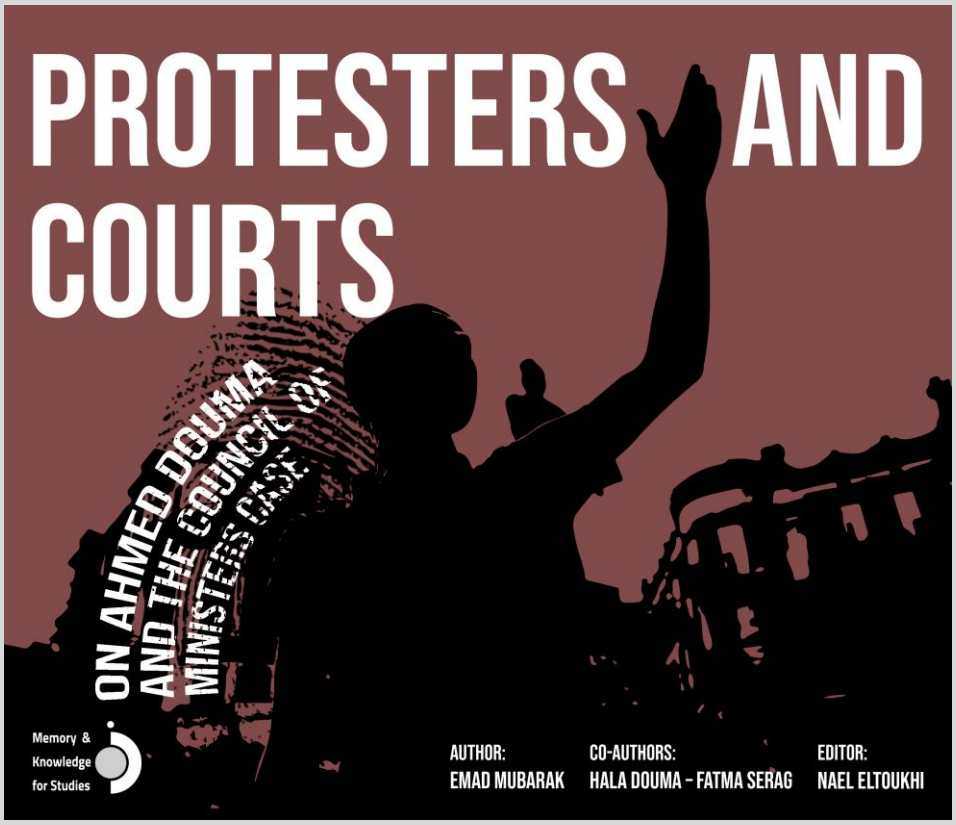


Protesters and Courts:

On Ahmed Douma and the Council of Ministers Case

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Introduction

In this report, we discuss the issue of the cabinet events that occurred in December 2011, with a focus on the trial of Ahmed Douma, which highlights a pressing question in any discussion of democratic transition in Egypt; we address the issue of independence of the judiciary and legislative authority from the executive authority, in order to preserve the course of justice and adherence to law in order to consolidate a true democratic society, in which no one is punished for what he did not commit, and in which those in authority do not escape legal punishment.

In writing this report, we relied on the papers of the case known as the "Council of Ministers Case", about nine thousand pages, which include reports, medical reports, arrest warrants, referral orders, investigation records and interrogations of the accused and injured, in addition to the text of the first instance judgment issued by the court on February 4th, 2011.

Reliance on the case papers was key to shedding light on the legal aspects related to the conduct of investigations with the male and female defendants, which enabled us to understand violations of fair trial standards in the accusations against the accused, who will be sentenced later, and the case papers helped us to understand the defendants' narratives during interrogation by the prosecution.

In the report, we sought to use the defendants' narratives, during their interrogation, to find out details related to their diversity and the diversity of their social backgrounds, and to understand the way in which they dealt with the judicial system for the purpose of defending themselves, even if the defendant did not always tell the truth, especially in view of the prosecution and the judiciary's preconceived notion about them, as will be explained later.

In addition to the case papers, we also relied on press and media reports that covered the events as they unfolded, as well as the details of the political context in which they occurred, in our attempt to draw the features of the tense political context in which the clashes took place, as well as to draw a sequence of major political events that occurred before the start pf the sit-in in front of the Council of Ministers building, to understand the motives of those present at the time to resort to a sit-in, and to try to imagine the factors that could have changed later developments. The press and media materials that covered the event gave us a glimpse of the way the media interacted with the events, and the way the demonstrators used it to present their narrative of what happened, while it also revealed the way SCAF (SCAF) used the media to present its narrative that contradicts that of the demonstrators', accusing them of sabotage and lack of patriotism, which established a broader narrative that later took root, according to which any act of protest has become part of a scheme to destroy the state.

In addition to all of the above, we also relied on the testimonies of the participants in the events, which were mainly documented in the 858 archive, released by the "Mosireen" group, as well as on testimonies broadcasted by some satellite channels during the events, which gave us another side of the truth, other than the official version of SCAF, which had access to all outlets and included a logic woven to demonize any act of protest, and project it as part of a conspiracy aimed at overthrowing Egypt.

The testimonies of the participants in the events illustrate the way in which alternative media spaces were used, and we consider it one of the methods of resistance adopted by the movements aimed at change, in order to raise the voices of the protesters and their vision of the events, not

only in terms of narrating the events, but also in terms of documenting their motives and political ambitions at the time and their interactions with what was happening.

Finally, we also relied on the appeal memorandum submitted by Ahmed Douma's lawyer, Mr. Taher Abu Al-Nasr, in which he addressed the reasons for appealing the first ruling issued in Douma's presence by Judge Nagy Shehata against him, and monitored the procedural problems that took place in the first trial to which Douma and the rest of the defendants were subjected. This contributes to clarifying the legal context of the case and how judicial authorities dealt with it, as well as the legal violations committed against Ahmed Douma and other defendants.

In all of this, it must be clarified that we deal with legal violations and breaches, not as mere procedural loopholes, but also as part of the narrative of what happened, as it practically revealed the preconceived vision with which the judicial authorities dealt with the defendants, which in turn reflects the crisis situation regarding the current lack of independence of Egyptian judiciary.

The bigger picture at the time of the events

The events of the Council of Ministers came at a politically critical stage in the history of Egypt, and we can look upon it as a link in a series of events that demonstrate the existence of a third force that existed between the two largest organized forces at the time, the first of which is SCAF that took power in Egypt after Hosni Mubarak stepped down, and the second is the current of political Islam, headed by the Muslim Brotherhood, the most organized and engaged element in political life in Egypt in the decades prior to the outbreak of the revolution.

That third Force used the tactics of being on the street as a main channel in order to present its demands to the major political actors at the time. The direct demand of the sit-in and demonstrators in Tahrir Square and Qasr al-Aini Street, before the outbreak of the clashes, was the refusal to appoint Kamal al-Ganzouri, who was chosen by SCAF to head the Council of Ministers. Seeing this demand - in the context of raising it - may give us another dimension to understand the events of the Council of Ministers, as an extension of the events of Muhammad Mahmoud, which took place in November 2011, and the events of Maspero that took place in October 2011, and the tens of million-strong demonstrations that were called for in Tahrir Square and the squares of Egypt, in the period after Hosni Mubarak stepped down and the Military Council took over on February 11, 2011.

Clashes began in the vicinity of the Council of Ministers at dawn on December 16, i.e. during the second phase of the first parliamentary elections after the January 25 revolution. The first phase began on November 28, 2011. It was clear, based on the indicators of vote counting after the second phase of voting, and even before announcing the final official result, that the political Islam movement, headed by the Freedom and Justice Party emanating from the Muslim Brotherhood, will get the majority of seats in the People's Assembly in January 2012.

The arrival at the moment of parliamentary elections came after a long process of negotiations on a road map laying down the stages of the "democratic transition" in Egypt in the post-revolution period. It began with the issuance of a constitutional declaration[1] by SCAF laying down the rules of the transitional period, which included suspending the work by the provisions of the then existing constitution, and the formation of a committee to amend some of its articles, define the rules for a referendum on it by the people, dissolve the People's Assembly and the Shura Council,

[1] The Constitutional Declaration issued by the Supreme Council of the Armed Forces on February 13, 2011, legal publications

hold new elections for both, in addition to the presidential elections, and take over the administration of the country's affairs temporarily, for six months, or until the end of the elections for the People's Assembly, the Shura Council, and the Presidency of the Republic.

The step of the referendum on the constitution was the first stage that highlighted a severe division in the ranks of the political opposition, where most of the opinions ranged between two poles: the first, headed by the Muslim Brotherhood[2], called for a "yes" vote, saying it was the first step towards the path of democratic transformation in Egypt. Those who held this view believed that the new constitution should be based on a constituent assembly formed by the elected president and the People's Assembly. As for the opposing view, which included[3] the January 25 Revolution Youth Coalition, the April 6 Movement, the Front for Change headed by Mohamed El-Baradei and a group of political parties, it called for a "no" vote, as it saw the inevitability that the new constitution precede parliamentary and presidential elections. It also saw in the amendments a tinkering with the old constitution, considering the amended articles, regarding the organization of the People's Assembly and Shura Council elections, the presidential elections and the conditions for nomination for the position of President of the Republic, would reproduce the traditional forces from the remnants of the Mubarak regime whom the Egyptian people had revolted against.[4]

In parallel, and in Tahrir Square on February 25th, demonstrations took[5] place calling for the formation of a new government of technocrats to replace the government of Lieutenant-General Ahmed Shafiq, who had formed, upon the mandate of the Military Council, a caretaker government after Hosni Mubarak's resignation from power. On March 3rd, 2011, SCAF accepted the resignation of Lieutenant-General Ahmed Shafiq, to entrust the formation of a new government to Dr. Essam Sharaf, who took the constitutional oath in Tahrir Square[6] .

On March 30, 2011, after the referendum on the articles of the constitution was held on March 19, and the majority voted to approve it, the Military Council issued a constitutional declaration [7] consisting of 63 articles, including articles setting conditions for candidacy for the People's Assembly and Shura Council elections and the presidential elections, and the organization of these electoral processes. At that stage, the Military Council[8], which at the time had both legislative and executive powers, confirmed that presidential elections would be held by October or November 2011. The constitutional declaration clarified that the legislative power would be handed over automatically upon completion of parliamentary elections, while the executive one would be handed over as soon as presidential elections were held. According to the timetable presented at the time, within six months from the date of the election of members of the People's Assembly and the Shura Council, their members will choose the Constituent Assembly tasked with writing a new constitution within six months, before the constitution is submitted to a popular referendum.

[2] Statement of the Muslim Brotherhood, entitled "The Brotherhood Calls the People in Favor of the Constitutional Amendments," issued on March 12, 2011, the official website of the Muslim Brotherhood
[3] "The People's Referendum on Constitutional Amendments in Egypt", The Arab Center for Research and Policy Studies, March 18, 2011
[4] Statement of the Cairo Center for Human Rights, entitled "Disappointing Constitutional Amendments", issued on March 7, 2011, the official website of the Cairo Center for Human Rights.
[5] "Hundreds of thousands in Tahrir Square demand the overthrow of the Shafik government," Deutsche Welle, February 25, 2011
[6] Issam Sharaf in Tahrir Square amid cheers welcoming him," Al-Ahram Street, March 4, 2011
[7] The Constitutional Declaration issued by the Supreme Council of the Armed Forces, issued on March 30, 2011, legal publications
[8] The declaration of the Egyptian constitution preserves the article of Sharia and limits the powers of the president," Al-Arabiya, March 30, 2011

Meanwhile, the Military Council and the Muslim Brotherhood had taken several initiatives to establish a "national dialogue" that would allow political and revolutionary forces to reach a consensus between the "constitution first" and "elections first", which would lead to what would later be known as the "El-Selmi Document", which many political actors will reject, as it undermines the popular will and the will of future generations, and establishes a special status for the SCAF above the Constituent Assembly. Even after amending articles concerned with the status of SCAF on November 16, 2011 - that is, during the outbreak of the events of Muhammad Mahmoud - the document will not be adopted except as a non-binding guiding document.

In continuation of the attempts to reach a "consensus", on December 8, 2011 the Military Council issued a decision to establish an advisory council[9], consisting of political forces and figures, aiming to provide consultation and assist SCAF with regard to internal matters in Egypt, stressing that the task of this advisory council, which was to express an opinion with regard to international laws and treaties, will end as soon as the People's Assembly and the Shura Council convene, that its existence itself will not continue after the presidential elections, and that the first task that the Advisory Council will undertake, once it is held, is to discuss the draft presidential election law, in addition to discussing the procedures for forming the constituent assembly charged with writing a new constitution.

The Brotherhood refused[10] the establishment of the Advisory Council, and withdrew from its membership days before it was announced, explaining that the Council was a move by SCAF to marginalize the role of the People's Assembly, which will be elected later, and to reduce its powers in favor of unelected parties. This came, according to Mohamed El-Beltagy's statement, after Major General Mukhtar al-Mulla stated that "the country's new constitution must be approved by the government and by SCAF's advisory council".

In parallel to that, and after the events of Muhammad Mahmoud, Essam Sharaf submitted his resignation from the presidency of the Council of Ministers; the resignation was accepted by the Military Council on November 22, 2011, addressing a speech to the people in which it affirmed that SCAF did not aspire to continue in power. A few days later, Kamal al-Ganzouri - known for his liberal tendencies, and who held several official positions during the era of Mohamed Hosni Mubarak, including the Ministry of Planning and the Prime Minister[1211] - was chosen to form a government of national salvation, which will continue to work until the completion of the transitional phase and the holding of presidential elections.

On December 5, the Military Council issued a decree authorizing the Prime Minister to exercise the powers and competencies of the President of the Republic in accordance with laws and regulations with exception of what concerns the armed forces and judicial bodies. Kamal al-Ganzouri actually took the constitutional oath on December 7, 2011. Revolutionary groups and forces protested in a sit-in in Tahrir Square since he was one of the faces of the old regime.

[9] "Al-Shorouk Portal Publishes the Formation and Terms of Reference for the Consultative Council," Bawabat Al-Shorouk, December 8, 2011

[10] "Muslim Brotherhood withdraws from army advisory council in protest against its stance on the constitution," Deutsche Welle, December 8, 2011

[11] "Egypt Court Revokes Privatization of a fourth Public firm", Ahram Online, Published in 3 Dec 2011

[12] "Kamal El Ganzouri: Egypt two time PM", Ahram Online, Published on 25 November 2011

Beginning of the events

Military police forces dispersed the peaceful sit-in of the Council of Ministers, on December 16, 2011, using live bullets, dragging and severe beatings against demonstrators who were present on the scenes of events on Qasr al-Aini Street and its surroundings in Tahrir Square.

For five days, confrontations continued between the military police and the demonstrators, which, according to the report of the Egyptian Ministry of Health, led to the death of 17 people and the injury of 928.[13]

269 civilians who were arrested in the vicinity of the demonstrations, would later stand trial, a process which took nearly three years, in addition to an earlier year of investigations by the Public Prosecution and the investigative judge. They will be criminally tried, as they were referred to the Criminal Court on May 8, 2012, until a first-instance verdict was issued that convicted them in absentia on charges of assembly and resistance, assault on authority figures, destruction of private and public property, theft and possession of drugs. All were convicted in absentia in case No. 629 of 2011 of Al-Sayeda Zainab's felonies, registered as No. 3528 of 2011 in South Cairo, with the exception of those included in the pardon decision issued by the Presidency of the Republic, as well as with the exception of Ahmed Douma, who was convicted in his presence on February 4, 2011, and was sentenced to life imprisonment for what was attributed to him. He was also sentenced to pay seventeen million six hundred eighty-four thousand eight hundred and eighty-one Egyptian pounds, the value of what was said he had destroyed.

The Front for Defending Egypt Protesters indicated that the defendants, who were arrested at random, were detained in illegal places and subjected to severe beatings. Despite the complaint submitted by the Front to the Public Prosecution demanding that the latter, according to its legal mandate and jurisdiction as stipulated in the law of criminal procedures, should inspect those places of detention, the prosecution did not look into this communication, contenting itself with attaching it to the investigations file. The Public Prosecution also failed to provide the necessary medical treatment to the defendants or to refer them to specialized doctors to indicate their health condition and ensure their ability to continue the investigation according to the medical reports. This ultimately led to the death of one of the defendants, Mohamed Mohye Hussein while in the custody of the South Cairo Court on December 18, 2011.[1514]

Despite the submission of dozens of complaints against SCAF members and a number of army and police officers, regarding murder, torture, assaults and physical violations that occurred during the events, the investigative judge, on the pretext that the necessary intelligence were not received from security authorities, did not complete the investigations into those reports and did not summon any of those who held official positions. Despite forensic reports and the presence of incriminating evidence against the military police forces, represented in the video clips filmed by the media or independent photographers during the events, in which officers and soldiers of the armed forces appear shooting demonstrators, beating them severely and throwing pieces of

[13] Amnesty International, "Brutality Unpunished, Unchecked: Egypt's Military Kills and Tortures Protesters Without Accountability," September 2012, p. 17

[14] The statement of the Egyptian Initiative for Personal Rights, based on the monitoring of the Front for the Defense of Egypt's Protesters, entitled "Harvest of the third day of the events of the dispersal of the sit-in of the Council of Ministers and the confrontations between security forces and demonstrators".

[15] The death of an accused in the events of the Council of Ministers during his interrogation in Zeinhom Court, Al-Ahram Gate, published on December 18, 2011

furniture from the tops of buildings, no member of the armed forces was summoned for investigation.[16]

Narrative of the Superior Council of the Armed Forces (SCAF)

On December 19, 2011, SCAF held a press conference[17] in which Major General Adel Emara presented a detailed explanation of the Military Council's narrative about the events and clashes that took place in the vicinity of the People's Assembly, the Shura Council, and the Council of Ministers. His narrative had three main arguments:

1. *Discipline and self-restraint of officers and soldiers*

Emara opened the press conference by emphasizing that the officers and soldiers present in the vicinity of the clashes adhered to the utmost restraint, and did not attack the demonstrators in any way, despite their continuous provocation attempts; that demonstrators were the ones who started by attacking and insulting one of the officers while he was doing his job securing the People's Assembly and the Shura Council; that this was what prompted the soldiers present at the time to go out to support their officer, who became in the possession of the demonstrators, which resulted in friction between them and the service members; then one of the demonstrators entered the People's Assembly, which led to "some injuries" before he was released outside the People's Assembly.

More than once during the conference, Major General Adel Emara confirmed that the officers and soldiers did not use violence against the demonstrators, and that the existing forces did nothing but play their role in protecting state facilities, and that the conscripts and officers were in a position of self-defense and avoided using any ammunition; he even indicated that tear gas was not used although it was globally permissible to use it to break up demonstrations.

Major General Adel Emara added that on Sunday, December 18, 2011, after the [cement] barriers were erected on Al-Qasr Al-Aini Street, the police became in charge of the security of the Ministry of Interior and Sheikh Rayhan Street, and then the confrontations moved to become between the demonstrators and Central Security soldiers, who confirmed that they were armed only with sticks. They had neither bullets nor tear gas, and he insisted that they not practice violence against the demonstrators and that they would not repeat any of the old repressive policies [i.e. those associated with the regime of Mohamed Hosni Mubarak].

2. *Protesters' use of "excessive force"*

In his speech, Major General Adel Emara referred to the dilemma that the forces present to secure the People's Assembly, the Shura Council and the Council of Ministers did not possess weapons, ammunition or tear gas to disperse the demonstrators, considering this an implicit legalization of the demonstrators' possession of weapons represented by Molotov cocktails and gas tubes, and he stressed, when talking about peaceful dealing with the demonstrators, the need to differentiate between a peaceful protester and a saboteur aiming to burn the state and create chaos, repeating more than once that the demonstrators, and not the soldiers or officers, used excessive violence.

[16] Statement by the Egyptian Initiative for Personal Rights, entitled "A year after the events of the Council of Ministers: the balance of justice is still tilted", issued on December 20, 2012

[17] " The Military Council Press Conference", published on YouTube on December 19, 2011

Emara added that despite the restraint exercised by the officers and soldiers, the "other party" was focusing on specific targets for burning or destruction, as the demonstrators prevented the establishment of barriers that would have avoided losses by separating them from security forces, and so the forces were unable to build them in the end, due to the stampede of demonstrators and the beating of the personnel charged with installing it with Molotov cocktails and butane gas tubes.

3. *Demonstrations were a plan to destroy Egypt*

At the beginning of his speech, Major General Adel Emara questioned the peacefulness of the demonstrations, saying that the demonstrators prevented the Prime Minister from entering the Cabinet building, and he presented the way in which the Bulaq local council building and the cars on Qasr al-Aini Street and the air conditioning of the Roads and Bridges Authority building were burned, then the People's Assembly electricity room was burned, as a systematic method that aspires to friction and provoke the soldiers, with the ultimate goal of destroying the state. He also detailed the evolution of this methodology as beginning with peaceful demonstrations, as in the events of Maspero, Muhammad Mahmoud and the Balloon Theater, for example, before the peaceful demonstration turns into friction and provocation of individuals and security forces, and then spread of rumors to mobilize the largest possible number of demonstrators, before the burning and destruction of specific institutions begins, and targeting public property owned by the people and private property owned by citizens, until we finally reach the attack on the state, its facilities, and its public and private property. He asked in disdain: "How can you demonstrate peacefully when you want to burn down a building, storm it, or prevent the Council of Ministers from working in [its headquarters]"?

Emara added that the transmission of "rumors" about the army's beating of demonstrators from Qasr al-Ainy Street to Tahrir Square was what led the Tahrir demonstrators to head to Qasr al-Ainy Street; that on the evening of Friday, 16 December 2011, reckless hands that do not understand the interests of the homeland burned the General Road and Bridges Authority; the following day the wall of the Council of Ministers was broken using hammers, and the liquidation of the Ministry of Transport building began, as well as the looting of its safes, money, documents, etc. before it was completely torched.

Referring to the burning of the scientific complex, Amara pointed out the impossibility of burning it spontaneously, and wondered who directed the people who burned and torched it together with state facilities, and said that movements were observed in the northern military region, and frictions with individuals with military vehicles on Salah Salem Road, in addition to many rumors and calls to send people to the Shubra El-Kheima Electricity station and the Central Bank to carry out acts of sabotage, describing all this as a "systematic issue prepared to end Egypt's existence," and hinting at the possibility that there were elements that infiltrated among these large numbers, who might have provided them with the weapons they used against soldiers or demonstrators. In the midst of his speech he proceeded to describe a certain "weaponization" mechanism, in which young men were equipped with combat equipment such as those owned by soldiers, and tools of sabotage are prepared in certain places in Tahrir Square, and in all of this young men and street children are used.

Case Witnesses

The testimonies of the witnesses in the case are similar in many of their details, and they all support the official narrative of the events of the Cabinet case. We have chosen here to focus on the testimony of the first witness, Colonel Ahmed Khairy Ahmed Al-Shuwaikh, which was similar to the testimony of the fourth witness, Muhammad Mahmoud Muhammad Sharqawi. We also provide the testimony of the tenth witness, an AC technician, Hisham Al-Shazly Ahmed Saber, who filed the complaint against Ahmed Douma, and finally the sixth witness, Brigadier General Magdy Ali Abu Al-Magd Ali.

Witnesses no. 1 and 4

Many details in the testimony of the first witness, Colonel Ahmed Khairy Ahmed Al-Shuwaikh, detective inspector at the Criminal Investigation Department in Cairo, overlapped with the testimony of the fourth witness, Lieutenant-Colonel Mohamed Mahmoud Mohamed Sharkawy, Head of Investigations of the Sayeda Zainab Department[18]. The first witness built his testimony on his secret sources, his reliable information, CDs, and filmed scenes on satellite channels and social networking sites. The fourth witness based his testimony on the findings of the research team which was formed upon the beginning of the events and continued its work until after the torching of the scientific omplex, headed by the investigations inspector of the West Cairo Division, with the participation of the investigation officers of Sayeda Zeinab, Qasr al-Nil, and Abdeen police departments, which are the departments adjacent to the location of the events; in his statements he also said that some of the defendants appeared while committing the crimes in many of the video clips filmed by mobile phones and CDs.

Each of the witnesses reported that some people gathered in the vicinity of the Council of Ministers, with the aim of preventing the army and police forces, which are charged with securing the buildings of the Council of Ministers, the People's assembly and the Roads and Bridges Authority, from carrying out their work, by attacking security forces and storming the buildings with stones and Molotov cocktails. They explained the burning down of the scientific complex, with all its contents of books and manuscripts, because the demonstrators threw stones and

[18] One of the court minutes, p. 127. The reference to this source is the memorandum of appeal submitted by the cassation lawyer, Mr. Taher Abu Al-Nasr on the authority of Ahmed Douma

Molotov cocktails at it, which the two witnesses reported were being made by the protesters themselves, and the fourth witness added that those preparations were taking place in Tahrir Square.

The two also said that the intrusion and fires carried out by the demonstrators, as well as the assault on the forces charged with securing the buildings, led to the disruption of the workflow of these public facilities and the obstruction of the public authorities from carrying out their work, and the two agreed that all of this was with the aim of spreading chaos. The first witness added that the aim was the overthrow of the state, by destroying and burning important government facilities and burning cars, in order to disturb public security and spread panic in the hearts of citizens, and that the demonstrators were getting money from parties that have interests in provoking chaos and bringing down the state.

Witness no. 10

In the investigations, the tenth witness, Hisham Al-Shazly Ahmed Saber, the retired AC technician, said that at four or five in the evening of December 16, he drove his motorcycle to Tahrir Square and then to the Council of Ministers Street to see the events, and when he was on the Council of Ministers Street, a person came to him carrying empty bottles in his hand inside a plastic bag asking him to fill it with gasoline from his motorbike, but he refused; so the same person went to other motorbikes that were next to him, and filled the gasoline in the bottles, before giving them to others to put pieces of cloth in their nozzles to ignite, and some young men received these bottles to throw them at the People's Assembly and cabinet of ministers building.

Al-Shazly proceeded to say that on December 20, he saw this person on the “The Truth” program presented by journalist Wael Al-Ibrashi on Dream 2 channel, and he knew that he was a political activist by the name of Ahmed Douma (defendant no. 194) and that he admitted in that episode that he threw Molotov cocktails at the army and police forces who were inside the People's Assembly. Thee witness added that he did not see any encroachment from the police and army forces in this place on the demonstrators, but he saw a firearm (a single silver weapon) and metal rods with the demonstrators, and that they were shooting and fireworks, trying to attack those inside both buildings and the forces outside them, and he repeated before the court what he had previously said during the investigations.

Witness no. 6

Based on the testimony of the sixth witness in the case, Brigadier General of the Armed Forces, Commander of the Parachute Forces, Magdi Ali Abu Al-Magd Ali, he was charged, starting July 2011, with securing the area before the events of the Council of Ministers, as this falls within the tasks of the armed forces in protecting constitutional legitimacy, including securing facilities of a national nature which are related to the sovereignty of the state[19]; he issued his orders to take all measures that would ensure the security of the area, while documenting any approach to buildings and fences in a registry called the "Accidents Development Registry"[20], and notifying the senior officials of it.

[19] Minutes of the investigation of witnesses, from the case papers, p. 1214
[20] Minutes of the investigation of witnesses, from the case papers, p. 1215

The sit-in area of the Council of Ministers extended from the intersection of the People's Assembly Street with Al-Qasr Al-Aini Street to the Ministry of Health; security gates and cordons were installed on it, and people were prevented from entering it before being searched, while all forces were stationed within the walls of the People's Assembly, the Shura Council, and the cabinet of ministers; the arming of individuals was a shield and a reinforced rubber stick, and they were not supplied with weapons and ammunition (including sound bullets), so that the rioters would not use these sounds as a cover or as an excuse to use cartridges and pistols with silencers and attribute them to the armed forces[21]. As for the officers, their armament was limited to a nine-millimeter pistols without live bullets.

According to Abu Al-Magd Ali's testimony, some of the protesters, during the sit-in at the Council of Ministers, issued provocations, inappropriate behavior, and chants to bring down the Military Council and the Armed Forces in general, accusing them of betrayal and treason, and insulting officers and service members with obscene words that transgressed their person to include their fathers and mothers. They threw urine bottles and trash bags at service members and made sexual gestures and insinuations, as well as exploiting the simple families of the revolution's martyrs and the injured and abusing their cause to give legitimacy to their demands and to continue their sit-in around the Council of Ministers.[22]

Abul-Magd Ali added in his testimony, that he issued his orders to the forces to exercise restraint, not to be drawn into the events and to abide by the content of the mission assigned to them[23] .

Abu Al-Magd also said that the events began on Wednesday, 12/14/2011, on the part of the protesters, claiming a collective poisoning, and an attempt to incriminate the armed forces by accusing the Military Intelligence of contaminating food. This resulted in an escalation of the verbal abuse against the military forces in general and members involved in securing the place in particular, even though surveillance cameras at the cabinet of ministers showed that it was one of the women who brought food to the sit-in; some of the youth of the sit-in started a quarrel with First Lieutenant Ahmed Gamal, while he was passing the service from the side of Gate 4, located at the end of the People's Assembly and Al-Falaki Street, which is about two hundred meters away from the sit-in area; a security soldier called upon the rest of the service personnel to come to the aid of the officer; a number of individuals came out to rescue him from the hands of those surrounding him and hurried him nside the walls of the council, closing the gate behind them; one of the protesters named El Aboudi was now within the gate. When Abu El Magd was informed thereof, immediately he negotiated with some of the protesters, whose numbers increased at the gate, to demand the release of their colleague, and he gave orders to hand him over to them to prevent escalation of the events.

About an hour after this incident, Abu Al-Magd noticed Al-Aboudi on a motorcycle, and behind him were some demonstrators coming from Tahrir, to roam the sit-in area, and provided the sit-in with all the resources they had, including individuals, stones and Molotov cocktails, which were equipped inside the sit-in tents, to be used against security personnel.[24]

At 2 a.m. on Friday morning, corresponding to December 16, 2011, the protesters threw large quantities of stones and Molotov cocktails at the wall of the People's Assembly along the street, with high intensity and in all directions, resulting in the burning of one of the light posts on the

[21] Minutes of the investigation of witnesses, from the case papers, p. 1213-1214
[22] Minutes of the investigation of witnesses, from the case papers, p. 1216
[23] Minutes of the investigation of witnesses, from the case papers, p. 1219
[24] Minutes of the investigation of witnesses, from the case papers, p. 1222

street and the creation of an electric shortcut. A large number of the protesters' tents were set ablaze, and the protesters, using small gas pipes, burned a vehicle belonging to the Ministry of Health on Al-Falaki Street, next to the People's Assembly building.

According to Abu Al-Magd Ali, the riots and vandalism on the part of the protesters continued until seven in the morning, when they tried to expand the area of clashes and storm the building of the Ministry of Interior from the side of Al-Falaki Street, had not the security forces confronted them, with the help of the residents of Abdeen and Sayeda Zeinab, and pushed them out of the People's Assembly Street until the intersection Al-Qasr Al-Aini. Rioters continued until 11 a.am. to throw stones and Molotov cocktails into the People's Assembly and the Council of Ministers with the aim of storming them, which prompted security elements to climb the roofs and exchange stones with them to prevent them from storming the council building, before Abu Al-Magd issued his orders to descend from the rooftop and commit to securing the building from inside; the council guard, including the civil police and some of the maintenance staff there, started using stones and water hoses to prevent rioters from burning down the council's library, which the vandals insisted on burning, because it contained Egypt's parliamentary history and the book "Description of Egypt".

The violence resulted in the theft of fire extinguishers, burning all the contents of the restroom on the first floor, demolishing part of the People's Assembly wall in the direction of Al-Qasr Al-Aini, demolishing Gate 1 and the wall, and attacking security elements inside the council.

Security forces were able to chase after the saboteurs and arrest seventy of them, as a result of which twelve officers and forty-four individuals of different ranks were injured, in addition to the injury of First Lieutenant Ahmed El-Sayed Diaa El-Din (the forty-third witness) with a gunshot wound to the right ankle[25] .

Abu Al-Mgjd added that at twelve noon on the same day, a group of revolutionary youth called him, asking him to negotiate and calm the matter, pledging to withdraw the rioters outside Qasr Al-Aini, on the condition that they hand over the arrested individuals. A person named "Dr. Ziad" came to receive them, but as soon as they got out, the demonstrators returned to attack the People's Assembly again, and throw stones and Molotov cocktails with great intensity at the security forces. As of 1:00 p.m. on Friday 16/12 until 6:30 a.m. on Saturday 17/12, rioters continued to throw stones, Molotov cocktails and balls of flame at the People's Assembly and the Ministers buildings, which resulted in the following:

1. Destruction of parts of the stone wall of the Council of Ministers
2. Burning the office of the Deputy Prime Minister, inside the People's Assembly building
3. Burning the People's Assembly lounge inside the building and destroying its contents
4. Burning parts of garage cabinet
5. Breaking all the glass, from the first to the third floor, in the Complex building
6. Breaking the glass of the information center building of the Council of Ministers
7. The fire reached the building of roads and bridges adjacent to the People's Assembly and the Shura Council, so that it burned from the inside and its contents were stolen.

[25] Minutes of the investigation of witnesses, from the case papers, p. 1225

8. Burning of the building of the Bulaq Abu Al-Ela neighborhood and theft of its contents, in addition to burning of one of its vehicles
9. Theft of a civil defense fire truck while trying to extinguish fire at the Roads and Bridges Authority building

At half past six in the morning of December 17, 2011, instructions were issued to establish two wired fences; The first was to separate the demonstrators from the area of the People's Assembly and Shura Council, and the second to separate them from the Council of Ministers. According to Abu Al-Magd Ali, the demonstrators were advised and guided more than once, and through loudspeakers, not to destroy the facilities, as they are first and foremost the property of the people, but they did not comply and continued attacking the security forces and throwing stones and Molotov cocktails to prevent them from being secured, what prompted security forces, stationed at the intersection of Qasr Al-Aini Street with Sheikh Rehan, to pressure them and expel them outside Qasr Al-Aini Street, in order to secure military engineers during the building of the wire barrier, which they finished at the 10 a.m. on the same morning. Abu Al-Magd instructed the forces to return behind the barrier, while rioting elements were still throwing stones and Molotov at the forces.[26]

On the morning of the same day, Saturday, December 17, rioters threw Molotov cocktails at the scientific complex to set it on fire. The armed forces' firefighters tried to move the books outside the building, and put out the fire using one of their fire trucks and water cannons. Their mission was not successful since they were being attacked with stones, Molotov and fire balls, which resulted in the injury of a large number of soldiers, including Medhat Muhammad Bakr, who was directly hit in the face.[27]

When one of the soldiers lost consciousness, and a rumor spreading among his colleagues that he was killed by direct gunfire from the demonstrators, some of whom were carrying knives, security forces pushed them into Tahrir Square and broke up all the tents in it, arrested many of them and handed them over to the competent authorities. At 3 p.m. orders were issued to regroup forces to secure the construction of a concrete wall on Al-Qasr Al-Aini Street. Work on the wall stopped at 5 p.m. due to the continuation of the attacks by rioters, who numbered thousands, until its construction was completed the next morning, Sunday, December 18, when riots had almost stopped there and moved to Sheikh Rehan Street towards the Ministry of Interior, so that the construction of the concrete wall heralded the end of events in this area[28] .

Abul-Magd denied his knowledge of the killing of some protesters, which forensic reports proved that resulted from gunshots that hit their bodies, adding that it may be due to what was published by Rosal-Youssef magazine, that some country assigned high-level trained officers to infiltrate the ranks of the demonstrators and kill some carefully selected elements, whether students or public figures, and if the matter was otherwise, it would have been better to kill those who came into direct clashes with the forces.[29]

Commented [1]: الرواية حتة في الشهود شهادات جمعت للدولة الرسمية

[26] Minutes of the investigation of witnesses, from the case papers, p. 1229
[27] Minutes of the investigation of witnesses, from the case papers, p. 1230
[28] Minutes of the investigation of witnesses, from the case papers, p. 1233
[29] Minutes of the investigation of witnesses, from the case papers, p. 1238

Demonstrators' Narrative

The sit-in of the Council of Ministers began weeks before the outbreak of the clashes, and the main demand of it, as mentioned above, was the dismissal of the government of Kamal al-Ganzouri, and the handing over of power from the Military Council to civilians. During the sit-in, according to some[30] who were present in the surroundings of the cabinet of ministers, on the evening of the 16th of December 2011, and while protesters were playing football, the ball flew over the wall of the building and stayed there, which led to one of them to climb the wall; he disappeared for a few hours, and then came out severely injured as a result of an attack on him by some members of the forces charged with securing the building[31]. The narrative of the protesters was based on three axes, which we summarize them in the following:

1- Instigation of violence and the amount of force used

More than one protester said in documented testimonies on Archive 858, that after beating the citizen Abboudi Ibrahim, who entered the People's Assembly to retrieve the ball, some soldiers who wore military uniforms, along with others in civilian clothes, began throwing stones and pieces of furniture at them from the top of the wall of the People's Assembly, which is what prompted demonstrators to defend themselves, whether to repel the attack on them, or to prevent the violent dispersal of the sit-in.

As documented in the interrogation records of the defendants and the injured, as well as in documented testimonies on archive 858, the military police recruits, when attacking the demonstrators, used sticks to beat those who arrested them, and the focus of the beating was on specific areas of the body such as the head, chest and legs, and that this is what led to severe injuries, in some cases requiring surgical intervention. Ziad Al-Alimi[32], member of the People's Assembly and the Revolutionary Youth Coalition at the time, testified that he saw for himself the scenes of throwing stones at the demonstrators, as he saw, by midnight on December 16, 2011, many army officers and soldiers coming out of the People's Assembly building, to arrest the demonstrators and that they were beating them while doing the arrests.

According to the testimony of two of the injured individuals participating in the demonstrations, one of whom, Habi Al-Shahawi, was shot in the abdomen and the other, Abdel-Moati Qassem, was shot in the leg. At about 10 a.m. on Friday the 16th of December 2011 "paratroopers and other masked and armored soldiers, carrying protective shields, approached the gates of Parliament and clashed with protesters on Qasr al-Aini Street, in both directions, then set up barricades on the street, leaving protesters on the side adjacent to Tahrir Square. Then protesters and recruits, supported by thugs, began throwing stones at each other." .

Habi went on to testify that he saw two soldiers with a firearm standing with the army, and suddenly and without warning he saw three of the protesters shot in the legs, and added that at 11:30 a.m., while he was making a call from his phone, an officer pointed at him, and then walked towards him, and he saw his face as he was firing at him in the stomach; he was then carried by the demonstrators to the hospital with the other wounded. When his lawyer submitted a complaint

[30] An episode of the Cairo Time Program, on Dream Channel, on December 16, 2011, Part One
[31] Cabinet events, Mada Masr
[32] An episode of the Cairo Time Program, on Dream Channel, on December 16, 2011, Part One

to the police, it was he was investigated although he recognized the officer who shot him from pictures posted in newspapers.[33]

The testimonies of two demonstrators were identical to a large extent regarding the injury of a person in the head. The first of which was the testimony of Simon Salib, who arrived at the scene at six in the evening on Friday, February 16, 2011, and was shot in the thigh, while trying to help a man who was hit in the head by gunshots from the roof of a low building, which was launched by an officer of the 777th Division, according to Salib's testimony. As for the second testimony, it was given by Ashraf Sayed Abd al-Moati, who was shot in the leg, in which he said that he saw, in the same area where Simon Salib and about the same time, another man being injured in the head.[34]

2- Torture of those arrested

In more than one testimony, including, for example, that of Ghada Kamal in the minutes of her interrogation, as in the testimony of Sanaa Seif[35], which she gave on the "Cairo Time" program on December 16, 2011[36], it was said that those arrested were being tortured inside the walls of the People's Assembly, using beatings with sticks and electric tasers, in addition to verbal insults and violence against the detainees. Hind Nafe'e explained to the investigative judge that when she entered the Shura Council, she witnessed torture in its worst forms, and was subjected to verbal insults and humiliation, in addition to physical and sexual harassment, and touching her all over her body, before she was entered into a room with others, who were all tortured using sticks, clubs, and tasers, and after about twelve o'clock midnight, a doctor came and examined her, after which she was transferred, due to her poor condition, to Kobri al-Qubba Military Hospital, and then to Zainhum Court.

3- Humiliation of women

As shown in the previous testimony, the "cabinet events" were linked more than others to the issue of abuse of women, sexual harassment and threats of rape, which was an important motive for organizing women's demonstrations that erupted on December 20, 2011 under the title "The Women's Demonstrations", in which women raised the slogan "Egypt's women are a red line," in protest of the repeated scene at the time, in which a number of soldiers appeared to drag a female protester whose identity was never identified, until she was nicknamed "Set al-Banat," while they beat and stripped her.

This incident represented a link in a series of incidents in which bodies of protesting women were used, in the post-revolutionary period, as a tool to abuse them, as well as to abuse male demonstrators as well. Behind it was a paternalistic vision blinded by the presence of women on the streets, whether through their relations with men in their camp. Also, many of the discourses condemning this type of abuse were also not free from relying on a similar patriarchal vision,

[33] Amnesty International, "Brutality Unpunished, Unchecked: Egypt's Military Kills and Tortures Protesters Without Accountability," September 2012, p. 17
[34] Amnesty International, "Brutality Unpunished, Unchecked: Egypt's Military Kills and Tortures Protesters Without Accountability," September 2012, p. 19
[35] An episode of the Cairo Time Program, on Dream Channel, on December 16, 2011, Part One
[36] Testimony of Ghada Kamal, published on Archive 858, dated December 17, 2011, filmed at El Nadeem Center for Rehabilitation of Victims of Violence and Torture

which calls for the role of the state - represented by SCAF at the time - in "protecting" women, while ignoring advocacy for the right of women to be present in the public domain.

It is true that many of the women, who were injured or who were accused in the cabinet case, were active participants in the sit-ins, demonstrations and clashes, but some of them were also not arrested except because their bad luck landed them at the scene of the clashes, and others were those who brought sustenance in Tahrir Square, including Sarah, a tea seller in Tahrir Square, who was interrogated as a defendant, despite her injury, and accusations were brought against her, including the use of force and violence against persons entrusted with the protection of [a public facility], and unjustly inducing them not to do their jobs, by assaulting them with beatings using weapons, and intentionally destroying property intended for public benefit and private property, disruption of public and private transportation, traffic disruption, and willful vandalism of buildings and property designated for government interests, with the intent of creating terror among people, provoking chaos and instigating the burning of [public facilities, including the scientific complex].

Sarah denied all the charges against her, saying that she was in Tahrir Square on December 18, 2011, when she found some soldiers from the army attacking people and arresting them, adding that one of the army soldiers threw a brick at her from a distance of approximately five meters, which led to her injury in her left ear; the man who arrested her claimed she was a thug.

There is also Hind Nafe'e, mentioned above, whose injuries were clearly visible, as the investigative judge described her during her interrogation as a victim, saying that "the commission notes that the presenting person had her left hand wrapped in gauze and that her left forearm was bandaged, in addition to signs of injuries in her left eye and the left half of her face". Hind told the investigative judge that she had two cut wounds to the head that were stitched with about 18 stitches, in addition to a wound to the right and left legs and bruises all over her body.

Although the judge described her as a victim, the investigation committee accused Hind with the same accusations against Sarah, to the extent that the investigative judge held two interrogations with her, one as an accused and another as an injured and victim. On both incidences, Hind said she was on her way to Talaat Harb street to buy clothes and that on her way out of the Anwar Sadat metro station in downtown Cairo, she saw a group of soldiers carrying clubs and sticks chasing after people, and suddenly a group of those soldiers came towards her, insulted her and hitting her on the head with sticks and clubs, kicking her with their feet and their boots, until they took off her veil and pulled her by her hair, dragging her on the ground, all the way to the Shura Council.

Fact finding report issued by the national council for human rights (NCHR)[37]

On February 9, 2012, the head of the Technical Office of the Public Prosecutor, Counselor Adel Al-Saeed, sent the report of the fact-finding committee to the investigative judge delegated to investigate the events. The report was prepared by a committee formed by the National Council for Human Rights, regarding the violence that the country witnessed during the months of November and December 2011, that is, during the events of Muhammad Mahmoud and the Council of Ministers. We will focus here only on what is related to the events of the Council of Ministers, known as the "Cabinet sit-in dispersal", and the findings of the report in this regard.

[37] The report is available within the case papers from p. 314 to p. 338.

The report reviews the accounts of both the authority and the demonstrators regarding the beginning of events and the escalation of violence. It also provides information on the number of the dead and injured, according to information issued by the chief forensic doctor, who confirmed that the total number of bodies that arrived at the morgue as of December 20 was 14, and that the autopsy results showed the death of only one young man as a result of a blow to his head and body with a sharp object, in contrast to 13 deaths as a result of shots by a single-shot firearm, which settled in the upper parts of the victims' bodies, especially the head and chest, and was launched from a distance of half a meter, all from a horizontal level, confirming first that it was not fired from a high place, nor was it fired from a single cartridge.

After that, the number of the dead increased with the additional death of three, bringing the number of victims until the writing of the commission's report to 18 martyrs. As for the number of injured, it reached 962 from the beginning of the events until December 21, according to Dr. Adel Adawi, Assistant Minister of Health. The human rights violations, which the report enumerated, can be summed up in murders, serious injuries, humiliation of women's dignity, torture, illegal detention, and attacks on media professionals and medical bodies.

The report made a set of recommendations, the most prominent of which were:

- Taking due judicial measures, without delay, against all those who committed the crimes and violations referred to in the report, to ensure that the perpetrators of these crimes do not go unpunished.
- A speedy implementation of decisions regarding the payment of financial dues to the families of the victims and the treatment of those injured in the events, a decision that not only supports the families of the martyrs and the injured, but also supports, according to the recommendations, the desired stability in the transitional phase fraught with tension.
- Strong condemnation of all violations of the dignity of Egyptian women, which occurred during the events of Mohamed Mahmoud Street and the Council of Ministers, including physical assaults, severe beatings, indecent assault, dragging and threats of sexual assault, which constitute a grave violation of women's dignity and their rights to peaceful demonstration, and a for the speedy termination of investigations and announcing its results to the public and the prosecution of those responsible without delay.

Wasting justice: Ahmed Douma as an example

> "Eight hundred or more pictures were spread throughout the cell, lined up over every inch of its walls as a shield with which to face my forgetfulness of the world, and flee behind it from the monster of pictures distorted by wires and bars... I succeed sometimes and fail sometimes, I remember and forget; moments visit me, I silence them, then quickly am taken away from them leaving me in the company of my disappointment and the emptiness of my memory."
>
> *Ahmed Douma's article in El Masry Al Youm newspaper on 11 June 2015*

We chose here to focus on the trial of Ahmed Douma, defendant No. 194 in the Cabinet events case, as its facts contain evidence of miscarriage of justice and the judiciary's lack of the necessary independence and impartiality. Before proceeding with the details of his trial in this case, we shall

review the other criminal claims for which he was tried and for which he received additional sentences.

On December 22, 2013, Ahmed Douma, Ahmed Maher and Mohamed Adel were sentenced to three years in prison and another 3 years under police supervision, in addition to a fine of fifty thousand pounds for each of them, in a case of illegal demonstration processed before the Abdeen Court. The ruling was upheld by the Court of Cassation on January 27 2015, which was described by the Working Group on Arbitrary Detention of the Human Rights Council, at its seventy-fourth session, held between November 30 and December 4, 2015, as an "arbitrary measure", in contravention of Articles 9-11, Articles 19 and 20 of the Universal Declaration of Human Rights, and Articles 9, 10, 14, 18, 19 and 21 of the International Covenant on Civil and Political Rights, as it is not due to any reason other than his peaceful exercise of his human rights. The team also called on the Egyptian government to take all necessary measures to ensure and respect Ahmed Douma's rights, and his immediate release.[38]

In addition to this case, on February 24, 2018, the Maadi Misdemeanour Court issued a ruling that fined him ten thousand pounds, in his retrial on the charge of "insulting the judiciary," a charge that Judge Mohamed Nagi Shehata had brought against him, during the hearing of the case of "the dispersal of the sit-in of the Council of Ministers," which was held on October 11, 2014, during which the crisis escalated between him and the judge after Douma asked him about the truth of the opinions he issued against a number of political figures after the January 25 revolution on "Facebook", stressing that this, if proven correct, indicates his animosity to the court. The judge replied: "What concern is that of you? This Facebook is for people you know." Douma replied, "The greatest people in the world have accounts on Facebook, just as Facebook exposed two criminals".

After that, Douma said that the court referred a number of defense members to the prosecution to threaten them. The judge warned him that these phrases constituted an insult to the court, to which Douma replied that he did not mean to insult the court, and if the court deems them an insult, that is its business. The judge, after this, filed a lawsuit against him for "insulting the court," asking the prosecution to plead this charge. The representative of the prosecution asked to impose the maximum penalty on the defendant, so the court sentenced him to three years in prison and fined him 10,000 pounds.

Beginning of Investigations

With the beginning of the events of the Council of Ministers, on December 16, 2011, a report was issued for the events No. 8629 for the year 2011, Sayyida Zainab misdemeanor. On that evening the South Cairo Public Prosecution began investigations into the case. At that time there was no mention of Ahmed Douma in the case papers. Three days later, on December 19, 2011, and with the violence still escalating, the President of the Court of Appeal issued Resolution No. 42 of 2011 appointing advisors, Wagdi Abdel Moneim, Wageeh Al Sha'er, and Hossam Ezz El Din as investigative judges to complete the investigations into the case.

Two days after the investigative judges were assigned, that is, on December 21, Hisham El-Shazly, the AC technician mentioned above, went to the Abdeen Police Department to file a report in which he testified against Ahmed Douma. The complaint was attached to the main, and previously

[38] Human Rights Council Working Group on Arbitrary Detention Document No. A/HRC/WGAD/2015/49 of March 29, 2016

written report on the events of the Council of Ministers, which was being investigated by the investigative judges at the time. On the same day, Counselor Wagdi Abdel Moneim interrogated the complainant, Hisham El-Shazly, as a witness in the case, where he repeated the same statements which he made in the police report. After the end of the questioning the judge asked Dream TV channel to add its interview with Douma to the testimony of the witness. However, the channel does not comply until the 26th of December. The judge then decided to summon the producer of the episode in addition to its presenter, journalist Wael El-Ibrachi, for questioning.

The journalist Wael Al-Ibrashi attended the investigation on January 2, 2012, and reported that he hosted Douma in the aforementioned episode among a number of personalities representing a number of different points of view on the events of the Council of Ministers. He was asked whether Douma had admitted in the episode to the actions that Al-Shazly claimed to have witnessed. Al-Ibrashi replied that he did not remember the exact words of Douma, but rather the content of his words, that he was shot by army officers from within the People's Assembly, and that he threw Molotov cocktails at them in turn in self-defense, and that he believed it was the right of the demonstrators to defend themselves if the army forces used extreme violence against them. El-Ibrashi added that it must not be denied that Douma, as a political activist, was a contributor to the increase in the culture of protest that eventually led to the January 25 Revolution, and that he said this to defend himself.

At that time, a representative of the Dream channel came to present CDs containing the episode, the judge presented its content to Al-Ibrashi, and the latter admitted that it was the same episode that had been broadcasted on Dream Channel on that day, although the second part was incomplete, and he pledged to present it.

After the session ended, the investigative judge issued an order to conduct investigations on Ahmed Douma, to arrest him, and to bring him to the investigation.

Arrest and interrogation of Douma

Based on the order previously issued by the investigative judge in the case, Douma was arrested on January 12, 2012 from the house of a friend of his in the Dokki area, and on the same day he was taken to the Sayeda Zeinab police station, and from there to the investigation headquarters, where he appeared, in the presence of a number of defense lawyers, before a judge. The investigation, initially confronted him with four charges: deliberately setting fire to government buildings, damaging and vandalizing public property, attacking army and police forces involved in securing these buildings, and disrupting the functioning of public facilities and traffic, during the events of the Council of Ministers.

Douma denied all these accusations, stating that he was among the sit-in in front of the People's Assembly and the Council of Ministers, before the outbreak of events on the Council of Ministers Street, and that he staged a sit-in to reject the Ganzouri government and the military council's continuation of rule, and that for 17 days the attacks on the sit-in consisted of nothing but kidnapping of certain individuals, but the collective assault, and for the purpose of dispersing the sit-in [by the forces] did not occur until the day of the escalation of events, and added that the sit-in did not lead to the disruption of the work of any of the employees of the neighboring authorities, nor did it lead to disruption of traffic, as the armed forces had originally closed the street for no apparent reason.

As for Al-Shazly's complaint against him, Douma said that he did not know this person and did not meet him, nor what he claims that he was asked to fill bottles with gasoline, only to be rejected by the other side.

With regard to his intervention in the episode of the "The Truth" program, in which he was hosted by journalist Wael Al-Ibrashi, Douma stated that he had already participated in the episode, as a political activist, to comment on the events of the Council of Ministers, but he did not acknowledge any of the actions attributed to him, and that he remembers well all the discussions that took place in the episode, which started with Al-Ibrashi saying that those who set fires in public facilities are not revolutionaries, but thugs and hired men, since a rebel cannot commit these acts; Douma replied that a differentiation should be made between those who target pubic facilities to burn or destroy them and those who do this in self-defense against people in military uniform, shooting bullets and throwing fireballs at demonstrators. According to Douma, the military council itself had said that they were neither military nor police, and so it was only natural that protesters defend themselves in any way. He explained that he was against attacking ublic buildings and facilities.

Douma completely denied that any of the protesters had targeted the Ministry of Transportation, the Scientific Complex, or any public buildings and facilities, and added regarding what he had previously said about throwing Molotov cocktails at people in military uniforms and shooting at the demonstrators, saying that this first came in an emotional framework related to the course of the conversation in the episode and with the escalation of the discussion, and secondly, in defense of the right of the sit-in to defend themselves against the assault of a group of unknown persons, as described by the statements of officials in the Military Council, and it was not intended to defend himself as a person, or for an act he committed himself, but in defense of the principle of the right to self-defense.

The investigative judge showed Douma several videos, the first was from the CD sent by Dream Channel and Douma acknowledged it, and the second was from the CD presented by Hisham El-Shazly, to which he commented that it was cut from the same episode, as its length is only four minutes while the length of the original dialogue was about 20 minutes; the third video, presented by El-Shazly, shows a number of bottles between two people without clear features, and Douma denied that he was one of them; the fourth video was from the December 21 episode, in which we hear the voice of a telephone intervention, which Douma said was in response to the news that a number of lawyers had filed complaints against him because of the previous day's episode, and that he responded that it was better for these lawyers to file complaints against the real defendants who assaulted the protesters and public buildings. In that intervention he also denied that he, or any of the revolutionaries, attacked any public facilities.

After the session ended, the decision was issued to imprison Douma for thirty days, while enabling him to take his exam at the Faculty of Law at Tanta University, and request intelligence into the incident. The South Cairo Criminal Court decided to release him on April 9, 2012 by guarantee of his place of residence.

Referral of case to criminal court

On June 7, 2012, Counselor Wagdy Abdel Moneim, the delegated investigative judge, decided to refer the case to the Criminal Court, where Duma was charged with gathering, obstructing traffic, attacking the police and army forces, damaging and vandalizing public property, displaying force

and brandishing violence, and participating arson, intended to burn the Scientific Academy, the Council of Ministers, the People's Assembly, the Shura Council, the Roads and Bridges Authority, and the government agencies attached to it. The Court of Appeal has scheduled a session to consider the charges before the Seventeenth Circuit, South Cairo Criminal Court.

After nearly a year and a half of deliberating the case hearings before the aforementioned circuit, the session held on November 19, 2013 was the last hearing of the case, headed by Counselor Assem Abdel Majid, who decided to withdraw from the case due feeling embarrassment, so that the case was returned to the Court of Appeal to determine a new circuit for its deliberation. Four months after the first judicial body withdrew, and in March 2014, the Cairo Court of Appeal assigned the case of the events of the Council of Ministers to the Fifth Circuit Criminal Court headed by Counselor Mohamed Nagi Shehata, so that the trial would take place at the Tora Police Institute, where it was possible to build a glass cage through which defendants were not able to follow the trial proceedings. The hearings began in June 2014, while Douma was serving his sentence in the aforementioned Abdeen events case, in which he was tried for protesting.

Douma's defense withdrew from the September 3, 2014 session, in objection to his being placed inside the soundproofing glass cage, as well as the court's arbitrariness in authorizing the defense to be alone with their client after submitting a request for this to the court, despite the previous court's permission to do so in previous sessions. Based on the procedures and the improper treatment that the defense was subjected to at that session, the defense conditioned its attendance at the sessions on the publicity of the sessions and the guaranteeing of fair trial standards.

In addition to those violations, and defense's insistence on fulfilling their requests and completing the missing parts of the case papers, the court referred to investigation, on various charges, five lawyers out of six from the defense team, which prompted the Bar Association to issue a decision on November 22, 2014, banning any lawyer from attending before that court, obligating lawyers not to accept the assignment in the case, and referring violators of the Bar Council's decision to a disciplinary committee - which is what actually happened with one of the lawyers, who accepted an assignment in the case - and this came, according to the text of the decision, in response to the repeated assault by the circuit judge on lawyers, the breach of the guarantees granted to them by the constitution and the law, the arbitrariness of the court's authority in the use of the powers assigned to it by law in accusing and filing complaints against lawyers, intimidating and discouraging them from adhering to the essential defense requests for their clients, as well as underestimating and belittling the lawyers present before that circuit.

It is worth noting that the Supreme Judicial Council did not pay attention to this decision, despite being informed of it, and that it refrained even from verifying its feasibility nor interfering to contain the crisis. The judge insisted to bypass Douma's right to defense and, based on gaps in the law that allow him to appoint a lawyer by himself to satisfy the form of the trial, continued hold sessions without original lawyers on behalf of Douma.

Deterioration of Douma's health

Douma's health condition began to deteriorate while he was in Tora prison, and for this reason, the Medical Syndicate issued a statement warning that his life was in danger, and demanded that the Public Prosecutor and the Ministry of Interior take quick measures, away from the "normal routine," to transfer him to a hospital equipped with intensive care. In October 2014, Douma was transferred to the hospital for the necessary examinations and analyzes, and he remained there until April 2015.

In the 11 October 2014 session, Douma asked his lawyer to shorten his plea because he could not bear the pain, and he also complained about the intransigence he was subjected to by the court, which rejected his lawyers' request to transfer him to a private hospital at his own expense, instead of the ill-equipped one to which detainees were transferred; he noted the intransigence of the presiding judge, who prevented him from moving to any place, despite his knowledge that he was attending the court in an ambulance, which is a violation of the law. He also noted the court's refusal to deliberate the case in the judge's chamber in view of his severe pain, holding the court responsible for that decision which caused further deterioration in his health.

In general, on February 4, 2015, the verdict was issued against Ahmed Douma in the case known as the "Council of Ministers events", headed by Judge Nagi Shehata. However, the Court of Cassation decided to annul the verdict and a retrial before the 11th Criminal Chamber. His verdict was amended on 9 January 2019 from life imprisonment to 15 years, and from a fine of 17 million to a fine of six million. On July 4, 2020, the Court of Cassation issued its decision rejecting the appeal submitted by Douma, and upheld the sentence of 15 years in prison.

Legal Commentary

Explicitly, the judges who presided over the court, whether in the first trial of Ahmed Douma or in his retrial, expressed their hostility to him and the "revolutionaries", and their bias against them. While the trial was still ongoing, Judge Mohamed Nagi Shehata, in bragging about being a former army officer, described the various opposition movements, including the April 6 Youth Movement, co-founded by Ahmed Douma, as "anarchists" who spread false allegations about human rights violations.

In addition, in one of the first sessions of the Douma trial, which took place on November 12, 2014, when one of his lawyers asked the court to look into the evidence related to the use of excessive and illegal lethal force by the army and security forces during the sit-in, the request was denounced by the head of the court, Judge Nagi Shehata, expressing his astonishment at what the defense team was requesting, saying: "What is expected from the police and the army? Should they stand by and watch"?

This answer embodied the court's vision of the executive bodies, not as public officials in the state, who possess a measure of power, and are subject to accountability if they misuse it, in accordance with the legislated laws, constitutional principles and human rights agreements signed by Egypt, but rather as an equal party in the existing power equation, thus giving the executive authorities the "right" to use excessive force, and facilitating their impunity. According to a video clip recorded of the court session, the judge then did not look into the relevant documents mentioned in the defense's request, and adjourned the session, threatening to refer the defense lawyer to the

Public Prosecution, following the latter's request to include his statement in the record of the session.

This is a clear violation of the constitutional principles related to the independence of the judiciary, which was confirmed by the Supreme Constitutional Court as "not just a protector from the intransigence of the executive authority to stop it from interfering in the affairs of justice and prevent it from influencing it to the detriment of the rules of its administration, but above all it is a condition to the rule of law, in a way that preserves legitimacy of its structure and depicts its characters"[39] . In another context it added, that giving the judicial capacity to any party entrusted by the legislator to settle a specific dispute presupposes the availability of guarantees of sufficiency and impartiality in its formation[40]. Considering that the judiciary is entrusted with the balance of justice, the adequacy of this balance, from the perspective of the court, means that it should be free of influence by personal interests or emotions. As for the principle of judicial neutrality, it aims to protect the judge from the interference by the parties to the litigation, in addition to protecting the latter from the judge's bias, whether because of his personal inclinations and beliefs or for any subjective considerations[41] .

The legislator had drawn a method to confront the manifestations of impartiality, by interfering in organizing "the rejection of judges" under the process of "invalidity", mentioned in Article 146 of the Code of Legal Procedure, which stipulates that the judge can be prevented from hearing the case and his ability to consider it questioned, even if none of the litigants rejected him "if he had issued a fatwa or pleaded for one of the litigants in the case, or wrote about it, even if that was before he worked in the judiciary, or if he had previously examined it as a judge, expert or arbitrator, or had given testimony in it".

According to the text of the article, this indicates that a breach, which necessitates the incompetence of the judge, whether it was a fatwa, pleading, judgement or testimony, is that the judge performs an action that expresses his opinion in the case, or personal information that contradicts the requirements of impartiality, so that he can weigh the arguments of the opponents in an objective way, for fear of clinging to his opinion, which is revealed by his previous work, and to ensure the judgments of the judiciary are free of suspicion on the part of the person of the judge for reasons that are usually overwhelming[42] .

Under the name "Reasons for Refusal," article 148 states that a judge may be dismissed if there is enmity or affection between him and one of the litigants, with which it is likely that he will not be able to rule without prejudice.

It is noted in the cases of invalidity and the reasons for rejection of a judge, mentioned in the Code of Procedure, that they were formulated in flexible terms that accommodate interpretation that takes them outside the narrow scope, due to the difficulty of a specific legal definition of the manifestations of personal impartiality. For this reason, the French court of cassation ruled that one manifestation of lack of personal impartiality is the judge's rationalization of his ruling in terms that may be considered abuse to one of the litigants. This was echoed in item 4 of article 148 of the Egyptian code of legal procedures. The European court for human rights adds more detail when it reiterated that lack of impartiality is evident in cases where the judge describes the defense of the defendant of lying, rudeness, exaggeration and disgust, which we can find in the views of

[39] Ruling of the Supreme Constitutional Court Case No. 27 of Judicial Year 16 "constitutional" session of April 15, 1995.
[40] Ahmed Fathi Sorour, Mediator in the Code of Criminal Procedures 2020, p. 184, Arab Renaissance House.
[41] Ibid, p. 192.
[42] Court of Cassation, Appeal No. 1895 of Judicial Year 65, Civil Circuits - 11/11/2006 session.

Judge Mohamed Sherine Fahmy, in the final verdict, when he questioned the patriotism of the revolutionaries, describing them as "intellectually defeated and socially bankrupt, who have no goal but to destabilize society (…) falsifying facts and misleading public awareness".

Over the course of nine years of trial in the case of the Council of Ministers, we witnessed many violations, unfair procedures and lack of due process of law, to the extent that Amnesty International, on May 11, 2021, titled its statement on the trial of Ahmed Douma with "Release an activist who has been sentenced after two politically motivated unfair trials." The organization's research showed that Douma's right to a fair trial has been flagrantly violated, in violation of Egypt's obligations, which it had ratified signed the International Covenant on Civil and Political Rights, including its pledge to guarantee a person's right to be presumed innocent and to appear before a public trial and having an adequate defense, and being tried before a competent, independent and impartial judicial body, in addition to his right to question witnesses to the accusation, personally or by someone else, and to call defense witnesses.

Douma's legal defense[43]

We review here the defenses submitted by the defense team of the defendants in the case, relying on the unpublished appeal memoranda of members of the defense team, specifically Mr. Taher Attia Abu Al-Nasr, and we also rely on what Mr. Khaled Ali addressed in his article published on April 21, 2021[44] regarding the Douma trial, and his response to the false allegations propagated by the newspapers, as the article emphasized the following:

First: In its life sentence against Douma, the Criminal Court, headed by Judge Nagi Shehata, relied on some videos that it said contained a confession from him that he had committed the acts attributed to him, but after Khaled Ali pleaded for Douma before the Court of Cassation, the court ended up overturning the ruling of Judge Nagi Shehata and annulling the life sentence against Douma and ordered his retrial in view of the nullity of the judgment. Regarding the TV interview the court said that this "is not a confession that can be relied upon in judging the defendant," as it is not permissible to rely on some statements in television conversations, taking them out of context to claim that they are an admission of committing crimes, and trying to adapt them to become a confession by the accused against himself, in addition to the fact that Douma's interview itself cannot be considered a confession or acknowledgment of committing these acts.

Second: Police investigations attributed to Ahmed Douma the commission of many acts, but the investigative judge, after completing the investigation, ruled out many of the charges because there was no basis or evidence for them, as Douma was only accused of participating in a fire in the People's Assembly building, based on a questionable and unreasonable testimony, where one witness reported that he was standing with his motorcycle on Al-Qasr Al-Aini Street, when a person - meaning Douma - came to him asking for gasoline from his motorcycle to fill bottles to throw at the police and army, and after the witness refused this, according to his testimony, that person - Douma - went to another bike to get the liquid.

The memorandum of appeal against the first judgment by Judge Nagi Shehata against Ahmed Douma, indicated that the judgment did not include a description of the punishable incident,

[43] In this section we rely in part on the appeal submitted by the cassation lawyer, Mr. Taher Abu Al-Nasr, against the sentence issued against Ahmed Douma on January 9, 2019.

[44] Khaled Ali's article entitled "The Fire of the Scientific Academy and defendant no. 194", Egypt 360, published on April 21, 2021

meaning the actions and intentions that constitute the pillars of the crime, as well as the circumstances in which it occurred, and the evidence from which the court extracted its conviction that the acts were committed by the defendant, for which the court is obligated to provide the evidence, so that the reason for the inference and the soundness of the conclusion becomes clear, as stated in Article 310 of the Code of Criminal Procedure.

When examining what was documented in the case papers during the first stage of the incidents in question, which began at dawn on December 16 and continued until the release of a group of demonstrators on the same day, the defense found that to know the relationship of the appellant [Ahmed Douma] to the first stage of the facts, it is necessary to search the papers and then the court's ruling, which did not provide evidence that the defendant had committed. Secondly this proves the discontinuation between this stage and the events that came later, where prosecution witness no. 6, Brigadier Magdi Abul-Magd testified and affirmed the arrest of the perpetrators of all the crimes that occurred in the first phase of the events, before releasing them, according to what was proven in the events record.

Abul-Magd had said during the investigations, in the previous trial of the appellant, that the information of the arrested were not taken and none of them were arrested again, which means that this stage ended with the release of the arrested, and if we know that the appellant was not among the arrested, a question arises about how to derive the verdict regarding the appellant's connection to the incidents under accusation at this stage?

As for the second stage, according to what was mentioned in the beginning of page 21 of the ruling, it starts from one o'clock in the afternoon on Friday 16/12/2011 until half past six in the morning on Saturday 17/12/2011, when the crowd continued to throw stones, Molotov and flame balls at the People's Assembly and the Council of Ministers Molotov cocktails, and among them were those who manufactured the Molotov cocktails used in the fire, bringing gasoline from any of the surrounding motorcycles, as did the defendant Ahmed Douma, this is according to the verdict, which adds that the intent of attack was reflected in the gathering of the crowd, and that the intent continued they carried out their aforementioned purpose.

But when referring to the law on gathering, according to which Ahmed Douma was tried, we find that it is defined as a premeditated crime for which evidence must be extracted from the papers that a number of combined conditions have been met, namely, proof of the participation of at least five people, the existence of a prohibited and specific purpose, and the knowledge of the crowd of this purpose and their continued gathering despite that, and the presence of the defendant's intent to continue the attack until their purpose is carried out, and to prove that the crimes committed occurred as a result of criminal activity of a single nature, which was not evidenced from the case papers.

Commenting on the evidence on which the verdict was based, lawyer Taher Abu Al-Nasr indicated that it was noticeable that they were auditory; as for the real testimonies in them, which the description of "testimonies" applies to, they revolved in the orbit of a limited number of the defendants who were seen or photographed, not including the appellant. The rest of the evidence, on which the verdict was based for the conviction, did not refer to them in any way, meaning that the verdict came devoid of any evidence from which to prove the defendant had participated in the gathering. Also, the verdict did not explain how it derived the knowledge of the intent of the gathering.

Finally, it should be added that the same judgment, issued in the same case by another circuit, upon retrial, and in the course of its ruling of acquittal, acknowledged the arbitrariness of the arrest, despite the law obligating the judicial officer to realize, through one of his senses, the occurrence of the crime beyond doubt or interpretation. .

Conclusion

In this report, we addressed the events of the sit-in at the Council of Ministers by linking them to their political context and by narrating the two accounts related to them, the sit-in participants' own accounts of the events in addition to the official version that the military council mastered at the time, with a focus on the trial of Ahmed Douma as the only defendant who was sentenced in presence in the case known as the "Council of Ministers Incidents Case."

It is true that the narration of the events was of great importance to us, but it was not the most important aspect of this exercise. Our ultimate goal behind presenting the developments of the case was, on the one hand, to show how the overlap between the legislative, judicial and executive authorities can become disastrous for the course of justice, and on the other hand, how Judges can sometimes rule according to their personal preferences towards some events and groups, and not according to the law that requires the judge to be impartial regarding the matter being investigated; these are the two aspects that address one big question, which concerns all those dealing with the law in Egypt, i.e. the one related to "is the judiciary or is it not independent?"