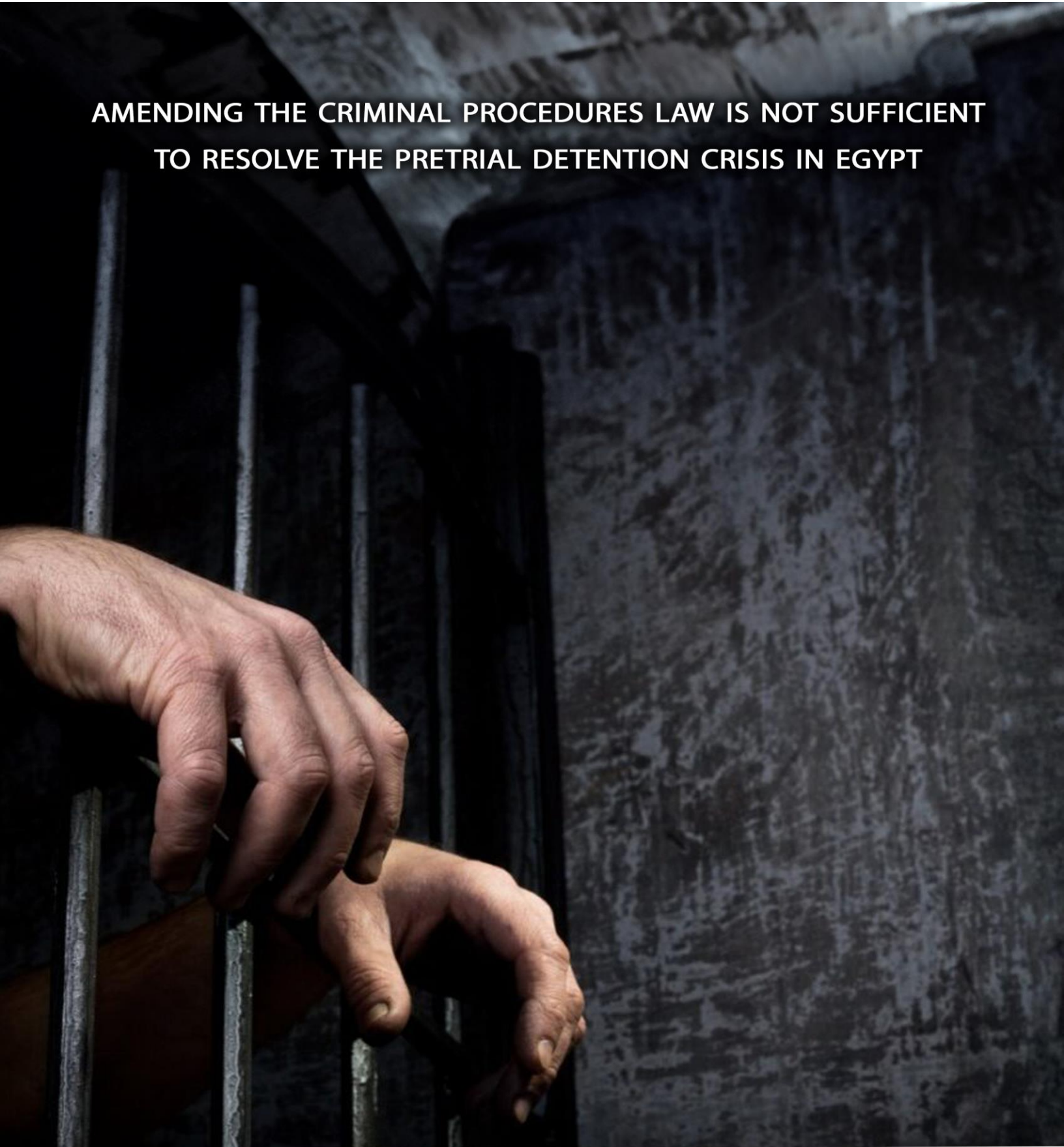


# AMENDING THE CRIMINAL PROCEDURES LAW IS NOT SUFFICIENT TO RESOLVE THE PRETRIAL DETENTION CRISIS IN EGYPT



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**Amending the Criminal Procedures Law is not sufficient  
to resolve the pretrial detention crisis in Egypt**

**The Justice Support Foundation (JSF) at the Arab Center for the Independence of the Judiciary and the Legal Profession (ACIJLP)** is closely and attentively monitoring the renewed discussions on amending the Criminal Procedures Law, currently under review by the subcommittee of the Legislative and Constitutional Affairs Committee of the House of Representatives. The committee has reached a preliminary consensus on these amendments, which are slated for presentation to the House of Representatives in the upcoming session this October for ratification. The proposed amendments include the reduction of pretrial detention periods, the abolition of the chapter on physical coercion, and the introduction of regulations and standards for remote trials. The bill, initially drafted in 2017, has faced delays for various reasons.

While the Foundation acknowledges the significance of reducing pretrial detention periods—a long-standing demand of both the Foundation and other concerned civil society organizations—it emphasizes that such amendments will have no impact as long as the provisions of the Anti-Terrorism Law, with its extensive exceptional powers regarding pretrial detention, remain in force. In particular, Articles 40, 42, and 43 of this law, which have, for the first time in Egyptian judicial history, disrupted the unity of procedural trial rules by allowing deviations from the Criminal Procedures Law's provisions on pretrial detention periods and establishing new procedural rules not stipulated in the Criminal Procedures Law, remain a substantial concern.

The Foundation also stresses that the reduction of pretrial detention periods is rendered ineffective unless the draft Criminal Procedures Law includes a clear and decisive safeguard against the ongoing practice of "recycling" pretrial detainees. This practice involves detaining individuals under new charges to justify their continued incarceration, a tactic reminiscent of the repeated detentions that plagued politically sensitive cases in the 1990s, as was the case with tens of thousands of detainees, before it was halted.

Furthermore, the Foundation notes that any amendment to the Criminal Procedures Law, which is the cornerstone of procedural legitimacy within the Egyptian criminal justice system, must undergo a thorough and broad societal dialogue reflecting its significance and importance. The current approach, involving a single dialogue session with representatives from the Bar Association, the police, and the Public Prosecution, falls short of the comprehensive societal discourse necessary for a law of such critical importance. The Criminal Procedures Law directly impacts citizens' rights to freedom, personal safety, and their entitlement to fair and just trials.



**The Justice Support Foundation at the Arab Center for the Independence of the Judiciary and the Legal Profession demands the following:**

**First:** The law must be subjected to a comprehensive community discussion prior to its presentation to the House of Representatives. This dialogue should include the participation of all relevant stakeholders, such as lawyers, judges, civil society organizations, human rights advocates, criminal law scholars, and representatives of individuals who have endured prolonged pretrial detention. This is crucial for identifying potential shortcomings, providing constructive observations, and understanding the underlying philosophy of the proposed amendments.

**Second:** It is imperative to repeal the procedural provisions of the Anti-Terrorism Law, as well as any laws enacted over the past decade, and to rely solely on the general principles established in the Criminal Procedures Law. At a minimum, Articles 40, 42, and 43 of the Anti-Terrorism Law should be abolished.

**Third:** The law must explicitly include procedural safeguards that effectively prevent the continuation of the practice of "recycling" defendants during pretrial detention by charging them in new cases without substantive justification.