



**Economic and Social  
Council**

Distr.  
GENERAL

E/CN.4/2005/NGO/156  
4 March 2005

ENGLISH ONLY

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COMMISSION ON HUMAN RIGHTS  
Sixty-first session  
Item 9 of the provisional agenda

**QUESTION OF THE VIOLATION OF HUMAN RIGHTS AND FUNDAMENTAL  
FREEDOMS IN ANY PART OF THE WORLD**

**Written statement\* submitted by the International Federation for Human Rights (FIDH),  
a non-governmental organization with special consultative status**

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[10 February 2005]

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\* This written statement is issued, unedited, in the language(s) received from the submitting non-governmental organization(s).

## EGYPT

The International Federation for Human Rights (FIDH) wants to express its concern about the human rights situation in Egypt.

### **State of Emergency**

A state of emergency has been in force in Egypt since 1981. A bill for its renewal was approved by the People's Assembly on 23 February 2003. Egypt will therefore be subject to emergency rule for another three years, despite there being no justification for its continuation according to the international standards concerning states of emergency.

The powers conferred on the authorities under Emergency Law 162 [1958] constitute a direct attack on due process and fundamental human rights. Under article 3, the President has the power to search and arrest individuals without following the provisions of the Criminal Procedures Code, restrict freedom of movement and residence and impose censorship on all means of communication. Article 3 also permits the President to wide the scope of these powers through decrees such as decree no. 4[1992] which has been used to prosecute members of civil society.

Under article 9 of the Emergency Law, the President may transfer individuals accused of crimes under the Penal Code to the Emergency State Security and Supreme State Security Courts formed pursuant to Emergency Law 162. This violates the fundamental tenets of due process embodied in the right of appeal and judicial independence (guaranteed under article 14 of the ICCPR).

The use of exceptional jurisdictions is extended to military courts. Indeed, under article 6 of Military Orders Law 25 [1966] military courts have the jurisdiction, during a state of emergency, to hear all crimes. Military courts are composed of military judges appointed by the Minister of Defence, in violation of the principle of judges' security of tenure. Civilians tried in these courts, which hear cases carrying the death sentence, may only petition the Military Appeals Office for retrial before they are ratified (article 111). Once verdicts have been ratified, only the President can approve a retrial (article 12).

These exceptional courts are systematically used to try members of the political opposition on serious charges; between 1992 and 2000, 1023 individuals accused of terrorist charges were referred to military courts (92 sentences to death). During military court trials, lawyers can't meet clients in private and consult case files only a short time before their client's trial starts in violation of article 14 of the ICCPR. Exceptional courts mostly ignored defendants' allegations of torture.

### **Arbitrary detention**

An estimated 16,000 people remain in administrative detention some of whom have been detained for ten years without facing charges, in violation of article 9 of the ICCPR.

On 7 October 2004, three terrorist attacks occurred in North Sinai. The Interior Ministry announced arrest of five men on charges of planning and carrying out the

attacks. Some 3000 people were detained in mass arrest campaigns carried out in and around Arish, the hometown of some of the alleged perpetrators of the attacks. During investigations by the Egyptian security forces detainees were tortured.

### **Torture, Cruel, Inhuman and Degrading Treatment**

FIDH, alerted by its member organization EOHR, remains concerned by the widespread use of torture in Egypt, a problem commented on by the UN Committee against torture (CAT) in November 2002. Torture is endemic and has become a routine tool of investigation in police stations and prisons. Between 1993 and April 2004, 412 torture cases were recorded, 120 of which resulted in the death of the victim, almost certainly due to the torture or mistreatment.

The state of emergency in Egypt facilitates the occurrence of torture. Under the Emergency Law individuals can be detained for thirty days (renewable once) before being charged and before they have the right to challenge their detention (article 3 *bis*). There is a lack of safeguards to prevent acts of torture.

Several sources have reported the widespread use of torture against activists arrested in connection with the 2003 anti-war demonstrations.

Torture practiced in Egyptian prisons and detention centres takes many forms including electroshocks, being hung upside down for extended periods of time, cigarette burning all over the body, strip searching of men and women, sexual harassment and rape. Egyptian prison legislation codifies humiliating and degrading treatment by allowing foot-chaining in order to prevent escape.

Perpetrators of torture are protected by weak anti-torture legislation which restrict torture to any act committed in order to extract a confession (article 126 Penal Code), in violation of article 4 of the Convention Against Torture. Victims are thereby prevented from seeking justice. Under article 63 of the Criminal Procedures Code only the prosecutor general has the right to raise a case against a public servant. The right to appeal verdicts is also restricted.

### **Death Penalty**

The death penalty, a harsh and inhumane punishment, is still applied in Egypt.

According to the Egyptian government's report presented to the United Nations Human Rights Committee 25 executions were carried out in 1999, 30 in 2000, 28 in 2001, 49 in 2002 and 36 in 2003.

The numerous crimes punishable by death includes offences under the so-called "anti-terrorism" legislation, premeditated murder, rape and drug related offences. Over the past decade, death sentences have been pronounced for all these offences.

Of major concern is that acts of terrorism, which carry the death penalty and may be tried in Emergency State Security or military courts, are broadly and vaguely defined under article 86 *bis* of the Penal Code. As a result individuals are judged for loosely

defined crimes in tribunals which lack the basic guarantees of a fair trial on charges for which they may pay with their life.

### **Discrimination on the basis of sexual orientation**

Discrimination on the basis of sexual orientation in Egypt has been a subject of concern of the UN Human Rights Commission and CAT which recommended that Egypt “*remove all ambiguity in legislation which underpins the persecution of individuals because of their sexual orientation*”.

Homosexuality is not explicitly referred to in Egyptian legislation. However, article 9 (c) of law 10 [1961] which provides: “*Anyone who habitually engages in debauchery or prostitution is liable to a penalty of three months to three years imprisonment and/or a fine of LE 25-300*” is misused to repress homosexuality in Egypt. Moreover, men arrested on the basis of this article also face the additional charge of “promoting debauchery” under article 14 of the same law and/or article 278 of the Penal Code.

### **Enforced disappearance**

Local human rights groups have documented 46 cases of enforced disappearance between 1992 and 1996: 17 cases were documented by the Egyptian Organization for Human Rights (EOHR) and 29 cases by the Human Rights Center for the Assistance of Prisoners (HRCAP).

### **Freedom of expression**

Freedom of expression continues to be under attack in Egypt.

The Penal Code describes numerous offences which attack the freedom of opinion and expression (articles 86 (amended), 98(b), 102, 187, 188, 191, 192, 193, 194, 302 and 306).

2003 witnessed a large number of negative punitive measures imposed on the freedom of publication through the trials of journalists in publishing cases. Religious bodies play an ever increasing role in the censorship of literary works according to vaguely worded internal guidelines.

### **Recommendations:**

The FIDH calls upon the Commission on Human Rights to express its deepest concern on the Human Rights situation in Egypt, and to adopt a resolution urging the Egyptian authorities :

- To repeal the Declaration of the State of Emergency and the legislation adopted pursuant to this declaration;
- To abolish the use of exceptional jurisdictions and ensure the existence of an independent judiciary;
- To act in conformity with the Universal Declaration of Human Rights, the

international human rights instruments ratified by Egypt and, in particular, the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment, which was ratified by Egypt in 1986 and incorporated into Egyptian law under article 151 of the Constitution obliges Egypt to undertake measures to prevent it and to implement the recommendations of the UN Treaty Monitoring Bodies;

- To invite the Special Rapporteur on Torture;
- To stop any kind of discrimination and harassment on the basis of sexual orientation or gender identity;
- To duly investigate the cases of disappearances, to try and sentence their perpetrators and to introduce specific legislation in order to make the participation to or incitement of enforced disappearance a criminal act, in line with the United Nations General Assembly Declaration of 1992;
- To adopt a moratorium on executions and to ratify the second optional protocol to the ICCPR, with the objective to abolish the capital punishment;
- To stop random arrests, which violate the right to personal security, granted by the art. 41 of the Egyptian Constitution.
- To ratify articles 21 and 22 of the CAT and the amendment of article 126 of the Penal Code to bring it in line with the CAT. Individuals must also be given the right to bring cases directly before criminal courts in cases concerning attacks on personal liberty and deprivation of life, or crimes described in article 126 of the Penal Code. This Article punishes those who use torture in order to extract a confession from suspects. Equally civilians must be empowered to bring prosecutions under articles 280 and 282 which legislate against illegal arrest.

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