminal prosecution with diligence and resolve. Since the route to instituting criminal proceedings in crimes of torture and ill treatment is limited to the prosecution, accordingly, failure on its part to seriously and diligently carryout its mandate, automatically translates to the impossibility of brining perpetrators of such crimes before a criminal court thereby redressing the victim’s grievances.
The Report covers the period from October 1, 2013 to August 31, 2014\(^{(2)}\). It is divided into five sections as follows:

**Section 1**: The Egyptian Constitution and the Right to Bodily Integrity

**Section 2**: The Public Prosecution

**Section 3**: A Statistical Overview

**Section 4**: A Snapshot—Victims’ Stories and Problems Encountered in the Quest for Justice.

**Section 5**: Recommendations

\(^{(2)}\) The project ends in December 31, 2014. United Group will continue through it lawyers to follow up on the cases on a pro bono basis.
Section 1: The Egyptian Constitution and the Right to Bodily Integrity

The new Egyptian Constitution’s safeguarding of human rights in general, and the right of bodily integrity in particular, can be viewed as historically significant. The Constitution dedicated Chapter 3 to “Rights, Freedoms and Duties”. While some argued against including “Duties” with “Rights and Freedoms” in the same chapter, setting aside this point as non-substantive, the substantial significance lies in the content of the articles. For example, Article 52 explicitly stipulates that “Torture in all forms and types is a crime that is not subject to prescription.” This all-encompassing and protective article is preceded by Article 51 that stipulates that “Dignity is the right of every human being and may not be violated. The State shall respect and protect human dignity.” Article 54 provides what could be termed as “protection against torture”. The article recognizes that that keeping the accused in the custody of the executive for a prolonged period is likely to encourage the committing of the crime of torture.

(3) http://www.sis.gov.eg/Newvr/Dustor-en001.pdf
either for exhorting confessions, or for punishing and intimidating the accused for personal desire. Accordingly, the article prohibits holding the accused in the custody of the executive for more than 24 hours, within which, the accused should be brought before the investigation authority. More so, the article further stipulates that every person whose freedom is restricted shall be immediately notified of the reasons therefore; shall be informed of his/her rights in writing; shall be immediately enabled to contact his/her relatives and lawyer. The third paragraph of that said article stipulates, “Investigation may not start with the person unless his/her lawyer is present. A lawyer shall be seconded for persons who do not have one. Necessary assistance shall be rendered to people with disability according to procedures prescribed by Law.”

Finally, Article 55 reaffirms the right of individuals to dignity and protection against torture by stipulating that “Every person who is either arrested, detained, or his freedom is restricted shall be treated in a manner that maintains his dignity. He/she may not be tortured, intimidated, coerced, or physically or morally harmed; and may not be seized or detained except in places designated for that purpose, which shall be adequate on human and health levels. The State shall cater for the needs of people with disability. Violating any of the aforementioned is a crime punished by Law. An accused has the right to remain silent. Every statement proved to be made by a detainee under any of the foregoing actions, or threat thereof, shall be disregarded and not be relied upon.”

Notwithstanding...
the significance of the articles cited above, Article 99 of the Constitution remains to be of utmost importance. For the first time in the history of the Egyptian legal system, affected parties from crimes representing violations of personal freedom, or the sanctity of the private life of citizens, or any other public rights and freedoms which are guaranteed by the Constitution and other law, are given the right to directly bring criminal action against such crimes before a criminal court. Finally, it should be noted that Article 93 of the Constitution explicitly stipulates that “The State shall be bound by the international human rights agreements, covenants and conventions ratified by Egypt, and which shall have the force of law after publication in accordance with the prescribed conditions. (7)”

Section 2: The Public Prosecution

The Public Prosecution is the part of the Egyptian legal system entrusted with investigating and prosecuting crimes on behalf of society. Prior to the introduction of Article 99 in the new Constitution(8), under the current Egyptian law, only the public prosecutor can investigate a torture complaint and initiate legal action. The law does not allow torture victims to sue their torturers directly in court in criminal cases, however, at the start of an investigation by the prosecutor, victims can lodge a civil claim that gives them standing in the case. However, as noted above, Article 99 of the Constitution granted the right to those affected from crimes representing violations of public rights and freedoms, protected under the Constitution, to directly bring a criminal action against such crimes before a criminal court.

In terms of prosecutorial oversight, the Public Prosecutor, in the course of carrying out his oversight responsibility over matters related to the prosecutors and

(8) As noted above, for the longest time, human rights groups have been advocating for allowing victims to be able to directly institute criminal actions without the need to go through the public prosecution. This was primarily due to the delays encountered in instituting legal actions by the prosecution, and also the prosecution’s laxity in dealing with crimes of torture.
the attorneys general, has the right to notify members of the prosecution in the instance they commit minor infractions while discharging their prosecutorial duties. Such a notification could be either in writing or verbal, after giving the prosecutor the opportunity to be heard. A member of the prosecution, who had been notified, has the right to object to the notification, within two weeks of receiving it by submitting, in writing, a request to the Supreme Judicial Council (SJC). The SJC could either investigate the incident subject of the notification, or delegate one of its members to investigate it, after giving the grieved prosecutor an opportunity to be heard. Based on the investigation, the notification can either be confirmed or nulled.

Furthermore, the law specifies the procedures for appealing a prosecutor’s decision. Appeals are to be made to a higher-ranked prosecutor to the one whose decision is being appealed.

Either the prosecution or an investigating judge, depending on the circumstance, conducts criminal investigations. In all events, investigators must be impartial, thorough, fair and guided by the ultimate objective of establishing the truth and seeking justice, whether the truth, led to instituting legal action or dismissing the accused. Investigators must conduct the investigation in an objective manner, not allowing media to influence their opinions about the case under consideration, or the course of the investigation.

Because alleged offenders in cases of torture and use of cruelty are from the police, with authority and power
over the victims, investigations of such cases should be treated as of a special nature. By virtue of their position, policemen are the ones who write the arrest reports in addition to carrying out the initial investigation and inquiry into the incident, which may allow for impunity to prevail. More so, abuse and ill treatment is a very common practice by the police. As a safeguard, the Code of Criminal Procedure vests specific authority with the public prosecution with regards to investigating alleged crimes of torture and ill-treatment, not only to establish a case, but also to identify the perpetrator and issue an arrest warrant as appropriate. Furthermore, the law details the duties of the prosecution which include inspecting the site of the alleged crime; confiscating the registers of the police station (registers include an account of all activities in the police station detailing the movement of police officers); examining the victim to document any injuries, including minor ones, or directing the victim to the closest medical facility to be examining and provided with a medical report or promptly transferring him/her to the forensic medical examiner, on the day of the alleged crime, in order to determine the exact nature, cause and manner of the injury. In addition, prosecutors have to promptly take testimony or statements from the accused offenders, and in the instance they refuse, the prosecutor has to issue arrest warrants.

Egypt suffers from excessive prosecutorial caseloads. According to available statistics, Egypt has 4000 deputy prosecutors. Comparing this figure to the total number of criminal cases prosecuted during 2011 reveals that
the individual deputy prosecutor’s caseload averages 1400 cases a month. While a factor to be considered in reforming the operations of the prosecution, it is by no means a justification for any laxity in conducting thorough, and diligent investigations, especially in this regard those related to alleged crimes of torture.
Section 3: A Statistical Overview

Reviewing the Unit’s victims’ files, it is safe to conclude that the public prosecution does not give due attention to cases of torture and cruel treatment. In general, prosecutors do not conduct effective investigations, which is required for establishing the truth. Such an appalling conclusion could be easily drawn by whoever reviews the manner in which investigations in torture related-crimes are conducting, leading to serious violations of the right to bodily integrity and human dignity, both of which are well-established in the Egyptian Constitution as rights to be enjoyed by every individual, not to be subject to violation, and the State is obliged to respect and promote them.

Based on the torture case files maintained by UG’s Legal Unit, in addition to statements by the lawyers, one could confidently conclude that there is a major problem, not only with the law, but also with the manner in which prosecutors apply the law.

3-1. Number of Complaints and their Geographic Distribution

Overall, the Unit provided legal assistance to 465 cases, filing a total of 163 complaints to the Office of the
Public Prosecutor and other competent public prosecution offices at different levels.

The table below provides an analysis of the geographic distribution of cases among the governorates in which the Unit operates.

<table>
<thead>
<tr>
<th>Governorate Ranked by Descending Order</th>
<th>Number of Cases Assisted by Legal Unit</th>
<th>Percentage in the Total Number of (%) Cases</th>
</tr>
</thead>
<tbody>
<tr>
<td>/Cairo 1</td>
<td>147</td>
<td>31.16</td>
</tr>
<tr>
<td>/Alexandria 2</td>
<td>79</td>
<td>16.99</td>
</tr>
<tr>
<td>/Behira 3</td>
<td>51</td>
<td>10.97</td>
</tr>
<tr>
<td>Qalubiya</td>
<td>47</td>
<td>10.11</td>
</tr>
<tr>
<td>/Giza 4</td>
<td>28</td>
<td>6.02</td>
</tr>
<tr>
<td>Dakahlia</td>
<td>20</td>
<td>4.3</td>
</tr>
<tr>
<td>Gharabia</td>
<td>17</td>
<td>3.66</td>
</tr>
<tr>
<td>Suez and Minya (each) 13</td>
<td></td>
<td>(each) 2.8</td>
</tr>
<tr>
<td>Sharkiya and Ismailia (each) 10</td>
<td></td>
<td>(each) 2.15</td>
</tr>
<tr>
<td>Luxor</td>
<td>8</td>
<td>1.72</td>
</tr>
<tr>
<td>Qena and Beni Suef (each) 5</td>
<td></td>
<td>(each) 1.08</td>
</tr>
<tr>
<td>Matruh</td>
<td>3</td>
<td>0.65</td>
</tr>
<tr>
<td>Menoufia and Sohag, Fayoum (each) 2</td>
<td></td>
<td>(each) 0.43</td>
</tr>
<tr>
<td>Port Said, Assyout and South Sinai (each) 1</td>
<td></td>
<td>(each) 0.22</td>
</tr>
</tbody>
</table>

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1. The fact that Cairo’s share in the number of cases is high should not be surprising and could be easily understood by virtue of it being the capitol, accounting for 25 percent of the population of Egypt.

2. Alexandria is a densely populated governorate, akin to the second capital of Egypt.

3. Behira is a rural industrial province, located close to Alexandria, with Kart El Dawar, large industrial city in the governorate, considered closer to Alexandria more so that Behira, the governorate in which it is located.

4. Starting from the fifth place, the number of cases per governorate appear to take an significant downward trend, a case in point is Giza Governorate, which shares a relatively low percentage in the total number of cases, albeit it being densely populated.

Variance between governorates in terms of the number of cases assisted, may be attributed to a number of factors among including:
- Variance in the degree of proactivity of the various local units in the targeted governorates, including the extent to which their services are known to the public.
- Variance in the degree of proactivity of the lawyers working for the different local units.
- The different social environment (upper versus lower Egypt, urban versus rural) in which the unit operates, which impacts the willingness of victim to report the crime of torture.
- The public’s perception regarding the effectiveness of resorting to the judiciary for addressing grievances.

3-2 The Victims: Their Profile and the Nature of the violations committed

Of the total 465 victims assisted, 94.2 percent were male (438 victims). The number of female victims was 37 representing 5.8% of the total number of victims assisted. Such figures should not be taken as a conclusive reflection of the reality on the ground, in terms of the sex of the victim, for two main considerations:

- Women, and their families, tend to feel particular shame and shy away from admitting that they were tortured.
- In eastern societies in general, and in Egypt in particular, women remain to enjoy a special status, rendering torturing them particularly disgraceful and shameful. More so, in the case of female victims, perpetrators are likely to be charged with additional crimes, such as sexual violence, a crime that carries the same punishment as that of torture.
Vocational/professional background of the victims varied, the table below shows the different categories of professions as documented by the Unit.

<table>
<thead>
<tr>
<th>Profession/Vocation</th>
<th>Number of cases Handled by the Unit</th>
<th>Percentage of the Total Number of Cases (%)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Self Employed</td>
<td>126</td>
<td>27</td>
</tr>
<tr>
<td>Students</td>
<td>92</td>
<td>20</td>
</tr>
<tr>
<td>Paid Employees</td>
<td>31</td>
<td>7</td>
</tr>
<tr>
<td>Journalists</td>
<td>16</td>
<td>3</td>
</tr>
<tr>
<td>Unidentified Profession</td>
<td>200</td>
<td>43</td>
</tr>
</tbody>
</table>

1. Vendors, shop-owners, craftsmen and physicians.
2. At various educational stages.
3. Employed by the government and the private sector (sales persons, office messengers).
More so, victims fell in seven different age groups as shown in the table below.

<table>
<thead>
<tr>
<th>Age Group in years</th>
<th>Number of cases Handled by the Unit</th>
<th>Percentage of the Total Number of Cases (%)</th>
</tr>
</thead>
<tbody>
<tr>
<td>21-30</td>
<td>141</td>
<td>30.32</td>
</tr>
<tr>
<td>31-40</td>
<td>76</td>
<td>16.34</td>
</tr>
<tr>
<td>Younger than 20</td>
<td>47</td>
<td>10.11</td>
</tr>
<tr>
<td>41-50</td>
<td>32</td>
<td>6.88</td>
</tr>
<tr>
<td>51-60</td>
<td>13</td>
<td>2.8</td>
</tr>
<tr>
<td>Over 60</td>
<td>3</td>
<td>0.65</td>
</tr>
<tr>
<td>Unidentified age group</td>
<td>153</td>
<td>32.9</td>
</tr>
</tbody>
</table>
The table below illustrates the different method of alleged torture.

<table>
<thead>
<tr>
<th>Alleged Torture Method</th>
<th>Number of Alleged /Counts 2</th>
<th>Percentage of the Total Number of Cases (%)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Beating</td>
<td>295</td>
<td>58.42</td>
</tr>
<tr>
<td>Beating leading to death</td>
<td>129</td>
<td>25.54</td>
</tr>
<tr>
<td>Killing</td>
<td>123</td>
<td>24.36</td>
</tr>
<tr>
<td>Beating leading to death</td>
<td>5</td>
<td>1</td>
</tr>
<tr>
<td>Electric shocks to parts of the body</td>
<td>4</td>
<td>0.8</td>
</tr>
<tr>
<td>Others 1/</td>
<td>71</td>
<td>14.07</td>
</tr>
</tbody>
</table>

1. These include destroying of property, unlawful detention, forced entry into homes, dragging and suffocation.
2. The number of alleged counts of torture is higher than the number of complaints, as in many instances, the individual complaint contains different counts with different methods of torture and ill-treatment.
3-3. Fate of Complaints Submitted to the Prosecution:

Depending on how the it materialized, the Unit files the complaint with the public prosecution either on behalf of the victim, or on its own behalf\(^{(9)}\). In the first instance, victims or a family member either visit the main Unit in Cairo, or one of the governorate-based unit, or calls through the hotline\(^{(10)}\), seeking assistance. In the second instance, if lawyers in the Unit, or a friend on the Unit’s Facebook Page spotor learn of a case of torture, the Unit, and in line with Article 25 of the Code of Criminal Procedure notifies the public prosecution.

All in all, the Unit filed 163 complaints with the public prosecution, representing 465 cases of alleged torture. 87 cases (54%) were closed, 69 cases (42%) are still under investigation, while only 7 cases (4 percent) were transferred to court. Reflecting on these figures highlights the prosecution’s trend in dealing with cases of torture, which could be best described as one that leans towards closing the cases without conducting any substantial investigation.

\(^{(9)}\) Article 25 of the Code of Criminal Procedure, Article 25 provides that “whosoever shall learn of the commission of a crime- the prosecutor can initiate legal action without receiving a complaint-must inform the public prosecution or a law enforcement officer”.

\(^{(10)}\) The hotline -01110044600- is used for receiving complaints. Callers are either directed to contact the closest lawyer, or a lawyer is dispatched to the caller in cases of emergency.
Section 4: A Snapshot-Victims’ Stories and Problems Encountered in their Quest for Justice

The section below presents a brief summary of some randomly selected torture cases in addition to an account of the problems faced by lawyers in seeking justice for the victims. These cases represent a fraction of the hundreds of cases that are handled by the Unit. The cases are categorized according to the type of problem faced by the lawyers.

1. Undermining of the Right to Counsel:

Under this category, lawyers, victims and other claimants of civil action were denied the right to review the case files compiled by the prosecutors.

1.1 Mahmoud Abdel Shakur Abou Zeid, 27 years old, Journalist, Demotix Newswire, England: Case No. 15899/2013 Nasr City

On August 14, 2013, Abou Zeid, a reporter for Demotix, was arrested while covering the security forces’ dispersal
of the Rabaa El Adaweya sit-in organized by supporters of the ousted President Mohammed Moray. On the day of his arrest, Abou Zeid was accompanying a foreign journalist, Julia Gerlach, who was covering the Rabaaa sit-in. Once the dispersal of the sit-in began, the Gerlach left and asked Abou Zeid to continue covering the events. The Prosecutor decided to hold him in custody for 15 days while the investigation of the case was going on (Case No. 15899/2013/Nasr City). Ten months after since his arrest, Abou Zeid, in a conversation with his lawyer in June 2014, alleged that, upon his arrest, policemen and police officers in New Cairo precinct subjected him to excessive bodily torture. The Prosecution denied Abou Zeid’s lawyer their request to review the case file. Abou Zeid was accused with an array of crimes including killing, attempt to kill, protesting, and possessing weapons. According to the victim, he was only carrying his camera, which was confiscated upon his arrest. UG was not able to provide defense services to the victim, as the prosecution, to date, is not allowing UG to obtain copies of the documents contained in the victim’s case file maintained by the prosecutor. More so, to date, the prosecutor has not presented the victim with any evidence that could justify his extended detention. Upon being requested to provide legal assistance to the victim, on May 14, 2014, UG submitted a request to the head of East Cairo Prosecution Office asking to visit Abou Zeid, and obtain from him a power of attorney to represent him. However, the prosecution signed away its right in handling issues related to the detainee and referred the lawyer to
the administrative body- the detention facility in which Abou Zeid is held-to respond to the lawyer’s request. Such a decision by the prosecution, deferring its responsibility to the executive branch, amounts to the prosecution forsaking the realization of justice. UG appealed the prosecution’s decision to the competent Public Attorney for East Cairo Prosecution, who in turn nulled the decision of the prosecutor, and granted the victim the right to issue a power of attorney to UG. However, East Cairo Prosecution Office declared that it would not give UG’s lawyers access to the case file under any circumstances. The victim is still held in detention.

1-4. Mostafa Mahoud Eid Soliman-15 years old, Student;
1-5. Abdul Rahman Ramadan Abdel Qader - 18 years old - Student;
1-6. Walid El SaYed Suleiman - 30 years old – Carpenter;
1-7. Mohamed Mohamed Labib - 17 years old – Student;
1-8. Mohammed Gomma Ibrahim - 25 years old – Unspecified profession;
1-9. Mohamed Hamed Zaki - 21 years old – Student;
1-10. Ahmed Sharaf al-Din Muhammad - 18 years old - Unspecified profession;
1-11. Mahmoud Nabil Mohammed - 26 years old - Unspecified profession;
1-12. Ahmed Said Youssef - 25 years old – Student;
1-13. Abdel Kader Mansour Abdul Kader - 27 years old – Technical Diploma,
285/2013, Suez

On January 25, 2013, and while celebrating the anniversary of January 25th Revolution in Suez Governorate, police force used excessive violence to disperse the celebration. This has resulted in the one death, and injury to a number of those celebrating and other passer by. Suez Prosecutor Office investigated the incident. Even though the prosecutor agreed to the civil claim, against the Ministry of Interior, filed by the family of the deceased and the injured, the prosecution refused to allow lawyers to review the case file to prepare for their defense. UG’s lawyers submitted a number of requests to the Attorney General of Suez Prosecution, however they have not received any response to the multiple requests. On May 8, 2014, UG filed another complaint (No. 9929/2014) as they continue not to be allowed access to the case file even though of the power of attorney given to them by the families of the victims. The complaint also addressed the pace of the investigations, which is likely to lead to corrupting the evidence. However, the complaint was forwarded to the entity against which the complaint was lodged and no further action was taken.

2. Undermining of the Right to Counsel:

Under this category, lawyers were not allowed to meet their clients in private.

2-1. Sarah Khaled Rashad Gouda - 20 years old, Student: Case #9400, 2014 Nasr City/Second- Misdemeanor Appellate Prosecutor
On July 10, 2014, Sarah Khalid, a student in Future University, was passing by Al Azhar University in Nasr City on her way to a private tutoring session with one of the professor at the University. She was surprised to find protest by students of Al Azhar University, which she could not avoid. She was arrested by the police and presented to Nasr City Misdemeanor Court, charged with a number of crimes including displaying force, and demonstrating. The court sentenced her to two and on half year in prison. The verdict was appealed (No. 9400/2014), and her father requested that UG represent her. UG’s lawyers requested to visit the victim after she complained in court that Prison authority (Al Kanater where she is held) allowed inmates held for criminal felonies to beat up political prisoners and steal their belongings. The victim demonstrated to the court injuries inflicted on her wrist and eye. Cairo Appeal prosecution allowed UG lawyers to visit their client, however, in the presence of a representative from the prison, which is in violation of the law. Her lawyers filed a complaint to the Office of the Public Prosecutor (No. 15088/2014) requesting that they be allowed to meet the victim in private. To the date of this report, the Office of the Public Prosecutor did not respond to the request. On August 5, 2014, UG submitted another complaint (No. 15678/2014) to expedite the decision of the Public Prosecutor. Similar to the first complaint, this one too went unanswered.

2.2 Abdel Halim Mohamed Abdel Aziz, 16 years old, Student;

2.3 Mohammed Suleiman Hamada Aboul Fotouh, 18 years old, Student;
2.4 Mohammed Suleiman Hamada Aboul Fotouh, 18 years old, Student;
2.5 Ezz al-Din Mustafa Mustafa, 21 years old, Student;
2.6 Sharif Hassan Mahmoud, 18 years old, Student;
2.7 Assem Mohamed Abdel Wahab Hassan, 17 years old, Student;
2.8 Khaled Sedeek Ibrahim, 18 years old, Student;
2.9 Mohammed Ayman Salah, 17 Years old, Student;
2.10 Ammar Yasser Mustafa, 15 years old, Student;
2.11 Ahmed Mahmoud Mohamed, 22 years old, Student;
2.12 Islam Ashraf Maghawri, 23 years old, Law School Graduate;
2.13 Mohamed Mahmoud al-Rifai, 18 years old, Student.
2.14 Omar Khaled Hamed, 15 years old, Student: Case No. 569/2014 Case, Giza Misdemeanor

On January 17, 2014, clashes erupted between a group of Cairo University students, and police forces, which resulted in inflicting injuries on the students. On that day, 42 students and citizens were arrested from in front of Cairo University and were detained in Giza Police Station. The next day, at dawn, the prosecution visited the Police Station to review the police reports without launching the investigation. When the lawyers inquired about the schedule of the investigation, the prosecutors responded that they had no information on the scheduling of the investigation. However, on Friday, the public prosecution began its investigation with the accused without the
presence of their lawyers, even though all charges are felony charges that necessitate the presence of a lawyer with the accused. More so, the prosecution denied the lawyers the right to meet in private with the accused; or even attend the investigation and see the evidence. Lawyer Enas Abou Arab from UG was a witness to this happening, as she represented Islam Ashraf Maghawri who was injured during the incident. The prosecutor refused to document the victim’s injuries in the investigation report, or even treat him as a victim. The prosecutor did not allow the lawyers to review the investigation files and refused to document his refusal. He challenged them to submit a complaint in this regard to the Head of relevant Prosecution Office.

3. Undermining of the Right to Counsel:

Under this category, lawyers did not receive any response to requests they made regarding the case under consideration.

3.1. Mohamed El Sayed Abdullah Hassan- Case No. 4858/2012, Abou Seer

On September 19th, 2012, a police officer, accompanied by a police force, raided the victim’s house, breaking the door of the house, and searched it. The police force attacked the victim and took him away to the Abou Seer Police Station. The next morning, that same officer, called in the victim for questioning. He questioned him about the reason of his arrest, the location from which he was arrested. He then gave him back his Identification Card and asked him to leave. When the victim objected to the fact that
he was arrested and held in custody, the police officer threatened to implicate him in a drug-related case if he does not leave. Accordingly, on July 10, 2012, UG’s lawyer filed a complaint to the Office of the Public Prosecutor (No. 12078/2012). The complaint was forwarded to Abou Seer Prosecution office, which recorded the forwarded complaint (No. 4858/2012). However, the Office of the Public Prosecutor decided to close the case without even hearing the testimony of the victim or taking any action in the case. A fire in Ismailia Courthouse destroyed many case files, including that of the victim. UG submitted a request to validate the original official documents of the police record in their files, and to appeal the closing of the case. While the appeal was accepted, however on 6/4/2014, the prosecution decided again to close the case, again without hearing out the victim. In this instance, the prosecutor provided a reason for its action, including that no witnesses were provided, in addition, that investigation confirmed that the incident never took place. In fact, UG’s compliant included a request for setting up a date for a hearing for the witnesses, however prosecution did not respond to the lawyer’s request.

3.2 Case #19505/2013 Nasr City

September 3rd 2013, a footage titled “Police Officer Nasr City police station attacks a citizen in the Street” was surfaced on UTube. The footage showed a group of people, who appear to be police officers, as they were all carrying arms on their right side, subjecting a man to sever beating while forcing him into a mini-bus. The
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victim was heard screaming “why are you doing this to me, I live in this area”. Based on this footage, UG filed a complaint to the Office of the Public Prosecutor since the incident captured in the footage represented a felony as it entailed kidnapping, detaining, and the use of cruelty. In their complaint, UG requested that the prosecution inquire, from the General Authority for Vehicles, about the identity of owner of the vehicle, which license plate was quite clear in the video footage, and call him in as an eyewitness to the incident. However, the prosecution closed the case without taking any action.

4. Delays in Conducting Investigations

Under this category, the prosecution failed to call in the alleged offenders for questioning.

4.1 Farahat Farag Sakran, 27 years old, Laboror: Case No. 1866/2013, Moharram Bek

On May 22, 2013, a fight between two families broke out in Moharram Bek, Alexandria Governorate. A police force from Moharram Bek Police Station was dispatched to the location of the fight. According to the police report submitted to the public prosecution, the police forces where able to contain the fight however, they were not able to arrest anyone. However, secret police investigation included names of a number of individuals who were part of the fight, which the name of the victim was among the names listed. Accordingly, a police report (No. 1866/2013-Moharram Bek) was completed and submitted to the public prosecution, which decided to
call in the victim based on the investigation carried out by the Police. Based on the decision of the prosecutor, a police force arrested the victim, along with others. During his arrest, the victim was beaten and injured. When the prosecution asked the victim about the injuries, he identified the two police officers that beat him up. However, the prosecution did not call in the officers for questioning. UG’s Alexandria legal unit submitted a number of complaints to the public prosecution office requesting that the two identified officer be brought in for questioning. On July 20, 2014, another request was submitted to the head of Moharram Bek Prosecution, with the same content. To the time of preparing this report, the officers were never called in for questioning.

4.2 Mohamed El Shumway Abdel Aaty, 38 years old, Agricultural Engineer : Case No. 4066/2013, El Talbia

On Many 2, 2013, a police force from Investigation Department at the El Omraniya Police Station stormed into the house of the victim. They informed the victim that they carried an arrest warrant issued by the Office of the Public Prosecutor. The victim’s request to see the warrant was denied, and he was beaten and verbally abused in front of his wife. More so, the property in the apartment was destroyed. The victim was taken to El Omraniya Police Station, and charged with possessing non-firearm type weapons. The victim was then released by the public prosecution (he noted in his statements before the prosecutor that the police station to which he was taken- El Omraniya- is not competent police station according
to his place of residence-El Talbia). Upon his release, the victim submitted a complaint against the offending police officer. On May 5, 2013, the public prosecution questioned him and moved to his place of residence to examine the damage caused to the property and document it. More so, the victim provided an eyewitness. However, the Public prosecution decided to close the case without questioning the offenders, even though the victim named them in his statement. UG appealed the decision to close the case (No. 57/2014) to the Attorney General for Cairo Appellate Prosecution, and requested that investigation be resumed. The appeal was forwarded to both South Cairo Prosecution Office, and Talia Prosecution Office to investigate the case. To date, no action was taken by either entity.

5. Delays in Conducting Investigations

Under this category, the prosecution did not act promptly to transfer the cases to the forensic medicine examiners. In addition, major delays were experienced in receiving the reports from the forensic medical examiners.

5.1 Mohamed Saied El Sayed Atta, 23 years old, Student: Case No. 5093/2013, Mahala Kobra

On March 6, 2013, on his way back from work, accompanied by two of his friends, the victim passed by a demonstration held in El Bahr Street, in the city of Mahala El Kobra City. According to the victim, there were a number of forces, from the Central Police Forces, for dispersing the demonstration. The victim stated that there
was an armored police vehicle that was firing at the demonstrators. One of the pellets was lodged in his right eye. His friends who were accompanying him testified in support of his account. The prosecution began an investigation and sent the victim to the Forensic Medicine, which concluded in its report that a pellet is lodged in the right eye of the victim. The Prosecution requested the Police Investigating Department to investigate the incident. The investigation concluded that there was an unknown individual shooting at both the people and the police in a random manner, denying any responsibility of the police in causing the injury of the victim. Upon this investigation, the prosecution concluding that there were no grounds for institute proceedings as the perpetrator could not be identified and remain at large. On July 17, 2013, the Unit appealed this decision to the Attorney General for Tanta Appealette Prosecution. In its appeal, the Unit requested that the investigation resume, and that the prosecution request the Police Activity Records” of El Gharbiya Police Directorate to identify the officer who were responsible for securing the Police Station, around which the incident happened. The Unit also requested that the victim be examined by a three-member committee of forensic medical experts. The Attorney General ordered the resumption of the investigation, and ordered more investigation from the police department, in addition to requesting that the victim re-examined by committee of forensic medical experts. The latter recommended that the medical records of the victim be reviewed by a senior
Ophthalmologist in Cairo. Since January 15, 2014, and to date, the prosecution have neither requested the medical report nor asked that it be expedited, even though, on August 6, 2014, the Unit submitted a request to the Public Prosecution asking for the expediting of the medical report.

5.2 El Sayed El Gahfarry Abou Ghamra, 33 years old, Salaried-Employee: Case No. 6232/2012, El Sayeda Zeinab

On September 27, 2012, the victim was an inpatient at Kasr El Aini Hospital. His attending physicians recommended that he exercise as part of his physiotherapy protocol. While walking around the hospital premise he got into an argument with a bus driver who was driving against the traffic. A police officer, from the local police unit at the hospital, engaged in the brawl, and attacked the victim, beating him while dragging him into the police unit. The incident was reported to the public prosecution, which in turn requested that the victim be examined by forensic medicine experts. The victim requested that footage from the hospital’s surveillance system, be examined, and used as evidence to capture the attack on him. On May 14, 2013, the public prosecution received the footage, and registered it in the case file. In June 2013, the prosecution sent the footage to the Egyptian Radio and Television Union (ERTU) for analysis. To the date of preparing this report, ERTU did not send back its analysis of the footage, in spite of the fact the Unit sent in two requests to the prosecution requesting the expediting of the technical report of ERTU. The latest request was sent on July 20, 2014.
6. Delays in the Litigation Procedures

Under this category, the two prime issues pertain to the prosecution not taking action to institute criminal proceedings, and deciding that there is no grounds for legal proceedings

6.1 Moufida Hamed Amin - 34 years old, Salaried-Employee;
6.2. Mahmoud Ismail Abdel Hamid - 26 years old – Salaried-Employee;
6.3. Iman Farouk El Hady - 28 years old – Nurse;
6.4. Hesham Mohamed Tawfik - 51 years old – Physician: Case No. 22626/ 2013, El Marg

On September 24, 2013, the hospital received a person stabbed by a knife. Accordingly, the first victim, Moufida Amin, a telephone operator at El Marg One-Day Surgery Hospital, contacted El Marg Police Station to report the case, as it appeared to constitute a crime. According to the victim, the officer at the police station refused to record her notification, upon which she threatened to raise the issue to higher authorities. Her statements appear to have aggravated the police officer, which verbally attacked her on the phone. A few minutes later, both the first victims, along with other of the hospital personnel, were surprised to find a number of police personnel from El Marg Investigation Department, along with the police person who is in charge of securing the hospital, storming into the hospital. They directed their firearms towards the victims and others around and beat them up, in their opinion, revenging what they considered an offense of
their colleague. The four victims filed a complaint with the public prosecution, which in turn began the investigation. On September 25 and 25, 2013, the deputy prosecutor of El Marg prosecution office questioned five victims (only the four listed above have requested assistance from the Legal Unit) without taking the testimony from the other victims. More so, the prosecution did not call in the alleged offenders to question them even though they were identified. When UG followed up the matter with the prosecutor, he stated that he was in the process of calling in the alleged offenders, however, this never happened, neither did he hear the testimony of the other victims to the date of this report. The Unit has submitted numerous requests to the Head of El Marg prosecution asking for scheduling of investigation sessions to hear the testimony of the remaining victims and also other eyewitnesses. The last request was submitted on July 20th, 2014, however, to date, the Unit did not receive any response to its requests.

6.5 Ehab El Sebaaey Ibrahim, 45 years old, Restaurant Manager: Case No. 571/2013, El Zayton

On December 12, 2012, a force from the Investigation Unit of El Zayton Police Station broke into the home of the victim, searched it and violating the sanctuary of his home. When the victim inquired from the force about the reasons behind the raid and the search, he was told that it was a mistake as they had a wrong address. Then, the victim accepted their explanation and considered it an apology. However, on January 20, 2013, the victim was surprised to find the same police officer, along with a force, storm
his house again, searching it again, stealing some of his personal belongings and leaving the house in complete disarray. More so, the victim alleged that the police force also harassed his sick wife. The victim reported the incident to the public prosecution. On January 26, 2013, the Zayton prosecution initiated the investigation, and taking the testimony of the victim and a number of eyewitnesses. The prosecutor also examined the house, and called in one of the police officer accused by the victim. The police officer denied the accusation. Accordingly, the prosecutor requested the Criminal Evidence Investigation Unit of the police station, to conduct an investigation of the incident. The report of the Investigation Unit of the police stated that the incident was fabricated, and that it was the victim who caused the disarray in the home in order to falsely accuse the police officer. The police investigation report included the testimony of a number of witnesses living in proximity to the victim. However, the victim presented the prosecutor with the names of some of the witnesses whose names were cited in the police investigation report. The said witnesses denied that they provided the testimonies included in the police report, and confirmed the victim’s account of the incidence. Based on this, and on March 9, 2014, the prosecution requested that the “Public Security” Directorate of the Ministry of Interior, re-investigate the incident. That directorate entrusted with the re-investigation, includes the Criminal Evidence Investigation Department, which, conducted the original investigation and falsified testimonies of eyewitnesses. On July 17, the Unit submitted
a request to the deputy prosecutor of Zeyton requested that he overturn his decision to request the re-investigation as it will be of no value-added as all evidence confirm the accusations against the Zayton Police Station, and that it had already requested an investigation of the Criminal Evidence Investigation department which turned out to be worthless. As of the writing of this report, the prosecution neither received the requested re-investigation report nor did it overturn its decision to request such an investigation.

7. Putting Cases on File without Investigations

7.1 Tayseer Mohamed Ahmed, 47 years old, Salaried Employee: Complaint No. 30926/2012, Nasr City

On September 13, 2012, during the demonstration organized in Tahrir Square, the victim went to Tahrir Square searching for his son, a minor, after learning that he was in Tahrir. However, the victim alleged that he was attacked and beaten by police force from the Central Security Forces. The victim alleged that he taken to the vicinity of the American Embassy, where he was forced into a vehicle while the beating continued. He was sent to Nasr City Police Station and presented to the prosecution, which released him. Upon that, the victim filed a complaint with the public prosecutor (No. 11383/2013) against the Central Security police officers who were at Tahrir Square. The complaint was forwarded to Nasr City prosecution office that filed the complaint without calling in the victim for testimony or investigating the case. The Unit appealed the decision to the Public Prosecutor, who in turn forwarded the appeal to the competent prosecution office. The latter
filed the complained without taking any action.

7.2 Case No. 19505/2013 Nasr City /First District

On September 3, 2013, a footage titled “Police Officer Nasr City police station attacks a citizen in the Street” surfaced on UTube. The footage showed a group of people, who appear to be police officers, as they were all carrying arms on their right side, subjecting a man to sever beating while forcing him into a mini-bus. The victim was heard screaming “why are you doing this to me, I live in this area”. Based on this footage, UG filed a complaint to the Office of the Public Prosecutor since the incident captured in the footage represented a felony as it entailed kidnapping, detaining, and the use of cruelty. In their complaint, UG requested that the prosecution inquire, from the General Authority for Vehicles, about the identity of owner of the vehicle, which license plate was quite clear in the video footage, and call him in as an eyewitness to the incident. However, the prosecution closed the case without taking any action. The Unit submitted an appeal to the Attorney General for East Cairo prosecution voices (No. 483/2014) who in turn forwarded it to Nasr City Prosecution office. The appeal is still under review, noting that on July 22, 2014, the Unit filed another request to expedite the initiation of the investigation and the taking of testimonies from the complainant. To date, the investigation has not been initiated.
Section 5: Recommendations

United Group considers the content of this report as constituting a complaint to the Judicial Inspection Department of the public prosecution. According to Article 19 of the Internal Rules of Procedures of the office of the public prosecutor, the department is mandated with the following:

1. Carrying out periodic and unannounced inspection of members of the public prosecution.
2. Preparing the database related to prosecutorial appointments.
3. Collecting information and conducting investigation of candidates nominated to the public prosecution and carrying out the necessary procedures related to their appointment.
4. Receiving and investigating complaints regarding the operations and workings of the public prosecution, including the conduct of its members.
5. Overseeing the operations in the prosecution offices, and providing relevant recommendation to the public prosecutor if deemed necessary
6. Compiling judicial statistics
7. Carrying out other duties as requested by the public
UG believes that the oversight function over the members of the public prosecution needs to be carried out in a meaningful and serious manner. This will ensure that prosecutors carry out their duties and responsibilities in a proper manner, without laxity that would guarantee the realization of justice, regardless of who the complainants or offenders are—Justice is blind.

And while, as noted above, UG considers this report as a complaint that will be submitted to the Judicial Inspection Department of the public prosecution, it believes different bodies could still take necessary and quick actions, accordingly:

**A- UG calls on the Ministry of Transitional Justice to:**

Create an exploratory committee to discuss the phenomena of torture. The committee should convene its meetings in pre-announced and easy to locate places nation-wide. The Committee should be allowed adequate time to conclude its work, and based on its working, it should map out torture in Egypt, and identify appropriate legal reforms needed to the Penal Law and the Criminal Procedures laws.

**B- UG calls on The Committee for Legislative Reform**\(^{(1)}\) **to:**

Endorse and adopt the legal reforms proposed by United Group, others human rights organization and

\(^{(1)}\) On June 15, 2014, the President issued Presidential Decree No. 87/2014 that established a High Committee for Legislative Reform, to be chaired by the Prime Minister. The Committee includes the Minister of Transitional Justice and House of Representatives, who acts as the rapporteur and, in addition to the Minister of Justice, the Mufti, Al-Aznar’s deputy; the head of the Cabinet’s Advisory Board, the head of the State Council’s legislative department and the assistant to the Minister of Justice for Legislative Affairs. The Committee also includes three professors from the Faculty of Law, selected by the High Council of Universities, and two judges from the Appellate Courts, selected by the High Judicial Council and two lawyers, to be selected by the board of the Lawyers’ Syndicate, and three others public figures from the to be selected by the Prime Minister.
the National Council for Human Rights. The proposed reforms address amending both the Penal Code and the Code of Criminal Procedure making them more rigorous in dealing with torture, and less complex in terms of the requirements needed to prove and establish torture-related crimes. In the forefront of the proposed amendments, are those related to making the Forensic Medicine Authority independent of the Ministry of Justice, in order to ensure that it carries out its mandate in an impartial and non-biased manner, ways from the any interference from the executive branch. The proposed amendments also entail affiliating the Forensic Medicine Authority to an independent supreme council to guarantees its integrity and impartiality. More so, the amendment also addressed the need for the Forensic Medicine to act promptly and proactively in torture-related cases without the need to wait for instruction, or the transfer of the victim. Setting a time limit of 48 hours for the initial report. Other recommended reforms relate to amending the law regulating the legal profession in order to make the presence of the lawyer with the client during interrogation at police stations mandatory.

**C- UG calls on the Egyptian Government to:**

1. Immediately ratify the Optional Protocol to the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment. The protocol allows for regular visits to be undertaken by independent international and national bodies to places where people are deprived of their liberty, to assess and provide recommendations for their improvements;
2. Ratify the optional protocol of the International Covenant on Civil and Political Rights;

3. Declare Egypt’s compliance with Articles 21 and 22 of the convention, to permit the Committee against Torture to review complaints submitted to it in the event that the Egyptian government breaches its obligations under the convention, and


D- UG calls on the Assistant to the Minister of Justice -for National Center for Judicial Studies to:

1. Cooperate with Egyptian civil society to train prosecutors on methods of investigation and questioning in torture-related crimes, and orient them to the immediate steps that need to be taken to ensure putting an end to impunity for the perpetrators of these crimes. Training would include international conventions and agreements related to the right to bodily integrity and how to apply it in cases involving torture and the use of cruelty.

2. Develop a guidebook to be issued by the Public Prosecutor detailing ways, means and standards for dealing with cases related to torture.
E- UG calls on the Public Prosecutor to:

1. Request that his deputies provide his office, on a monthly basis, with an inventory of all the cases that involves alleged torture and how the cases were handled.

2. Inform the public, on monthly basis, of the detailed account of the number of torture-related complaints received by his office and other prosecution offices, and the actions taken including a timeline for finalizing the investigations.
The united group provides legal consultancy and services to its clients, and in some cases established legal and constitutional precedents.

The United Group includes a number of specialized units, with each unit under the supervision of one or more of the partners or consultants. The UG board of directors sets the work plans and follows-up on activity progress.

**The legal unit:**
- I. Contracts and Pre-Contractual Commitments Unit
- II. Disputes Unit (public and private law)
- III. Disputes Unit (commercial disputes and unfair competition)

**The Legal Studies and Training Unit**

The Legal Studies and Training Unit is responsible for legal, administrative, economic, financial, and taxation studies. The studies cover laws applied in Egypt, draft laws to be discussed by the parliament, the investment climate in general, and political changes that might have direct impact upon the climate. The unit is also able to undertake specific studies upon client request.

**The Support for Non-Governmental Organizations Unit**

Non-governmental organizations (NGOs) are known to suffer a number of administrative problems, particularly under the law governing civil associations in Egypt - the law gives broad powers to the administration for controlling the work of associations and adds more complicated procedures for an association to obtain funds or join international networks. Therefore, the Support for NGO Unit helps non-governmental organizations tailor programs and proposals, win the consent of the Ministry for Social Affairs, to obtain funds for NGO projects, prepare contracts between NGOs and funding institutions, follow up the implementation of the projects, assess the results, and train NGO staff in writing financial and narrative reports.