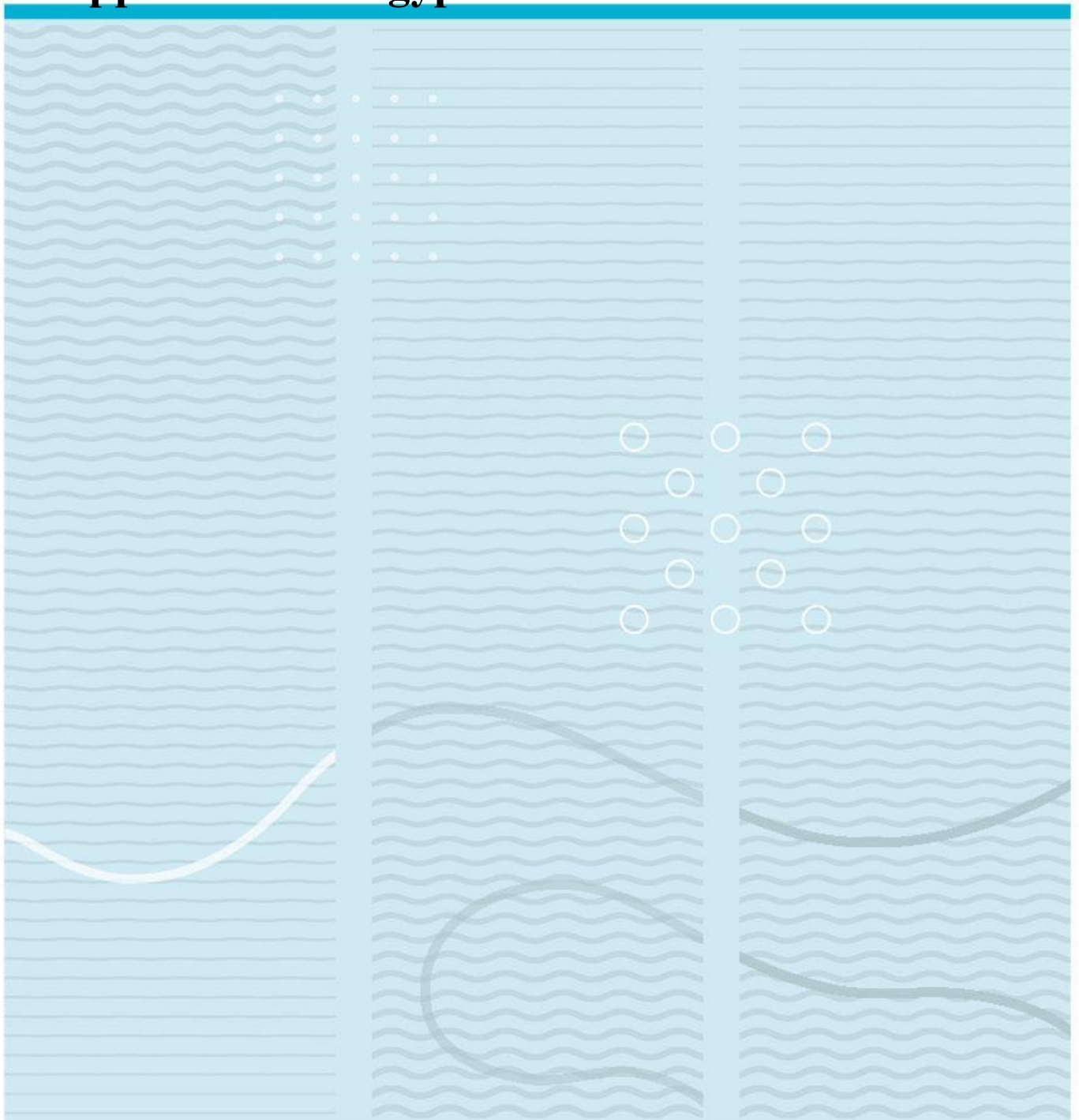




University of South-Eastern Norway
Faculty of Humanities, Sports, and Educational Sciences
Master's Thesis
Study program: Master's in Human Rights and Multiculturalism
Autumn 2022

Ola J M Alrantisi

Vulnerability of Palestinian Victims of Enforced Disappearance in Egypt



University of South-Eastern Norway
Faculty of Humanities, Sports, and Educational Sciences
PO Box 235
NO-3603 Kongsberg, Norway
<http://www.usn.no>
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This thesis is worth 45 study points

Summary

This thesis studies the vulnerability of Palestinian victims of enforced disappearance in Egypt. I managed to find good literature about enforced disappearance in different countries including Brazil, Colombia, Sri Lanka, Syria, and Egypt. On the other hand, I could not find specific articles or reports focused on Palestinians who are victims of enforced disappearance. However, there is a group of Palestinians who disappeared in Egypt at different periods during the last decade, but numbers are not accurate due to the lack of documentation. In addition, Egyptian Authority refuses to give information about the fate and whereabouts of the disappeared people and Palestinians in particular. Due to the absence of focused articles about Palestinians as victims of enforced disappearance in Egypt, I decided to conduct interviews with Palestinian released prisoners who were victims of enforced disappearance in Egypt. These interviews will be the primary resource of my data in this research in addition to the interviews I conducted with two Human Rights Professionals who have been working on the Enforced disappearance file in Egypt. In this research project, the main research question is:

What are the experiences of Palestinian victims of enforced disappearance in Egypt regarding vulnerability?

Here are some sub-questions that I will also answer in this research project:

- How does enforced disappearance affect the Palestinian families of victims?
- How does the Egyptian legal system work regarding Palestinian victims of enforced disappearance?
- In which context enforced disappearance occurs against Palestinians in Egypt.
- Who is responsible for demanding victims' whereabouts in the Palestinian context?

A group of themes has been presented in this research project such as the vulnerability of victims of enforced disappearance in general and Palestinian disappeared migrants in particular. Moreover, the absence of the Palestinian Authority's role in demanding the release of Palestinian disappeared migrants in Egypt, the effectiveness of the Egyptian legal system, and the vulnerability of families are also presented in this research.

Key words: Palestinian victims of enforced disappearance, vulnerability, human rights violations, degrading, policy of denial

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Acknowledgements

This thesis is dedicated to all victims of enforced disappearance and their families who are suffering and still live in the hope to meet their beloved ones one day.

To my ambitious and kind brother, Mohammed who has been forcibly disappeared in Egypt for eight years.

To my father who has been suffering from medical issues; heart problems and many brain strokes since day one of my brother's disappearance.

To my mum who is clinging to hope and praying to hug her son again

To my Supervisor who believes in me and my topic

To all my Professors, classmates, and friends for being supportive

To everyone who works in the Human Rights field and helps vulnerable victims regain their rights and live a dignified life.

Drammen, Norway -2022

Ola JM Alrantisi

List of abbreviations

ED	Enforced Disappearance
ICPPED	International Convention of the protection all persons from Enforced Disappearance
UNWGEID	United Nations Working Group of Enforced and involuntary Disappearance
OCHA	United Nations Office for the Coordination of Humanitarian Affairs
NSA	National Security Agency
ICCPR	International Covenant on Civil and Political Rights
ECHR	European Convention on Human Rights
ACHR	American Convention on Human Rights
AfCHR	African Charter on Human and Peoples' Rights
ArCHR	Arab Convention on Human Rights
CAT	Convention against Torture
ECRF	Egyptian Commission of Rights and Freedoms
PCBS	Palestinian Central Bureau of Statistics

1 Introduction

This thesis is about the vulnerability of Palestinian victims of enforced disappearance in Egypt. There is a lot of literature review about enforced disappearance in different countries including Brazil, Colombia, Sri Lanka, Syria, and Egypt. I could not find specific articles or reports focussing on Palestinians who are victims of enforced disappearance. However, there is a group of Palestinians who have disappeared in Egypt at different periods during the last decade, but numbers are not known accurately due to a lack of documentation. In addition, the Egyptian Authorities refuse to give information about the fate and whereabouts of the disappeared people and Palestinians in particular. Due to the absence of focused articles about Palestinians as victims of enforced disappearance in Egypt, I decided to conduct interviews with Palestinian released prisoners who were victims of enforced disappearance in Egypt. These interviews will be the primary data in this research, in addition to the interviews I conducted with two Human Rights Professionals who have been working on the Enforced disappearance file in Egypt.

In this research, I will highlight the multiple human rights violations which occur during the disappearance period in the case of Palestinians in Egypt. In addition, through the relevant literature and the data, I gathered from the interviews, I would answer the research questions: How does the Egyptian legal system work in regard to Victims of Enforced disappearance? In which context, an enforced disappearance occurs against Palestinians in Egypt. Who is responsible for demanding Palestinian victims' whereabouts?

1.1 Motivation

By the day I am submitting this research as a master's thesis for the completion of my master's degree in Human rights and multiculturalism, I hope that my brother, Mohammed will be free. While I am writing these words, Mohammed is still a victim of enforced disappearance and he has been living in vulnerable life conditions for 7

years and 10 months equals 2855 days. From the first day of my brother's disappearance in Egypt, I decided to study Human Rights and gain the proper knowledge that would help me know more about our rights as human beings in general and the violated human rights in the case of victims of enforced disappearance, in particular. Moreover, I have been interested in studying the legal framework, the international conventions, and treaties and the international instruments related to enforced disappearance.

I always believe that educating myself about the detention conditions in Egyptian prisons is very important for both my research and work with human rights organizations using all possible ways to help the victims of enforced disappearance. Understanding their vulnerability as victims of such complex ambiguous situations with no liberty in addition to all violations of their rights as human beings has been the source of my motivation for doing this research. In addition, I have been reading a lot about Egypt's international obligations, especially in relation to the practice of enforced disappearance.

A detailed report by Amnesty International about Enforced disappearance in Egypt titled "*Officially, You do not exist*" (2016), mentions that a big human rights campaign called "stop enforced disappearance" launched by the Egyptian Commission for Rights and Freedoms (ECRF) in August 2015. The purpose of that campaign is to help and advocate on behalf of victims and their right to effective remedy, including justice. Moreover, through this campaign the staff of ECRF tries to uncover the human rights violations occurring in Egypt against the victims of enforced disappearance and bring it to an international level. As part of the Egyptian government's illegal and cruel practices against Human rights defenders, the head of the ECRF and some of its staff were detained after the launch of this campaign.

ECRF through the "Stop Enforced Disappearance" campaign (2022) gave some attention to a group of migrant Palestinians who have been disappeared in Egypt for about 8 years. I checked their website and the campaign's Facebook account and found

that they demanded the Egyptian authorities enclose their whereabouts and release them. My disappeared brother is one of the disappeared Palestinians in Egypt who have been included in this big campaign besides tens of Palestinians.

1.2 Research Questions, Purpose, and Significance of the study

The main question of this research is:

What are the experiences of Palestinian victims of enforced disappearance in Egypt regarding their vulnerability?

Here are some sub-questions which I will also answer in this research project:

- How does enforced disappearance affect the families of Palestinian victims?
- How does the Egyptian legal system work regarding Palestinian victims of enforced disappearance?
- In which context does enforced disappearance occur against Palestinians in Egypt?
- Who is responsible for demanding victims' release in the Palestinian context?

By interviewing four participants; two former Palestinian victims of enforced disappearance in Egypt and two human rights professionals working on the file of enforced disappearance in Egypt, I tried to get answers to my research questions. The main purpose of this research project is to find the human rights violations which occur in the case of enforced disappearance for Palestinians in Egypt and how vulnerable they are. In addition, the research aims at inquiring whether Palestinian victims are

treated differently from other victims from different nationalities in the same situation. I explore the possible reasons behind the disappearance of Palestinians in Egypt and what the Egyptian legal system does in such cases. It is also important to identify the responsible body in Palestine for demanding the victims' whereabouts and release and enquire how effective it is in carrying out that mission.

The theory of vulnerability fits my research perfectly; I cover the vulnerability of ED victims and their violated human rights and the vulnerability of Palestinians as non-national victims of ED in Egypt. Through this research project, I hope to pave the way for other researchers in the future to pay more attention to this sensitive and serious topic and add more to the body of academic work in this field.

I believe this research project is very significant as it covers a sensitive topic that has not been researched enough yet. In addition, it is important for the victims themselves and their families to feel supported and that their lives and stories matter. I assert that many readers, researchers, and human rights organizations will be interested in reading the results of this research project, especially because the study focuses on a specific group which is Palestinian victims of enforced disappearance in Egypt.

1.3 Definition and Terms

Enforced Disappearance

Enforced disappearance is the main term of my research. Through my readings of many sources including articles, dissertations, legal documents, and organizations' reports that focus on ED, I found that most of them use a similar definition to which mentioned in the International Convention for the Protection of All Persons from Enforced Disappearance (ICPPED), Article 2:

Enforced disappearance is considered to be the arrest, detention, abduction or any other form of deprivation of liberty by agents of the State or by persons or groups of persons acting with the authorization, support or acquiescence of the State, followed by a refusal to acknowledge the deprivation of liberty or by

concealment of the fate or whereabouts of the disappeared person, which place such a person outside the protection of the law.

As one can see in the above definition, ED has three main elements:

1. There should be an arrest, detention, abduction, or any other form of deprivation of liberty;
2. The disappearance of victims may be done by agents of the state or by persons or groups who have the support of the state to carry out the disappearance of victims on their behalf of it; and
3. I think the third element is what makes enforced disappearance a complex crime full of human rights violations. States refuse to acknowledge the deprivation of liberty or disclose the fate or whereabouts of the disappeared person, which places such a person outside the protection of the law.

Victims of Enforced Disappearance

According to Amnesty International (2022), “victims of enforced disappearance are people who have literally disappeared; from their loved ones and their community. They go missing when state officials (or someone acting with state consent) grab them from the street or from their homes and then deny it, or refuse to say where they are.”

1.4 The Palestinian Context

1.4.1 Overview of Gaza City

In this section of my introduction, I will elaborate more about one of the main contexts of my research, which is Gaza city, Palestine. I will cover core aspects about Gaza, the impact of the Israeli occupation and its blockade on Gaza, the living conditions and the political situation there. Moreover, I will cover why some Palestinians from Gaza seek migration and why Egypt is a transit country for them in most cases. Many news articles describe Gaza as one of the most packed and heavily populated cities in the world. One can drive from the north to the south of the Gaza Strip in only 45 minutes. According to TRT World website (2021), “Gaza is the world’s third most densely populated city as more than two million Palestinians have been forced to live in an area

of 362 square kilometers. To break it down further, it is just 41 kilometers long and between 6 to 12 kilometers wide.”

With its large population compared to its size, the city of Gaza has been under the illegal Israeli blockade for 15 years. It is the world’s largest open-air prison. Palestinians, in general, have been suffering for over 75 years due to the Israeli occupation and its practices which violate international law in general and various human rights norms, in particular. The Israeli occupation affects the Palestinians' life negatively at all levels and in all sectors. This thesis briefly addresses them in a few paragraphs, with a special focus on the city of Gaza.

1.4.2 The Israeli Occupation blockade and three massive military attacks on Gaza in the last decade

It is difficult for Palestinians to have a normal daily life while living under the blockade imposed on them by the Israeli Occupation. Israel controls the borders, airspace, and sea along the Gaza Strip. Euro-Med Human Rights Monitor (2022) highlights that Israel imposed its blockade after Hamas won the legislative elections in January 2006 in Gaza. This blockade is illegal and a form of collective punishment against all Palestinians in Gaza who have been suffering from its consequences for over 15 years. It is almost impossible to get out of Gaza. The United Nations Office for the Coordination of Humanitarian Affairs in occupied Palestinian territory, OCHA (2022) confirms that the Israeli authorities impose significant restrictions on the movements from and to Gaza. These restrictions make the Gaza Strip isolated from the rest of the occupied Palestinian territory and the world. This comprehensive restriction on movement limits the number and specified categories of people who have the permit to go in or out of Gaza. These restrictions are also applied on the goods and imported equipment and machines.

Beside the Israeli blockade, the Israeli forces launched three massive military attacks against Palestinians in Gaza in the last decade. Navone (2016) highlights the consequences of both 2012 and 2014 attacks on Gaza. First, these attacks make

Palestinians in Gaza more dependent on international aid. The movement and travel restrictions on Rafah crossing are increased. Moreover, Palestinians started using the tunnels under the borders between Gaza and Egypt for smuggling goods and transferring people to Egypt. Second, the reconciliation process between Hamas and Fatah (and the PA) became more urgent to administrate and reconstruct the Gaza Strip. According to Euro-Med Human Rights Monitor (2022), during the 2012 military attack, Israeli forces killed 162 Palestinians, injured 1,300, destroyed 200, and damaged 1,500 houses. Two years later, Israeli forces launched another massive attack on Gaza that lasted for 51 days in the summer of 2014. Euro-Med Human Rights Monitor (2022) mentions “Euro-Med Monitors field team documented 60,664 Israeli land, sea, and air raids, which killed 2,147 Palestinians (in many cases multiple deaths in the same family) and wounded 10,870 others. 17,123 homes were damaged, of which 2,465 were destroyed.” (p.7). The last massive military attack by the Israeli forces was in May 2021. According to statistics done by the Euro-Med Monitor, Israeli forces killed 254 Palestinians, including 66 children, and 39 women, and caused different injuries to 2,212 people.

1.4.3 Hard Living Conditions: Health, Employment, Economy, and Movement

The living conditions are getting worse year after year due to the blockade during the last decade. The term living conditions means all basic services that a human being needs to live a dignified life including efficient health care, adequate housing, drinkable water, access to education and employment opportunities and freedom of movement, etc. According to the European Commission in the Palestine factsheet (2022), over 80% of Gaza’s population is dependent on international aid. However, each country in the world has been affected by the COVID-19 pandemic, and Palestinians in Gaza under such poor and hard living conditions were more vulnerable. There is tight restriction on health treatments and limited accessibility to efficient medical treatment. Palestinian patients usually need to have medical treatment abroad or in occupied Palestine for serious diseases like cancer, surgery or post-injury treatment due to the frequent Israeli attack on Gaza. According to OCHA (2022), “so far in 2022, the Israeli authorities have approved only 64% of patients’ requests to exit Gaza mainly for specialized treatment in the West Bank, including East Jerusalem, by

the time of the scheduled medical appointment. In previous years, patients have died while awaiting a response to their application.” (p.1)

As a Palestinian who lived most of her life in Gaza, I have personal experience of how hard it is to come in and go out of Gaza due to the restricted control of the borders from the Israeli or the Egyptian side during the last 15 years. Both Israel and Egypt claim that the restrictions are based on their security concerns. According to OCHA (2022), The Egyptian authorities control the Rafah border which was closed for a long time after 2014 due to the unstable political situation in Egypt after the Arab spring. Moreover, the Rafah border is open for a few days each year and its closure can depend on different reasons, including Israeli attacks on Gaza. Israeli forces also control the sea, which could be a rich source of income for many Palestinian fishermen in Gaza as a coastal city. As OCHA mentions in their situation report on Gaza (2022), Palestinian fishermen are only allowed to use 50% of the fishing waters allocated for this purpose under the Oslo Accords.

Gaza with its large population and tight blockade has not been able to provide jobs for the huge number of youth and graduates. Therefore, according to the Palestinian Central Bureau of Statistics PCBS (2020), unemployment levels in Gaza are amongst the highest in the world. The unemployment rate in 2020 was 46.3%, compared with an average of 29.6% in 2016 in Gaza. Moreover, 16 thousand employed persons were added to the previous number only in the 1st quarter of 2022. Euro-Med Human Rights Monitor (2022) agrees with the PCBS that Gaza has witnessed a high rate of unemployment due to the blockade. . Similarly, the poverty rate has increased from 40% in 2005 to 69% in 2021 due to all restrictions imposed by Israel. In terms of education, Palestinian parents always do their best to fund their children’s education because they believe in the power of education. However, according to OCHA (2022), “31% of households in Gaza have difficulties meeting essential education needs such as tuition fees and books, due to lack of financial resources.” In addition, “1.3 million out of 2.1 million Palestinians in Gaza (62%) require food assistance.” (p.1)

The shortage of electricity is one of the daily suffering of Palestinians in Gaza as it affects every single sector. According to OCHA (2022), “at its current operating capacity, the Gaza Power Plant can only produce up to 80 megawatts (MW),

supplemented by 120 MW purchased from Israel, meeting about 50% of the electricity demand in Gaza (400-450MW). In 2021, rolling power cuts averaged 11 hours per day.” Regarding the water situation, 78% of piped water in Gaza is undrinkable.

1.4.5 Egypt as a Channel to the World

This section discusses Egypt as a transit country and sometimes a destination for Palestinians, especially those who live in Gaza. Therefore, As mentioned above, Palestinians in Gaza have only two routes to travel out of the small city. The first is Rafah Crossing which is controlled by the Egyptian authority. It is relatively easy to use. The second route is more restricted and is called Erez Crossing, It is controlled by the Israeli authority. According to El Abed (2003), Palestinians started to migrate to Egypt from the mid-1930s, with mass arrivals in 1948 due to the Israeli occupation of Palestine and in 1967 because of the Israeli occupation of the West Bank and Gaza. Historical documents clearly show that the peak of migration was reached during the war times; in other words, the Israeli military attacks against Palestinians.

I have personally experienced four massive Israeli attacks on Gaza and because of the 2014 Israeli military attack; my brother decided to leave Gaza. He wanted to live a better life and chase his dreams, so he crossed Egypt as a transit country, but unfortunately, he fell victim to enforced disappearance there.

According to the UN High Commissioner for Refugees (UNHCR) (2018) with the restrictions on Rafah crossing, there are specific groups who can register on a waiting list held by the authorities in the Gaza Strip. The following categories usually wait for a certain time until the Egyptian authorities decide on the opening: medical patients, students, religious pilgrims, foreign residents, and foreign visa holders. During the last decade, Palestinians in Gaza have heard many stories of disappeared Palestinians in Egypt. Palestinian refugees portal (2020) reported the release of six Palestinians who had been detained and disappeared by the Egyptian authorities. When they disappeared, they were at Cairo International Airport, which is one of the places where the disappearances of Palestinians start. It is common that Egyptian authorities to deny the

existence of all victims of enforced disappearance and especially Palestinians. In the case of the released six Palestinians, Egypt did not give any information about their fate and whereabouts. The Egyptian authorities practiced this policy with most of the Palestinian detainees from the Gaza Strip, during their journey to Egypt, by the borders or in the airport, during their stay in Egypt as students, patients, or migrants.

1.4.6 Political Relations: Egypt, Gaza, and the Palestinian Authority

The relationship between Egypt, Gaza, and the Palestinian Authority is closely connected to the main topic of this research. Throughout the interviews, I got more details about the responsibility of the Palestinian Authority and included them in the analysis section below. Moreover, I highlighted how Palestinians are more vulnerable to enforced disappearance and inhumane treatment during detention than other nationalities due to their nationality. Egypt was known as the Arab political incubator for the Palestinian cause, since the Palestinian Nakba. In addition, Egypt always has the main role in most of the Palestinian political events for example, the establishment of the Palestine Liberation Organization in 1964. As a neighboring country of Palestine, Egypt maintains the security and control the borders with Gaza, Palestine. Recently Egypt seemed to support the policy of the Israeli occupation. Egypt follows the instructions of Israel to put restrictions on the Palestinians who live in Gaza and this achieves the interest of the occupation. With a focus on the security interests, Israel uses Egypt as a border guard to block the way in front of Palestinians and control their movement.

Regarding Egypt's relations with the Palestinian authority, Egypt has a main role as an incubator of the negotiations between the Palestinians authority and Israel. Therefore, Egypt has political relations with the Palestinian authority as a recognized body working on behalf of all Palestinians. On the other hand, El-Zebdah (2021) highlights that the Egyptian authority maintained security relations with Hamas, the largest Palestinian resistance faction. However, Egypt refuses to upgrade its relations with Hamas as "the government in Gaza" and deals with it politically and diplomatically as it does with the Palestinian authority and Israel. The nature of the relationship between Hamas(the government in Gaza) and Egypt, especially the limited recognition enjoyed

by the government in Gaza from Egyptian authorities complicates further the treatment of cases of enforced disappearance suffered by Palestinians in Egypt. It increases victims' vulnerability.

Some news articles describe Egypt as a mediator between Palestine and Israel, especially during the Israeli military attacks on Gaza. According to Aljazeera (2022), the Egyptian delegation managed to be the mediator between Hamas and Israel to reach a ceasefire after the May 2021 Israeli attack on Gaza. However, it is complicated when one finds out that at the same time Egypt works to achieve Israel's interests and it plays a prominent role in maintaining the restrictions that tighten the blockade on the Gaza Strip.

Since the 2013 military coup against Egyptian President Mohamed Morsi, the relations between Egypt and the government in Gaza (Hamas) has been unstable. Moreover, the new Egyptian government with its president Abdel Fattah el-Sisi has implemented many restrictions on Gaza and the Palestinians there such as destroying the smuggling tunnels on the borders between Gaza and Egypt. This was due to serious allegations that Hamas was part of the 2011 revolution in Egypt. In addition, Egypt used the media to publish the previous accusation plus support "terrorist groups". This propaganda campaign has serious impacts on the Egyptian people, prison guards, and anyone involved in the treatment of cases of the enforced disappearance of Palestinians. One of the main charges against Palestinian victims of enforced disappearance in Egypt is a supposed affiliation to terrorist groups and participate in their activities. The human rights professionals whom I interviewed for this research highlighted this point. I will discuss this issue in detail in the analysis chapter below.

However, in the last five years, the relations between Egypt and the government in Gaza have witnessed some changes and this is after the announcement of the absence of any link between Hamas and Muslim Brotherhood. Recently, high-ranked delegations from Egypt and Gaza governments have been meeting to discuss common affairs in a number of areas, especially in relation to security and political affairs. .

Due to the previous reasons and the complicated situation, life in Gaza is getting worse and worse and Palestinians are becoming more vulnerable to poverty, unemployment, restrictions on movement, etc. Therefore, Palestinians usually need to travel to Egypt for many reasons including studies, medical treatment or seeking refuge and

migration. Despite the reasons for their presence in Egypt, Palestinians are vulnerable to detention and enforced disappearance due to security reasons as claimed in most cases. The unstable relationship between Egypt and the Gaza government and the Palestinian Authority is one of the main factors of the ongoing suffering and vulnerability of Palestinian victims of enforced disappearance in Egypt during their disappearance and unknown whereabouts.

The Egyptian authorities have been dealing with Palestinians in a humiliating way when it comes to restrictions on the movement of people and goods without a valid reason. Moreover, as mentioned above, Egypt controls the main gate for Palestinians to the whole world; Rafah crossing which is used as a source of power and a tool of pressure for the Egyptian authorities to use against Palestinians. Navone (2016) argues, “The new specializations of the border and the increase in the number of decision-makers in the area have definitely resulted in a much more vulnerable condition for Palestinians who intend to cross the Rafah border” (p.132). It is obvious that the Gaza government has no leverage against Egyptian authorities to make them stop these humiliating practices, which insult the dignity of Palestinians inside Gaza and during their journey through Egypt. With the focus on victims of enforced disappearance in this research project, I think they are more vulnerable and affected by the unstable relations and the weak position of the Palestinian side in this case.

1.5 Methodology

The primary data is collected by semi-structured qualitative interviews with two Palestinian released prisoners who were victims of enforced disappearance in Egypt. In addition, I interviewed one researcher specializing in Enforced disappearance in Egypt and another professional of a human rights organization working on enforced disappearance cases in Egypt. By conducting the four interviews with the two Palestinian victims of enforced disappearance and two professionals, my research questions will be answered. Moreover, it will help me study the vulnerability of Palestinian victims of enforced disappearance in Egypt, and identify the human rights violations against victims, especially Palestinians. Finally, interviewing the specialized

professionals will highlight the Egyptian legal framework in relation to Enforced disappearance, especially of Palestinians.

1.6 Structure

My research project consists of six main chapters. Chapter 1 is an introduction that includes my motivation, research problem and questions, definitions and terms, the Palestinian context, and a brief text on the methodology used in this research project. Chapter 2 consists of previous research and relevant studies that focus on enforced disappearance. In this chapter, I covered the historical background of the ED phenomenon, ED in international human rights law, ED in the Middle East after the Arab spring, ED in Egypt, and Egypt's International and Regional Human Rights Obligations regarding ED. Chapter 3 presents the theoretical framework of the study. The chapter will provide an overview of vulnerability and resilience with a focus on victims of enforced disappearance. Chapter 4 covers the methodology (semi-structured interviews) in addition to participant recruiting and data gathering, ethical considerations and limitations, coding and analysis (thematic analysis), and my positionality in this research project. Chapter 5 focuses on the findings and discussion of the gathered data from the interviews and the themes derived from the coded data. This chapter consists of the following: definition of vulnerability: uncertainty, the vulnerability of victims of ED, vulnerability as Palestinian disappeared migrants in Egypt, the absence of the Palestinian authority's role, the effectiveness of the Egyptian legal system, and vulnerability of families. Chapter 6 is the conclusion on this research project.

2 Literature Review

2.1 The Phenomenon of Enforced Disappearance

Enforced disappearance is one of the most terrible crimes committed against human beings, as it is a very complicated violation of human rights. The denial by the state or the agents who are responsible for the detention, the lack of information regarding the

whereabouts and fate of the victims and the absence of legal channels or access to justice make victims of enforced disappearance in a vulnerable situation for the whole duration of the disappearance. According to the United Nations Working Group on Enforced and Involuntary Disappearances (2006), enforced disappearance has been considered as 'a particularly heinous violation of human rights. In addition, enforced disappearance was well-described in the draft international convention on the protection of all persons from forced disappearance as “one of the gravest crimes that can be committed against a human being”

Ott (2011) highlights that there are different definitions of enforced disappearance, depending on the legal instrument (international, regional or national) one uses.

As a criminal act, enforced disappearance became a common phenomenon after World War II. Vermeulen (2012) shows the conclusion made by the UN Working Group on Enforced and Involuntary Disappearances (UNWGEID) about the phenomenon of enforced disappearance. It could happen in different complex situations including internal armed conflicts, regimes with unstable political situation, and regimes that disappear their political opponents or fight individuals under the terrorism category.

Baranowska (2021) claimed that “for a long time there were no international agreements containing binding provisions aimed at the prevention of enforced disappearances, holding those responsible for them accountable, and helping victims” (p.3).

Baranowska (2021) showed the important step of the adoption of the declaration on the Protection of All Persons from Enforced Disappearance by the UN General Assembly which I would write more about later in the text. Moreover, Ott (2011) stated over the recent decades international law covers the phenomenon of enforced disappearance and much has been done on this topic. Sarkin (2012) highlights that nowadays there is a remarkable focus on the enforced disappearance in international law and international human rights instruments. In addition, many international, and domestic courts and human rights organizations work on enforced disappearance either at full capacity or worldwide. The Declaration on the Protection of All Persons from Enforced Disappearance, the Inter-American Convention on Forced Disappearance of Persons, the Rome Statute of the International Criminal Court (ICC), and the International

Convention for the Protection of All Persons from Enforced Disappearance (ICED) work on enforced disappearances under three aspects: the international human rights law, international humanitarian law, and international criminal law. Sarkin (2012) also mentioned that a number of treaties that show the human rights violations behind the practice of ED have covered enforced disappearance.

These treaties include the International Covenant on Civil and Political Rights (ICCPR), the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT), the Convention on the Rights of Child (CRC), the Convention on the Elimination of All Forms of Discrimination against Women Convention (CEDAW). Besides the Universal Declaration of Human Rights (UDHR), well-known regional treaties and courts have been dealing with ED such as the American Convention on Human Rights and the Inter-American Commission, and the Inter-American Court. Moreover, the European Convention on Human Rights is dealing with ED cases through the European Court. The last common regional human rights treaty is the African Charter on Human and Peoples Rights which has the African Commission and the African Court on Human and Peoples' Rights to deal with ED cases in the region, among other human rights violations.

2.2 Enforced disappearance in International Human Rights Law

Baranowska (2021) confirmed that the first enforced disappearance-focused resolution by the UN General Assembly was adopted in 1978. This resolution put the responsibility on the states to find the disappeared persons and investigate their disappearance. Duhaime &Thibault (2018) highlighted the two main instruments that provide the legal framework for ED under the United Nations. The first instrument is the *Declaration on the Protection of All Persons from Enforced Disappearance* (the Declaration) adopted by the UN General Assembly in 1992. It provides a definition of ED and identifies the duties of states in relation to preventing the ED practice domestically. Moreover, it covers the requirements of the detention and release of people deprived of their liberty, which is one of the main elements of ED. The second instrument is the *International Convention for the Protection of All Persons from*

Enforced Disappearance(ICPPED), adopted in 2006 and entered into force on 23 December 2010. Stevens (2010) described it as the most recent development in international law on enforced disappearances. To date, there are 98 signatories and 68 parties to the convention. Unlike the declaration, the convention only applies to states that have ratified or acceded to it (Duhaimé &Thibault, 2018). ICPPED, article 1 states "[n]o exceptional circumstances whatsoever ... may be invoked as a justification for enforced disappearance."

Enforced disappearances are defined in Article 2 of the International Convention for the protection of all persons from enforced disappearance (ICPPED) and it has been used by a big number of researchers:

For the purposes of this Convention, "enforced disappearance" is considered to be the arrest, detention, abduction or any other form of deprivation of liberty by agents of the State or by persons or groups of persons acting with the authorization, support or acquiescence of the State, followed by a refusal to acknowledge the deprivation of liberty or by concealment of the fate or whereabouts of the disappeared person, which place such a person outside the protection of the law.

Ott (2011) recommended considering the background and the goal of each international instrument dealing with enforced disappearance when it comes to the definition and the elements of ED mentioned in each instrument. Moreover, WGEID mentioned in the general comment on the definition of ED that all definitions by any instrument should promote the protection of all persons from enforced disappearance.

The definition of enforced disappearance has three elements as Anderson (2006) described them as "definite constitutive elements": "***deprivation of liberty***; by or with the ***support or acquiescence of a state agent***; and a ***refusal to acknowledge*** that deprivation of liberty." These three typical elements are mentioned in many ED definitions by different instruments such as the Enforced Disappearance Declaration, ICPPED, and by the UN Working Group as the "working definition".

Concerning the placement of victims outside the protection of the law within the definition of ED in the UN Declaration, Ott (2011) stated it is a *consequence of the refusal by the state to acknowledge the deprivation of liberty*. Moreover, the disclosing of the fate or whereabouts of the disappeared person and the denial of the existence of the disappeared victims by the state put them out of the protection of the law as well.

2.3 Phenomenon of Enforced Disappearance Worldwide

According to many authors (including Vermeulen, 2012, Ott 2011 & Anderson 2006), enforced disappearance as a phenomenon was already occurring during World War II. Vermeulen (2012) addressed the historical background of the phenomenon of enforced disappearance and gave some examples from different parts of the world such as Europe, Latin America, and Africa. Vermeulen (2012) started the historical background of the phenomenon of enforced disappearance with The Nacht und Nebel decree (the night and fog) issued by Adolf Hitler, the German Führer and Supreme Commander of the Armed Forces during World War II. This decree is a famous example of the practice of enforced disappearance that happened officially during that time. The purpose of the decree was to frighten people of occupied lands to commit any kind of resistance against the occupier. The message was that they would be made to disappear or transferred to Germany if they did. - Two main elements of the practice of enforced disappearance mentioned in the Nuremberg Tribunal clarify the reasoning behind the decree:

“[...] these measures will have a deterrent effect because (a) the prisoners will vanish without leaving a trace. (b) no information may be given as to their whereabouts or their fate.”

Many countries in Latin America started using the practice of enforced disappearance systematically after World War II. Erenner (2015) also mentioned the countries that witnessed around 90,000 enforced disappearance cases in the 1960s to 1980s such as Guatemala, El Salvador, Chile, Uruguay, Argentina, Brazil, Colombia, Peru, Honduras, Bolivia, Haiti and Mexico. The regimes of these countries were using the practice of enforced disappearance against individuals and groups to repress opposition; moreover,

spread insecurity and terror among people who may think to be part of the opposition. (Ott, 2012, p.3).

Ott (2012) highlights that when the practice of enforced disappearance is discovered either by human rights organizations or international mentors, dictatorships and regimes always give justification for such practice: fighting against terrorists or maintaining the security of the country. I, Anderson (2006) stated that in Latin America, “Governments would routinely abduct people, hold them in clandestine prisons, subject them to torture and often execute them without trial. The bodies were frequently hidden or destroyed 'to eliminate any material evidence of the crime and to ensure the impunity of those responsible” (p. 249).

Countries of Latin America were not the only ones to use enforced disappearance; Erener (2015) gave different examples from different countries in Europe where the practice has been taking place. I would briefly mention two of the examples from Erener’s thesis (2015).

Enforced disappearances usually occur during wartime and this is exactly what happened in Bosnia after its declaration of independence in 1992. According to the United Nations Working Group on Enforced or Involuntary Disappearances, the war in Bosnia caused the disappearance of 30.000 people, the death of 100.000 people and the displacement of more than two million people. The other example mentioned by Erener (2015) is the Chechen Republic of the Russian Federation during a wide arrest as part of a security operation. This practice occurred recently in 2004-2005 when 467 people were arrested and disappeared according to the figures by the Russian human rights center Memorial. Moreover, Belarus, Ukraine and Azerbaijan are on the list of countries in Europe that witnessed enforced disappearance cases in the 21st century.

On the 30th anniversary of UNWGEID (2010), the Working Group issued a press release and showed its solidarity with the victims of enforced disappearance and their families who do not know their whereabouts all over the world. In addition, the UNWGEID highlighted that many countries on all continents have been affected by enforced disappearances regardless of the purposes and the reasons behind this practice. In addition to what I mentioned above about the enforced disappearance in Latin America and Europe; Ott (2012) stated that recently, India (Kashmir), Indonesia,

the Philippines, Sri Lanka and China are on the top of the list of countries with increasing numbers of enforced disappearances within Asia. In the recent decades, Sri Lanka has been witnessing a high number of ED cases as estimated by Pathmanathan (2021) about 100,000 missing persons disappeared by official forces during the civil war and afterward. According to Amnesty (2017) the government in Sri Lanka use the practice of enforced disappearance against the Tamil supporters in the north-eastern of Sri Lanka.

The enforced disappearance practice has been used in many African countries since colonial times. However, the number of ED cases in these countries is not accurate due to the lack of information from the authorities and their policies of denial regarding the existence of victims of ED according to REDRESS (2021). “The UNWGEID 2020 report noted a total 46,271 cases of ED which were under active consideration, of which around 4,783 (10.3%) occurred in African countries.” (REDRESS, 2021, p.15). Estimated statistics of ED cases from different countries have been mentioned in this report including Zimbabwe, Libya, and Sudan. Moreover, the common circumstances in which ED occurs in most African countries have been identified during armed conflict and civil unrest, in the context of migration and internal displacement, and in the context of extraordinary renditions, counterterrorism, and security operations. Some governments in African countries use the practice of ED to deter people, silence the opposition, and fight terrorism.

2.4 Enforced Disappearance in Middle East after the Arab Spring

Some countries in the Middle East witnessed mass uprisings in 2011 such as Syria, Egypt, Yemen, Libya, and Bahrain under the power of regimes headed by Bashar al Assad, Hosni Mubarak, Ali Abdullah Saleh, Muammar Gaddafi and King Hamad bin Isa Al Khalifa respectively. Citizens in these countries protested and demanded for justice, democracy, freedom, and a better future. Unfortunately, these uprisings led to wars in some countries and suppression in others. In both cases, governments and authoritarian regimes used violence and applied the practice of enforced disappearance against political opponents, journalists and civilians. In relation to the situation in

Syria; Alharbi, Othman, & Daud (2020) highlighted that the practice of enforced disappearance has been common in Syria during and after the Arab Spring. “Thousands of Syrian citizens opposed to the government have disappeared. At the same time, the government has subjected tens of thousands of its people to unlawful detention with no hope for a fair trial.” (Alharbi & et al, 2020, p.5). As in all cases of ED regardless of the country, families of enforced disappeared people are also victims due to the uncertainty and the lack of information in regard to the fate and whereabouts of their missing ones. Alharbi & et al (2020) stated that in Syria, activists and political opposition leaders usually fall victim to enforced disappearance.

According to Amnesty International (2018) since the crisis in Syria, more than 80,000 people disappeared by the government deliberately against mass population. This widespread practice of enforced disappearance including arrest and torture was defined as a crime against humanity. In July 2018, the Syrian government confirmed the deaths of at least 161 people who were victims of enforced disappearance since 2011. This confirms that the government could kill disappeared people either with announcement of their death or not.

2.5 Enforced Disappearance in Egypt

According to Amnesty International (2018), the Egyptian government has been implementing the systematic practice of enforced disappearances against people associated with the opposition to deter them and their relatives and followers. Amnesty International is one of the remarkable human rights organizations that document human rights violations in Egypt. Amnesty International documented some of the illegal practices done by the NSA in Egypt 2016. These practices include enforced disappearance, torture and inhumane treatment against critics. Unfortunately, the NSA and the Egyptian security forces are still implementing the practice of enforced disappearance. Amnesty International (2018) confirms that some of the disappeared victims were found dead in the morgue after their disappearance while the Egyptian authority denied its responsibility for their murder and claimed other reasons like gunfights. Moreover, in its report (2021/2022), Amnesty International highlights that Egyptian authorities detain “thousands of people, including human rights defenders,

journalists, students, opposition politicians, business owners and peaceful protesters.” Moreover, “Enforced disappearances and torture continued unabated” (p.152).

TRT World (2021) covers a brief update from different countries after a decade of Arab spring. Egypt is one of the countries that witnessed remarkable changes at the political level. In 2011, Hosni Mubarak who was the president of Egypt resigned after being in power for 30 years. Muhammed Morsi was elected as the president of Egypt in the country’s first democratic elections. Democracy did not last long; a military coup brought the dictatorship to the country headed by Abdel Fattah al Sisi and kicked the Muslim Brotherhood leadership out. Under this dictator regime, human rights have been violated in Egypt since the first day of the coup. It started with mass arrests and torture of detainees, enforced disappearances for critics, activists, journalists, and political figures in addition to extra-judicial executions. Navone (2016) argues that Egypt is still politically unstable and he agrees with HRW that human rights violations are happening almost every day since the 2011 uprising. Such violations include mass arrests, tortures, kidnappings, and killings. Palestinians have been affected by this dictatorship as well. Although there is no accurate documented number of Palestinian victims of enforced disappearance, there are groups of Palestinians who have been disappeared during the last decade in Egypt. As I mentioned above in the introduction, ECRF includes a group of Palestinians in its campaign “Stop Enforced Disappearance” and demands the Egyptian authorities to release them and disclose their fate and whereabouts. In addition, throughout the interviews I conducted for this research project, some participants confirmed that there are some Palestinians who fell victim to ED in Egypt during the last decade for different reasons. Such news comes either from released prisoners or former victims of enforced disappearance in Egypt or from the prisoners who appeared in the court and told their lawyers, human rights organization representatives or their families about the existence of Palestinians in secret prisons in Egypt.

The Supreme Standing Committee for Human Rights (SSCHR) is established in 2018 and chaired by the Minister of Foreign Affairs of Egypt. According to the SSCHR website, the aim of this committee is “strengthening the institutionalization of human rights protection and promotion in Egypt.” Moreover, SSCHR shows Egypt’s intention of implementing international human rights obligations. SSCHR highlights that the protection of human rights is a core pillar of “Sustainable Development Strategy:

Egypt's Vision 2030". The national human rights strategy (2021-2026) is one of the recent strategies done by SSCHR in Egypt. The strategy praises the contribution of Egypt in the human rights field at the international level and its role in developing international human rights law. In addition, it participated in drafting two of the main international covenants: the Universal Declaration of Human Rights and National Human Rights Strategy. The national human rights strategy (2021-2026) highlights that Egypt also has a remarkable contribution at the regional level as well and drafting some of the regional human rights instruments.

Moreover, Egypt's constitution of 2014 confirms the commitment of Egypt to international human rights instruments and conventions that have been ratified by Egypt. This is clear in Article 93 in Egypt's constitution (2014) which titled International agreements and conventions; "The state is committed to the agreements, covenants, and international conventions of human rights that were ratified by Egypt. They have the force of law after publication in accordance with the specified circumstances." (Egypt. Const. art. XCIII). I checked the United Nations Human Rights Office of the High Commissioner and found that Egypt ratified eight core international human rights instruments and a state party in these conventions which means that Egypt must fulfill the international obligations of these instruments and conventions. These are the eight international human rights conventions ratified by Egypt: International Convention on the Elimination of All Forms of Racial Discrimination, International Covenant on Civil and Political Rights, International Covenant on Economic, Social and Cultural Rights, Convention on the Elimination of All Forms of Discrimination against Women, Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, Convention on the Rights of the Child, International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families and Convention on the Rights of Persons with Disabilities. At the regional level, Egypt ratified some instruments in both African and Arab human rights systems such as the African Charter on Human and Peoples' Rights, the African Charter on the Rights and Welfare of the Child, and AU Convention Governing Specific Aspects of Refugee Problems in Africa. Egypt is a member of the League of Arab States (Arab League) although it has not ratified the Arab Charter on

Human Rights. Therefore, Egypt is not subject to monitoring by the Arab Human Rights Committee (International Justice Resource Center, 2017)

2.5.1 Egypt's International and Regional Human Rights Obligations regarding Enforced disappearance

Egypt ratified many international and regional human rights instruments that require the fulfillment of the international human rights obligations. In addition, Egypt as a state must protect all human rights including the right to life, right to liberty and right to recognition, right not to be subjected to torture and other cruel, inhuman or degrading treatment or punishment, right to family life, right to an identity, right to a fair trial and to judicial guarantees, etc. Human Rights Watch (2021) states “the right to life is an inherent non-derogable human right, regardless of the circumstances, even in times of armed conflict or states of emergency.” HRW confirms that any extrajudicial or arbitrary executions done by the Egyptian authority is a violation of international law and some international conventions in which Egypt is a state party and is obliged to implement such as the International Covenant on Civil and Political Rights and the African Charter on Human and Peoples' Rights.

However, Egypt violates every single human right and does not fulfill its international obligations by implementing the practice of enforced disappearance. It is worth mentioning that according to Amnesty International (2016), Egypt has not ratified the International Convention for the Protection of All Persons from Enforced Disappearance, the Optional Protocol to the Convention against Torture and other Cruel, Inhuman, or Degrading Treatment or Punishment. Moreover, the National Council for Human Rights (2016) mentions “... [Egypt] has not ratified the Rome Convention for the International Criminal Court, which dealt directly with the obligations of the States regarding the addressing of the crime of enforced disappearance” (p. 8).

As I mentioned above, ICCPED is the first specialized convention that deals with ED. It could be argued that Egypt refused to ratify that treaty because of the dire human rights situation in the country, especially in relation to cases of enforced disappearance. Moreover, “The national law does not include a direct text that defines

enforced disappearance, and the penalties provided in the event of the unlawful arrest and detention are weak. The Constitution of 2014, despite its outstanding protection of rights and freedoms, did not bridge this gap, as it did not mention the enforced disappearance.” (National Council for Human Rights, 2016, p.7)

Even in the relevant articles that focus on detention in Egypt’s constitution of 2014, ED has not been mentioned or defined clearly. Articles 54, 55, and 99 focus on detention guarantees. For example, article 54 highlights the right to personal freedom that should be protected, “... except in cases of in *flagrante delicto*, citizens may only be apprehended, searched, arrested, or have their freedoms restricted by a causal judicial warrant necessitated by an investigation.” (Egypt. Const. art. LIV). By using the practice of ED, Egypt clearly violates the right to freedom, and by adding the exception to this article, Egypt gives its National Security Agency the space to deny the person’s right to freedom for their claimed necessity. I see that the crime of enforced disappearance done by Egypt is against article 55 in the constitution which claims the protection of the dignity of the detainees (including the disappeared persons); “All those who are apprehended, detained or have their freedom restricted shall be treated in a way that preserves their dignity. They may not be tortured, terrorized, or coerced. They may not be physically or mentally harmed, or arrested and confined in designated locations that are appropriate according to humanitarian and health standards. The state shall provide means of access for those with disabilities” (Egypt. Const. art. LV). Finally, article 99 describes any assault on freedom or other rights guaranteed by the Constitution and the law as a crime.

Egypt works very hard to hide the illegal practice and the crime of enforced disappearance at the theoretical, legal, and practical levels. However, the absence of ED definition in Egypt’s constitution of 2014 does not give Egyptian authority and its National Security Agency the right to disappear people, deny their existence and refuse to give information about their fate and whereabouts to their families, on the contrary. . Therefore, Egypt must fulfill the international human rights obligations about enforced disappearance. Committee for Justice (2021) demands the Egyptian authorities join the ICCPED to make immediate amendments on Egypt’s constitution to define ED as a crime. In addition, CFJ stresses on the responsibility of Egyptian authorities to punish the perpetrators committed ED.

One of my research questions is how the Egyptian legal system works in regard to victims of enforced disappearance. As one can see in the above paragraph, Egypt does not mention the term of enforced disappearance in its constitution, so one can imagine how bad Egypt deals with victims of enforced disappearance legally. According to Amnesty International (2016), although Egypt is not party to ICPPED, it has international obligations based on other national and international instruments including CAT, ICCEP and other international human rights treaties that demand the protection of human rights and stop the practice of ED and any violations come under it. This is supposed to be the approach of Egypt's Constitution and its national laws as mentioned above, but there is a kind of contradiction between the Egyptian Constitution and Egypt's Code of Criminal Procedure (CCP). The first prohibits arrests and detentions without a reasoned judicial order and further prohibits torture, while Egypt's Code of Criminal Procedure (CCP) requires the police to refer arrested persons to the Public Prosecution within 24 hours of their arrest. Afterwards the prosecutor usually allows extending the detention for different periods of four, fifteen and forty-five days, depending on the circumstances (Amnesty International, 2016). Throughout this period that may be longer in reality, the detainee usually does not have any contact with their family and accessibility to justice or legal assistance. Amnesty International (2016) confirms that the unidentified period of disappearance before referring to prosecution facilitates enforced disappearances and deprives the disappeared person from their right to liberty along with other fundamental rights such as the right to immediate contact with family and access to justice through assistance of a lawyer. This is a clear and direct violation of Egypt's Constitution especially article 54, "All those whose freedoms have been restricted shall be immediately informed of the causes therefor, notified of their rights in writing, be allowed to immediately contact their family and lawyer, and be brought before the investigating authority within twenty-four hours of their freedoms having been restricted." (Egypt. Const. art. LIV). Human Rights Watch (2021) agrees with Amnesty International that the practices of enforced disappearance and arbitrary arrest by the Egyptian authorities not only violate international law but also the national laws and constitution. Throughout my interview with human rights professionals, they provided more details about the legal steps and process of disappearance with a focus on Palestinian victims. As already mentioned, Egypt keeps denying that its government and security forces use enforced disappearance, inhumane treatment, and other human rights violations (Amnesty

International, 2016). Despite the increase of ED cases in Egypt and the common reputation of human rights violations, the Egyptian government chooses to hide the evidence, describing the accusations as propaganda instead of admitting the violations and fulfilling its international human rights obligations (Amnesty International, 2016). Moreover, Committee for Justice (2021) demands the Egyptian authority to stop the policy of enforced disappearance against their opponents. CFJ through its website (2021) demands the international community and various United Nations mechanisms to put pressure on Egypt to take the ED practice seriously and follow the demands to stop it. Monitoring places of detention and secret prisons in Egypt is one of the main demands of CFJ for the international community to stop the increasing spread of ED cases in Egypt and punish the perpetrators and prevent impunity.

According to Human Rights Watch (2021), although Egypt has not ratified the ICCPED, as a government it has international obligations to follow the standards of the 1992 UN General Assembly's Declaration on the Protection of All Persons from Enforced Disappearances. Therefore, the Egyptian authorities have the responsibility to deal with detainees who fell victim to ED in Egypt according to these standards. Moreover, international law guarantees the right to truth, so the Egyptian authorities are obliged to inform the families about their disappeared persons and their fate and whereabouts. The Principles and Guidelines on the Right to a Fair Trial and Legal Assistance in Africa issued by the African Union call for a fair trial for all detained people. To be brought before the judge, charged with a crime, and arrested in an official detention place are the fundamental rights of every detainee. Egypt has ratified some international treaties that respect inherent dignity and prohibit torture and inhuman treatment. Therefore, Egypt has serious international obligations concerning the victims of ED.

2.5.2 Policy of Denial

I read many news articles and watched different press releases of officials in Egypt talking about enforced disappearance. Ezzidin (2016) quotes the former Egyptian Minister of Interior Magdy Abdel Ghaffar during an interview with the Middle East News Agency (MENA). He claims that “Egypt has zero forced disappearance cases and the term “detainee” is no longer used in legal cases since the expiration of the

emergency law.” In March 2016, Magdi Abdelghaffar denied in different interviews the existence of any enforced disappearance cases and he declared that there is no systematic torture. In addition, he stressed that the security forces follow Egyptian law and operate within the legal framework without any human rights violations. According to Amnesty International (2016), “ despite the mounting evidence of abuse, the Egyptian government continues to deny that its forces commit enforced disappearances, torture, and other serious human rights violations.” (p.6). I argue that the Egyptian government and President al-Sisi are very careful with appointing the Ministers of Interior. According to Human Rights Watch (2021), the current Egyptian Minister of Interior, General Mahmoud Tawfik spent most of his career in the NSA. In addition, Tawfik was the director of the NSA between October 2017 and the date of holding the title. Amnesty International (2016) confirmed that the NSA is the main agency responsible for enforced disappearances and other illegal practices such as arbitrary detentions. While I was reading many reports from different human rights organizations, I found that most of them accuse the NSA for the illegal practice of enforced disappearance, torture and inhumane treatment. According to Human rights watch (2021), “ the NSA has dozens of offices and multiple headquarters in Cairo and all of Egypt’s governorates. They all serve as illegal detention sites, usually heavily surrounded by security and fortifications, and are inaccessible to members of the public.” Although Egyptian law prohibits detaining people in unrecognized or secret detention places in which disappeared people are not reachable by the judiciary, any legal procedures or visits from lawyers and families, Egyptian authority still uses the NSA offices as secret and unofficial detention places (Amnesty International, 2016). Based on cases documented by Amnesty International, it is not possible for any judge or prosecutor to check the NSA secret detention places. In addition, the only way that families and lawyers know the existence of disappeared persons is through released ones or those who reappear in front of the prosecutor. The participants in this research project addressed this idea and gave examples about the visits and the reappearance of the detainees as a source of information about the disappeared ones.

The policy of denial is not limited to the period of disappearance, but also after the release of the detainees. According to Amnesty (2016), the Egyptian authority keeps the denial of the disappearance of detainees and the moment they reappear in front of the Prosecutor, the NSA forces falsify the dates of detention to erase the trace of any

human rights violations under the practice of enforced disappearance. They do this trick to show that the arrest was lawful and charge the detainee. According to an organization called Article 19 (2021), the policy of denial implemented by the Egyptian authority and its failure to ban the crime of ED in Egyptian law may increase the number of ED cases. Due to the ambiguous nature of the crime of ED, there is no accurate number of the ED cases that occurred in Egypt, but “in September 2020, the Egyptian Commission for Rights and Freedoms (ECRF) reported that at least 2,723 people had been forcibly disappeared by Egyptian security forces since the organization began tracking cases in 2015.

3 Theoretical Framework

In this chapter, I will present the theoretical framework of my thesis. Many authors highlight the importance of the theoretical framework in different types of research. Grant & Osanloo (2014) confirm, “The theoretical framework is the foundation from which all knowledge is constructed (metaphorically and literally) for a research study.” (p.12).

I believe that victims of enforced disappearance are vulnerable human beings. They are deprived of their liberty, they have no access to justice and as a result, they are outside of the protection of the law. In addition, the huge number of human rights violations that they are living in prisons makes them more vulnerable. On the other hand, the families of these victims may be considered vulnerable human beings as well. The families of the disappeared always struggle to get information about the fate, whereabouts, and conditions of their loved ones living in prisons as victims of enforced disappearance. Unfortunately, states do not disclose any information about the victims in most of the cases worldwide and in Egypt particularly.

3.1 Theory of Vulnerability

I will use vulnerability as the main theory of my research. As I highlighted in the title of the thesis, I will focus on the vulnerability of victims of enforced disappearance pre and during the disappearance in the context of Gaza, Palestine and in Egyptian prisons

respectively. In addition, I will briefly discuss the vulnerability of the families of the disappeared as the International Convention (Article 24) considers that ‘victim’ means the disappeared person and any individual who has suffered harm as the direct result of an enforced disappearance. Vulnerability does not end with release from detention. One illustration of that is that despite my reassurances, some people that I wanted to include in my research did not want to participate, worried about what could happen to them, should it be known by any Egyptian security agent that they gave interviews on what they went through. These cases are Palestinian released prisoners who used to be victims of enforced disappearance in Egyptian prisons in different times during the last decade. I will mention and discuss the reasons behind their refusal and how I link their refusal to be interviewed to their vulnerability later under the methodology chapter.

I read Fineman who initially highlighted the concept of vulnerability in 2008. Fineman (2010) highlights that she initially developed the concept of vulnerability as a discourse of human rights in a hidden way. Afterwards, the concept was developed and she suggested, “Vulnerability is decidedly focused on exploring the nature of the human part, rather than the rights part, of the human rights trope” (p.10). In her article “Vulnerability and Inevitable Inequality”, Fineman (2017) states that despite the universality of vulnerability as a human condition, it may happen based on different circumstances and conditions that each individual or group is living. In addition, she confirms that equality is the main base for law and policy.

Vulnerability theory pays great attention to the relationships between individuals and state and its responsibility to reduce this vulnerability. Fineman (2017) highlights this relationship, shows that all people are vulnerable in general, and dependent on social institutions in different stages of their life. She also calls for the responsivity of all states towards our vulnerability and the reality of being dependent regardless of our age, health or other variables and experiences. Fineman (2019) explains further on the need of a responsive state to the universal human vulnerability. In addition, she comments on the current social structures and institutions for its exaggerated attention towards the liberty of individuals while forgetting about human dependency and vulnerability. Fineman (2017) argues that using the concept of vulnerability for specific groups as she called them ‘vulnerable populations’ could be a form of discrimination. Therefore, this perspective ignores the universality of human vulnerability. She also

highlights that vulnerability sometimes has a comparison scale “...some people are viewed as more or less vulnerable, or as differently or uniquely vulnerable.” Fineman is against this basis as all human beings are equally vulnerable, but I have another opinion. In my research, I believe that victims of enforced disappearance are one of the most vulnerable groups of human beings on earth. They are deprived from almost every single human right mentioned in all declarations and laws. Therefore, I see that some individuals or groups living in unbelievable inhumane conditions are more vulnerable than other human beings who are living normal lives.

I think it is worth mentioning that Fineman (2017) takes into consideration two forms of individual differences under the vulnerability concept: the first one is the embodied differences that derive from being embodied beings. “...those differences that evolve within each individual body. These differences reflect the progressive biological and developmental stages within an individual human life.” (Fineman, 2017, p.144).

She considers the changes in the legal subjectivity based on the ongoing biological development throughout the lifetime of individuals from infant to elderly person as problematic because such changes, “...ignores or diminishes what is considered to be the appropriate level of state responsibility for individual well-being.” (Fineman, 2017, p.144)

The second form of differences is based on our nature as social beings and this form is called embedded differences. As embedded human beings, we are connected to social institutions and have social relations. “Vulnerability theory teaches us that humans are all inevitably embedded within the social-located throughout our lives in particular systems of social organizations” (Fineman, 2019, p.359). “From the moment of birth until we die, we inevitably act, interact and react in relationships with others and within institutions.” (Fineman, 2017, p.145). I can relate these points highlighted by Fineman to the situation of victims of ED. Based on the interviews I conducted for this research; all participants shared the same idea about the absence of social interaction during the disappearance that is obviously against the human nature of being embedded human beings. Therefore, such violation adds more vulnerability on vulnerable victims of ED.

3.2 Elements of Vulnerability

In her article, *the Vulnerable Subject and the Responsive State*, Fineman (2010) identifies four key elements of vulnerability. First, **universality**; Fineman believes that the vulnerability is universal and all human beings are vulnerable. Therefore, she does not limit the status of vulnerability to specific groups and focuses on the general and universal meaning of being human. Furthermore, she asserts that the universality of vulnerability is the cornerstone of the clear claim that puts universal human vulnerability in the front of ideas related to social and state responsibility. A few years later, Fineman (2017) reconfirms that “the theory is based on a descriptive account of the human condition as one of universal and continuous vulnerability.” (p.134)

On the other hand, Fineman (2010) shows that the term vulnerable is connected to victimhood, deprivation, dependency or pathology. Moreover, the title of vulnerable could exclude the people from their societies and be stigmatized due to their vulnerability through certain situations. In the case of victims of ED, I believe they are a vulnerable group who are living a vulnerable life deprived of almost all human rights and they deserve more attention from societies and states. In addition to the universality of vulnerability, Fineman (2010) addresses another three premises that contribute to her development of the theory of vulnerability.

Fineman highlights **constancy** as the second element of vulnerability during the development of the concept. Fineman (2010) believes that as embodied beings, we are vulnerable and there is a high possibility of harm, injury, and misfortune. She gives different examples of physical harm that leads to vulnerability. Such harm varies depending on the cause of this harm; some injuries are mild while others are catastrophically damaging and could happen accidentally or deliberately. Some of the possible reasons of physical harm that Fineman (2010) mentions are natural forces, aging and unexpected material realities that sometimes people do not have control to stop or to eliminate their vulnerability caused by such reasons. Aging and death are

clear examples of the uncontrolled and inescapable reasons of human vulnerability. In addition to external dangers that may cause physical harm such as pandemic or serious diseases, human beings are vulnerable to uncontrolled environmental forces that may cause natural catastrophes such as floods or drought that lead to starvations. Humans sometimes contribute to the environmental causes of harm such as pollution or chemical spills. Regarding this element of vulnerability, I find that victims of ED through my focus on Palestinian victims of ED in Egypt are one of the groups who are more vulnerable to uncontrolled and unescapable harm due to detention and disappearance poor conditions. This includes their vulnerability to torture, diseases and death due to the absence of health care system and the poor detention condition where is no proper lighting, cooling system or possibility of outside activities. I will cover this in more detail in the analysis chapter based on the data I gathered from the participants.

Complexity is the third element of vulnerability that Fineman (2010) explains, “Vulnerability is complex and can manifest itself in multiple forms” (p.29). As vulnerable embodied beings, different form of vulnerability caused by social or economic relationships may affect us. Unlike diseases, such harms do not target the body directly, but they affect the social relationships negatively. This kind of harm leads to a devastating vulnerability among human beings and shows the dependency of individuals on the social structure.

A vulnerable person may face economic and institutional harms over the course of his/her, which can intensify the feeling of vulnerability and lead to more harm. As embedded beings, we belong to a society and social groups, so every harm affects the individual it affects the larger group including the family that may become vulnerable as well. Therefore, the economic and social harms is connected to discrimination when such harm is targeting people from the same background at different levels such as race, gender, ethnicity, or religious affiliation. Fineman (2010) explains how society present vulnerability, “Society and its institutions can address these harms through law and policy that positions vulnerability as the organizing principle and seeks to alleviate these implications.” (p.31). Poverty is one of the main factors that lead people to migrate and leave their home country. In my context, Palestinians in Gaza have been suffering from high level of poverty for many years as I mentioned before about the situation in Gaza, Palestine. Being migrant and poor makes the person more vulnerable to enforced disappearance due to the lack of protection at all levels; economically,

socially and politically. According to WGEID, “The lack of effective protection of economic, social and cultural rights is also a contributing factor to enforced disappearances.” Therefore, the economic harm makes both the victim and their family vulnerable, as according to many sources I mentioned above, the majority of victims of ED are men who are the source of income to their families.

Despite the universality of human vulnerability, Fineman (2010) highlights the **particularity** of vulnerability. “While all human beings stand in a position of constant vulnerability, we are individually positioned differently.” (Fineman, 2010, p.31).

She means that our position in a social or economic relationship may identify to what extent a person may be vulnerable. In addition, individual experiences vary from person to person depending on the situation and the available resources, so the vulnerability of each person is unique. Fineman concludes the paragraph that highlights the particularity of human vulnerability with a demand to society to build a proper structure and programs to reduce human vulnerability and to take into consideration both the individual position and institutional relationships. This sentence makes me think for a while about the victims of ED; “our individual experience of vulnerability varies according to the quality and quantity of resources we possess or can command.” (Fineman, 2010, p.31). Do victims of ED have the resources they need? What are the quality and quantity of the available resources for victims of ED? Throughout the data I collected from participants, I am sure that the reader will have a full image about the vulnerability of Palestinian victims of ED in Egypt.

3.3 Resilience and Vulnerability

Fineman connects resilience with human vulnerability throughout her development of the concept. Fineman (2010) highlights that dependency is part of our universal human vulnerability. One form of this dependency is upon societal structures and institutions, which are responsible for providing all of us as vulnerable human beings with needed resources. With the available resources, vulnerable human beings will be able to survive. “Although nothing can completely mitigate our vulnerability, resilience is what provides an individual with the means and ability to recover from harm, setbacks

and the misfortunes that affect our lives” (Fineman, 2017, p.146). I agree with Fineman that as human beings, we cannot deny our vulnerability, but with resilience and available needed resources, vulnerable human beings may be able to recover from harm. However, Fineman asserts that resilience is the incomplete solution for human universal vulnerability. Based on Fineman (2017), she claims that the ultimate interest is on the particularity of human vulnerability and resilience and away from the universality of human vulnerability. I also agree with this idea, as human beings are living different experiences, which make them vulnerable in a particular way. Moreover, I see there is a strong connection between the resilience and availability of the needed resources that helps vulnerable human beings to survive and recover from harm. I will cover the five types of needed resources that societal organizations provide individuals to ease their vulnerability and help them survive and recover from harm. I will discuss these resources in relation to the victims of ED. Fineman (2017) mentions the physical, human, social, ecological or environmental, and existential resources. First, the physical resources ensure good quality life for individuals including basic needs and services to live a normal daily life such as housing, food, entertainment and means of transportation in addition to future well-being through savings to ensure life with good quality. I see that such resources are very fundamental to have a dignified life for every human being. Therefore, victims of ED who are abducted and disappeared by a state or a group supported by a state, they are deprived from these fundamental physical resources. Throughout the interviews I conducted with my participants, they share similar data about different parts of life in the secret prisons in Egypt and the living conditions that victims of ED are experiencing. The availability and quality of food was one of the main and serious points that participants covered during the interviews. The victims of ED are away from their homes and usually detained in secret prisons, so they no longer live in a house. As a detainee and a victim of ED, the disappeared person is not able to live a normal life with all violated human rights. Regarding transportation as one of the physical resources that a vulnerable human being needs to recover from harm and survive, the victims of ED are stuck in unknown places for many years in the majority of cases and they are deprived of their right to movement. Means of entertainment or performing activities are luxurious things that are forbidden in the case of victims of ED. All my participants agree on that. Second, human resources focus on the development of human beings and preparing them to be involved in the market. Fineman (2017) shows that human

resources are also important to help individuals have resilience and recover from harms through systems that provide education, training, knowledge and experience. In the case of victims of ED, disappeared persons are outside all of these systems. Victims of ED usually spend years disappearing and forcibly isolated and deprived from any human development. Third, social resources are significant for us as embedded human beings. Fineman (2017) stresses on the idea of belonging to a community and how the social resources are obtained. Human beings have different relationships with others under different categories such as family, co-workers, and social relations. Victims of ED do not have any social relationships during their disappearance period according to data collected from my participants. The victims of ED have no contact with anyone outside the prison and their families know nothing about them. Later in the analysis chapter, I will provide more detail on the social interaction of Palestinian victims of ED in Egypt.

Fourth, Fineman (2017) includes the environmental or ecological resources to the previous resources that help us as vulnerable beings to continue and survive. These resources are connected to our relations with the physical, built or natural environments and how we as vulnerable beings belong to such environments. The last kind of resources mentioned by Fineman (2017) is the spiritual and existential resources. Through the belief systems, vulnerable human beings can find themselves and their positions in their societies. In addition, the spiritual resources help us find the meaning behind our existence. By including this kind of resources, Fineman (2017) focuses on the importance of spiritual life and the availability of relevant resources to help us as vulnerable beings to survive and ease our vulnerability. One of the questions that I asked my participants was about the activities that victims of ED are allowed to do such as performing prayers and practicing their religions. The answer was the living conditions, the detention place and the restricted procedures are not suitable for such activities. I will cover this in details in the analysis chapter and quote some data from participants.

Human beings are not born resilient (Fineman, 2019, p.362). This means that the different resources mentioned above provided by the state help us as vulnerable human beings to not only recover from the harm and survive but also to succeed and shine. According to Fineman (2019), as vulnerable individuals, we cannot practice resilience

only by ourselves, but we need the help of social institutions in all aspects including the social, physical and spiritual life. Fineman (2017) explains that vulnerable individuals have different levels of resilience depending on the quality and quantity of available resources, which give individuals the space to take risk and seize chances without the fear of failing. Therefore, the availability of resources assures resilient individuals with the capability of recovering from harm. Fineman (2017) highlights an important point when defining an individual or a group of people as “differently or particularly vulnerable” makes them stigmatized to either protect or punish them. I believe in the case of victims of ED, the disappeared persons are defined as vulnerable to hopefully be protected; however, states take advantage of their vulnerability to be punished or used for governmental interests as I will explain in the analysis chapter.

The UN Committee on Enforced Disappearances and the Working Group on Enforced or Involuntary Disappearances (2021) described Enforced disappearance as a complex crime on the international day of enforced disappearance. They confirmed that ED “violates all ranges of rights, including economic, social and cultural rights, of the disappeared, their relatives, and others.” Victims of enforced disappearance are also vulnerable and marginalized because they are deprived of any access to justice and legal assistance, so they disappear within the system for many years. On the other hand, their families are also vulnerable and marginalized as most of them are suffering from poverty, so they cannot afford the expenses of legal consultations, if they exist . In the Palestinian context, families of victims of enforced disappearance especially in Gaza are struggling to find any legal assistance from either the government “state institutions” or non-governmental human rights organizations. Therefore, the journey of discovering the fate and whereabouts of the disappeared ones becomes harder and puts more burden on the families’ shoulders.

4 Methodology

When I started thinking about the method that I should use for my research, conducting interviews was the first method that came to my mind. The moment I got this thought, I started my research journey of finding participants. Through my networks back in Gaza, I managed to get the contact information of few Palestinian released prisoners who used to be victims of enforced disappearance in Egypt at different periods during

the last 10 years and are now living in Gaza. I found out that the ones I managed to reach through friends and networks were imprisoned and disappeared by the Egyptian Authority for different durations while they were in Egypt. They had different reasons behind their stay in Egypt for example, being a college student, seeking medical treatment or trying to migrate to other countries and using Egypt as a transit country. I sent them messages introducing myself as a researcher in Human rights, writing my thesis in a relevant topic “enforced disappearance” and asking them to be involved as anonymous participants. Later I made a series of individual phone calls with each of my “potential participants” and explained more about the research, their participation, and their safety, stressing that they would be anonymous. However, they refused to be interviewed. I asked them about the reasons behind their refusal and they told me that they had been threatened by the Egyptian authorities before their release. They had been told not to talk to the media or to researchers. Prison guards told them that they had their spies everywhere and could catch them if they did not follow that order. Punishment would be harder. They were even more afraid because Egyptian authorities put their names on the blacklist on the borders between Gaza and Egypt. They cannot travel. Every time they tried to cross the borders, Egyptian authorities returned them back to Gaza. As mentioned above on the background of the Palestinian context in the introduction chapter, the Rafah border is the main route out of Gaza. Moreover, Gaza city and Palestinian territories do not have an airport, so Palestinians go either to Egypt or to Jordan to use their airports to travel abroad. One of the potential participants who refused to be interviewed said, “I’m lucky that I’m alive; it’s known that everyone in Egyptian prisons is dead until they are free again.” I hope no one in the world goes through this experience.

I noticed that one thing is shared in all potential participants who refused to be interviewed: vulnerability. They are too vulnerable to share their experience as former victims of enforced disappearance and I see that they are still vulnerable even after their release. Despite their understandable and justified refusal, I did not give up on finding participants to talk about their hard experience as victims of enforced disappearance in Egypt.

4.1 Participant recruiting

I used my networks to find potential participants, so I sent private messages to some friends and networks that I thought could have connection with former Palestinian victims of ED in Egypt. Finding potential participants was not easy as I explained above. However, luckily, I managed to find two Palestinians who were victims of enforced disappearance in Egypt in different periods during the last ten years. In addition, I interviewed one researcher specializing in Enforced disappearance in Egypt and another professional who works in a human rights organization that deals with cases of enforced disappearance in Egypt.

Despite the limited time that I had for recruiting participants, conducting interviews with them, and analyzing the collected data, the snowball sampling method saved a lot of my time to find potential participants. Especially among the human rights professionals who provided me with available specialized professionals in the ED file, I managed to interview who may have most relevant data and be a right participant for my research project. Bryman (2016) states “With this approach to sampling [snowball sampling], the researcher makes initial contact with a small group of people who are relevant to the research topic and then uses these to establish contacts with others.” (p.188).

The first sample included two Palestinian victims of enforced disappearance; one is in Gaza and the other is outside Gaza. Egyptian authorities released the first one a few years before this interview and the second one was recently released. Both of them are adults above the age of eighteen when I conducted the interviews. The first sample was interviewed to answer my research questions that are focused on the victims themselves. These two are the only ones I managed to interview due to the sensitivity of the topic.

The first participant identified as Omar said, “Since the moment I was released, I’m forcing myself to forget what happened to me during my disappearance in Egypt. I do not want to remember how vulnerable I was during this hard time”. However, he agreed to be interviewed to help other victims who are still suffering from enforced disappearance, but refused to be audio-recorded. As a researcher, I am aware of the sensitivity of this topic and the participants’ contribution, so the interview process was a long journey. I contacted the participants a few times before the interviews to set a

suitable time that works for them to be interviewed. I was very aware of answering the participants' questions and inquiries that related to the research and clarify the purpose of the research project for them before conducting the interviews. The second participant is identified as Akram also a Palestinian former victim of enforced disappearance in Egypt.

The third and fourth participants are Human Rights professionals who have been working on enforced disappearance cases in Egypt, studying the detention conditions and documenting ED cases in Egypt through international and local human rights organizations. The two participants are identified as Farah and Ibrahim respectively. Ibrahim is a Human rights researcher who was detained by Egyptian authorities for his Human Rights work, especially as it relates to cases of enforced disappearance. Farah is a researcher in human rights, also focussing on enforced disappearance in Egypt. She works on cases of enforced disappearance, torture, and detention conditions inside Egyptian prisons. Palestinian victims of enforced disappearance are one of her research interests, so she has started creating a database of Palestinians disappeared in Egypt and gathering data from their families about the disappearance incidents and other relevant information. She concludes her introduction, "*The unpublished database includes 150 Palestinians who have disappeared in Egypt.*"

Despite the limited access to participants, I took into consideration the diversity in research participation. I managed to interview one female participant to include the feminine perspective in my research. I tried so hard to find a Palestinian female former victim of ED in Egypt, but I did not manage to interview any. As I mentioned in a different part of my research project, males are more vulnerable to enforced disappearance. However, Egyptian authorities through the NSA forces also target women and forcibly disappear them. Human Rights Watch (2020) states "Egyptian security forces arbitrarily arrested and forcibly disappeared two women in recent days and later brought vague and apparently abusive charges against one of them". The authorities should fully disclose the whereabouts of the women and release them or present evidence to judicial authorities of criminal wrongdoing."

I intended to recruit Palestinians who were victims of enforced disappearance and human rights professionals who are experienced in Egypt's ED file as participants for

my research because there are some research projects conducted about ED in Egypt in general without a direct focus on Palestinians. Through this research project, I want to share the experience and vulnerability of Palestinians as victims of ED in Egypt and I want to add this focused topic to the academia for future researchers to build on and search on similar focus.

4.2 Data gathering

I collected the data from the participants through semi-structured qualitative interviews. I read Bryman (2016) and it helped me a lot with conducting the interviews and gathering data. By following the approach of semi-structured interviews, I prepared a guideline consisting of a few questions on relevant points of my research project to ask participants. Throughout the interviews, I applied Bryman's explanation of semi-structured interviews when he says, "... semi-structured interviewing is used so that the researcher can keep an open mind about the shape of what he or she needs to know about so that concepts and theories can emerge out of the data." (Bryman, 2016, p.10). I gave my participants the space to answer the questions and to give details without interruption from my side until they finished. While they were talking, I took notes on paper and asked follow-up questions when the participants did not give enough information or vague answers.

Semi-structured interviews are a very helpful research method and a tool for data gathering for my research project. Using this method helps me to create natural conversations and a comfortable atmosphere for my participants, as they were open to share their story, knowledge and data. Moreover, they showed interest in giving all the data related to the topics and themes I brought in my interview guide. According to Bryman (2016), unlike the structured interviews, semi-structured interviews are a bit flexible when it comes to the nature of questions and their order in a scheduled interview. The questions in semi-structured interviews usually come in a general form. The researcher is the one who decides how to run the interview and the order of the

questions as well as when he/she should add further questions depending on the data from the participants during the interview.

The interviews were very thorough and lasted between forty-five minutes to an hour. I was very organized before the interview with clear questions. I started the interview with an introduction about my research and its purpose. In addition, I briefly mentioned how important the participant's contribution would be to my research and the field. I asked them if they had any questions before I started asking the questions and they replied that everything was clear. Due to the absence of audio recording in the interview with the first participant (Omar), I was very careful to write down every single word that he said. One of the tricks I used during this interview was using abbreviations for long words. I gave Omar the time and space to answer each question without interruption, but I was marking some important parts of his answers, so I got back to them after he finished answering and I asked him for more details or elaboration on specific parts related to my research questions. Moreover, I get back to the participant with the final data that I will use in my research to confirm that everything is correct and accurate and if he needs to replace, omit or add anything. He confirmed that all data were clear and correct. In such cases, conducting interviews without audio recording is possible according to Rutakumwa, et al. (2020) where they gave an example by Rapley (2004) that highlights the importance of turning the recorder off if the participant asks for that. During the interview, I did not record the participant and wrote down the data he gave. By doing so, I respected the participant's request of not being recorded for confidentiality and his wish that his voice would not be captured by Egyptian authorities who scared him a lot.

Protecting the data I gathered from the interviews was one of my priorities. It is indeed important both for the participants and myself. Therefore, I used Nettskjema, a web-based solution that offers a secure collection of data through audio recordings or surveys. The solution is operated and supported by the University of Oslo (UiO). I used the Diktafon app to record the interviews and store the audio recording in a secured place where only my supervisor and I can access the gathered data.

All interviews were conducted online as my participants reside in different countries. Therefore, I use different online platforms to contact the participants and conduct the

interviews including Zoom, WhatsApp and Signal. The mentioned platforms were suggested and preferred by the participants. I had video chats with most of my participants and an audio call with one participant based on their request. Through the video chats, I managed to see beyond the words of my participants. Their facial expressions, sighs and pauses added a lot to the conversation.

Some technical issues appeared during the interviews due to weak internet connection, but I managed to complete the interviews. During one of the interviews, the connection went off from the participant's side, so I stopped the recording and saved it and started a new one when he called back a few minutes later. Therefore, I summarized the last point to him and asked the next question.

4.3 Ethical considerations and Limitations

I submitted my research project to the Norwegian Center for Research Data (NSD) and they approved the research project. I took into consideration the ethical issues provided by NSD and all the ethical principles mentioned in Bryman's book (2016). It is clear from the title of my research project that I am studying the vulnerability of Palestinian victims of enforced disappearance, so the first sample includes two former victims of ED in Egypt. Due to their vulnerability and the restrictions, they are facing, I informed them that their participation in the project was voluntary. Therefore, the participants had the right to withdraw from the research project. As my participants are living in different countries, I conducted the interviews online, but I was very aware of the participants' privacy, so I conducted the interviews in my room with no one around to make my participants feel relaxed. I sent consent forms to all participants and they gave me oral consent to use the data they gave, in addition to signed consent forms. According to Bryman (2016), the researcher should give a clear and thorough explanation to the participants about the research project in addition to important details about the organization that is responsible for the project and inform the participant on the purpose of the project. "Increasingly, researchers prefer to obtain the informed consent of research participants by getting them to sign informed consent forms. The advantage of such forms is that they give respondents the opportunity to be

fully informed of the nature of the research and the implications of their participation at the outset.” (Bryman, 2016, p.131). Furthermore, keeping the signed consent forms protects the researcher from any problems that could happen in the future, whether caused by participants or other people.

The issue of harm to participants includes maintaining the confidentiality of records. This means that the identities and records of individuals should be maintained as confidential. In other words, the researcher should be aware of protecting the participants from any harm by keeping their identities anonymous and when he or she presents the findings of his/her work, the researcher should show the individual identifiable. (Bryman, 2016). This is exactly what I informed the participants who were concerned about their identity. Therefore, I did not use any data that could identify them to a third party.

Regarding the ethics related to the use of the internet, especially social media platforms as channels of collecting data, I was very aware of sharing data or personal information in private messages only to the participant and not sharing any on a public platform. By this, I followed the tips that Bryman (2016) gives in his book regarding internet ethics. I wanted to use one visual image that shows my brother who has been a victim of enforced disappearance in Egypt for eight years. As he disappeared, I could not have his consent to share his picture, but I believe that sharing a brief of his story is very important to the research project, my family and his case.

Regarding the limitations I faced during the whole process of this research project, some of the potential participants refused to be interviewed for different reasons as I mentioned above. In addition, I could not interview the participants in person as they are living in different countries, so this would cost a lot of money and need more time. For some participants, it would be too risky to be interviewed in person in the country they are living now. However, I managed to conduct the interviews and gathered rich and important data with taking into consideration all ethical principles.

4.4 Coding and Analysis

Throughout this step of the research project, the researcher manages, analyzes and interprets the interviews transcripts. To analyze my qualitative data that I gathered from participants through the semi-structured interviews, I found that thematic analysis is the suitable method to make sense of the gathered data, especially the subjective data driven from my participants' experiences. I transcribed the data of the four interviews in this thesis manually by listening to each audio and writing down each single word and clarify the participants' gestures sometimes. I had to translate all of the interviews and data collected from Arabic to English by myself. Transcribing a recording that was about 30 minutes took around four-five hours, as I was very careful with the translation and the transcription. Bryman (2016) states "thematic analysis means that the researcher examines the collected data to extract main themes that could be distinguished between and within the scripts." (p.10). According to Bryman (2016), data analysis means reducing a large amount of gathered data and put it in a clear and meaningful way. Data analysis can refer to the analysis of either primary or secondary data. In my research project, I am responsible for collecting the data and conducting the analysis. Therefore, I am doing the analysis of primary data. Therefore, coding is one of the main steps to identify the main themes of scripts. Through coding, I broke down the data collected from the transcribed interviews into specific clear themes. Then, I looked for similarities and differences within and across my transcribed texts of the interviews conducted earlier. I identified the themes based on these interviews and the repeated words and concepts by the participants.

I used thematic analysis in this research project as I found that the interviews covered a group of important and relevant themes to my main topic. I read chapter 24 titled "Qualitative data analysis" in Bryman's (2016) and it helps me decide the thematic analysis as an analysis approach for my qualitative data. I followed the tips and the steps mentioned in the chapter. I started with the first step, which is reading the transcribed texts of the conducted interviews. Then, I coded the transcribed texts and put names for each code. The third step was to gather relevant codes from all transcribed interviews and elaborate them to a main theme. I tried to find connections between the concepts and if there is any characteristic in participants could vary the intensity of the concepts. The last step was writing up the analysis driven from the data and the identified themes and taking into consideration linking to my research questions.

As I mentioned above, taking into consideration the safety and confidentiality of my participants is very important for me as a researcher and for them as participants. I used pseudonyms. In other words, I coded the participants' names and replaced them with new names to keep their anonymity. In the following table, the reader can find the coded names to follow the data smoothly.

Table 1. Coding the Participants' names

Name	Description
Omar	A Palestinian former victim of enforced disappearance in Egypt
Akram	A Palestinian former victim of enforced disappearance in Egypt
Farah	Human rights Professional
Ibrahim	Human rights Professional

4.5 Positionality

My position in this research project is a bit complicated. I am a Palestinian researcher and I have a brother who has been a victim of enforced disappearance in Egypt for eight years now. The topic of this research project is very important and sensitive at the same time for me as a researcher.

During the whole process of research, I was aware that objectivity is needed and I worked hard to cover the topic from all possible aspects and not let my personal experience affect my objectivity. I consider myself an insider for the Palestinian participants as we come from the same background. Moreover, I was familiar with different topics brought up by the participants during the interviews such as the relations between the Egyptian and the Palestinian authority. Being a member of a Palestinian family that lost the trace of their son in Egypt and have been suffering from such a hard experience since day one of his disappearance makes the participants more

comfortable to share their experience as vulnerable participants. Both of the former victims of ED expressed their sympathy with all families of Palestinian victims of enforced disappearance and confirmed on their vulnerability as well. It is worth mentioning that I conducted this research project with transparency and without any biased intentions.

5 Findings: Analysis and Discussion

I used thematic analysis in this research project. After coding the gathered data of the transcribed interviews, I found the following main themes, which are mainly the levels of vulnerability of Palestinian victims of enforced disappearance in Egypt. First, their **vulnerability as victims of ED**. Second, their **vulnerability as Palestinian disappeared migrants**. Third, the **role of the Palestinian Authority** and its recognition. Fourth, the **effectiveness of the Egyptian legal system**. Fifth, the **vulnerability of families of disappeared persons**. The mentioned themes are driven by the gathered data and through discussion; I refer to some parts of the theoretical framework, vulnerability theory, and human rights of course.

5.1 Definition of Vulnerability: Uncertainty

I started my interviews with the general question “What is vulnerability in the context of ED from your perspective?” My participants gave relevant and similar answers, despite the differences in their positions. For example, Akram is one of the Palestinian former victims of ED in Egypt. He said, *As a Palestinian former victim of ED in Egypt, I felt that I was in a wild forest where no laws or human rights protection existed. As a victim of ED, I was a very weak and vulnerable abducted person in front of the power of the NSA and their weapons. Moreover, there was no documentation, legal papers or announcement on my disappearance, and my family and my lawyer knew nothing about me. My location was unknown to everyone, so I was under the risk of all human rights violations and this is what makes the victim of ED very vulnerable. In such a situation, the NSA forces deal with victims of ED with no mercy and they disappear people without documentation of their arrest or disappearance.*

Akram interconnected vulnerability with the insecurity and the violation of the right to security and liberty. He added,

The dominant feeling beside the vulnerability is the insecurity due to the absence of law in this case and no access to legal assistance or to a lawyer. Therefore, I felt that I was kidnapped by a gang although they are the NSA forces which belong to the Egyptian government. When a normal arrest happens, there is law between the country and the detainee, but in the case of ED, law is absent.

Therefore, I found that ED violates the right to liberty and security. The right to liberty and prohibition of arbitrary arrest and detention is one of the fundamental human rights. This significant right has been mentioned in all international human rights instruments. The following articles from different international human rights instruments stress on the right to liberty and security that is violated in all ED cases. ED deprive the disappeared person from their freedom and security from the first moment of arrest. “Everyone has the right to liberty and security of person. No one shall be subjected to arbitrary arrest or detention” as mentioned in ICCPR, article 9 (1). The right to liberty and security is also clearly appeared in ACHR article 7, ECHR article 5, AfCHR article 6, and ArCHR article 14. According to the National Council for Human Rights (of Egypt) (2016), “enforced disappearance represents one of the worst human rights violations as it deprives individuals of their legal alibi, and violates their right to liberty and personal security, and makes them vulnerable to the most dangerous patterns of violations like a violation of the right to life and the right to physical integrity. Enforced disappearance also causes disastrous situations to families, especially women and children” (p.3).

Ott (2011) addresses the two rights separately. First she explained the right to Liberty of the Person. The right to liberty of the person ensures that the person is free and has the freedom of movement. Any form of detention may lead to violation of this right regardless of the place where the detainee spends his/her detention period. Detention centers are some of the places that Ott (2011) highlights as places where a person may lose his/ her liberty. I believe that the situation becomes more complicated when the victim of enforced disappearance is imprisoned and disappeared in a secret prison. This is what usually happened in Egypt, based on the data collected from participants. Ott

(2011) mentions three groups of guarantees included in many provisions of several international instruments. The focus of the following guarantees is the right to liberty:

“The first group of guarantees provides for protection against arbitrary deprivation of liberty in general” (p.44). This could be clearly noticed in article 9 (1) in ICCPR. The second group of provisions is mentioned in article 14 ICCPR and it focuses on depriving liberty for criminal proceedings. While “the third group of guarantees provides for minimal standards, concerning the treatment of persons held in custody” (p.44). The third group is covered in article 10 ICCPR.

Ott (2011) shows that victims of enforced disappearance are under the provisions guaranteeing the right to liberty in general which is clear in article 9 ICCPR. This puts the duty to respect the state and it is prohibited to arbitrarily deprive a person of his/her liberty. This duty is violated if the state deprives the person of his/her liberty without paying attention or following the procedural requirements of domestic or international law. Enforced disappearance cases cannot be under the second or the third group of guarantees regarding the right to liberty because victims of ED are not criminals and do not disappear for criminality. In addition, the third group of guarantees concerning minimal conditions of detention does not cover the whole practice of enforced disappearance as a violation of the right to liberty.

Ott (2011) highlights the right to security the Person as an independent right and separate from the right to liberty. She shows that the content of this right has been controversial. Moreover, for its independence, she calls for the protection of the right to security from possible threats other than the ones related to the right to liberty.

Farah, who is one of the human rights professionals, answered the first question by giving a definition of vulnerability based on the situation that the victim of enforced disappearance lives, “*The common thing that makes all victims of enforced disappearance vulnerable is the uncertainty. The victim of ED in Egypt’s prisons lives the uncertainty every day, as they are not sure if they will be killed or tortured and they could not anticipate what will happen next.*” (Farah).

I found that the uncertainty is the main part of the definition of vulnerability in the case of ED depending on the data I collected through the interviews. Ibrahim who works as

human rights researcher also agreed with Farah on the concept of uncertainty as the main part of the vulnerability of victims of ED when he said, “ *First, enforced disappearance is a crime that kills (metaphorically) a group of people; the disappeared victim and their family. Vulnerability is the fear of harm; victims of ED are afraid of being the reason for their families’ suffering and oppression while they are looking for them. The victim of ED is vulnerable since the first moment of detention and disappearance, as he/she has no control on anything of their life now and being afraid of all violations especially death and torture. Unlike if a person is arrested and transferred to an official prison, the victim of ED has no contact with his or her family. He/she has no access to justice through a lawyer either. The victim of ED is deprived of all those rights and the uncertainty regarding his location and his situation makes him/her a 100% vulnerable person.*” (Ibrahim).

5.2 Vulnerability of victims of ED

I argue that the vulnerability of victims of ED in Egypt occurs due to multiple rights violations at all the levels mentioned by Fineman (2017) including the physical, social, spiritual and I will add the legal level as well. After reading hundreds of academic articles, reports of human rights organizations and news articles about enforced disappearance and the human rights violations that occur clearly in the majority of cases of enforced disappearance, I was speechless.

This inhumane practice violates almost every single human right including several fundamental rights such as right to life, right to recognition as a person before the law, right to liberty and security of the person and right not to be subjected to torture and other cruel, inhuman or degrading treatment or punishment. The mentioned violations were highlighted in the 1992 Declaration as it considers the practice of ED by the states as a violation of the rules of international law. All of my participants addressed almost the same human rights violations and confirmed that they occurred in their cases while detained in secret prisons in Egypt.

I asked Omar to explain more and describe all aspects of life including the food, sleep, mental health, activities and social interaction if any during his arrest and

disappearance. He started his answer, *“from the first moment the NSA took me, I felt vulnerable because they were cruel and treated me in a bad way (...) the detention conditions were very hard; the NSA officers tortured me during the investigation. The torture was inhumane with electric shocks. I was fully naked on the floor, my hands cuffed behind my back and they connected an electric cable from my toes to my tummy. One of the NSA officers had an electric shocker and hit my heart, my face and all parts of my body. I was so weak at that moment and every time I screamed, they went mad and became crueler.”* He took a deep breath and said, *“The torture was very terrible and painful. Every time they (he means NSA officers) opened the door of my cell, I felt terrified of taking me to the investigation room.”* (Omar)

One can clearly notice the violation of the right to be free from torture and inhuman and degrading treatment. The right not to be subjected to torture and other cruel, inhuman, or degrading treatment or punishment is one of the main violated rights in the case of ED. The victim of enforced disappearance is outside the protection of the law, so this makes him vulnerable to inhumane treatment and torture. I agree with Sarkin (2012) when he described the crime of ED as “a composite crime that occurs with many wrongdoings, including abductions, unlawful arrests, secret detentions (and therefore placing of the victims in unknown places and, consequently, outside the protection of the law), torture, extrajudicial executions, and the hiding or destruction of human remains.” (p. 538). Moreover, Sarkin (2012) addresses the serious human rights violations which occur due to the practice of enforced disappearance including the right not to be tortured and other fundamental rights as mentioned in this section.

Omar mentioned that his disappearance lasted two months and a half and during that time, he was tortured with the same way for four times. *“I was always in terror and panic of being tortured.”* Omar added. He thinks that the place where he was tortured has soundproofing because when he was back to his cell, he used to hear a low voice of other people being tortured.

“I can summarize my vulnerability with the following feelings: terror and bad mental health because I’m not able to speak up. I feel I am stuck and know nothing about my fate. I was begging them to fabricate a charge to end this pain.” “From day one of my detention, I was feeling that I am a vulnerable person, but the moment that I felt the

extreme vulnerability was when they took my clothes off and blindfolded my eyes. I started begging them to cover me. I was very vulnerable and had nothing to do except begging.” (Omar)

I believe that the NSA forces use torture and inhumane punishment not only to harm the victim of ED physically, but also to dehumanize the victim and degrade their inherent dignity.

Omar provided more details about the daily life in the secret prison as a victim of ED in Egypt. *“The living conditions in the cell were very poor; I used to sleep on the floor with a brick stone under my head and used it as a pillow. This made me feel that I was not a human. I was allowed to go to the toilet once a day and some days they did not allow me to use the toilet until the next day. This was dependent on the NSA officer’s mood. About the food, one small meal a day usually includes jam and a piece of bread.” (Omar).*

I found that the physical resources mentioned by Fineman (2017) are absent in the case of victims of ED. Therefore, they are vulnerable to the absence of the resources to cover the basic needs of a dignified life. I asked Omar if during his disappearance he was allowed to do activities such as sports; he laughed and said, *“This is only in movies; I could not pray the five prayers because I was not allowed to do Wodo (ablution) and I was handcuffed and blindfolded.”*

Moreover, I found that the victims of ED in Egypt are vulnerable due to the absence of spiritual life which is needed to calm the victim down sometimes. Akram shared his experience, which is a bit different from Omar’s, but still he expressed his vulnerability and his violated human rights, *“During the disappearance, I was in a secret unknown place blindfolded and handcuffed tied with the wall and on the ground. I felt very humiliated as there was no proper place to sit or sleep. Later, I discovered that the place in which I disappeared was an empty office of the NSA. However, in the majority of ED cases, victims are detained collectively in rooms in secret prisons without the needed resources for human life. Victims are always blindfolded, handcuffed, amde to sit on the ground and tortured during their disappearance.”*

Akram expressed the feelings he had during the disappearance and his mental health. He added, *“Regarding my mental health, it was so intense of many mixed feelings including anger, uncertainty and fear of torture and murder. The majority of victims of ED disappeared secretly with no witness or follow-up of their existence. Moreover, the victim of ED lives in a big uncertainty asking themselves many questions: When will their family start looking for them, to know their location and to help them out? So, this makes the victim of ED very vulnerable. Recalling all memories and happy moments was my way to reassure myself and to calm down. In my case, the presence of my wife as a witness in the moment of my arrest makes my experience as a victim of ED different from other Palestinian victims of ED in Egypt. The NSA took into consideration that my wife could investigate and demand them to release me, so they were so careful. They did not feel free to torture me or murder me. However, the comprehensive human rights violations and the ongoing overthinking made me so vulnerable.”* (Akram).

When I asked Akram about any activities that the victim of ED might do during the disappearance, he answered with a bitter laugh, *“I was not allowed to move and when they got me food, they untied one hand only. It was prohibited to pray or practice any other activities like sport. The place was not prepared for such activities.”*

As I mentioned in the theoretical threadwork, Fineman (2017) addressed that humans are embedded beings, so they cannot live a normal life while isolated from other human beings. In the case of victims of ED, Akram confirmed, *“There was no social interaction with anyone from the guards; they left me with a full-mind of uncertainty. As a way of resistance, I refused to eat one day, but they threatened me and forced me to eat. Therefore, many of my human rights were violated during my disappearance and I had been treated inhumanly; for example, the guards were pushing me while I was blindfolded and handcuffed and this led me to lose balance and fall on the ground. Moreover, at some point I was transferred by the NSA to a deep basement in a secret detention place where they pointed a strong light on me as a way of torturing me.”* (Akram).

Victims of ED may suffer from different forms of torture or other cruel, inhuman or degrading treatment and this is considered as violation a fundamental human right

highlighted in different international human rights instruments. The Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT) is an international convention which focuses on the right not to be subjected to torture and other cruel, inhuman or degrading treatment or punishment. Moreover, this right is covered in the following articles in different conventions and international instruments; article 7 ICCPR, article 3 ECHR, article 5 AfCHR and article 13 ArCHR.

Enforced disappearance can generate many human rights violations including torture as stated in Article 1(2) of the 1992 Declaration:

Any act of enforced disappearance places the persons subjected there outside the protection of the law and inflicts severe suffering on them and their families. It constitutes a violation of the rules of international law guaranteeing, inter alia, the right to recognition as a person before the law, the right to liberty and security of the person, and the right not to be subjected to torture and other cruel, inhuman or degrading treatment or punishment.

Torture has many forms and it is worth mentioning here the definition of torture as stated in Article 1 of CAT (1)

For the purposes of this Convention, the term "torture" means any act by which severe pain or suffering, whether physical or mental, is intentionally inflicted on a person for such purposes as obtaining from him or a third person information or a confession, punishing him for an act he or a third person has committed or is suspected of having committed, or intimidating or coercing him or a third person, or for any reason based on discrimination of any kind, when such pain or suffering is inflicted by or at the instigation of or with the consent or acquiescence of a public official or other person acting in an official capacity. It does not include pain or suffering arising only from, inherent in or incidental to lawful sanctions

With my focus on the Egyptian context and Palestinians who disappeared in Egypt, I gave more attention to reports and news articles authored by Egyptian and international human rights organizations working in Egypt. According to the Egyptian Commission of Rights and Freedoms (ECRF), one of the well-known organizations

working closely on ED in Egypt, victims of enforced disappearance are suffering in the headquarters of National Security in Egypt. ECRF has been interviewing many released prisoners who had been victims of enforced disappearance in Egypt. According to these interviews, previous victims of ED confirmed that they were subjected to all forms of physical and psychological torture. The National Security Agency (NSA) in Egypt usually forces ED victims to confess to committing crimes which they have not committed. NSA forces use torture and inhumane punishment to extract such fabricating confessions. One of the most common fabricated charges is affiliation with “terrorist groups” as the Egyptian authorities describes them or implementing acts opposing the government.

As I mentioned earlier, ED leads to depriving the disappeared person of the protection of the law. Moreover, it makes victims of enforced disappearance more vulnerable to other violations such as torture and ill-treatment. Human Rights Watch (HRW) has been reporting thousands of ED cases in Egypt. According to HRW (2021), ED practice done by the Egyptian security forces under President al-Sisi’s government put victims of enforced disappearance outside the protection of law and this makes them vulnerable to severe torture and inhuman treatment. Moreover, “enforced disappearances may constitute crimes against humanity when so widespread as to suggest it is state policy, as is the case in Egypt.” (Human Rights Watch, 2021). Amnesty International (2016) in its report *“Officially, you do not exist”* confirms that wherever the disappearance happens, it may lead to inhumane punishment and torture against the victims. In Egypt, the authorities gave permission to the NSA to use different forms of torture against the disappeared persons to extract confessions. Moreover, the NSA uses torture on disappeared victims to collect data about other activists or normal citizens and put charges on them under the Penal Code or Counter-Terrorism Law. Under the new Counter-Terrorism Law, the Egyptian police have arrested people without referring to a prosecutor for 24 hours to hold a suspect according to (Amnesty International, 2016).

In addition, Amnesty International is an active human rights organization working on enforced disappearance in Egypt, interviewing previous victims and documenting human rights violations. Amnesty International (2016) confirms, *“In almost all of the cases documented by Amnesty International, detainees allege that during their*

enforced disappearance, NSA officers tortured and otherwise ill-treated them in order to obtain “confessions” that could be used at trial to convict them or others, including friends and relatives who oppose or protest against the government.” (p.41)

From a different position, Farah addressed the vulnerability of victims of ED in Egypt due to the poor living conditions and human rights violations through her experience as a researcher in the file of ED in Egypt. *“The victim of ED lives the highest level of vulnerability because he or she does not have any control on his/her life including the way he/she sleeps, the hours he/she eats and drinks, and when he/she can speak. On the other hand, there is someone else [the prison guards] who is controlling the victim’s life and has the power to decide how and when the victims can do things such as sleeping, eating, using the toilet, talking, and other human beings’ actions. I believe that living in such a situation makes the person very vulnerable with no control on even the simplest things in life.”*

She paused for a few seconds and had a deep sigh, *“All human rights are violated; the right to freedom, right to recognition, the right to security, right to free movement, right to healthcare. Literally all human rights covered by international human rights instruments and conventions are violated. I cannot mention every single right now, but regarding the right to life, the victim of enforced disappearance is not sure if he or she will be alive to the next day.”*

Farah mentioned how victims of ED suffer every day during their disappearance period in secret prisons in Egypt at different aspects of daily life. She included, *“The food: based on testimonies of former victims of ED in secret prisons in Egypt, they said that they had only half of loaf of bread with a small piece of cheese every day. Frequent showering is prohibited in the secret prisons and victims of ED do not change their clothes. In the showing time, victims of ED are treated inhumanly as the prison guards pour water on them collectively. It is worth mentioning that skin diseases are very common among the disappeared victims in Egypt’s secret prisons due to the lack of hygiene, the unclean place, and lack of proper lighting.”*

Farah added, *“Regarding sleep, based on testimonies of former disappeared persons, victims usually sleep while sitting on the ground as the detention room is very packed with people. For example, in a prison cell that fits only for 10 people, one can find*

70-80 people packed in the same room where one cannot stretch their leg. Sometimes victims make shifts for sleep, so one group squeezes to the corners to let the other group sleep for a certain time and then switch.” (Farah).

Ibrahim provided a similar description of the daily life suffering of victims of ED in Egypt, *“From the first moment of their disappearance, the victims are deprived of all human rights. Starting with the fundamental needs including sleep, food and shower, they have no access to any of these needs. The food is very bad and in limited quantities, and water is undrinkable. This causes diseases for the victims.”*

Farah described the extra activities including religion practicing and sports as luxurious in the secret prisons in Egypt. *“Unlike the normal registered prisons in Egypt, the secret prisons which are used to make people disappear are not identifiable. Egyptian authorities always deny the existence of these victims and such prisons. These prisons are not documented or registered as detention prisons, so they lack the basic and fundamental human rights. Practice of religion and sport activities are considered as a luxury.” (Farah).*

Ibrahim addressed this point as well and said, *“the detention conditions is very poor there, so there are no facilities for sports, prayer or any other activities that could lead to social interaction with other people who can inform the victim’s family of their son existence and location or to report the disappeared victims to a third party.” (Ibrahim).*

All participants provided data about the torture and clear violations in the secret prisons in Egypt. Therefore, torture and inhumane treatment are among the main violations that Farah addressed in the interview. *“Regarding the torture and inhumane treatment that victims of ED are facing during their detention and disappearance in Egypt’s secret prisons, the situation is indescribable. The Egyptian prisons’ guards use torture and the most inhumane ways to force victims of ED to confess something they have never done it. It is a policy of fabricating charges. It is common in such prisons that victims of ED are always handcuffed and blindfolded. The victims are handcuffed in different ways such as two-hands cuffed behind their back or one hand one leg cuffed.” Ibrahim highlighted the same point of torture, “there is a clear violation of the right to not*

subject to torture, as the victims of ED in Egypt are tortured physically and psychologically.”

There are different forms of torture that Egyptian authorities, especially NSA forces, use to torture the victims of enforced disappearance. “ *The most common methods of torture used by the NSA, according to former detainees, their families and lawyers, are beating; prolonged suspension by the limbs from a ceiling or door while handcuffed and blindfolded; and the application of electric shocks, mostly using electro-shock weapons, to the genitals and other sensitive areas of the body and face.*” (Amnesty International, 2016, p.42)

According to interviews conducted by Amnesty International, former detainees and victims of ED in Egypt addressed the “grill” method as a form of torture “... in which the victim is rotated over a rod inserted between his tied hands and legs and balanced between two chairs” (p.42). Moreover, victims of ED during their detention in NSA places and secret prisons live in inhumane conditions. They are vulnerable and deprived of their privacy. In some cases, they stay in very crowded places, handcuffed to each other most of the time.

Egyptian authorities are very careful and concerned about international obligations. So, they try to hide any evidence of human rights violations occurring during enforced disappearances. According to Amnesty International (2016), the NSA in Egypt appears to change the dates of disappearance on victims in their official documents. They try to cover the illegal practice of ED and all human rights violations happening during disappearance. In addition, “the authorities’ refusal to allow lawyers access to forensic medical examinations of detainees in the rare cases when these are ordered by prosecutors suggests that the authorities wish to withhold possible evidence of torture or other ill-treatment” (p.41).

Amnesty International (2016) also highlights that Egypt’s system of repression assigns the NSA and other security officials to deal with victims of enforced disappearance and torture them. They always use inhumane punishment tools and ways to torture the victims of ED for being critics of the system, journalists or human rights defenders in most cases. In addition, the purpose of torturing the victims of ED is to deter any opposition from the victims’ families and friends. Egyptian authorities try to find

justifications for human rights violations in the ED cases through its criminal judicial system. This system "...relies on torture-tainted "confessions" to convict defendants in trials that fail to respect the right to due process and often result in long prison terms or death sentences" (p.10).

The right to life is one of the most fundamental human rights. However, states may violate this right by forcibly making persons to disappear. There are many international human rights instruments which cover the right to life including the International Covenant on Civil and Political Rights (ICCPR) article 6, the European Convention on Human Rights (ECHR) article 2, the American Convention on Human Rights (ACHR) article 4 and Arab Convention on Human Rights (ArCHR) article 5. In addition, the African Charter on Human and Peoples' Rights (AfCHR) (1981) highlights: "Human beings are inviolable. Every human being shall be entitled to respect for his life and the integrity of his person. No one may be arbitrarily deprived of this right." (Article 4). In most cases of ED regardless of the country in which it happens, disappeared persons are living in ongoing fear of death. Indeed, disappearance, torture, and lack of health care may cause the death of the victim. My participants stressed on the violation of the right to life and demonstrated that such a risk is very serious. *"There are some cases of disappeared victims who were killed due to torture and the absence of healthcare in Egypt's secret prisons. Farah concluded, "Due to the mentioned living conditions, the secret prisons in Egypt are not a habitat for human beings to live, sleep, eat or do anything as a dignified human being."* (Farah).

The fear of death among the victims of ED is not groundless. . *"Based on testimonies of disappeared victims, from the first moment of their abduction and disappearance, they feel uncertain and terrified of being killed and tortured until death or being disappeared forever."* (Ibrahim). He added more details about the healthcare situation and the spread of health problems and diseases among the victims of ED that may lead to death.

"The infrastructure in the secret prisons in Egypt is very bad; the floor is wet due to the humid weather and there is no fresh air inside, so this leads to serious health problems among the victims. Therefore, Egyptian authorities refuse to admit their existence, so there is no healthcare system inside the secret prisons and victims with a bad health situation may die inside." (Ibrahim).

According to the Human Rights Committee, enforced disappearance is a practice where the right to life may be violated in most cases. General Comment No. 36 highlights the right to life.

It is the supreme right from which no derogation is permitted even in situations of armed conflict and other public emergencies which threatens the life of the nation. The right to life has crucial importance both for individuals and for society as a whole. It is most precious for its own sake as a right that inheres in every human being, but it also constitutes a fundamental right whose effective protection is the prerequisite for the enjoyment of all other human rights and whose content can be informed by other human rights.

Moreover, according to ICCPR article 6.1, “Every human being has the inherent right to life. This right shall be protected by law. No one shall be arbitrarily deprived of his life.”

The above comment and articles emphasize the importance of the right to life and its protection by law and states. Victims of enforced disappearance are vulnerable to lose their life during their disappearance, so the right to life may be violated in most cases of ED.

Human rights watch (2021) published a report titled “Security Forces Dealt with Them”, Suspicious Killings and Extrajudicial Executions by Egyptian Security Forces. The report highlights the human rights violations against ED victims in Egyptian secret prisons. Moreover, in this report, HRW describes ED as a serious violation of international human rights law as it may lead to death in most cases. HRW report shows that the majority of documented killed persons had been victims of ED in Egypt for different periods. Therefore, the Egyptian government announced their deaths without giving details for the families in addition to changing the dates and fabricating charges for the victims.

I believe that family is a source of love, security and support. Both the universal declaration of human rights and ICCPR article 16 and article 23 respectively stress on the importance of family. Both articles contain the main idea that the family is the foundation stone of every society and state that should protect and respect it. Considering victims of enforced disappearance who have been away from their

families for years without any communication, this right is violated in such cases of ED. REDRESS (2021) states that the UNWGEID covers different human rights violations that occur in ED cases including the right to family life.

Ibrahim gave a clear comparison between the official prisoner and the victim of ED in the secret prisons in Egypt and showed how the latter and their families are more vulnerable.

“Although I have been working closely on the file of ED in Egypt, it is hard to describe the feelings of both of the victims and their families and how vulnerable they are. Some of their feelings are terror, anger and uncertainty. I would compare between the official detainees and the victims of ED; the first group is more reassured because they know their situation and they have contact with the outside world. In addition, the families may visit their detained beloved ones. On the other hand, the victims of ED are deprived of all human rights including the right to a fair trial and legal assistance from a lawyer and the right to family life as the family does not know the fate and whereabouts of their disappeared one who lives away from family and they cannot visit him/her.” (Ibrahim).

Ott (2011) also proposes that ED violates the right of the family due to the cut of communication that ED causes in almost all cases. Therefore, family members stay apart from each other until the disappeared one appears again or get official accurate information about his/her fate and whereabouts. States are obliged to protect the right to family life and to fulfill their duties to respect, duties to protect and duties to fulfill the right to privacy and family life.

To conclude, these are some of the human rights violations that occur during the enforced disappearance against the victims based on the analysis of collected data in this research project. Moreover, the United Nations highlight other human right violations including the right to an identity, the right to a fair trial and to judicial guarantees, the right to an effective remedy, including reparation and compensation, the right to know the truth regarding the circumstances of a disappearance, the right to health and the right to education.

5.3 Vulnerability as Palestinian Disappeared Migrants in Egypt

This research project focuses on the Palestinian victims of ED in Egypt. One of the main theme is the vulnerability of Palestinian disappeared migrants in another country, which is Egypt in this research. In this context, Palestinian victims are considered as non-national without networks or family members in the majority of the cases. Moreover, I will cover their vulnerability as stateless disappeared migrants. By interviewing Omar and Akram as Palestinian former victims of ED and Farah and Ibrahim as human rights professionals, all of them highlighted the extra suffering of Palestinians as victims of ED in Egypt at different levels.

I started Omar's interview with an open question about the circumstances of his disappearance and I gave him the time to tell me the story. He replied that he left Gaza to Egypt for studies and he was very careful and never broke any rule as he said, *"Palestinians should be careful in Egypt as they are under the microscope."* By this expression, he meant that Egyptian authorities put the Palestinians on the focus and they may spy on them. During the period he fell victim of enforced disappearance, he was a student finishing his last study requirements. *"I was at my apartment that I rented in Egypt when the Egyptian National Security Agency forces arrested me and disappear me for two and a half months without any charge."* (Omar).

The vulnerability of Palestinian disappeared victims in Egypt starts even before their disappearance due to the hard living conditions they used to live in in Gaza and the occupied lands as I mentioned in the Palestinian context under the introduction chapter. Then their vulnerability moves to the next level as migrants seeking medical treatment, studies, and refuge or using Egypt as a transit country. I argue that migrants are one of the main groups who are vulnerable to disappearance. I read many articles, which cover the topic of ED and give extra attention to disappeared migrants in particular due to the commonness of such cases. Baranowska (2021) highlights that the phenomenon of migrant disappearance has become popular and receives more attention among the countries. "Every year thousands of migrants and refugees disappear on route to reach their destination country or in the country itself." (p.10). Moreover, she refers to the "Guiding Principles for the Search for Disappeared Persons" adopted by the Committee

on Enforced Disappearances (CED) in April 2019 and the required attention to the particular vulnerability of migrants. Although the term migrant is not defined clearly in international law, the term disappeared migrant is usually used in the context of enforced disappearance. I use the term “disappeared migrant ” in this research project and not “missing migrants” because the first term refers to the persons with unknown fate and whereabouts while the second one that is used by the International Organization of Migration refers to those who vanished.

One of the important conclusions I found in Baranowska (2021) is regarding the state responsibility “All States that authorize, support or acquiesce to an enforced disappearance are responsible for the enforced disappearance” (p.18). In this research project, I study the Palestinian migrant disappeared in Egypt, so I argue that Egypt is responsible for their disappearance. According to Human Rights Watch (2016), the new migration law issued by the Egyptian government claims that "appropriate measures" will be available for the sake of migrants’ protection. In addition, the Egyptian government promises to prohibit any violation against the migrants’ right to life, right to health care, and right to legal assistance. Human Rights Watch (2016) criticized Egypt’s new migration law because it does not highlight other rights such as education and access to courts. Regarding the migrants’ rights and despite all promises that the Egyptian government always gives about protecting the migrants and their rights, the situation in real life is very disappointing especially when it comes to Palestinian disappeared migrants in Egypt. The detention and disappearance conditions are worse when the detainee is a Palestinian person. The way that Egyptian prisons guards treat Palestinian victims is unfair and inhumane sometimes.

“The living conditions in the NSA detention places are very bad; victims of enforced disappearance, especially Palestinians, are treated inhumanly as there are restrictions on using the toilet. I was only allowed to use it once a day and sometimes once in two days. Sleeping on the floor without any sheets was one of the many things that disgraced my human dignity. As Palestinians, we mean nothing for them (Egyptian authorities). Detaining Palestinians and disappear them in unknown secret places makes the NSA officers careless even about the death of these Palestinian victims. One of the NSA officers pointed the pistol to my head and threatened me to confess or he would send me to Sinai and kill me there and tell my family that I was killed in

firefights. When he could not get a confession from me, he smacked me and I saw the hatred and wildness in his eyes.” (Omar).

Akram addressed the same idea of unworthiness (degrading the value of Palestinians) that Omar highlighted. Moreover, Akram and Farah stressed the way that Egyptian authorities treat Palestinian victims of ED in comparison to other nationalities, especially western ones.

“When it comes to Palestinians, Egyptian authorities and the NSA forces are degrading Palestinians, as they believe that Palestinians have no power or do not belong to any recognized country, so no one will demand their release or look for them. Compared to other victims of ED in Egypt from other countries, especially western nationalities, Egypt is very careful when dealing with them and takes into consideration the relations with the other country in addition to their demanding of the victims’ release and any other obligations. The NSA forces usually deal with Palestinian victims as political detainees, so this always make their cases more complicated and make them more vulnerable. Egyptian authorities always underestimate and degrade Palestinians in general and Palestinian victims of ED in particular.” (Akram). Farah stressed that the Palestinian victims of ED in Egypt have been treated much worse than other victims by the Egyptian forces, “The violated human rights in the case of ED is “human” rights violations, so regardless the nationality of the person, I believe the violations occur in such cases are generally human rights violations. However, the way Egyptian authorities deal with Palestinian victims of ED is much worse, compared to Egyptian victims of ED. On the other hand, they are very careful when dealing with victims from other countries.”

Being stateless migrants in Egypt, Palestinians are more vulnerable to enforced disappearance, torture, and inhumane treatment. *“The Palestinians are considered easy prey for the NSA in Egypt as a stateless migrant who has no country or officials to demand his/her release. Moreover, most of the cases of Palestinian victims of ED in Egypt were by themselves as migrants, so this makes them and their families more vulnerable to extortion.” (Ibrahim). “Egypt uses the practice of enforced disappearance against Palestinians and treats them worse than other victims because Egyptian authorities believe that Palestinians have no one on their back.” (Farah).*

I found another remarkable and repeated sub theme under the vulnerability of Palestinian victims of ED that leads to their disappearance and increase the number of ED cases among Palestinian migrants in Egypt. All of my participants repeatedly mentioned the practice of incitement against Palestinians in general and Palestinian victims of ED in particular. Therefore, I found that such practice and hatred make Palestinian victims more vulnerable to all human rights violations.

“It is purely political. The propaganda and incitement by the Egyptian authorities and their tools as media is the main reason and this is obvious among the public and how the media affect them. Especially after the military coup in Egypt 2013, the Egyptian governmental media channels started publishing news that Palestinians were part of this coup and they participated in terrorist activities such as the killing of the Egyptian soldiers in Sinai and by the borders between Egypt and Gaza, Palestine. After spreading such fake news, the Egyptian government through the NSA disappeared Palestinians randomly most of the time. Due to this propaganda, some Egyptians use it as a credit card to accuse a Palestinian of being a terrorist and this is enough reason for the Egyptian government to detain and disappear them.” (Farah).

I found that the Egyptian authorities and their propaganda against Palestinians may give the green light for the NSA forces to humiliate Palestinian victims of ED in the secret prisons in Egypt and to violate their human rights without any fear of accountability.

“(...) such incitement and hatred encourages the prisons’ guards to humiliate, degrade and violate the human rights of the Palestinian victims. The severe torture is one of the main violations against Palestinians in the Egyptian prisons and based on testimonies of Palestinian former victims that I know told me about the systematic torture that the Egyptian guards use against them including targeting their private parts by the electric shocks. Egyptian authorities deal with Palestinian victims, as they are not human enough to protect their human rights.” (Akram).

5.3.1 Fabricating charges

“I think the current government in Egypt under the rule of Abd-Alfattah Al Sissi does not have a clear criterion regarding the practice of ED against individuals in general. However, Egyptian authorities detain Palestinians and forcibly disappear them for common accusations and fabricated charges including affiliation to terrorist groups and participating in their activities with no evidence in the majority of cases.” (Ibrahim).

Fabricating charges is a common policy implanted by Egyptian authorities when they do not have any charge approved against the person. Afterwards, they justify their unfair illegal act of disappearance and inhumane treatment against the victims with any fabricated charge. In the case of my first participant identified as Omar, the NSA officer tried to give him an unrealistic charge of assassinating “Al-Sadat”. Muhammad Anwar el-Sadat was an Egyptian politician and military officer who served as the third president of Egypt who was assassinated on 6 October 1981. Omar was born after the date of Al-Sadat’s assassination and when the NSA officer found out this could be unrealistic, he tried to find another fabricated charge to accuse Omar.

“After they decided my release and to end my disappearance, they forced me to sign on a false and fabricated charge that I was detained for being a Palestinian walking on the streets of Egypt without my passport.” (Omar).

“There is clear hatred against the Palestinians among the prison guards and the NSA forces who always give fabricated charges including the affiliation to terrorist groups and participating in terrorist activities.” (Akram).

Moreover, Farah gave examples of common fabricated charges against Palestinians in the context of ED. *“Examples of the fabricated charges against Palestinian victims of ED in Egypt include joining terrorist groups, participating in terrorist activities and publishing and promoting fake news criticizing the Egyptian government.”* (Farah).

5.4 The absence of the Palestinian Authority’s role

There is a lack of recognition toward Palestinians due to their statelessness and this is applicable on the Palestinian disappeared migrants in Egypt. As I mentioned in the

introduction chapter, the unstable political relations between Egypt and the Palestinian authority plays a main role on the vulnerability of Palestinian victims of ED in Egypt. *“One of the different reasons that Palestinians victims of ED in Egypt have been treated in such a bad way is the unstable situation in Palestine and the common belief that Palestinians have no one (authorities) to demand their release or the disclosure of their whereabouts.”* (Farah).

In addition, the complicated situation due to the Palestinian internal conflict which affects the responsibilities and the recognition of the Gaza government in the eyes of the Egyptian authority.

“The Palestinian authority does not have a prestigious rank or enough recognition in Egypt. Before the Oslo agreement, the Palestinian Liberation Organization(PLO) had a remarkable role in such topics with Egypt and managed to put pressure on Egypt and help and protect Palestinian victims in Egypt. On the other hand, Egypt is not taking the PA and the Gaza government seriously and this leads to underestimating Palestinian victims of ED in Egypt.”(Akram).

From another angle, the relations with Egypt and Israel and their shared interests also play a significant role concerning the Palestinian victims of ED in Egypt. Based on the collected data from my participants in this research project, the Palestinian Authority as a representative of all Palestinians, does not do the normally expected effort to follow-up the situation of Palestinian victims of ED in Egypt. On the other hand, one can see the efforts that other countries and governments make when their citizens disappear or are detained in other countries.

The political relations play a remarkable role in the file of enforced disappearance and sometimes the Palestinian authority accepts the human rights violations against their disappeared people in Egypt because they want to keep the relations with Egypt and do not bother them in demanding or putting pressure on them to release the victims. In the majority of cases of Palestinian disappeared migrants in Egypt, the Palestinian authority through their officials only interfere if there is a personal relationship with the victims or their families.

“Later I found out that my family managed to contact the Palestinian President office through networks. A Palestinian official interfered and with his network in Egypt especially with the NSA officers. Therefore, I was released and the suffering of my release journey started. As a Palestinian from Gaza, the deportation process and

decision is linked to the situation on the borders between Egypt and Gaza which was opened for a few days in every 3 months at that time.” (Omar).

However, I believe that the Palestinian Authority has the responsibility to help every single Palestinian disappeared person in Egypt regardless of his or her affiliation or networks.

“From my experience, I believe that the Palestinian authority takes the responsibility to demand the release of a disappeared person in Egypt when he or she or their family has important networks with the authority.” (Omar).

“In most of the cases of Palestinian victims of ED in Egypt, the Palestinian authority has no role in demanding the release of these victims except in the case of Palestinians who have strong networks with the Palestinian authority official or have a family member affiliated to their groups and organizations.” (Akram). Therefore, Palestinian disappeared migrants in Egypt who do not have networks or relations with any officials are not lucky enough or human enough to be recognized for the authority to demand their release and follow - up with their cases seriously.

“The Palestinian authority did nothing! My family and my networks tried to put pressure on the Palestinian authority to demand my release and discuss my case with the Egyptian authority. However, my family got a response from the Palestinian authority quoting the Egyptian response that they are detaining me for a reason. I believe that the Palestinian authority was part of my suffering and vulnerability as a Palestinian victim of ED in Egypt and they violated my human rights as well. The Palestinian authority does not perform its responsibility as a representative body of all Palestinians and it has an absent role in protecting Palestinians abroad especially in Egypt and preventing human right violations against them.” (Akram).

5.4.1 The shared responsibility

Egypt is responsible for the disappearance and vulnerability of these victims. Therefore, Egypt must disclose the fate and whereabouts of all Palestinian victims of ED in the Egyptian prisons and release them or the bodies of the dead ones.

“Egypt is the responsible country for disclosing the fate and whereabouts of disappeared Palestinians in Egypt in addition to the responsibility of the Palestinian authority as an official recognized body that represents all Palestinians in Gaza and other parts of occupied Palestine.” (Farah).

The participants in this research project confirmed that the Egyptian authority could use the Palestinian disappeared migrants as a pressure tool to achieve their political goals.

Moreover, they mentioned that one of the reasons behind the practice of ED against Palestinians is using them as a pressure tool to negotiate with the Palestinian authority and the government in Gaza; Israel could be involved as well.

“Egypt takes advantage of the vulnerability of Palestinians, the internal Palestinian conflict and the lack of recognition. Moreover, it is so sad how Egypt uses the Palestinian victims of enforced disappearance as a political pressure tool on the government in Gaza and the Palestinian Authority to achieve some political regional goals.” (Farah).

“Palestinians in general have been facing two faces of oppression; the Israeli occupation that is the main reason behind the migration of Palestinian to Egypt in order to seek a better life and the second one is from the Egyptian governments that do not respect the Palestinians.” (Ibrahim).

“Being a non-national “Palestinian” in Egypt is not as promising as the Palestinian migrants think. Unfortunately, the Egyptian governments have been oppressing the Palestinian victims of ED and violating their human rights for years. The Palestinian victim of ED in Egypt in most cases does not know the reason behind their disappearance and this is part of their vulnerability. In addition, as victims, they do not have any control on what is happening and they cannot defend themselves or ask for legal assistance or a lawyer.” (Ibrahim).

Every person involved in implementing the practice of ED, torturing disappeared ones and making them vulnerable, starting from the prison’s guard, is accountable to the Egyptian President.

“The prisons’ guards and the prison administration are responsible for reporting the cases of ED in Egypt as they are dealing with victims directly. Then the Interior Minister, Attorney General, Public Prosecutor and the Egyptian President are also responsible to disclose the fate and whereabouts of disappeared victims and release them. From the Palestinian side, the Palestinian authority is the responsible body for contacting the Egyptian authority and demand the release of Palestinian victims of ED in Egypt. There is an office for the Palestinian embassy in Egypt that should use their diplomatic relations and contact the authorities to release the victims. However, there is not enough recognition to the Palestinian authority in Egypt, so this affects the relations and the political benefits between the authorities.” (Ibrahim).

5.5 The Effectiveness of the Egyptian Legal system

The participants in this research project answered the research question that focuses on the Egyptian legal system regarding the ED cases, especially the Palestinian disappeared victims in Egypt. All of the participants shared their experiences and highlighted the following points and challenges of Palestinian victims of ED including the difficulty to report the disappearance, geographical barriers, and the feeling of terror by the families. The Egyptian authority and the NSA forces work so hard to erase the trace of the disappeared persons including Palestinian disappeared migrants in Egypt. Therefore, as I mentioned in the introduction, Egyptian authorities use the policy of denial and refuse to give information about the fate or whereabouts of the disappeared victims to their families, human rights organizations or lawyers. *“There was a field visit by a delegation from the Egyptian Ministry of Interior with a delegation from a human rights organization, so they transferred me to a secret room because I was not registered in the official list of detainees. Again, the NSA officer smacked me and he was very angry and stressed because of the visit.” (Omar).*

“The victim of ED is in an unknown unofficial detention setting which is not documented by law or recognized by the government as a prison. Moreover, the family of the disappeared person does not have any information about him and the prison guards always refuse to give information. The moment the victim appears before the prosecutor, it is the first moment of recognition of the victim of ED by the Egyptian authorities and afterwards they apply the legal procedures based on the fabricated

charges and transfer the victim to an official prison to complete their sentence.” (Akram).

Omar described the legal process in his case as a Palestinian former victim of ED in Egypt as an arbitrary process. *“After months of disappearance and torture, the NSA officer called the court (the judge) to issue a verdict of innocence of me. This process was arbitrary as the judge was told what to issue by the NSA officer. I went to the court, but no one talked to me after that they took me again to the detention place.”*

Denying the right of access to justice is one of the main violated rights in this context and this expands the victim’s vulnerability. As a disappeared person, one is outside the protection of law in addition to the difficulty to assign a lawyer to a disappeared person in a secret unofficial unrecognized and unknown prison.

“Egypt denies their existence, so it is impossible for families to assign a lawyer. A lawyer can be assigned when a person is charged and in an official prison unlike the cases of ED. Enforced disappearance is an abduction by a gang belonging to the government.

The Egyptian government uses the NSA forces and secret places to disappear people including Palestinians and keep them out of the protection circle of law and this is a tool of deterrence, not a legal one. Moreover, they accuse Palestinians of false accusations without any documented evidence or real incidents.” (Akram). Moreover, Ibrahim highlighted the same idea with an example from the 2011 revolution. *“The Egyptian authorities and the NSA usually disappear individuals in a separate place away from official detainees and in secret prisons belonging to the NSA. For example, in 2011 during the revolution in Egypt, some people managed to break to the secret NSA building and found lots of room underground equipped with torture tools.”* (Ibrahim).

Then Akram shared his own experience, focusing on the legal process he went through before his release from the Egyptian prisons.

“I reappeared in the prosecutor's office without a lawyer because no one knew my location and I had no contact with anyone outside. The NSA falsely accused me of affiliation with a terrorist group. I believe this accusation is very common among Palestinian victims of ED without any evidence. In addition, they accused me of

publishing and promoting fake news to discredit the Egyptian government through social media platforms although I do not have social media accounts.” (Akram).

Another related point showed up under the question of the effectiveness of the Egyptian legal system regarding the ED cases. The point includes the manipulation with the laws; falsifying the dates of disappearances and the absence of ED term and definition in Egypt national law.

“First, there is no clear definition of Enforced disappearance in Egypt's constitution and the term enforced disappearance is not mentioned in the Egyptian national law. The Egyptian authority always denies their practice of ED. Egypt always manipulates the law and create new laws such as Terrorism –counter law that is an umbrella to hide the human rights violations committed by the Egyptian government and the NSA with allegations of security considerations. During the disappearance, the victim is outside the protection of law, so the Egyptian authorities insist on the denial of their disappearance until they force the victims to confess on fabricated charges, so they can transfer them to the court and have them in normally registered prison afterwards to complete the sentence. Although the victims are shown to the Prosecutor, Egyptian authorities keep denying the period of disappearance that could extend to many years in some cases in order to escape from the obligations and to deny the crime of ED committed by its forces.” (Farah).

Ibrahim showed his frustration toward the Egyptian legal system especially their discrimination against the Palestinian disappeared migrants in the secret prisons in Egypt.

“As a human rights defender and researcher in the field of enforced disappearance, I give up on the Egyptian legal system that turned out to be a political system rather than a legal one. Even in cases in which the family of the Palestinian victim of ED in Egypt manages to assign a lawyer to defend the victim in front of the court and the judge, it is hard to be heard because the legal system is controlled and affected by the political system.” (Ibrahim)

I think that the right to recognition is one of the obvious violated human rights in the case of ED in addition to its tight connection to the question of the legal system in Egypt. The victim of ED is deprived of the right to act as a person before the law. This

happens because the state and in my focus, Egyptian authorities, disappear people in secret prisons and prevent them from fair trial or any access to justice. Ott (2011) highlights that "this human right has received little attention in the case law of the international monitoring bodies and in literature. The content and scope of this right is not yet clear. The right to recognition as a person before the law is part of the human rights of existence." (p.83)

Despite the low attention to this right, I believe it is one of the most significant rights that victims of ED need to be recognized as existing persons. Consequently, they will be able to demand for other rights and their families and lawyers will be able to help them. Many conventions and international human rights instruments highlight the right to recognition as a person before the law. For example, Article 6 of the Universal Declaration of Human Rights and Article 16 of the ICCPR, Article 18 of ArCHR and Article 5 of the African Charter focus on this core right. The African Charter in article 5 combined between the right not to be subjected to torture and the right to be recognized as a person before the law. It also connected them to the "respect for the dignity inherent in the human person". Victims of enforced disappearance are deprived from the right to recognition and therefore their dignity has been affected. Moreover, the 1992 Declaration addressed in Article 1.2 that ED deprives the person from the right to recognition as a person before the law: "Any act of enforced disappearance places the persons subjected thereto outside the protection of the law [...] It constitutes a violation of the rules of international law guaranteeing, inter alia, the right to recognition as a person before the law [...]"

United Nations Working Group of Enforced and involuntary Disappearance, UNWGEID (2012) emphasizes that, "Enforced disappearances entail the denial of the disappeared person's legal existence and, as a consequence, prevent him or her from enjoying all other human rights and freedoms" (p.10). I agree with this explanation and confirmation of the importance of the right to recognition and if one is deprived of this right; they will be deprived of all human rights until the fate or the whereabouts of the disappeared person have been disclosed.

5.6 Vulnerability of Families

The last theme I derived from the collected data of my participants is also connected to one of the research sub questions is how enforced disappearance affects families of victims. After analyzing the answers, I found the following main repeated related ideas including the uncertainty, the right to know the truth and the fear of the families to harm the disappeared person or lose another member of the family. McCrory (2007) argues that the family members of the victim are considered victims as well. The definition of a victim mentioned in the ICPPED, Article 24(1) includes the person who has disappeared and any person or group which have suffered because of the disappearance of the disappeared victim. It means that the family of the disappeared person, their friends or any individual who tries to help the disappeared victim and affected by their disappearance are considered as victims. Therefore, I believe that ED is a complex crime at all levels. Enforced disappearance is a crime against the disappeared person and their family, relatives and friends. The victim of ED is the direct victim in such situation as he or she is facing the human rights violations and living the vulnerability of torture, sexual violence and even murder. The family suffers at another level such as uncertainty as they do not know the fate and whereabouts of their beloved one in addition to the terror of harm at all levels. They usually live in hope to meet their disappeared person after many years of enforced disappearance.

Baranowska (2020) stressed the extra vulnerability of the families of disappeared migrants. “While all families of disappeared persons suffer from not knowing whether their loved ones are alive or dead, the relatives of disappeared migrants and refugees face additional obstacles in their search related to possible undocumented status, language barriers and being in a country other than the one in which the disappearance occurred.” (p.5).

To some extent, I see this is applicable on the context of my research as the Palestinian families face many challenges regarding their beloved ones who disappeared in Egypt such as the geographical barriers and the restrictions on movement and travel from Gaza. *“It is almost impossible for the family of Palestinian victims of ED to assign a lawyer due to the geographical restrictions, the lack of legal assistance and knowledge and the uncertainty of their disappearance. Moreover, it is not easy for the families of Palestinian victims to have access to Egypt and investigate their beloved ones’*

disappearance. Unlike Egyptian families who could find a way through networks to find their loved ones” (Farah).

I can summarize the vulnerability of the Palestinian families of disappeared migrants in Egypt as following: the uncertainty, fear of harm and detention, feeling of helplessness and economic and social challenges. Throughout the interviews, Farah, Akram, Omar stressed the uncertainty clearly as a main factor of the vulnerability of the families.

“The uncertainty is a main factor of their vulnerability as they do not know the location of their beloved disappeared ones. The families are experiencing extreme vulnerability during the whole period of the disappearance of their beloved ones because they are clinging to an uncertain hope to meet them again.” (Farah).

“Moreover, the main factor of their vulnerability is the uncertainty regarding the victim’s fate, location and health situation, so the families usually live the most vulnerable life during their beloved ones’ disappearance. They become vulnerable to exploitation and abuse from Egyptian guards to help them see their disappeared ones or give information about them.” (Ibrahim).

“My whole family was terrified and collapsed due to the uncertainty about my case as a victim of ED, although they were very sure that the NSA in Egypt are responsible for my detention and disappearance. My wife had witnessed te arrest. My family was very concerned, uncertain whether I was still alive, being tortured and for how long I would be disappeared. Moreover, they were begging for any piece of information to reassure them that I was alive. In the majority of Palestinian ED cases, the families are uncertain about their beloved ones’ fate and whereabouts, so they are living in severe uncertainty.” (Akram). “My family was very vulnerable psychologically due to their worry and fear of my fate as a disappeared person. They had no information about my location and situation and they were not sure if I was alive or dead.” (Omar).

Moreover, the fear of harm and detention is one of the main factors of the Palestinian families’ vulnerability in the context of Palestinian disappeared migrants in Egypt.

“The risk on the Palestinian families of disappeared ones is much more severe, compared to the other families. By risk I mean the possibility to detain family members is higher in the Palestinian case. Moreover, the Palestinian families feel insecure

during the search journey and they always feel scared of being disappeared by Egyptian authorities” (Farah).

The Palestinian families especially those who live in Gaza feel scared to report their beloved disappearance because they are afraid of causing harm to their disappeared ones or to any member of the family.

“There is no accurate statistics of Palestinian victims of ED in Egypt and this is due to the fear and the insecurity of the Palestinian families to report the beloved ones’ disappearance as they live in another country and cannot trust anyone to interfere in such sensitive case or sharing their information with. In addition, some families got promises from different parties in Egypt to reassure them about the disappeared ones, but have never fulfilled their words.”(Farah).

“Families of Palestinian victims of ED in Egypt may feel more vulnerable as they are a way geographically from the incident place, which is Egypt. In addition, the families feel betrayed by a neighboring country that should be supportive for the Palestinians. In addition, they feel that they were left behind and ignored by the Palestinian authority that should be the representative of all Palestinians and protect them wherever they go.” (Ibrahim).

The feeling of helplessness dominates in the situation of Palestinian families who lost beloved ones disappeared in Egypt. This happens for many reasons such as the fear of torture and disappearance and the geographical barriers.

“In addition, at the psychological level, Palestinian families are more vulnerable due to the inability to follow up on the trace of their disappeared beloved ones. Living in another country, Palestinian families of victims of ED in Egypt are more vulnerable and always feel that they did not do enough to help their disappeared beloved due to the limited access to the legal system in Egypt.” (Farah).

Another level of the vulnerability of families who lost their beloved ones as disappeared victims in Egypt is the economic and social challenges.

“Families of ED victims are affected directly at all levels including social, economic and psychological levels. One of the main negative impacts on the family is the

economic part as the majority of the disappeared victims are men who used to be the source of income to the family. Palestinian families of disappeared victims usually suffer more at this level due to the high level of poverty and unemployment among the families and the absence of the main source of income.” (Farah).

“As I mentioned before, ED is a crime targeted both of the victim and their family. In the case of ED, the families usually feel that they are helpless and cannot defend or help their disappeared loved ones, so they feel that they are so vulnerable.” (Ibrahim).

I found that ED violates the following human rights such as the economic, social and cultural rights for both of the disappeared person and his/her family. In the case of enforced disappearance, the disappeared person is not the only victim, but also his/her family who has no clue about their whereabouts and fate. In addition, the families do not know when they will see their beloved disappeared again. The only thing they have is hope that helps them survive the uncertainty, sadness and hardship. On the day that marks the international day of enforced disappearance, the UN Committee on Enforced Disappearances and the Working Group on Enforced or Involuntary Disappearances (2021) highlighted that families of victims of ED are affected as well. In most cases of ED, the states usually target men; however, the women and children are considered as victims. Men usually are the source of income in different societies. Therefore, the families of disappeared men become more vulnerable to poverty. The economic problems are not the only ones that families of disappeared persons suffer from, but also social and psychological problems. It is expected that families have emotional trauma that may affect them physically and psychologically. I believe that such hard situations make them and the disappeared persons even more vulnerable during the detention and disappearance. The UN working group (2006) describes the situation of the disappeared person and his/her family very well:

“A disappearance is a doubly paralyzing form of suffering: for the victims, frequently tortured and in constant fear for their lives, and for their family members, ignorant of the fate of their loved ones, their emotions alternating between hope and despair, wondering and waiting, sometimes for years, for news that may never come. The victims are well aware that their families don't know what has become of them and that the chances are slim that anyone will come to their aid.” (p. 2)

The right to truth is one of the most commonly violated human rights in the case of families of disappeared ones. The families need to know the truth about the disappearance, fate and whereabouts of their disappeared beloved ones in Egypt. Four of the needs of the families of disappeared persons have been identified: (1) returning the remains of the disappeared persons; (2) the right to know the truth; (3) the acceptance of responsibility by states; and (4) the right to compensation. (Baranowska, 2021, p.7)

“One of the main human rights violations in the case of victims of ED is the right to truth. The family of the disappeared person has no clue about the location and of their beloved one in the majority of cases. Sometimes the families demand to get the body of their disappeared one in case he/she is dead. All families of the disappeared may ask Egyptian authorities to stand on its responsibility, to release the disappeared persons and to compensate them.” (Ibrahim).

6 Conclusion

I conducted qualitative research and collected data through semi-structured interviews with four participants including Palestinian former victims of enforced disappearance in Egypt and human rights professionals specialized in the ED file in Egypt. Through this research project, I managed to answer the main research question: *What are the experiences of Palestinian victims of enforced disappearance in Egypt regarding their vulnerability?*

In addition, some sub-questions have been answered based on the collected data from interviews. These questions focused on the effect of ED on the families of Palestinian victims, the effectiveness of the Egyptian legal system regarding Palestinian victims of ED, the possible reasons behind the disappearance of Palestinian migrants in Egypt, and the state's responsibility in demanding victims' release or disclosing their fate and whereabouts.

This research project aimed at studying the experiences of Palestinian victims of ED in Egypt and exploring their vulnerability due to the human rights violations during their disappearance in Egypt. Definitions of vulnerability in the context of ED victims have been addressed by the research participants who connected it to uncertainty in the first place. In the findings and discussion chapter, themes like the vulnerability of victims of ED in general and Palestinian disappeared migrants in Egypt in particular have been discussed. Moreover, fabricating charges to Palestinian victims of ED was a common theme among all the participants. This was connected to the unstable political and security situation in the area and the incitement policy against Palestinians that the Egyptian authorities use through media. The absence of the Palestinian authority's role regarding the disappearance of Palestinian migrants in Egypt was discussed in this research project in details referring to the lack of recognition and the political relationships in the area. In addition, the effectiveness of the Egyptian legal system was discussed as well with a focus on the way that the Palestinian victims of ED in Egypt have been treated by the Egyptian authorities. The last theme was the vulnerability of families of Palestinian victims of ED in Egypt who are victims themselves as well.

I assert that many readers, researchers, and human rights organizations will be interested in reading the results of this research project. The results in this thesis showed that Palestinian victims are more vulnerable as they are treated differently from other victims from other countries who live in the same situation. Palestinian victims of ED in Egypt are tortured and treated inhumanly by the secret prison guards and the NSA forces without any concern about human rights violations. This usually happens for different reasons based on the collected data from the research's participants including the lack of recognition of the Palestinian Authority, the unstable political situation either internally in Palestine or the regional relations with Egypt and Israel, and the stereotype that Palestinian victims of ED do not have real support from their country and authority and they will be left behind without any pressure from their leaders on the Egyptian authorities which consider the Palestinians victims less valued than other victims. In addition, the incitement policy that the Egyptian authority uses against Palestinians may give the NSA forces the credit card to dehumanize Palestinians in a way worse than other victims. Families of the Palestinian victims of

ED in Egypt are also vulnerable victims due to the disappearance of their beloved ones at different level such as psychologically, economically, and socially.

Enforced disappearance is a crime in international human rights law and is one of the miserable crimes with obvious human rights violations of all international law and many international and regional conventions. Therefore, the Egyptian government should stop this practice and disclose the fate and whereabouts of all victims of enforced disappearance including Palestinian migrants who disappeared in Egypt. Moreover, the Palestinian Authority as a representative of Palestinians should put more pressure on the Egyptian authorities to release the Palestinian victims of ED in Egypt. The families of the Palestinian disappeared migrants in Egypt should be assured about their beloved ones and meet them again. The involved authorities should be responsible for ending the suffering of the Palestinian vulnerable victims of ED and their families.

I believe that the topic of enforced disappearance is very significant regarding human rights and the vulnerability of ED victims. As mentioned above, this topic has not been researched enough, so I recommend further research to be conducted on the issue of ED in Egypt with a focus on Palestinian migrants who disappeared in Egypt as they are more vulnerable due to their statelessness and being migrants. By conducting more research on this sensitive topic and revealing the vulnerability of ED victims, the researchers may put more pressure on the Egyptian authorities to stop the practice of ED. Therefore, the victims of ED and their families will feel supported and that their lives and stories matter.

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Annexes

Annex 1: Letter of consent

Are you interested in taking part in the research project

Vulnerability of Palestinian Victims of Enforced Disappearance in Egypt

Purpose of the project

This project is a master's thesis in Human Rights and Multiculturalism. The purpose of this project is to study the vulnerability of Palestinian victims of enforced disappearance in Egypt.

The main research question:

What are the experiences of Palestinian victims of enforced disappearance in Egypt regarding the vulnerability?

Here are some sub questions that I will also answer in this research project:

- How does enforced disappearance affect the Palestinian families of victims?
- How does the Egyptian legal system work regarding Palestinian victims of enforced disappearance?
- In which context enforced disappearance occurs against Palestinians in Egypt.
- Who is responsible for demanding victims' whereabouts in the Palestinian context?

The recording will not be used for other reasons.

Who is responsible for the research project?

The University of South Eastern Norway (USN) is the institution responsible for the project.

Why are you being asked to participate?

- You are working on Human Rights field; Enforced disappearance topic in Egypt.

Or

- You are a Palestinian who were a victim of enforced disappearance in Egypt.

What does participation involve for you?

Online interview. I will collect information about the living condition of victims of enforced disappearance and if there is a special treatment to Palestinians. The Egyptian legal framework that deals with enforced disappearance cases. The information will be

recorded sound recording or on paper depends on participant's request. The interview is semi structured, so talk freely and it may take 1 hour.

Participation is voluntary

Participation in the project is voluntary. If you chose to participate, you can withdraw your consent at any time without giving a reason. All information about you will then be made anonymous. There will be no negative consequences for you if you chose not to participate or later decide to withdraw.

Your personal privacy – how we will store and use your personal data

We will only use your personal data for the purpose(s) specified in this information letter. We will process your personal data confidentially and in accordance with data protection legislation (the General Data Protection Regulation and Personal Data Act).

- I will not use your real name. You will be anonymized

What will happen to your personal data at the end of the research project?

The project is scheduled to end 31.12.2022

- At the end of the project all recordings will be deleted

What gives us the right to process your personal data?

We will process your personal data based on your consent.

Based on an agreement with The University of South Eastern Norway (USN), NSD – The Norwegian Centre for Research Data AS has assessed that the processing of personal data in this project is in accordance with data protection legislation.

Where can I find out more?

If you have questions about the project, or want to exercise your rights, contact:

- The University of South Eastern Norway (USN) via Supervisor Bernard Ntahiraja and student Ola Alrantisi
- Our Data Protection Officer: The University of South Eastern Norway (USN)
- NSD – The Norwegian Centre for Research Data AS, by email: (personverntjenester@nsd.no) or by telephone: +47 55 58 21 17.

Yours sincerely,

Project Leader

Student (if applicable)

(Researcher/supervisor)

Bernard Ntahiraja

Ola Alrantisi

Consent form

I have received and understood information about the project Vulnerability of Palestinian Victims of Enforced Disappearance in Egypt and have been given the opportunity to ask questions. I give consent:

- To participate in an audio recorded interview
- To anonymise my participation
- To participate without audio recording but researcher can use information given.

I give consent for my personal data to be processed until the end date of the project, approx. 31.12.2022

(Signed by participant, date)

Annex 2: Interview Guide.

Vulnerability of victims of enforced disappearance

- What is the definition of vulnerability in the context of victims of enforced disappearance from your point of view?
- To what extent the victim of ED is a vulnerable person
- What are the violated human rights of victims of ED?

Vulnerability of Palestinian victims of enforced disappearance

- In which context enforced disappearance occurs against Palestinians in Egypt.
- With the focus on Palestinian victims of enforced disappearance in Egypt, is there any other human rights violations due to their nationality and being a non-national in Egypt.
- Could you describe the living conditions that victims of enforced disappearance live in Egypt. Detention and disappearance conditions in the secret prisons in Egypt regarding the food, sleep, mental health and emotions, activities: sport, praying, or other activities, social interaction and torture.

Egyptian Legal System

- How does the Egyptian legal system work regarding Palestinian victims of ED?

State Responsibility

- Who is responsible for demanding the release of Palestinian victims of ED in Egypt?

Vulnerability of Families

- How does enforced disappearance affect families of victims?

