

# *Report*

## **International Fact-finding Mission**

### **The Death Penalty in Egypt**

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## FOREWORD: WHY MOBILISE AGAINST THE DEATH PENALTY

The FIDH strongly opposes the death penalty. The FIDH maintains that the death penalty contradicts the very essence of the notion of human dignity and liberty; furthermore, it has by now proven its utter uselessness as a deterrent. Hence neither principles nor utilitarian considerations can justify upholding capital punishment.

### 1. The death penalty contradicts human dignity and liberty

Human rights and human dignity are now universally acknowledged as the supreme principles and as absolute norms in any politically organised society. The death penalty directly contradicts this very premise and is based on a misconception of justice.

**Justice is based on freedom and dignity:** a criminal can and should be punished because s/he freely committed an act disruptive of legal order. It is the very reason why children, or insane persons cannot be held responsible for their actions in a criminal justice system. The death penalty is a contradiction in terms, since it means that at the very moment of conviction, when the criminal is held responsible, and is thus considered as having acted freely and consciously, s/he is being denied this very freedom because the death penalty is irreversible. Human freedom is indeed also defined as the possibility to change and improve the orientation of one's existence.

The irreversibility of the death penalty contradicts the idea that criminals can be rehabilitated and resocialised. The irreversibility of the death penalty thus simply contradicts the notion of freedom and dignity.

The irreversibility argument has another aspect. Even in the most sophisticated legal system, garnished with the strongest array of judicial safeguards and guarantees of due process, the possibility of miscarriages of justice always remains. Capital punishment can result in the execution of innocent people. This is the very reason why Governor Ryan, after having discovered that thirteen detainees awaiting execution were innocent of the crimes they had been accused of, decided to impose a moratorium in Illinois, and in January 2003, commuted 167 death sentences to life imprisonment. The report of the Commission stressed that: *"no system, given human nature and frailties, could ever be devised or constructed that would work perfectly and guarantee absolutely that no innocent person is ever again sentenced to*

*death."* In this case, "society as a whole - i.e. all of us - in whose name the verdict was reached becomes collectively guilty because its justice system has made the supreme injustice possible" said R. Badinter, French Minister of Justice, in 1981. For a society as a whole, accepting the possibility of condemning innocent people to death flies in the face of its core principles of inalienable human dignity, and of the mere concept of justice.

**Justice is based on human rights guarantees:** the existence of human rights guarantees is the distinctive character of a reliable judicial system; notably, these include the guarantees arising from the right to a fair trial - including e.g. the rejection of proofs obtained through torture or other inhuman treatments. In that perspective, the FIDH is convinced that the full respect of those human rights guarantees and the rejection of legally sanctioned violence are at the core of the credibility of any criminal justice system. Justice, especially when the gravest crimes are concerned and life is at stake, should not rely on chance and fortune; an individual's life should not depend on random elements such as the jury selection, media pressure, the competence of a defence attorney, etc... The rejection of inhuman sentences, and first and foremost the death penalty, clearly contributes to building a judicial system on universally acceptable principles, which is free of vengeance and which the population as a whole can trust.

The **"death row phenomenon"** refers to the conditions of detention of a person condemned to capital punishment while awaiting the execution of the sentence. These conditions of detention - due notably to their very long duration, to the total isolation in individual cells, to the uncertainty of the moment of the execution, to deprivation of contacts with the outside world, including sometimes family members and legal counsel - often amount to inhuman treatment.

**Justice is fundamentally different from vengeance.** The death penalty is nothing but a remnant of an old system based on vengeance: that s/he who has taken a life should suffer from the same fate. If applied consistently, this would mean stealing from the stealer, torturing the torturer, raping the rapist. Justice has risen above such a traditional notion of punishment by adopting a principle of a symbolic, yet proportional sanction to the harm done - fines, imprisonment, etc., which preserves the dignity of both victim and culprit.

Furthermore, **the FIDH does not believe in the supposed necessity of the death penalty out of regard for the victims and their relatives.** The FIDH reaffirms that the victim's right to justice and compensation is fundamental in a balanced and fair justice system, and that the solemn and public confirmation by a jurisdiction of criminal responsibility and the suffering of the victim play an important role in order to substitute the need for vengeance ("judicial truth"). But the FIDH nonetheless holds that answering this call for justice by the death penalty serves only to relieve the basest emotional cries for vengeance, and does not serve the cause of justice and dignity (even that of the victims) as a whole. Paradoxically, the victims' dignity is itself better served by rising above vengeance. The victim's status of civil party in the criminal procedure contributes to answering his/her imperious need to be recognised as a victim. Providing psychological support and financial compensation to the victims also contributes to their feeling that justice has been done and that private vengeance is unnecessary and would have no added value. In light of those elements, the need of victims to vengeance as an argument in favour of the death penalty appears irrelevant.

Eventually, the FIDH notes that the death penalty is used in a discriminatory way, e.g. in the USA, where it particularly affects ethnic minorities, or in Saudi Arabia where foreigners are its first victims.

## 2. The death penalty is useless

Among the most common arguments in favour of the death penalty, one hears that of its usefulness: the death penalty supposedly protects society from its most dangerous elements, and acts as a deterrent for future criminals. None of these arguments can be held to have any validity, as has been proven again and again.

**1. Is the death penalty a protective element for society?** It does not appear so: not only are societies which enact capital punishment usually no less protected from crime than societies which do not, but other sanctions are available in order to protect society, notably imprisonment: protection of society does not imply the physical elimination of criminals. In addition, it can be argued that the precautions taken to avoid suicide by death row inmates demonstrate that the physical elimination of the criminal is not the main aim of death penalty: what seems to matter is that the sanction is executed against the consent of the criminal.

2. With regard to the **exemplarity** of the death penalty or other cruel punishments, their efficiency as deterrents for

criminality has repeatedly been proved wrong. All systematic studies show that death penalty never contributes to lowering the crime rate, anywhere. In Canada for example, the homicide rate per 100,000 population fell from a peak of **3.09** in 1975, the year before the abolition of the death penalty for murder, to **2.41** in 1980. In 2000, whereas police in the United States reported 5.5 homicides for every 100,000 population, the Canadian police reported **1.8**.

The most recent survey of research on this subject, conducted by Roger Hood for the United Nations in 1988 and updated in 2002, concluded that "the fact that the statistics... continue to point in the same direction is persuasive evidence that countries need not fear sudden and serious changes in the curve of crime if they reduce their reliance upon the death penalty".<sup>1</sup>

This should obviously not come as a surprise: a criminal does not commit a crime by calculating the possible sanction, and by thinking that he will get a life sentence rather than the death penalty. Furthermore, as Beccaria noted in the 18th century, "it seems absurd that the laws, which are the expression of the public will, and which hate and punish murder, should themselves commit one, and that to deter citizens from murder, they should decree a public murder".

Finally, the FIDH notes that the death penalty is very often a barometer of the general human rights situation in the countries concerned: it proves to be a reliable indicator of the level of respect for human rights, e.g. the situation of human rights defenders.

## 3. Arguments from international human rights law

The evolution of international law tends towards the abolition of the death penalty: the Rome Statute of the International Criminal Court and the UN Security Council resolutions establishing the International Criminal Tribunals for the Former Yugoslavia and for Rwanda do not provide for the death penalty in the range of sanctions although those jurisdictions have been established to try the most serious crimes.

Specific international and regional instruments have been adopted which aim at the abolition of the capital punishment: the UN second optional protocol to the ICCPR aiming at the abolition of the death penalty, the Protocol to the American Convention on Human Rights to abolish the death penalty (Organisation of American States), the Protocol 6 and the new Protocol 13 to the European Convention on Human Rights

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(Council of Europe). The Guidelines to EU Policy Towards Third Countries on the Death Penalty, adopted by the European Union on 29 June 1998 stress that one of the EU objectives is "to work towards the universal abolition of the death penalty as a strongly held policy view agreed by all EU member states". Moreover, "the objectives of the European Union are, where the death penalty still exists, to call for its use to be progressively restricted and to insist that it be carried out according to minimum standards (...). The EU will make these objectives known as an integral part of its human rights policy". The newly adopted EU Charter of Fundamental Rights also states that "no one shall be condemned to the death penalty, or executed".

At the universal level, even if the ICCPR expressly provides for the death penalty as an exception to the right to life and surrounds it by a series of specific safeguards, the General Comment adopted by the Committee in charge of the interpretation of the Covenant states very clearly that article 6 on the right to life "refers generally to abolition in terms which strongly suggest that abolition is desirable... all measures of abolition should be considered as progress in the enjoyment of the right to life".

Moreover, in its Resolution 1745 of 16 May 1973, the Economic and Social Council invited the Secretary General to submit to it, at five-year intervals, periodic updated and analytical reports on capital punishment. In its Resolution 1995/57 of 28 July 1995, the Council recommended that the quinquennial reports of the Secretary General should also cover the implementation of the safeguards guaranteeing protection of the rights of those facing the death penalty.<sup>2</sup>

Every year since 1997, the UN Commission on Human Rights

has called upon all states that still maintain the death penalty "to establish a moratorium on executions, with a view to completely abolishing the death penalty".<sup>3</sup>

On 8 December 1977, the UN General Assembly also adopted a resolution on capital punishment stating that "the main objective to be pursued in the field of capital punishment is that of progressively restricting the number of offences for which the death penalty may be imposed with a view to the desirability of abolishing this punishment".<sup>4</sup>

*"The greatest suffering known to man is not the pain of injury but that of a man who knows that in one hour, ten minutes, thirty seconds or immediately, his soul will depart his body He will no longer be a human being, and this is final."*

Fedor Dostoïevski (1821-1881), *Crime and Punishment*, 1866

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1. Roger Hood, *The Death Penalty: A Worldwide Perspective*, Oxford University Press, Third Edition, 2002, p. 214.

2 ECOSOC Resolution 1984/50 of 25 May 1984.

3. See notably resolutions 2002/77, 2001/68, 2000/65 and 1999/61.

4. UNGA Resolution 32/61, 8 Dec. 1977, para 1.

## I. INTRODUCTION AND THE DEATH PENALTY SITUATION IN EGYPT

### 1. Aim and progress of the mission

After being alerted by its member organisations, the EOHR<sup>5</sup> and the HRAAP<sup>6</sup>, the FIDH mandated an international mission of investigation to Egypt from 27 November to 6 December 2004. The mission was composed of Alya Chérif Chamhari, a lawyer at the Bar of Tunis, Etienne Jaudel, former FIDH Secretary General and now FIDH *chargé de mission*, and Nabeel Rajab, President of the Bahrain Center for Human Rights. The delegation stayed mainly in Cairo, but also visited Alexandria and Mahalla, a small town 150 kilometres from Cairo.

The arrival of the FIDH representatives had been announced in the Egyptian press, which reported on the interviews the delegation had with Sheik Muhammad Sayyid Tantawi and with the Vice-President of the National Council for Human Rights. The content of these articles<sup>7</sup> shows the climate of scepticism, hostility even, that has surrounded the FIDH investigation. Sheik Tantawi, Grand Imam of al-Azhar Islamic University since 1996 and former Mufti of Egypt, has strong influence throughout the Islamic world. He violently opposes anyone who challenges the death penalty, which he deems necessary to maintain the social order, on the grounds of the cultural characteristics of the Muslim religion.

The civil authorities, that the delegation called in vain, remained silent. FIDH delegates were only given the opportunity to interview a Deputy Minister of Justice. It proved impossible to meet the Minister of the Interior, who is responsible for everything relating to prisons and executions. On the pretext that the Minister was away, the visits requested by the delegation to the death rows and the execution chambers were not authorised. Nor was the delegation able to speak with the families of those condemned to death or executed. The only information it was able to gather arose from conversations with the lawyers of the condemned prisoners or with prisoners who had seen the circumstances of condemned persons in Egyptian prisons. It was not possible to meet the President of the Bar either. The Ministry of Justice offered to give the FIDH delegation official statistics on the number of death sentences and the number of executions but finally did not do so; the only figures the delegation obtained were supplied by the Attorney General during his interview with the delegation.

So far as the religious authorities are concerned, Sheik

Tantawi, after maintaining that "killing a human being is equivalent to attacking humanity as a whole", added that anyone who has been killed unjustly, is entitled to the protection of his and his children's rights. "This forces us to punish the unjust attacker, otherwise chaos will reign and people will kill each other. It is for Justice to punish anyone who has unjustly killed his neighbour, by killing him also so that equality and the human being are respected. If someone kills his neighbour, he will be killed himself. This is the guarantee of public security. We are protecting the rights of the murdered person".

The delegation conducted about 30 interviews during its stay in Egypt. The Egyptian human rights organisations cooperated in the investigation, in particular the Egyptian Organisation for Human Rights and the Human Rights Association for the Assistance of Prisoners, both members of the FIDH. However it turned out that the issue of the abolition of the death penalty "does not appear currently on the agenda". None of the interviewees believed that there was any chance of seeing the death penalty abolished in the near future because of the provisions of Islamic law and their interpretation by the religious authorities. Moreover, they felt that there were more important problems to be dealt with concerning human rights today in Egypt, in particular the condemnation of systematic use of torture in State Security Services offices and police stations and the condemnation of the conditions of detention in overcrowded prisons.

During the FIDH delegation's stay, several investigative reports on repression following the September 2004 attacks against tourists, most of them Israeli, in the Sinai, edited by different human rights organisations, were published. These reports recording many testimonies instanced the arrest of more 3,000 people, a great number of whom were said to have been tortured by the security forces. Several may have been hospitalised as a result of this ill-treatment. A great number, apparently, are still being detained for administrative reasons; this is permitted because of the state of emergency which has been continuously in force since 1981.<sup>8</sup>

Arbitrary arrests and administrative imprisonment without sentence, carried out under the emergency laws in force, are another worrying issue for the human rights defenders, who, for several years, have been demanding, in vain, return to legality.

Even if the activists themselves seem to believe that the problem of the death penalty is not on today's agenda in Egypt, the initiative of the HRAAP is to be saluted, as it dared to organise on 11 September 2004 a symposium entitled: "Death penalty: between retention, contraction and abolition".

More than twenty speakers took part in it, including lawyers, parliamentarians and Islamic scholars. The participants did not agree on the abolition of the death penalty, but they demanded nonetheless that civilians no longer be brought before military tribunals, and that the number of crimes punishable by death be restricted "to the most serious ones", in accordance with the provisions of Article 6 of the 1966 International Covenant on Civil and Political Rights, which has been ratified by Egypt. Furthermore, they proposed the adoption of a two year moratorium on capital punishments. The implementation of a moratorium on executions has also been called for by the African Commission for Human and Peoples' Rights in a resolution adopted on 15 November 1999, which also urged the States to abolish the death penalty.

This symposium, stigmatised by the religious authorities, shows that opinion is changing in Egypt on the matter of the death penalty. It seems moreover that it was the presence of the FIDH delegation which led to this issue being put on the civil society agenda and being debated. This is a first step on the road to its repeal.

In addition, the issue of human rights is becoming more important in the country. Much coverage is being given in the press to the activities of human rights defenders and because of this, the practice of torture by the police is being increasingly challenged. Moreover, President Mubarak set up a National Council for Human Rights in June 2003.<sup>9</sup> The members of this Council were chosen for their experience with and interest in human rights. The chairman of the EOHR, member organisation of the FIDH is member of this Council which is chaired by Mr Boutros Boutros-Ghali.

The Council has received more than 2,000 complaints and has announced the publication of a report on the human rights situation in Egypt for the beginning of 2005. The Council has been much criticised by several Egyptian human rights organisations. Its lack of effectiveness and independence considering its powers are the main criticism. Some of its members acknowledge this ineffectiveness and blame it on lack of cooperation from official bodies, and in particular from the ministries, which have no legal obligation to collaborate with the Council, which, as a result, has no

authority.<sup>10</sup>

## 2. General considerations

To tackle the question of the death penalty in Egypt, two characteristics of this country need to be taken into account: the importance of Islamic legislation and the state of emergency in force since 1981.

### a. The application of the Sharia

In accordance with Article 2 of the Egyptian Constitution, as amended in 1980: "Islam is the State religion and Arabic is its official language. The Sharia is the principal source of legislation."

This formal confirmation is, according to everyone met by the delegation, the main impediment to the abolition of the death penalty in Egypt today. In fact, according to the interpretation made of it by those who claim to have authority in this domain, and in particular Sheik Tantawi, the law of God requires that intentional criminals be put to death. This is the principle of equality, the *lex talionis*. By satisfying the victims' feelings of revenge, the vicious circle is avoided and the social peace maintained. Since God decided this penalty, writes the Egyptian professor 'Abd al-'Al,<sup>11</sup> "man cannot be reproached for his cruelty". In his thesis on the death penalty, this author criticises the human rights defenders for attempting to impose an ethic which is foreign to the Egyptian society.

"These rules are immutable", decreed the High Constitutional Court in 1991, "and cannot be subject to interpretation. It is therefore inconceivable that their sense be modified by reason of time or place, since they defy any amendment and they cannot be attacked".<sup>12</sup>

The Court nonetheless believes that in the Sharia there are "relative" principles which are capable of being adjusted in accordance with social development, which leaves some room for future development.

The most orthodox religious thinkers go as far as to demand the restoration of the death penalty for all crimes stipulated in the Koran, e.g. adultery and apostasy for a start. Some of them also demand the restoration of the *díyyah* whereby criminals can be pardoned by their victim's family by giving them compensation.

In his interview with the delegation, Sheik Tantawi made it clear that "under Islamic law, the death penalty only applies to



someone who has killed his neighbour unjustly and with premeditation and who has confessed his crime. When these conditions are all present and this penalty is applied, Justice reigns". "Human rights require the death penalty, otherwise what rights does a victim have?" he added. Then he asked Alya Chérif Chammari: "if someone kills your son and is not himself killed, will you let him live ?" When he was told that the death of the murderer would not bring back the victim, he put this down to the lawyer's "female sensitivity".

This orthodox thinking is being increasingly challenged by the adherents of a more liberal Islam who are now beginning to be heard. According to these intellectuals, several of whom spoke at the symposium on the death penalty organised by the HRAAP in September 2004, no-one has authority to interpret officially the law of God, which should be interpreted in such a way as takes account of changing morals.

It is however symptomatic that the human rights activists did not manage, at the end of the symposium, to agree on the proposal to abolish capital punishment and were content with demanding that it be restricted to "the most serious crimes". Some of them admitted that the time was not yet right for Egypt to join the abolitionist camp. But although agreement may still be far away, the debate nevertheless continues, as proved by the symposium and by articles in the press which recount the debates between the advocates and opponents of the removal of organs from the bodies of people sentenced to death.

The Attorney General Maher Abdelwahed told the delegation : "the Egyptian Constitution refers to Islamic law, but we are endeavouring to restrict the application of the death penalty to those crimes that affect society as a whole or that are at variance with its foundations".

It seems that the prospects of abolishing the death penalty in Egypt are still far-off. Egypt was one of the States opposed to the resolution on the death penalty adopted on 21 April 2004 by the U.N. Commission on Human Rights at its 60th sitting (by 28 votes to 20 with 5 abstentions). This resolution requires all the States which maintain this penalty to abolish it for once and for all, and in the meantime, to introduce a moratorium on executions.

### **b. The state of emergency**

Since the assassination of President Anwar As-Sadat in October 1981, the state of emergency has been in force in Egypt.<sup>13</sup> The law on the state of emergency, which was

originally due to last one year, has been extended every three years. The last time was in February 2003<sup>14</sup> three months before it was supposed to end. By imposing restrictions in terms of individual rights and freedoms, the state of emergency leaves these rights and freedoms open to serious violations. In particular it authorises administrative imprisonment, without judicial control and for periods which can be renewed indefinitely, of all persons who are believed to be undermining the social order and security, a vague formula which leads to the arbitrary.

In application of this emergency legislation, "special" courts such as the Emergency State Security Courts and the Supreme State Security Court of Emergency have been set up. These courts are made up of magistrates specially appointed by the President, who are officers subject to military authority. There is no possible appeal against their rulings. The only possible remedy is to present an individual petition to the court (State Security or the Supreme Court) which delivered the judgment.

The situation is different with regard to the military courts before which civilians may be brought. There is no right of appeal against the summary proceedings in these courts, the only recourse is an appeal to the President who has never granted an appeal. According to the human rights organisations, more than 95 civilians have been sentenced to death by military courts over the last fifteen years and executed shortly thereafter.

For reasons of public security, only the President of the Republic or persons appointed by him, have the power to refer accused persons to one of these special courts; even for common law crimes or offences. The President has resorted to this frequently over recent years, not only for those accused of terrorism, but also for members of the Muslim Brothers or homosexuals; all received harsh sentences from the State security courts.

The question of the death penalty therefore arises in conditions which vary fundamentally depending on whether it is given by common law courts or by special courts subject to inordinate rules.

### **c. Number of sentences and executions**

Regardless of whether they are delivered by special courts or common law courts, death sentences followed by executions are frequent in Egypt today.

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It is impossible to obtain exact statistics to distinguish between death sentences and executions, which often take place a long time after the pronouncement of the sentence.

The FIDH mission however was able to gather some figures. Between 1991 and 2000, the criminal divisions of the courts of appeal sentenced 530 people to death and, in 1999 alone, 108 sentences were pronounced including 12 against women.<sup>15</sup>

According to the official announcements by the Egyptian government to the United Nations Human Rights Committee, the number of executions in 1999 was 25 and 30 in 2000.

The Attorney General added to this list verbally at an interview he gave to the representatives of the FIDH mission, by explaining that : 28 executions took place in 2001; 49 in 2002<sup>16</sup>; and 36 in 2003. The statistics for 2004 are not yet available.

It has been impossible to discover the exact number of sentences passed during this period as this would involve, according to the representative of the Ministry of Justice, lengthy and expensive research into all the Clerks' offices. It is surprising in this respect that these statistics are not to be

found in the archives of the Department of Statistics of the Ministry of Justice.

However it appears that the figures are available since in the answers given by the Egyptian government to the final observations of the Human Rights Committee in November 2003, Egypt had recorded : in 2000, 78 sentences and 20 executions; in 2001, 103 sentences and 23 executions; and in 2002, 115 sentences.

During the first nine months of 2004, the EOHR recorded 46 death sentences. In any case, at least 6 people were executed in 2004, since on 22 September 2004, six members of a family were executed; this was just a few days after the HRAAP symposium.<sup>17</sup>

These figures, whilst incomplete and discordant, are evidence that the question of the death penalty remains a topical one in Egypt. In fact, this penalty is often pronounced both by the special courts and by the criminal courts, and in the majority of cases is carried through to execution.

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5. The Egyptian Organisation for Human Rights (EOHR).

6. Human Rights Association for the Assistance of Prisoners (HRAAP).

7. See Appendix 2.

8. See Appendix 3 : FIDH Press Release dated 9 December 2004.

9. Established by Presidential Decree of 19 June 2003, the National Council was created on 19 January 2004. It is a consultative organisation affiliated to the Shura Council and said to be fully independent in practising its functions, activities and competences.(Article 1 of the decree). It is made up of six committees for "ordinary" responsibilities: civil and political rights committee, social rights committee, economic rights committee, legislative rights committee, cultural rights committee and international relations committee; there is also a committee responsible for receiving individual complaints.

10. On this matter, see the reports by the Al-Ahram Weekly, 14 April 2004 and 23 February 2005, online at: <http://hebdo.ahram.org.eg/arab/ahram/2004/4/14/invi0.htm> , <http://hebdo.ahram.org.eg/arab/ahram/2005/2/23/doss0.htm>

11. Quoted in "Muslims faced with the Death Penalty", Sami Aldeeb online : <http://www.lpj.org/Nonviolence/Sami/articles/frn-articles/Mort.htm>; 'Abd Al-'Al's text was written in 1989.

12. "The principles of the Sharia are the principal source of legislation. The High Constitutional Court and the reference to Islamic law", Nathalie Bernard-Maugiron and Baudouin Dupret in *Egypte-Monde Arabe* n°2, CEDEJ, 1999, p.107-125.

13. The United Nations Human Rights Committee expressed its concern in 1993 and again in 2002 regarding the continuation of the state of emergency: the Committee notes that the state of emergency declared in Egypt without interruption since 1981 is one of the main obstacles to the full application of the Covenant by the State Party. CCPR/C/79/Add.23 page 3 D.

14. See protest in FIDH Press Release.

15. See the HRAAP alternative report to the Egyptian government's report presented to the United Nations Human Rights Committee in October 2002.

16. The figures reported by Amnesty International (AI) for 2002: at least 48 death sentences and 17 executions. A.I. recorded between November 2001 and November 2002, at least 58 sentences and 19 executions.

17. Amnesty International Press Release 12 October 2004.

## II. THE LEGAL CONTEXT

### 1. The Constitution

The Egyptian Constitution makes no reference to the death penalty. It decrees a certain number of guarantees regarding the respect of individual freedoms, and it prohibits arbitrary detention and torture. Moreover, it stipulates that every person should be judged swiftly by an independent justice. One article sets out the right to legal assistance by one's chosen defence lawyer and maintains the presumption of innocence.

*Article 42* : Any citizen arrested, detained or whose freedom is restricted shall be treated in a manner concomitant with the preservation of his dignity. No physical or moral harm is to be inflicted upon him. He may not be detained or imprisoned except in places defined by laws organizing prisons. If a confession is proved to have been made by a person under any of the aforementioned forms of duress or coercion, it shall be considered invalid and futile.

*Article 57* : Any assault on individual freedom or on the inviolability of the private life of citizens and any other public rights and liberties guaranteed by the Constitution and the law shall be considered a crime, whose criminal and civil lawsuit is not liable to prescription. The State shall grant a fair compensation to the victim of such an assault.

*Article 65* : The State shall be subject to law. The independence and immunity of the judicature are two basic guarantees to safeguard rights and liberties.

*Article 66* : Penalty shall be personal. There shall be no crime or penalty except by virtue of the law. No penalty shall be inflicted except by a judicial sentence. Penalty shall be inflicted only for acts committed subsequent to the promulgation of the law prescribing them.

*Article 67* : Any defendant is innocent until he is proved guilty before a legal court, in which he is granted the right to defend himself . Every person accused of a crime must be provided with counsel for his defence.

*Article 70* : No penal lawsuit shall be sued except by an order from a judicature organ with the exception of cases defined by law.

*Article 71* : Any person arrested or detained shall be informed forthwith of the reasons for his arrest or his detention. He shall have the right to communicate with whoever he sees fit and inform them of what has taken place and to ask for help in the way organized by law. He must be notified, as soon as possible, with the charges directed against him. Any person may lodge a complaint to the courts against any measure taken to restrict his personal freedom. The Law shall regulate the right of complaint

in a manner ensuring a decision regarding it within a definite period or else release shall be imperative.

However, all these rights and guarantees of individual freedoms recognised by the Constitution are rendered null and void by the emergency laws by virtue of the state of emergency.

The state of emergency has thus allowed President Mubarak, through presidential decrees, to promulgate anti-terrorist laws restricting individual freedoms and justifying violations of the fundamental rights of persons, that are nevertheless guaranteed by the Constitution and by the International Covenant on Civil and Political Rights (ICCPR) ratified by Egypt in January 1982.<sup>18</sup> Breaches of the anti-terrorist legislation are dealt with by the special courts including the State Security Courts, the Emergency State Security Courts and the military courts.

Article 4 of the International Covenant on Civil and Political Rights<sup>19</sup> authorises the State Party to adopt unilateral measures which exempt it provisionally from certain obligations incumbent on it by virtue of the Covenant. These measures must nevertheless be of an exceptional nature and provisional. For Article 4 to apply, the situation must pose an exceptional public danger which threatens the existence of the nation and the State Party must have declared officially a state of emergency. When a state of emergency is declared which may involve an exemption from any clause of the Convention, the States must act within the framework of its Constitution and the legislative provisions which govern the exercise of exceptional powers. The provisions of Paragraph 1 of Article 4 of the Covenant make clear that any exemption from the obligations incumbent on the State Party by virtue of the Covenant is only allowed "to the extent strictly required by the exigencies of the situation". The United Nations Human Rights Committee asked Egypt in November 2002 to re-examine the necessity for continuing the state of emergency.

Of the number of clauses of the Covenant from which there is no derogation, Article 6 ( right to life), Article 7 (in particular, prohibition of torture and other cruel, inhuman or degrading treatment or punishment) and Article 15 (the principle of legality in the field of criminal law) should be noted. It is also stipulated that States Parties may in no circumstances invoke Article 4 of the Covenant as justification for acting in violation of humanitarian law or peremptory norms of international

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law, for instance through arbitrary deprivation of freedom or by deviating from fundamental principles of fair trial that include the presumption of innocence.<sup>20</sup>

During the 1990s, politically motivated acts of violence increased in Egypt. Armed Islamic groups launched numerous armed attacks against members of the security forces and other representatives of the State throughout the country. Non-religious writers, members of the Christian community and foreign tourists also became victims of these attacks. As a result of these acts of violence, President Hosni Mubarak began, in October 1992, passing special decrees allowing civilians charged under the "anti-terrorist" laws to be brought before military courts.

Article 86 of the Penal Code, as modified by Law no. 97 of 1992 defines terrorism as *"any recourse to force, violence, threats or intimidation falling within the context of a criminal plan by an individual or a group aimed at disrupting public order or endangering public security and safety, if this results in injuring or terrorising individuals or endangering their lives, their liberty or their security or causing damage to the environment, to means of transport or communication, to public or private property or buildings, or involving their appropriation or occupation, or preventing or hindering the authorities, places of worship or educational establishments from carrying out their functions, or hindering the application of the Constitution, the laws or regulations."*

This legislation, which is characterised by its imprecise yet broad wording, and which can therefore be interpreted as liberticidal, serves to increase the number of crimes and offences punishable by death.

According to Mr Mohamed Al-Zaraa, lawyer and president of the Human Rights Association for the Assistance of Prisoners, 106 death sentences were pronounced and carried out between 1992 and 2002 by the military courts. He further estimates, that there are at least 70,000 common law detainees in Egyptian prisons. Also according to HRAAP investigations, there are 16,000 political prisoners. It should add the 3,000 people arrested in Al-Arish following the attacks on the Hilton Hotel in Taba, in October 2004, which resulted in many victims.<sup>21</sup>

### 2. Crimes punishable by the death penalty

The death penalty can be pronounced only for the most serious crimes, in accordance with procedures set out by the Constitution and the law. In principle, this punishment can only be applied by virtue of a final judgment concerning a crime

punishable by death at the time of its commission.

- Minors under 18 years old are not punishable by death (Article 112 of the Law no.12 of 1996 promulgating the Children's Code).

- The execution of a pregnant woman who is sentenced to death (...) can only take place two months after the birth (Article 476 of the Code of Criminal Procedure).

- Executions cannot take place on (...) public holidays or religious holidays in accordance with the religion of the accused (Article 475 of the Code of Criminal Procedure).

The Penal Code prescribes the death penalty for the following crimes and offences:

- attack on the external security of the State (articles 77 to 80, Penal Code)

- attack on the internal security of the State (Article 83, PC)

- crimes and offences coming under the "anti-terrorist" legislation (articles 86 to 102, PC)

- premeditated murder. Accomplices are liable to the same punishment (articles 230 to 235, PC)

- abduction and rape of a person of the female sex (article 290, PC)

- perjury leading to the sentencing and execution of a person charged with an offence (Article 295, PC)

- violations of the law on drugs: in accordance with Law no. 182 of 1960 as amended by Law no.122 of 1989. Article 33 of this Law stipulates the death penalty for the import of drugs without prior authorisation. Growing, producing, selling, keeping and transporting, all come under the crime of drug trafficking and are punishable by death. Any person who fits out and uses premises for drug-taking incurs the same penalty

- crimes and offences relating to keeping weapons and ammunition (Law no. 394 of 1954). Keeping weapons, ammunition or explosives without prior authorisation is punishable by forced labour for a fixed period or for life. The penalty incurred is capital punishment if the arms are being kept in order to attack the public order and security or to undermine the establishment, the principles of the Constitution, or the fundamental system of the Institutions, national unity, or the social peace.

The application of the death penalty is therefore very wide.

Mr Negad Al-Bor'i, lawyer and Chairman of the Association for the Development of Democracy, has recorded 37 crimes punishable by death under the Penal Code not taking into

account crimes punishable by this penalty under the emergency laws, in particular those arising from the jurisdiction of the military courts.

As was found in the alternative report by the Human Rights Association for the Assistance of Prisoners in response to the report by the Egyptian government presented to the United Nations Human Rights Committee in October 2002, all the crimes and offences against internal and external State security, and crimes committed as an armed gang are punishable by death, even if there has not been an attack on the life of another person. The law deems that the likely result of the crime, even if this is not realised, is sufficient to incur the death penalty.

In spite of the recommendations made by the United Nations Human Rights Committee following its examination of the report by the Egyptian government in July 1993 and repeated by the Committee in October 2002<sup>22</sup>, that Egypt should "bring its legislation into line with the provisions of article 6 of the ICCPR" which guarantee the right to life, and in particular to restrict the number of crimes punishable by death; the number of crimes punishable by death in Egypt is growing.

### 3. The administration of justice and death sentences

#### a. The common law courts

Crimes which incur death penalty are tried by the criminal divisions of the Courts of Appeal.

The Criminal Court rules, in all cases, in a first and in a final resort. There is therefore no system of appeal courts, which would ensure the fair administration of justice. This constitutes a breach of the United Nations Safeguards guaranteeing protection of the rights of those facing the death penalty<sup>23</sup> that specifically stipulate the right of any person sentenced to death to lodge an appeal in a higher court and that urge that measures be taken to make such appeals mandatory.

These Criminal Courts are made up of three professional judges and must be presided over by a judge who has the grade of president of the Court of Appeal. Death sentences can only be pronounced unanimously by the judges (Article 381 of the Penal Code). Article 381 also stipulates the obligation to pass the case papers to the Mufti of the Republic for his opinion, before pronouncing a death sentence decision. If the Mufti does not give his opinion within 10 days on the case papers, the Court is entitled to pronounce its decision. It should be noted that this opinion is consultative

only and that the Court is not obliged to comply with it. When the FIDH mission was received by Sheik Tantawi, the Grand Imam of the al-Azhar Islamic University, he declared his opposition to the abolition of the death penalty. He bases his opinion on the Sharia which advocates the *lex talionis*, whilst pointing out that under Muslim law, capital punishment only applies to an accused person who has confessed to murder and when proof has been established that his crime was voluntary, premeditated and unjust. In response to the objection made to him that Muslim law also provides for the possible absolution of the murderer by payment of compensation to the family of the victim, the *diyyah*, Sheik Tantawi said that this is practised in Egypt if the family accepts the compensation. There is however no such provision in the Egyptian Penal Code.

Sheik Tantawi added that over the last ten years, since he has been Mufti of the Republic, he has been presented with 2,000 case files liable to result in death sentences and has found no reason to overturn the death penalty.

What about non-Muslims who incur the death penalty in Egypt? It appears that Egyptian legislation stipulates that the exclusive opinion of the Mufti of the Republic is sought, regardless of the religious faith of the person sentenced to death.

#### 1. The rights of the defence

The defendant must be represented by a lawyer confirmed in the court of first instance or in the Appeal Court. This lawyer is chosen by the accused himself/ herself or by his/her family. Failing this, the Court appoints a defence lawyer who must assist the accused under penalty of a fine and possible disciplinary proceedings. At the same time the Court decides on the legal fees which are met by the State, within the framework of legal aid (Article 375 of the Code of Criminal Procedure). The date for the hearing is fixed by the President of the Appeal Court once the case papers are presented to him. These must be made available to counsel for the defence (Article 378, Code of Criminal Procedure).

#### 2. Remedies for appeal

Appeal on points of law and retrial are the only remedies for appeal against death sentences.

##### 2.1. Appeal on a question of law

The sentenced person can appeal on a question of law within 60 days after the sentence being pronounced in his presence



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(Article 30 of Law No. 57 of 1959 and Law No. 106 of 1962).

This appeal is only granted in three situations :

- if there has been a violation, false application or wrong interpretation of the law
- if the judgement is null and void
- if there is a nullity in the proceedings which affects the judgement.

The Court of Cassation cannot in any case proceed to examine a case on the facts. It is limited to overseeing the application of the law.

Article 46 of Law No.57 of 1959 and of Law No. 106 of 1962 provide that the Attorney General must refer any case resulting in a death sentence to the Court of Cassation as a memorandum, recording his opinion of the case and within 60 days following the ruling of the death sentence which must have been given in the presence of the accused. This mandatory appeal is one of the United Nations Safeguards guaranteeing protection of the rights of those facing the death penalty (Resolution of ECOSOC 1984/50) as already mentioned.

The time limits for examining appeals on points of law are not specified. The hearing for an appeal on a point of law is fixed by the President of the Court of Cassation. According to the Attorney General, the examination of the appeal by the Court must take place within three months of its being lodged and the Court must give its ruling within a maximum of two months after the appeal has been heard. In all cases, the appeal process postpones the execution (Article 469 of the Penal Code). If the appeal is allowed, the Court may decide to set aside the decision appealed or submitted to it for its opinion by the Attorney General and to send the case back to the court of first instance for a retrial. If the appeal is rejected, the decision becomes final and the death penalty operative.

In certain cases, however, these procedural guarantees of the Court of Cassation's systematic control over death sentences, turn out to be purely a formality.

Indeed, they did not prevent the execution of Abdelkader Halal Abdallah, a Syrian sentenced to death for drug trafficking by the criminal division of the Court of Appeal in Alexandria, on 10 June 1993. According to Mr Amr Hassen Abu Haif, the family lawyer, Abdelkader Halal Abdallah was executed on 31 January 1995 on the orders of the State Prosecutor, before the Court of Cassation had given its decision! This court however had received the legal papers of the appeal lodged by the defendant's counsel on 5

August 1993, in other words, within the legal time limit. In accordance with the law, it was, in principle, also referred to the Attorney General of the Court of Appeal in Alexandria.

Apart from the fact that this breached the suspensive nature of an appeal, this case demonstrates that the time limits for examining appeals by the Court of Cassation are not the same as those reported by the Attorney General to the representatives of the mission when he saw them on 1 December 2004. The death sentence was pronounced in June 1993 and the execution without examination of the appeal took place in January 1995, that is one year and seven months after sentence was passed by the Criminal Court.

Generally, according to the evidence gathered by the mission from human rights associations and from lawyers, the average length of time between sentencing by the Criminal Court and examination of the appeal by the Court of Cassation can vary between 2 and 5 years.

### 2.2. The Retrial

Execution can be postponed by a request for a retrial.

Which persons and what cases can be considered eligible for retrial is strictly limited.

The right to demand a retrial belongs exclusively to the prosecution, the defendant, his/her legal representative, his/her family and spouse.

The application for a retrial is only admissible in the following cases:

- in case of a sentence for murder and when it turns out that the victim is still alive
- when, after sentencing, a new verdict sentences another accused for the same crime
- when one of the witnesses who has been heard was, subsequent to the sentence, tried and sentenced for perjury against the accused
- when the decision is based on a judgement which was later annulled
- when, after sentencing, a fact is produced or comes to light, or when evidence not known at the time of the hearing is produced and is of such nature as to establish the innocence of the accused.

If the sentence has not been carried out, the execution is deferred as a matter of law.

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The Court of Cassation may assess the application as admissible. In this case, it can annul the decision to sentence and pronounce an acquittal, as it may deem it necessary to send the case back to the court of first instance for a retrial.

### 3. The Pardon of the President of the Republic

After the rejection of an appeal and of the possible request for a retrial, the Minister of Justice immediately and systematically refers the case file to the President of the Republic.

The decision is operative within a period of 14 days after referral to the President of the Republic (Article 470 of the Code of Criminal Procedure). The absence of a response within this 14 day time limit is automatically deemed to be a refusal to grant a pardon.

By virtue of his power to grant a pardon, the President of the Republic can commute the death penalty into imprisonment for a fixed term or for life.

According to the human rights defenders and the lawyers met by the FIDH mission, the President of the Republic very rarely exercised his right of pardon. Between 1994 and 2000, it has never been exercised.<sup>24</sup>

### 4. Execution of the sentence

Any person condemned to death is hanged (Article 13 of the Penal Code).

The accused is put in a high security wing ('anbar al-i'dâm: death row ) of the prison.

Executions cannot be held on national holidays or on the religious holidays of the accused.

The execution takes place under the orders of the Attorney General (Article 473, Penal Code) in the presence of a deputy for the Prosecutor, the prison governor and a doctor. In accordance with Article 472 of the Penal Code, the family of the accused has the right to visit him on the day of the execution. The accused also has the right to see a man of religion if however the religious rites of his faith prescribe this.

However, the evidence gathered by the mission showed that, from the moment that the death sentence is confirmed, the accused is kept in complete isolation on death row and it is impossible for his family to visit him.

The lawyers and human rights associations which the mission spoke to reported that the accused is not advised of the decision to confirm the sentence; the Attorney General, however, is obliged to advise the accused, through the prison governor, of the refusal of the presidential pardon.

### 5. Practices which violate Egyptian law

Despite all the legal guarantees in the common law courts, that carry out their duties with relative independence, the human rights defenders and the lawyers met by the mission condemned a considerable number of violations of the rights of defendants or sentenced persons, in particular the systematic use of torture by the police to extract confessions.

All the lawyers and human rights organisations concerned condemned the systematic practice of torture which has almost become an institution in Egypt. For example, in Alexandria, there was the case of a father who arrived at a police station to report the disappearance of his little girl and who was arrested and accused of her murder following the discovery of a child's body. The father finally confessed under torture to the murder of his child. The daughter was later found by the mother in a shelter. And when the mother arrived at the police station with her daughter to demand the release of her husband, she was arrested with the little girl. It took the explosion of this scandalous case in the press, in the daily newspaper "al-Ahram", thanks to the investigation work done by the Hisham Mubarak Law Centre and others, before the state prosecutor's office finally opened an inquest and had the whole family released.

The Nadim Centre, a treatment and rehabilitation centre for the victims of torture, and the Egyptian Association against Torture have dealt with hundreds of cases of torture by the police. The police use all possible techniques for torture, including physical and sexual abuse, and the use of electric shocks. Human rights defenders condemn the terror caused by the police in Egypt. The police enjoys widespread impunity even though some rare proceedings have been instigated against police officers following the death of persons in police premises. Mr Mohammed Abdelhadi, an activist at the "al-Fajr" Centre, a human rights association in Mahallah, stated that what goes on on police premises amounts to one death sentence a day among accused persons.

Generally, and particularly in cases involving Islamist groups or relating to terrorism, the police arrest not only suspected persons but also their family. Women, children and old people, no-one can escape. This is also a means of coercing the persons sought by the police to give themselves up. In November 2004,

the human rights organisations recorded the arrest of at least 3,000 people in al-Arish, following the attacks in Taba.

These violations are tolerated by the authorities, under the pretext of protecting and guaranteeing the public order. This attitude is a serious violation of the Convention Against Torture and other Cruel, Inhuman and Degrading Treatment or Punishment to which Egypt adhered in June 1986 and which stipulates that "no exceptional circumstance whatsoever, whether there be a state of war or threat of war, internal political instability or any other public emergency, may be invoked as a justification of torture." (Article 2.2. of the CAT).

### **b. The special courts**

The state of emergency declared in 1981, is still in force. In accordance with Law 162 of 1958, the President of the Republic can declare a state of emergency if he believes that the public order and security are in danger. Egypt, therefore, has lived under a state of emergency for 23 years.

The emergency laws which established the special courts and tribunals have been integrated into the Code of Criminal Procedure. The law on the state of emergency gives the President of the Republic all the powers to restrict freedoms and in particular, political and civil rights.

The emergency laws have established the Supreme State Security Court of Emergency and the Emergency State Security Courts. They have given the military courts jurisdiction to try civilians, so these courts become special courts.

By virtue of Decree No. 4 of 1982, the President of the Republic gave power to the Minister of the Interior to take all necessary steps to ensure public order and security without the need to observe the Code of Criminal Procedure. This provision is contrary to international standards and in particular, to the International Convention on Civil and Political Rights which in particular stipulates, by virtue of Article 9, that no one can be arrested or detained arbitrarily. Even if the state of emergency allows the State Party to resort to certain exceptions, in particular to this article, the Human Rights Committee in its General Comment No. 29 emphasises that States Parties can under no circumstances invoke Article 4 of the Convention to justify acts prejudicial to humanitarian law or the mandatory norms of international law, for example the arbitrary deprivation of liberty or failure to observe the fundamental principle guaranteeing a fair trial. It is however on the basis of this Decree No. 4 that hundreds of people arrested and sentenced by the special courts for belonging to

Islamist groups are still rotting in prison long after serving their sentence, and this, on the single administrative decision of the Ministry of the Interior. The mission met with the families of a certain number of these detainees at the headquarters of the Egyptian Organisation for Human Rights, where they gave evidence of this detention<sup>25</sup>. The United Nations is paying particular attention to the practice of arbitrary detention by certain States in the name of the war against terror. In fact, the working group on arbitrary detention of the Commission on Human Rights in its report published in December 2004, is frequently alarmed "by the various forms of administrative internment the effect of which is a restriction of fundamental rights." The working group also voices its concern that within the context of the war against terror, several States are adopting and strengthening existing laws allowing the detention of a person for an indefinite period or for a very long duration. "This form of administrative detention (...) is intended to deprive the interested party of the judicial guarantees to which any person suspected or accused of an offence has a right".

### *1. The Emergency Security Courts*

#### *1.1. Composition and jurisdiction of Emergency State Security Courts*

State Security Courts established by the Constitution (Article 171) and from which an appeal was possible to the Court of Cassation on a point of law, were abolished in 2004 by a decision of the President of the Republic, approved by parliament. This step forward had a limited effect, because the Emergency State Security Courts and the declaration of the state of emergency that permitted their establishment remained in place and intact.

The jurisdiction of the Emergency State Security Courts is fixed by decree of the President of the Republic (Article 7 of Law No. 162 of 1958 on the state of emergency).

The Emergency State Security Courts are set up as Courts of First instance and the Emergency Supreme State Security Courts as Appeal Courts (Article 7 of the Law No. 162 of 1958 on the state of emergency).

Presidential Decree No. 1 of 1981 gives very wide jurisdiction to these courts. This jurisdiction covers almost all offences arising out of common law.

The magistrates in these courts are appointed by the President of the Republic who may add to these courts one or two officers



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of the armed forces (Article 7 of Law No. 162 of 1958 on the state of emergency). It is also possible to decide, in the case of regions under a special regime and for special cases, that the Emergency State Security Tribunals and Courts shall be made up exclusively of army officers.

### 1.2. Proceedings in the State Security Courts

There are no clear and definite rules regarding the investigation and ruling on matters falling under the jurisdiction of these courts. They operate according to a mixture of procedural rules from the common law and rules of "special" procedures.

Throughout the investigation, the President of the Republic has the power to stop the proceedings and order the provisional release of the defendants (articles 13 to 15 of Law No. 162 of 1958 on the state of emergency).

There is no appeal from the decisions of the Emergency State Security Courts other than lodging a private petition before the court which has pronounced the sentence. These decisions become final after their ratification by the President of the Republic (Article 12 of Law No. 162 of 1958 on the state of emergency). However, within the context of his jurisdiction to ratify decisions pronounced by these Courts, the President of the Republic has the power to reduce, commute or annul the penalties pronounced by these courts. He can also decide that the case be retried before another court (Article 14 of Law no. 162 of 1958 on the state of emergency).

We are a long way away from the independence of justice that guarantees the rights and freedoms of individuals, as declared in Article 65 of the Constitution: "*The State is subject to the law, the independence of Justice and its immunity are fundamental guarantees for the respect of rights and freedoms*".

So the state of emergency allows the executive to acquire the powers of the judiciary, and allows it to bring before special courts defendants who will be arrested, pursued and sentenced in flagrant breach of the guarantees relating to the right to a fair trial. This right is however guaranteed by the Egyptian Constitution, by the African Charter of Human and Peoples' Rights, ratified by Egypt in 1984. The Charter, moreover, contains a clause on the right to a fair trial and, in March 2003, was expanded to include the Directives and Principles on the right to a fair trial. In addition, Article 14 of the ICCPR, also ratified by Egypt, decrees that "*all persons shall be equal before the courts and tribunals. In the determination of any criminal charge against him, or of his rights and obligations in a suit at law, everyone shall be entitled to a fair and public hearing by a competent,*

*independent and impartial tribunal established by law*".

But, the judges in these courts are appointed by the President of the Republic. A number of them are military officers who have no substantial legal training. The head of the Executive appoints the State Prosecutor and acts himself as a law court and as a court of final instance to confirm or invalidate the penalty.

It is therefore impossible to state that a fair trial can take place before these special courts, which do not operate in accordance with international standards confirming the right of any person to be sentenced by a competent, independent and impartial court. This fundamental right is contained in numerous international instruments relating to human rights, principally in Article 10 of the Universal Declaration of Human Rights, in Article 14 of the ICCPR as well as in Article 7 of the African Charter of Human and Peoples' Rights. This point is pivotal to the fundamental principles relating to the independence of the judiciary adopted by the United Nations General Assembly in December 1985, and which explicitly stipulate that judges show proof of adequate legal training and qualifications.

### 2. The military courts

#### 2.1. Jurisdiction of military courts

These courts, established in 1893, are in reality an inheritance from the British colonial administration.

The military courts are made up exclusively of active service officers from the armed forces who, it appears, only have a rudimentary legal training. They are appointed by decree of the Minister of Defence. As these courts are subject to the military discipline and hierarchy, they cannot guarantee any independence.

The jurisdiction of the military courts generally concerns members of the armed forces. In Egypt, all criminal violations of common law committed by soldiers fall within the exclusive jurisdiction of the military courts, which also have jurisdiction to sentence civilians working for the army.

In addition, all offences relating to internal or external State security may be referred before the military courts by decree of the President of the Republic. Moreover, the state of emergency empowers the President of the Republic to refer before the military courts all offences which can be prosecuted under the Penal Code.

Law No. 25 of 1966 relating to the military courts stipulates that

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in a situation of state of emergency, the President may decide that civilians are to be prosecuted and sentenced by military courts for offences which do not in any way undermine the military security of the State.

So civilians may be prosecuted in the military courts in application of Presidential Decree No. 694 of 1980 declaring the state of emergency.

This systematic recourse by certain States, including Egypt, to military or special courts to sentence civilians has been raised by the Human Rights Committee which believes that this situation could create serious problems regarding the equitable, impartial and independent administration of justice.<sup>26</sup> "Whilst it is true that the Convention does not prohibit the establishment of this type of court, the conditions stipulated in it nonetheless indicate clearly that the trying of civilians by these courts should be extremely exceptional and should be conducted under conditions which truly respect all the guarantees stipulated in Article 14".<sup>27</sup> Under cover of the state of emergency and the war against terror, trials of civilians by special courts is very widely practised in Egypt; the defendants are thus deprived of the rights guaranteed by the criminal law which applies in the ordinary courts.

### 2.2. Procedures in the military courts

#### a) Time limit in police custody

The time limit in police custody, in principle 7 days by virtue of the laws on terrorism, is not respected. This time limit in principle runs from the date when the accused is entered on the register of the security forces. However, as testified by Mr Ahmed Saif al-Islam Hamd, lawyer and executive director of the Hisham Mubarak Law Centre, sometimes the accused is not registered and only appears before the court after 40 days.

#### b) Summary rulings or rulings in absentia

By Decree No. 375 of 1993, based on Article 6 of the Military Code, President Mubarak referred two cases before the military court. These were called the "*Returnees from Afghanistan*" and the "*Tandhim of the Jihad*" cases, in which 48 civilians who were tried and sentenced for acts of violence and terrorism by the Supreme Military Court of Alexandria in cases "23" and "24" of 1992. On 3 December 1992, the court pronounced 9 death sentences, one of which was in the presence of the accused and the remaining 8 *in absentia*.

According to Mr Muntaser Al-Zayat, one of the lawyers in these

two cases, the proceedings were conducted in violation of all the constitutional guarantees and of the Code of Criminal Procedure. These cases, which implicated about 90 people, were conducted in extreme haste. There was only one month between the date of the decision to instigate proceedings and the date of the sentence. This did not allow the defence nearly enough time to become acquainted with the case file and to prepare pleas in a trial involving 90 defendants.

Mr Muntaser Al-Zayat also cited the "*Talâ'i al-fath*" case concerning another Islamic group and implicating civilians accused of acts of terrorism. In 1993, the military court pronounced nine death sentences, which have been carried out.

On 17 March 1994, Mohamed Ismail Othman Salah was sentenced to death *in absentia* by the Supreme Military Court in case no. 2/1994 known as "*the case of the attempted assassination of the Chairman of the Council of Ministers*". In August 1998, he was extradited from Albania to Egypt and brought before the military court in another case known as the "*Returnees from Albania*". He was sentenced to 15 years in prison. On 23 February 2000, Mohamed Ismail Othman Salah was executed by hanging following the sentence pronounced *in absentia* on 17 March 1994. Articles 384 to 397 of the Code of Criminal Procedure however stipulate that sentences must be pronounced in the presence of the accused, if he/she is absent, the verdict must be made known to him/her and he has the right to oppose the sentence.

The situation of Ahmed Ibrahim Najjar was similar. He was also extradited from Albania in August 1998 and implicated in the "*Returnees from Albania*" case, as a result of which he was sentenced to 25 years in prison by the military court.. Earlier, on 15 October 1997 in case no. 60/1997, "the Khan Khallili" case he was sentenced to death *in absentia*. He was not able to challenge this sentence as permitted by the Code of Criminal Procedure. The sentence was carried out on 23 February 2000, the same day as the execution of Mohamed Ismail Othman Salah<sup>28</sup>

These cases serve to illustrate the arbitrary nature of trials in the special courts and the persistent violation of basic rules guaranteeing the elementary rights of persons on trial which are recognised by the Constitution and by the laws which should logically be applied.

The rights of the defence are completely ignored in the special courts. At best, counsel only have access to case files on the day of the hearing. They are only able to visit the accused for 10

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minutes, in the court room, although these cases involve many accused persons who incur the death penalty. On several occasions, and especially in the "*Returnees from Albania*"<sup>29</sup>, defence counsel withdrew as a sign of protest against the rejection by the military judges of their requests to see the case file. In 1994, the military courts sentenced 21 people to death.<sup>30</sup>

Contrary to the common law which stipulates that all death sentences shall be systematically appealed, death sentences pronounced by the Supreme Military Court are not published and cannot be appealed except by presenting a petition to the President of the Republic or the Chairman of the Council of Ministers.

These provisions are violations of Article 14 of the ICCPR, which stipulates that any person who is declared guilty of an offence has the right to have the guilty verdict and the sentence examined by a higher court and the right to have the case judged by an independent and impartial court.

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18. "The right of a State to declare a state of emergency to deal with threats to the social order or with exceptional circumstances is a principle recognised in all judicial systems. This principle is upheld by article 4 of the International Covenant on Civil and Political Rights, under reservation of the conditions prescribed therein and within the framework of minimal norms which cannot be exempted under any circumstances.", this was Egypt's response in November 2003 to the questions from the Human Rights Committee on the maintenance of the state of emergency. In Paragraph 3 of Article 4, the States Parties bind themselves to comply with an international notification system (through the Secretary-General) when they use the right of exemption stipulated in Article 4. Additional notifications are required where the State Party carries out subsequent measures in application of article 4, for example by prolonging a state of emergency. In the past Egypt has (when the state of emergency was continued in 1991), omitted to give notice of this continuation. We do not know whether Egypt complied with this obligation at the last continuation in 2003.

19. See General Comment No.29: States of emergency (Art.4), United Nations, International Covenant on Civil and Political Rights, 2001.

20. *Ibid.*

21. See report by the Egyptian Organisation for Human Rights and the report drawn up jointly by the Egyptian Association against Torture, the Hisham Mubarak Law Centre and Al-Nadim Centre for Treatment and Rehabilitation of Victims of Torture.

22. The Committee has called on Egypt again "to review the death penalty in view of the provisions of Article 6 of the Covenant (...), to bring its laws and practices into line with the provisions of the Covenant". And lastly, "the Committee recommends that Egypt takes appropriate measures to abolish the death penalty."

23. Resolution of ECOSOC 1984/50 dated 25 May 1984, Paragraph 6.

24. See the alternative report by the HRAAP in response to the report of the Egyptian government presented to the United Nations Human Rights Committee in October 2002.

25. See reports of the EOHR and of the HRAAP, *op. cit.*

26. General comment no.13, article 14 (twenty first session, 1984), Compilation of general comments and general Recommendations adopted by treaty bodies, U.N. Doc. HRI\GEN\1\Rev.1 (1994).

27. *Ibid.*

28. Alternative report published by the Human Rights Association for the Assistance of Prisoners (HRAAP) in response to the report of the Egyptian government presented to the United Nations Human Rights Committee in October 2002.

29. Evidence of Mr Muntaser Al-Zayat.

30. HRAAP alternative report, *op. cit.*

### III. ARREST AND DETENTION

#### 1. Places and conditions of detention

There are 44 prisons in Egypt of which 10 were built in 2000 and 2001<sup>31</sup> and there are hundreds of police stations and offices of the State security intelligence service throughout the country.

The Egyptian government does not generally allow human rights organisations to inspect the detention centres and, as has been said, the FIDH delegation was refused access to the prisons. Nevertheless, the national NGOs report that conditions in a great number of centres, and in particular in those which qualify as "high security", are incompatible with human dignity. In particular apart from overcrowding, they condemn the continual acts of violence and the lack of medical care for the prisoners.<sup>32</sup>

The right to visit which is guaranteed for prisoners and their families, mainly by Article 38 of the Legislation on Prisons, Paragraph 31 of the Guidelines and Measures for prohibiting and preventing torture and cruel, inhuman or degrading treatment or punishment of the African Commission for Human and Peoples' Rights as well as by principle 37 of the UN Standard Minimum Rules for the treatment of prisoners, is regularly flouted. In some prisons, family visits are banned for "security" reasons. These visits, when they are allowed, always take place behind bars, so there can be no contact between prisoners and their families.

Sometimes, the Egyptian authorities even deliberately conceal the names and detention centres of the prisoners as well as the real number of prisoners held in the prisons. They justify this by saying that the number of daily releases and incarcerations is so great that it is difficult to keep a daily note of the exact number of detainees. This is contrary to the UN Standard Minimum Rules for the treatment of prisoners which stipulates in point 7 of the first part that "(1) In every place where persons are imprisoned there shall be kept a bound registration book with numbered pages in which shall be entered in respect of each prisoner received: information concerning his identity; the reasons for his commitment and the authority therefor; the day and hour of his admission and release. (2) No person shall be received in an institution without a valid commitment order of which the details shall have been previously entered in the register".

#### 2. Administrative arrests in terms of the emergency law

Egypt continues to make arrests under the cover of the emergency law, which has for several years now received international condemnation as it is a major obstacle to the application of human rights. The law provides that "for administrative reasons", the security services have the right to arrest citizens who are believed to be a danger to society. Persons arrested by virtue of this law do not enjoy the fundamental guarantees which they would have, had they been arrested in accordance with normal legal procedure. Human rights organisations estimate that between 14,000 and 15,000 people have been arrested for "administrative reasons".<sup>33</sup>

Nevertheless, this law claims to have granted prisoners the right, after 30 days of imprisonment, to lodge an appeal with the Supreme State Security Court, which is supposed to examine the reasons for detention within 15 days of the lodging of the petition. This right, however, is regularly violated by the Ministry of the Interior; actually the prisoners are never released. In addition, at the end of short periods of imprisonment in a prison or a police station, the Ministry immediately delivers a new detention order. This explains the serious overcrowding in Egyptian prisons.

The FIDH delegation met several families of prisoners who had served long terms in prison, as well as families of prisoners who, though they had served the sentence passed by the special courts, had still not been released. These families expressed the grief they felt having dear ones being imprisoned, and they explained that this suffering was exacerbated by not knowing the length of the term of imprisonment. Some prisoners had spent several "additional" years in prison, in flagrant violation of national and international laws.

Ahmed Shahat Al-Gendi, 30, was arrested in 1995, and in the same year appeared before a military court which acquitted him. The FIDH delegation met his family at the end of November 2004; to this day he has still not been released.<sup>34</sup>

Amina Omar Abdul-Aziz explained that her son Ahmed Mohammed Rizk Ibrahim, 20, was arrested in 1997 and sentenced to three years' imprisonment by the military court. He should have been released in March 2000, but his

imprisonment was renewed "for administrative reasons" although he had served his sentence. In November 2004, he was still in prison.<sup>35</sup>

The orders for administrative detention are issued by authority of the Minister of the Interior. But, the Egyptian human rights organisations accuse the minister of giving blank orders to various police stations. This accusation has been denied by the Minister in an Egyptian newspaper<sup>36</sup> but the NGOs have cast doubt on this denial on the basis that one person alone cannot be responsible for the huge number of orders delivered each day. This delegation of power results in the abuse of these orders by members of the security forces, who use them for blackmail, corruption or to settle their differences.

### **3. Interrogation procedures in places of detention**

In terms of Article 5 of the Universal Declaration of Human Rights and Article 7 of the International Covenant of Civil and Political Rights: "No one shall be subjected to torture, nor to cruel, inhuman or degrading treatment or punishment". This clause is also repeated in the African Charter for Human and Peoples' Rights which, in Article 5, prohibits "physical or mental torture, and cruel, inhuman or degrading treatment or punishment".

Egypt has ratified the United Nations Convention Against Torture and the International Covenant on Civil and Political Rights of 1966. It has also ratified the African Charter on Human and Peoples' Rights which, in Article 4, guarantees the right to life and whose African Commission adopted, in October 2002, the Guidelines and Measures for prohibiting and preventing torture and cruel, inhuman and degrading treatment or punishment. In addition, the Arab Charter on Human Rights states that "every individual has the right to life, to freedom, and to his personal safety". Last, on 29 March 2001, the Institute for Islamic Research, al-Azhar, issued a fatwa<sup>37</sup>, stating that physical or any other form of torture must not be practiced to obtain confessions.

Torture and abuse however are still used by the police and the State Security Intelligence Officers in many police stations and detention centres. The continuing state of emergency makes it possible for these practices and for the resulting special criminal procedures to go on.

The FIDH mission was not able to visit a single prison nor any detention centre as the authorities ignored all their requests to do so. The evidence repeated here was taken either from

the families of prisoners, or from the Egyptian human rights organisations or newspapers.

An Egyptian newspaper<sup>38</sup> reported a case of torture concerning a businessman, Abdulmun'am Abdusalam Abdullah, who had been kicked black and blue and electrocuted by the State Security Intelligence Service in Alexandria. Due to his advanced years, he was not able to withstand this abusive treatment and fainted several times. On 19 September 2003, the Bar's Commission for freedoms lodged a complaint against the prosecution.

#### **a. Torture leading to death**

Torture is regularly practiced in Egypt and sometimes leads to the death of the victim.

On 31 December 2003, the State Security Intelligence Service arrested, on the pretext of his political affiliations, Mohamed Husain Najm, who was disabled and paralysed. Close to a year later, on 6 November 2004, his sister Sumaya was summoned to collect him. Two days after his release, he died of illness. He had complained that he had not received suitable medical care during his detention.<sup>39</sup>

On 1 November 2003, Masaad Sayd Mohamed Qatb was arrested for belonging to the banned group "Muslim Brotherhood". He was brutally tortured by the State Security Intelligence Service in Giza. He was later transferred to the State Security Service in the Jaber Ibn Hayen region for further interrogation. He suffered 3 days of brutal torture before dying. The police doctor in his report noted that there were marks from blows over his whole body and coagulated blood on his back.<sup>40</sup>

Mohamed Al-Husaini, was arrested on 23 March 2001 by the State Security Intelligence Service of Bab al-Shaeriya. He was beaten with clubs and electrocuted and died from his injuries<sup>41</sup>.

On 26 January 2001, Mustafa Halmi Abdulsame'a and Sayid Khalifa Isa were arrested by the Nasr police for the theft of a vehicle. They were beaten, electrocuted and hung by the feet for many hours. Mustafa Abdulsame'a who was thrown down 30 kilometres far from prison, had head and body wounds. Sayed Khalifa Isa died as a result of the torture<sup>42</sup>.

#### **b. Impunity for and obstacles preventing the prosecution of those responsible for acts of torture**

Victims are faced with a number of obstacles when they want to lodge a complaint against their torturers. Egyptian law<sup>43</sup>



does not allow torture victims to lodge a complaint directly against the members of the State Security Intelligence Services or any other police officers in a criminal court. Only the Public Prosecutor is authorised to do this, but in the majority of cases he rejects the case and those responsible for the acts of torture remain unpunished.

A report by the Egyptian government to the CAT<sup>44</sup>, in February 2001, indicated that the State Prosecution had submitted 78 cases against officers between 1997 and 2000. But the report omitted to mention the number of complaints of torture received by the State Prosecution in the same period. The Human Rights Association for the Assistance of Prisoners recorded 200 complaints of torture in various detention centres between 1997 and 2001, to which should be added the complaints registered by other human rights organisations.<sup>45</sup> Apart from these difficulties, the victims or members of their families, if they lodge a complaint, they sometimes find themselves subjected to pressure or threats of imprisonment or torture by the officers who carried out the torture, in flagrant violation of Article 13 of the Convention Against Torture which stipulates that "Each State Party shall ensure that any individual who alleges he has been subjected to torture in any territory under its jurisdiction has the right to complain to and to have his case promptly and impartially examined its competent authorities. Steps shall be taken to ensure that the complainant and witnesses are protected against all ill-treatment or intimidation as a consequence of his complaint or any evidence given".

So an example, on 19 September 2003, Mohamed Abdulsattar was arrested by the State Security Intelligence Service in the district of Fayum, because of his political past. After 24 hours of detention and torture, his parents were summoned to collect his body. His burial was closely watched, and his family received threats of reprisals if it complained about his torture.<sup>46</sup>

### **c. Types of torture**

The second article of the United Nations Code of Conduct for Law Enforcement Officials<sup>47</sup>, emphasises that "in carrying out their duties, law enforcement officials must respect and protect human dignity and defend and protect the fundamental rights of every person". Article 5 emphasises that "no law enforcement official may inflict, instigate or tolerate any act of torture or other cruel, inhuman or degrading treatment or punishment, nor may any law enforcement official invoke superior orders or exceptional circumstances such as a state of war or a threat of war, a

threat to national security, internal political instability or any other public emergency as a justification of torture or other cruel, inhuman or degrading treatment or punishment".

The forms of torture inflicted in prisons and detention centres in Egypt are many and varied: blows with a club to the body, electric shocks, hanging the prisoner by his feet for long periods, cigarette burns to the body, stripping naked both men and women, harassment, rape ...

There is also another type of torture known as "the reception" where prisoners are forced to take the names of women, undress and walk between two rows of soldiers who kick and beat them with clubs to attack their dignity. The "refrigerator" is the name of the place where torture is inflicted at night in police stations; generally it is situated near the commandant's office.

### **d. Admissibility of confessions obtained under torture**

The Egyptian Constitution prohibits torture and considers confessions obtained in this way as false information which cannot be taken into account in a trial.<sup>48</sup> However, in practice, most of the information and confessions of prisoners are obtained through their torture and the excessive use of force against them. These confessions and information are probably false in the majority of cases.

Habiba Mohamed Saeed was accused of murdering her husband and was arrested by the al-Ahram police in Giza. After confessing to the murder before the public prosecutor, she later denied this crime in court. She was able to support her court declaration, made under oath, by producing the report of a doctor on oath who confirmed that she had been severely tortured while in prison and by declaring that the intelligence officers had forced her to take part in the reconstruction of a crime she had not committed. The court did not take her evidence into account and sentenced her to ten years imprisonment.

The truth was revealed by a twist of fate: criminals summonsed for other crimes confessed their implication in this murder. They also admitted that they were not in any way connected with Habiba. Habiba Mohamed Saeed, and the Human Rights Centre produced case file No.12207, to the public prosecutor on 4 December 2003 so that he could open an enquiry into the false confessions. At the date of publication of this report, the court was still examining the case.<sup>49</sup>

In 2000, at the police station of Tokh in the district of al-Qaliubiya, Rajab Ibrahim Darwish, Mahmud Ibrahim Darwish, Saber Rizk al-Sayid and Bayoumi Shahata Rizk al-Sayid were charged with the murder of Khaled Abdultawab.<sup>50</sup> After being cruelly tortured and electrocuted, they confessed to the murder. They had been in prison for three years when an other individual admitted killing Abdultawab for theft.<sup>51</sup>

Then there is the case of Mohamed Badr Uddin who was arrested by the al-Montazah police in Alexandria on 24 February 1996. He was charged with torturing and killing his 9-year old daughter, Jihad, whose disappearance he had notified. At the time he reported the disappearance of his daughter, the police found the body of a little girl who resembled Jihad. The father, after confessing to the murder, was charged with the torture and murder of his own daughter.

Some days later, Jihad was found by her mother in a public assistance centre where she had been kept after she got lost. The mother took her daughter to the police station to clarify the situation. Instead of releasing the father, the mother and the 9-year old daughter were imprisoned in the same police station for concealing the facts. The mother was tortured and threatened with rape. Thanks to an investigation carried out by the public prosecutor of the police station where the mother and daughter were kept, the truth came to light. The officers involved have been charged.<sup>52</sup>

It is likely that on the basis of confessions obtained under torture or other inhuman practices, many innocent people have been punished and some of them have been sentenced to death.

One of the most notorious cases and the most publicised in Egypt is the case of Aida Nour Addin, a young nurse who worked in the university hospital in Alexandria. There were several deaths in the hospital where she was working and her colleagues began increasingly to accuse her.

Aida was brutally tortured by the police so that she would confess to the crime, to the extent that she jumped from the second floor of the police station. She fractured a leg, both hips and her skull. She was interrogated whilst unconscious, having lost consciousness due to the treatment she received after her operation.

After ten hours of interrogation which she was physically and psychologically tortured, Aida admitted to the charges against her. She was not in a normal state and could not tell the difference between the officer from the public prosecutor's

office responsible for the inquest and the police officers who had tortured her and forced the false confessions from her. When she had recovered from the operation, her lawyer asked for her to be interrogated again, but the public prosecutor refused this categorically. The criminal court sentenced her to death for intentional murder on the basis of her confessions. The sentence was founded on information obtained under torture.

The defence was able to lodge an appeal in the Court of Cassation and on 9 July 1998, the decision of the lower court was annulled. There was a retrial before another division of the lower court where the principal charge of "intentional killing" was reworded as "causing damage that leads to death".<sup>53</sup> The death sentence was commuted to 10 years imprisonment, which was confirmed in September 1999 by the Court of Cassation<sup>54</sup>.

In this particular case, public opinion and the media influenced the nature of the final verdict and the relations between prisoners.

The admissibility of confessions obtained under torture is a flagrant violation of international law, in particular of the International Convention on Civil and Political Rights. The Human Rights Committee, in its General Comment No. 20, stresses that "in order to prevent violations of Article 7, the law must prohibit the use of or declare inadmissible in any legal proceedings, declarations and confessions obtained through torture or any other prohibited treatment".<sup>55</sup> In addition, Article 12 of the Convention against Torture, ratified by Egypt in 1986, stipulates that "Each State Party shall ensure that its competent authorities proceed to a prompt and impartial investigation, wherever there are reasonable grounds to believe that an act of torture has been committed in any territory under its jurisdiction".

#### 4. Death row

Since the FIDH mission was not authorised to enter the detention centres, including death row, it was not able to have any direct contact with the prisoners. Information on the conditions in prison for those sentenced to death was obtained from witnesses.

Prisoners who are sentenced to death are held in cells no more than two square metres in size. The cells are completely empty, except for a blanket, and are kept dark, with no source of light other than the light that comes through cracks in the door. Prisoners may only use the washing and toilet facilities

at certain times between 5 a.m. and 5 p.m.. At other times the door is kept closed, which forces some prisoner to urinate in their cells.<sup>56</sup>

These prisoners are kept in solitary confinement and wear a red uniform to distinguish them from the other prisoners. They are escorted by guards when they go to the toilets. They are handcuffed and their feet are chained. The use of chains 24 hours a day for those sentenced to death is in contradiction of Paragraph 33 of the United Nations Standard Minimum Rules for the Treatment of Prisoners, which stipulates that "chains and irons should not be used as means of restraint". Paragraph 34 states that "The patterns and manner of use of instruments of restraint shall be decided by the central prison administration. Such instruments must not be applied for any longer time than is strictly necessary". In addition, chains prevent prisoners from exercising or participating in sport, in contradiction of Paragraph 21(2) of the said Rules which states that "Young prisoners, and others of suitable age and physique, shall receive physical and recreational training during the period of exercise. To this end space, installations and equipment should be provided". Several clauses of the Law on prisons in Egypt support laws which humiliate and injure the prisoners' dignity, e.g. it encourages the use of humiliation by authorising the use of ankle chains to keep the prisoners from escaping<sup>57</sup>.

One former political prisoner<sup>58</sup> described the situation of a fellow-prisoner who, at the beginning of the 1980s, had been sentenced to death: "He was made to wear the red uniform as soon as the sentence was pronounced. This uniform distinguishes those sentenced to death from the other prisoners. He was put under strict surveillance and prevented from using any cutting implement in case he wanted to try to commit suicide, which was feared on account of his psychological state. He could not sleep at night, and lived in a state of anguish and worry. The worst thing for him was not knowing exactly when he would be executed, so each moment seemed to be his last. He could only sleep in the morning or in the night before official holidays or religious holidays. Egyptian law prohibits executions on national holidays or on the religious holidays of the accused. When he was taken from the prison to be executed, I saw him collapse, and he had to be supported by his guards".

One of the defence counsel in the case of the nurse, Aida Nour Addin, described the period which elapsed between her death sentence being pronounced and the day her punishment was commuted to 10 years in prison, as a period of great suffering and anxiety, as, each time she heard a noise

in the corridor, she imagined her time had come.

Article 10.1 of the International Convention on Civil and Political Rights states that "all persons deprived of their liberty shall be treated with humanity and with respect for the inherent dignity of the human person". Prison conditions for those sentenced to death in Egypt are contrary to this clause.

### **a. The suffering of families**

Muntaser Al-Zayat, a lawyer for Islamic groups, speaks of the difficulties experienced by his clients, in the case of most death sentences pronounced by the military court : "family members are summoned to collect the body of their relative after the death sentence has been carried out. Sometimes they are prevented from organising a funeral. In some cases, bodies are not returned to their families for burial, and some families do not even know where their relative's grave is. The intelligence services are empowered to bury the body in unknown places".

In addition, because of its religious and cultural background, Egyptian society is felt to be a society where social links are very strong and an integral part of everyone's life. The suffering of the families of these prisoners is twofold, first because of the absence of one of its members, and later, because of the shame they and the subsequent generations endure. This explains why families sometimes refuse to collect the bodies of prisoners.

### **b. The execution**

Generally, the execution takes place within 15 days of the date the sentence becomes final.

Those sentenced to death live the last moments of their life in a state of constant fear, expecting to be executed at any time. Sometimes they are even prevented from saying goodbye to their families.

The police officer, Hussein Qirni, better known as "Ashmawi", who for many years was in charge of executions in Egypt, describes the last moments of a woman before her execution :<sup>59</sup>

"She was standing before me, shaking with fear... a very pretty young woman. From her looks you could tell she came from an aristocratic family... she was shouting and breaking down... We tried to calm her. She asked the guard to call her colleague who had become her friend during her



## The Death Penalty in Egypt

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imprisonment. Her fellow prisoner arrived and they hugged each other. Then she asked to see her only child, but the prosecutor refused, and insisted that the sentence be carried out immediately... and she was hanged".

Ashmawi added that between 1990, when he started to take part in executions, and April 2002, when he was interviewed, he carried out 120 capital executions in 11 different prisons.

Hanging is the method of execution. "The rope is thick and three metres long, weighing 1,4 kilos, and has a brass buckle; it is made of 80% silk and 20% linen. In former times, it was imported from Great Britain at great expense, but these days it is made in Egypt by the company "Al-Ketaal". It is bound in leather to avoid causing any scars or wounds. The rope is soft when it is put round the prisoner's neck".<sup>60</sup>

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31. Official information from the Egyptian government to the UN Committee against Torture (CAT), in November 2002.

32. See "Imprisonment and prisoners in Egypt in 2002", Report by the HRAAP.

33. On administrative detention see *infra*.

34. Meeting between the prisoner's family and the FIDH mission.

35. *Ibid.*

36. Al-Ahram newspaper, 4 January 2001.

37. "Fatwa" (Decree).

38. Al-Arabi newspaper, 31 August 2003.

39. "Prisoners and Imprisonment in Egypt", 6th annual report, HRAAP.

40. *Ibid.*

41. *Ibid.*

42. *Ibid.*

43. Article 63 of the Code of Criminal Procedure.

44. Committee against Torture.

45. Alternative report of the HRAAP.

46. "Prisoners and imprisonment in Egypt", 6th annual report, HRAAP.

47. Adopted by the United Nations General Assembly in December 1979, article 2.

48. Article 42 of the Egyptian Constitution.

49. "Prisoners and imprisonment in Egypt", 6th annual report, HRAAP.

50. Case no. 14860-2000

51. "Prisoners and imprisonment in Egypt", 6th annual report, HRAAP.

52. *Ibid.*

53. Al-Bayan Newspaper 4 October 1998.

54. Al-Bayan Newspaper 3 November 1998.

55. General Comment no. 20, article 7 (forty-fourth session, 1992), Compilation of general comments and general recommendations adopted by treaty bodies, U.N. Doc. HRI/GEN/1/Rev.1 (1994), point 12.

56. Ahmad Sayf Al-Islam, Executive Director of the Hisham Mubarak Law Centre.

57. Article no. 2 of the law on prisons.

58. M. Haggeg Nail, Executive Director of the Arab programme for human rights defenders.

59. Interview with Ashmawi by Akhbar al-hawadith Magazine, 11 April 2002.

60. *Ibid.*

## IV. CONCLUSION AND RECOMMENDATIONS

1. In conclusion to its inquiry into the death penalty, the FIDH delegation is sorry to report that the abolition of the death penalty is not a main concern for Egyptian human rights defenders and the Egyptian legislator. A small number of abolitionists oppose those in favour of the death penalty, who frequently invoke the "Sharia" as an argument in favour of the death penalty; Sharia is presented by the Egyptian Constitution as an immutable religious doctrine and the basis of all legitimate legislation. This position makes any controversy on the death penalty pointless, as it cannot be argued on its principles since it is considered to conform to the Law of God.

There are nonetheless a considerable number of liberal intellectuals who feel that Islam should adapt to the changes which have come about since the time of prophet Mohamed. These intellectuals stress that the Law of the Talion, to which the Sharia expressly refers to justify the death penalty, is an archaic practice which should be replaced by the Judiciary. For centuries now, vengeance no longer constitutes the basis for punishment.

Any development appears then to depend in particular on the increasing secularisation of the law, the purpose of which is to separate the law of the Prince from the law of God. Unfortunately, the upsurge in diverse forms of fundamentalism is not conducive to this development.

2. Although the state of emergency is provided for by Article 148 of the Constitution, in principle it can only be declared "in exceptional circumstances such as war, threat of war, disorder and disaster which constitute a threat to national security or public order". In spite of criminal attacks, in particular the attack of the Sinai, there is nothing to justify, currently in the country, the continuation of exceptional measures which are flagrant violations of human rights and of Egypt's obligations under the international conventions it has ratified. The criminal laws in force providing for the death penalty for a great number of crimes, allow terrorist acts to be punished without the need to worry about the legality of the punishment. In Egypt, as in a number of other countries, the war against terror is a convenient pretext for the authorities to maintain power, without any advantage for the community.

3. Abuses are committed systematically, supposedly justified by the protection of public order and national security. Administrative detention without judicial control, holding

detainees in secret on an administrative decision, verdicts pronounced by the special courts without regard to the rights of the defence, are flagrant violations of the UDHR and the International Covenant on Civil and Political Rights, as well as of articles 65 and 67 of the Constitution which guarantee the independence of the judiciary and the respect of the rights of the defence. Civilians can be tried by military courts and may be sentenced to death and executed without delay, without regard to the rights of the defence and sometimes *in absentia*. The only remedy is the unlikely pardon of the President of the Republic.

4. Abuse is a common practice in the State security offices and police stations throughout the country, sometimes leading to the death of the suspect. Since legal proceedings against police officers may be initiated only by the public prosecutor, the victims or anyone representing them cannot lodge an appeal in court. Torture, as was mentioned earlier, is prohibited by Article 43 of the Constitution and by the International Convention against Torture and other Cruel, Inhuman and Degrading Treatment or Punishment, ratified by Egypt.

In addition, torture is often used during interrogations to obtain confessions. Confessions obtained under duress are then used in courts and often form the basis for the sentence. Although this practice must be condemned in any situation, there is all the more reason to condemn it when capital punishment is involved, due to its irreversible nature. Moreover, obtaining confessions under torture is at the origin of many judicial errors, including the case of the nurse Aida Nour Addin, which is one of the more blatant examples in past few years.

5. If the process leading to condemnations to death before the ordinary courts cannot be too harshly criticised - the reputation of the Egyptian judiciary extends beyond the country's frontiers - that is not the case regarding to the condition of people sentenced to death before their execution. There is not only the torment of solitary confinement but the detainees live in constant anxiety, not knowing what tomorrow might bring.

6. The conditions in the majority of the detention centres in Egypt are deplorable and incompatible with the respect for human dignity guaranteed by international instruments.

### **On the basis of these considerations, the FIDH urges :**

#### **The Egyptian authorities**

##### Specific recommendations regarding the death penalty

- To adopt a moratorium on executions, as a first step towards the abolition of the death penalty in all cases, in conformity with the resolution of the United Nations Human Rights Commission, the resolution of the African Commission for Human and Peoples' Rights and the recommendations adopted following the symposium organised in September 2004 by the Human Rights Association for the Assistance of Prisoners on the question of the death penalty. And then to ratify the second optional Protocol to the International Covenant on Civil and Political Rights;
- To reduce the number of crimes punishable by death by limiting them to those which have serious, lethal consequences, in accordance with Article 6 of the International Covenant on Civil and Political Rights, ratified by Egypt;
- To ensure the observation of the Code of Criminal Procedure with regard to those sentenced to death, by advising them of the decision of the Court of Cassation;
- To set up a judicial remedy to appeal the decisions of the State Security Criminal Courts, in accordance with the United Nations Safeguards guaranteeing protection of the rights of those facing the death penalty;
- To ensure that the conditions of detention for those sentenced to death, and also for all other prisoners, are compatible with the respect for the inherent dignity of any human being.

##### General recommendations

- To put an immediate end to the state of emergency which, after 23 years, is no longer justified in Egypt today;
- To put an immediate end to the serious violations of human rights as a result of the state of emergency, and in particular to administrative detention without any effective judicial control, to civilians appearing before military courts, to the special courts which include the State Security Courts presided by military officers and against which there is no possible appeal;
- To put an end to the impunity of the police and security forces with regard to the acts of violence committed against suspects and defendants in pre-trial detention, in particular by giving victims the chance of instigating a public action presently exercised exclusively by the prosecutors and by allowing them to benefit from the assistance of a lawyer at all stages of the investigation ;
- To inquire immediately into any allegations of torture, in accordance with articles 12 and 13 of the Convention Against

Torture and other cruel, inhuman or degrading punishment or treatment;

- To reduce, as before 1992, the period of police custody from seven days to 24 hours ;
- To train judges and law enforcement officials in the rigorous respect of the principle of the inadmissibility of confessions obtained under torture, as provided for in the Egyptian legislation and in international law.

##### The National Human Rights Council

- To appeal to the President of the Republic to end the state of emergency ;
- To ensure that the petitions received are effectively followed up, when they appear justified, in particular regarding torture in police stations and state security offices, and regarding the abuses reported in detention centres, by appealing the prosecution authorities;
- To start an information campaign for officers in the police and security services as well as prison staff on the necessity to guarantee and respect the rights of the persons detained and to sanction their violation.

##### The European Union

- To address systematically the question of the death penalty in the context of the bilateral dialogue between the EU and Egypt on the basis of the EU/Egypt Association Agreement, and in particular on the basis of its human rights clause, and in conformity with the European Union Guidelines on the death penalty of 1998;
- To support the projects of the Egyptian civil society which back the abolition of the death penalty, particularly through the European Initiative for Democracy and Human Rights.

## V. APPENDICES : 1. LIST OF PERSONS WITH WHOM THE FIDH DELEGATION MET

### Cairo

#### MINISTRY OF JUSTICE

Counsellor Sana Khalil, adviser in human rights at the office of the Ministry of Justice.

#### THE ATTORNEY GENERAL OF THE ARAB REPUBLIC OF EGYPT

Counsellor Maher Abdelwahed

Sheik Tantawi, Grand Imam of the al-Azhar Islamic University

#### THE AL-TAGAMMO' PARTY : National Progressive Unionist Party

Mr Rifaat Essaid, president of the party

Mr Hussine Abderrazek, secretary general

#### NATIONAL COUNCIL FOR HUMAN RIGHTS

Mr Abu Majd, vice-president and former Minister for Information

Mr Mokhloss Kotb, former ambassador, member of the Council

Mr Hafez Abu Saada, secretary general of the EOHR and member of the Council

#### EGYPTIAN ORGANISATION FOR HUMAN RIGHTS (EOHR)

Mr Hafez Abu Saada, secretary general of EOHR and member of the National Council for Human Rights

Mr Gasser Abderrazak, member of the Bureau

Mr Tark Zaagloul, lawyer and responsible for inquiries and investigations

Mr Cherif Azzar, responsible for international relations

Mrs Sarah Carr, responsible for international relations and translations

#### HUMAN RIGHTS ASSOCIATION FOR THE ASSISTANCE OF PRISONERS (HRAAP)

Mr Mohammed Zaraa, Chairman and lawyer

Mr Ihab Sallam, programme director and lawyer

#### ARAB PROGRAMME FOR HUMAN RIGHTS DEFENDERS ASSOCIATION

Mr Haggeg Nail, executive director

Mr Sabri Mohamed Hassen, lawyer and member of the bureau

#### EL-NADIM CENTRE FOR TREATMENT AND REHABILITATION OF

#### VICTIMS OF TORTURE

Mrs Suzanne Fayad, chairman, psychiatrist

#### THE EGYPTIAN ASSOCIATION AGAINST TORTURE

Mrs Aida Seif Addawla, psychiatrist and president

#### HISHAM MOUBARAK LAW CENTRE

Mr Ahmed Seif al-Islam Hamd, lawyer and executive director

#### THE ASSOCIATION FOR THE DEVELOPMENT OF DEMOCRACY

Mr Negad Al-Bor'i, barrister in the Court of Cassation, chairman of the Association for the Development of Democracy

#### IBN KHALDOUN CENTRE

Dr Saad Eddine Ibrahim, director

Mr Muntaser Al-Zayat, lawyer, specialist in criminal matters

### Mahallah

#### AL-FAJR CENTER FOR HUMAN RIGHTS- SUPPORT PROGRAMME

Mr Atef Al-Gebaly, co-ordination of international relations, official spokesman, in charge of the workforce, a considerable delegation of about 50 people, executives and members of the association.

### Alexandria

#### EGYPTIAN CENTRE FOR INFORMATION, CULTURE AND DEVELOPMENT

Mr Ali Abdelfattah, director

Mr Medhat Al-Haddad, engineer, company director, former political prisoner

Dr Ibrahim Zaafrani, doctor, former secretary general of the doctors' union

Mr Amr Hassen Abu Haif, barrister at the Court of Cassation, specialist in criminal matters

## 2. Articles published (in translation in French) on the mission of the FIDH delegation

### Une délégation internationale des droits de l'homme visite l'Égypte pour l'inciter à l'abolition de la « peine de mort »

#### Étudier l'état des droits de l'homme en Égypte... et enquêter sur la situation dans les prisons

*Par Wa'el Ali*

Il est parvenu à « L'Égyptien Aujourd'hui » qu'une délégation de la Fédération internationale des droits de l'homme visitera l'Égypte vers la fin du mois, dans le cadre de la campagne internationale menée par la fédération pour l'abolition de la peine de mort des législations des états qui l'appliquent toujours.

Hafez Abou Se'da, le Secrétaire Général de l'Organisation égyptienne des droits de l'homme, a déclaré que son organisation, en tant que membre de la fédération, a reçu une demande pour coordonner la visite de la délégation qui a été décidée pour la période allant du 29 novembre au 9 décembre (*sic*).

Il a de même ajouté que la délégation se composerait de trois membres : Alia Chérif Chamali (*sic*) de Tunisie, Nabil Ragab du Bahreïn et Klin (*sic*) Jaudel de France.

Abou Se'da a expliqué que le but de la visite est d'inciter les autorités égyptiennes à l'abolition de la peine de mort, ainsi que d'enquêter sur la situation dans les prisons et sur les droits de l'homme en Égypte. L'organisation égyptienne a donc adressé des lettres à plusieurs responsables pour organiser les rencontres de la délégation.

Abou Se'da a signalé par la suite que des lettres ont été envoyées à ce sujet au Cheikh d'Al-Azhar, au Ministre de l'Intérieur, et à l'un des assistants du Ministre de l'Extérieur, afin de leur demander de fixer des rendez-vous pour rencontrer la délégation de la fédération. La seule réponse a été reçue de la part du Cheikh d'Al-Azhar, les Ministères de l'Intérieur et de l'Extérieur s'étant abstenus d'y répondre.

Abou Se'da a également indiqué qu'une lettre a été adressée à l'Ambassadeur Mokhless Qoth, Secrétaire Général du Conseil national des droits de l'homme au sujet d'une rencontre avec la délégation.

De sa part, le Dr Ahmed Kamal Abou el-Magd, Vice-président du Conseil, a nié en avoir été informé, tout en assurant qu'il n'avait pas été contacté par les responsables de la fédération.

Dans ses déclarations à la presse, Abou el-Magd a déclaré qu'il est illogique de visiter l'Égypte pour enquêter sur la situation des droits de l'homme, alors que ces questions sont du ressort du Conseil.

Il a ajouté que la porte du conseil est ouverte à toute délégation étrangère, à condition qu'elle coordonne avec le conseil, et assuré que la position de la législation égyptienne au sujet la peine de mort est très claire et indiscutable.

Le quotidien Al-Masri Al-Yom (« L'Égyptien Aujourd'hui ») du 27 novembre 2004



## **Le Cheikh d'Al-Azhar Affirme son refus absolu de l'abolition de la « peine de mort »**

**Tantawi à la Présidente de la délégation d'une organisation des droits de  
l'homme :**

**Si quelqu'un assassine votre fils... le laisserez-vous en vie ?**

*Par Ahmed el-Beheiri*

Le Dr Mohamed Sayed Tantawi, Cheikh d'Al-Azhar, a refusé "catégoriquement" de répondre à la demande d'une délégation de l'Organisation fédérale des droits de l'homme concernant l'abolition de la peine de mort dans le cadre de sa campagne internationale, en signalant que la sentence capitale matérialise le *Qassass* (talion) de la Loi Islamique et que nul musulman ne peut le nier.

Tantawi a déclaré hier lors de sa rencontre avec la délégation de l'organisation : Dieu Tout-puissant a établi le talion, pour préserver la vie de tous les êtres humains, et ce n'est pas juste d'abolir la sentence qui mène à une justice absolue ; et il a expliqué que l'abolition de la sentence signifierait d'assister l'assassin au détriment de la victime.

En répondant aux questions des membres de la délégation, Tantawi a perdu son calme, sa voix s'est élevée considérablement, et il a adressé à la présidente de la délégation, maître Alia Chérif (tunisienne), la question suivante : si quelqu'un tue votre fils, et qu'il n'est pas puni de mort, le laisseriez-vous vivre ?

Il a par la suite assuré qu'un pays où la peine de mort a été abolie n'a pas le droit d'en obliger un autre à suivre son exemple, tout en expliquant que cette sentence n'est appliquée que lorsque l'on prouve par tous les moyens que le crime a été une agression préméditée et injuste.

Le quotidien Al-Masri Al-Yom (« L'Egyptien Aujourd'hui ») du 29 novembre 2004

## **Le Dr Abou el-Magd : La question de l'abolition de la peine de mort ne se pose pas**

Le Dr Ahmed Abou el-Magd, Vice-président du Conseil national des droits de l'homme, a assuré que la question de l'abolition de la peine de mort ne se pose pas en Egypte, et ajouté que la raison pour laquelle la Loi Islamique a attesté le talion est la protection de la société contre le principe de vendetta qui dépasse ses limites et atteint des innocents.

Ces propos ont été prononcés lors de l'accueil de la délégation de l'Union fédérale des droits de l'homme de Paris par Dr Abou el-Magd. Le Président de cette délégation a déclaré que le but de la visite est de propager le principe d'abolition de la sentence capitale et de connaître le rôle du conseil dans le domaine des droits de l'homme. Cette rencontre s'est déroulée en présence de l'Ambassadeur Mokhless Qotb, Secrétaire général du conseil, et de Hafez Abou Se'da, responsable du comité chargé des plaintes au sein du conseil.

Le quotidien Al-Akhbar du 30 novembre 2004

### **...Et Abou el-Magd étudie la question de la peine de mort avec la délégation**

Dr Ahmed Abou el-Magd, Vice-président du Conseil national des droits de l'homme a étudié hier avec la délégation de la F.I.D.H. le rôle du conseil dans la protection des droits essentiels de l'homme et de ses libertés, ainsi que les garanties que présente l'appareil judiciaire égyptien et le rôle de la cour de cassation dans la question de la peine de mort et l'inculpation de l'accusé et sa condamnation ou son acquittement.

Le Dr Abou el-Magd a assuré que la Loi Islamique, lorsqu'elle a instauré le talion, y voyait une protection de la société du principe de vendetta qui dépasse les limites et atteint des innocents.

Le quotidien Al-Ahram du 30 novembre 2004

## Dans sa rencontre avec la délégation de la Fédération internationale des droits de l'homme :

### Le Cheikh d'Al-Azhar renouvelle son refus absolu de toutes propositions au sujet de l'abolition de la peine de mort

Par 'Ola Moustafa

L'Imam Suprême, Dr Mohamed Sayed Tantawi, Cheikh d'Al-Azhar, a renouvelé son refus absolu de tout avis ou proposition concernant l'abolition totale de la peine de mort, ou sa substitution par d'autres sentences comme la réclusion à perpétuité ; et a signalé que la revendication de l'abolition sous l'emblème des « droits de l'homme » constitue en elle-même une grande injustice vis-à-vis de l'homme et un mépris de son droit à la vie.

Tantawi assuré que la sentence capitale est l'interprétation législative du principe du talion que l'Islam a instauré pour sauvegarder l'âme humaine que Dieu a honoré « *C'est dans le talion que vous aurez la préservation de la vie, ô vous doués d'intelligence* »<sup>1</sup>.

Ces propos ont été prononcés hier lors de la rencontre du Cheikh d'Al-Azhar avec une délégation composée de trois avocats de différentes nationalités représentant la mission d'enquête envoyée en Egypte par la Fédération internationale des droits de l'homme -siégeant à Paris- pour une visite visant – entre autres- à connaître l'avis d'Al-Azhar au sujet de l'abolition de la peine de mort. Elle a de même pour objectif de prendre connaissance des législations et de l'application de ce châtimeur en Egypte. Les membres de la délégation ont affirmé que l'opinion d'Al-Azhar en tant qu'institution religieuse les intéressait et qu'ils la joindront à leur rapport qui sera soumis aux Nations Unies et au Conseil Européen au terme du programme organisé par la fédération au sujet de la peine de mort dans le monde entier.

Pour mieux expliquer l'avis d'Al-Azhar, Tantawi a assuré qu'il existe des faits inaltérables à ce sujet : La Loi Islamique a en effet été la première à mettre l'accent sur les droits de l'homme et elle a prescrit que celui qui agresse un individu agresse toute l'humanité en sa personne comme l'indique le verset coranique « *quiconque tuerait une personne non coupable d'un meurtre ou d'une corruption sur la terre, c'est comme s'il avait tué tous les hommes. Et quiconque lui fait don de la vie, c'est comme s'il faisait don de la vie à tous les hommes.* »<sup>2</sup>. Il a de même assuré que la peine de mort n'est appliquée, selon la Loi Islamique, que dans le cas de celui qui tue par injustice et agression, accompagnées de préméditation.

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<sup>1</sup> Sourate Al-Baqarah (La vache), verset 179.N.D.T.

<sup>2</sup> Sourate Al-Ma'eda (La table servie), verset 32. N.D.T.



### **3. PROTEST IN FIDH PRESS RELEASE OF 9 DECEMBER 2004.**

#### **The FIDH denounces rights abuses in the fight against terrorism**

**Returning from a fact-finding mission on the death penalty in Egypt, the International Federation for Human Rights (FIDH) joins its voice to the protests of several Egyptian human rights organizations against the behaviour of the Egyptian security forces in the Sinai.**

Returning from a fact-finding mission on the death penalty in Egypt, the International Federation for Human Rights (FIDH) joins its voice to the protests of several Egyptian human rights organizations against the behaviour of the Egyptian security forces in the Sinai.

After the attacks against civilians including Israeli tourists in TABA on 7 October 2004, where 38 persons were killed and 135 wounded, massive arrests have been conducted in the surrounding towns of El Arish and El Sheikh-Zwaid.

According to detailed investigations carried out by several organizations<sup>1</sup>, more than 5.000 persons, including men and women, have been arrested (according to the Egyptian authorities 800 persons were arrested). Many of them have been subjected to systematic torture and it is reported that several people have died and that others are hospitalized.

Furthermore, many of the arrested people have been detained under administrative detention for an indeterminate duration in the absence of any judicial procedure. Administrative detention is provided for under the emergency law which has been into force since October 1981.

This situation is another example of human rights abuses being committed in various regions of the world under the pretext of counter-terrorism, which the FIDH is constantly denouncing. The fight against terrorism is legitimate and indispensable, however, it must respect fundamental rights.

The FIDH along with the Egyptian human rights defenders, urges the Egyptian authorities to investigate the alleged human rights violations committed by the security forces in the Sinai and to sanction the authors of such abuses.

The FIDH recalls that any person arrested in the framework of the fight against terrorism must be informed of the charges against him and brought before ordinary courts rather than military tribunals, which fall short of international standards relating to the right to a fair trial. If such charges do not exist, the detainees must be released without delay.

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1. See the report by the Egyptian Organisation for Human Rights: Arish... random arrests, detention and torture: Stop the tragedy, published on 24/11/2004 available at [www.eohr.org](http://www.eohr.org)





# FIDH represents 141 Human Rights organisations

## 141 organisations

- Afrique du Sud**-Human Rights Committee of South Africa  
**Albanie**-Albanian Human Rights Group  
**Algérie**-Ligue Algérienne de Défense des Droits de L'Homme  
**Algérie**-Ligue Algérienne des Droits de L'Homme  
**Allemagne**-Internationale Liga für Menschenrechte  
**Argentine**-Centro de Estudios Legales y Sociales  
**Argentine**-Comite de Accion Juridica  
**Argentine**-Liga Argentina por los Derechos del Hombre  
**Autriche**-Osterreichische Liga für Menschenrechte  
**Azerbaïjan**-Human Rights Center of Azerbaijan  
**Bahreïn**-Bahrain Human Rights Society  
**Bangladesh**-Odhikar  
**Belarus**-Human Rights Center Viasna  
**Belgique**-Liga Voor Menschenrechten  
**Belgique**-Ligue des Droits de L'Homme  
**Bénin**-Ligue pour la Défense des Droits de L'Homme Au Bénin  
**Bhutan**-People's Forum for Human Rights in Bhutan (Nepal)  
**Bolivie**-Asamblea Permanente de los Derechos Humanos de Bolivia  
**Bresil**-Centro de Justicia Global  
**Bresil**-Movimento Nacional de Direitos Humanos  
**Burkina Faso**-Mouvement Burkinabe des Droits de L'Homme & des Peuples  
**Burundi**-Ligue Burundaise des Droits de L'Homme  
**Cambodge**-Cambodian Human Rights and Development Association  
**Cambodge**-Ligue Cambodgienne de Défense des Droits de L'Homme  
**Laos (France)**-Mouvement Lao pour Les Droits de L'Homme  
**Cameroun**-Maison des Droits de L'Homme  
**Cameroun (France)**-Ligue Camerounaise des Droits de L'Homme  
**Canada**-Ligue des Droits et des Libertés du Quebec  
**Centrafrique**-Ligue Centrafricaine des Droits de L'Homme  
**Chili**-Comite de Defensa de los Derechos del Pueblo  
**Chine**-Human Rights in China  
**Colombie**-Comite Permanente por la Defensa de los Derechos Humanos  
**Colombie**-Corporacion Colectiva de Abogados Jose Alvear Restrepo  
**Colombie**-Instituto Latinoamericano de Servicios Legales Alternativos  
**Congo Brazzaville**-Observatoire Congolais des Droits de L'Homme  
**Côte d'Ivoire**-Ligue Ivoirienne des Droits de L'Homme  
**Côte d'Ivoire**-Mouvement Ivoirien des Droits de L'Homme  
**Croatie**-Civic Committee for Human Rights  
**Cuba**-Comision Cubana de Derechos Humanos y Reconciliacion Nacional  
**Ecosse**-Scottish Human Rights Centre  
**Egypte**-Egyptian Organization for Human Rights  
**Egypte**-Human Rights Association for the Assistance of Prisoners  
**El Salvador**-Comision de Derechos Humanos de El Salvador  
**Equateur**-Centro de Derechos Economicos y Sociales  
**Equateur**-Comision Ecumenica de Derechos Humanos  
**Equateur**-Fundacion Regional de Asesoría en Derechos Humanos  
**Espagne**-Asociacion Pro Derechos Humanos  
**Espagne**-Federacion de Asociaciones de Defensa y Promocion de los Derechos Humanos  
**Etats Unis**-Center for Constitutional Rights  
**Ethiopie**-Ethiopian Human Rights Council  
**Finlande**-Finnish League for Human Rights  
**France**-Ligue des Droits de L'Homme et du Citoyen  
**Georgie**-Human Rights Information and Documentation Center  
**Grèce**-Ligue Hellenique des Droits de L'Homme  
**Guatemala**-Centro Para la Accion Legal en Derechos Humanos  
**Guatemala**-Comision de Derechos Humanos de Guatemala  
**Guinée**-Organisation Guinéenne pour la  
**Defense des Droits de L'Homme**  
**Guinée Bissau**-Liga Guineense dos Direitos do Homem  
**Irak (Royaume Uni)**-Iraqi Network for Human Rights Culture and Development  
**Iran**-Centre des Défenseurs des Droits de L'Homme en Iran  
**Iran (France)**-Ligue de Défense des Droits de L'Homme en Iran  
**Irlande**-Irish Council for Civil Liberties  
**Irlande du Nord**-Committee On the Administration of Justice  
**Israël**-Adalah  
**Israël**-Association for Civil Rights in Israel  
**Israël**-B'tselem  
**Israël**-Public Committee Against Torture in Israel  
**Italie**-Liga Italiana Dei Diritti Dell'uomo  
**Italie**-Unione Forense Per la Tutela Dei Diritti Dell'uomo  
**Jordanie**-Amman Center for Human Rights Studies  
**Jordanie**-Jordan Society for Human Rights  
**Kenya**-Kenya Human Rights Commission  
**Kosovo**-Conseil pour la Défense des Droits de L'Homme et des Libertés  
**Kyrgistan**-Kyrgyz Committee for Human Rights  
**Lettonie**-Latvian Human Rights Committee  
**Liban**-Association Libanaise des Droits de L'Homme  
**Liban**-Foundation for Human and Humanitarian Rights in Lebanon  
**Liban**-Palestinian Human Rights Organization  
**Liberia**-Liberia Watch for Human Rights  
**Libye (Suisse)**-Libyan League for Human Rights  
**Lithuanie**-Lithuanian Human Rights Association  
**Malaisie**-Suaram  
**Mali**-Association Malienne des Droits de L'Homme  
**Malte**-Malta Association of Human Rights  
**Maroc**-Association Marocaine des Droits Humains  
**Maroc**-Organisation Marocaine des  
**Droits Humains**  
**Mauritanie**-Association Mauritanienne des Droits de L'Homme  
**Mexique**-Comision Mexicana de Defensa y Promocion de los Derechos Humanos  
**Mexique**-Liga Mexicana por la Defensa de los Derechos Humanos  
**Moldova**-League for the Defence of Human Rights  
**Mozambique**-Liga Mocancicana Dos Direitos Humanos  
**Nicaragua**-Centro Nicaraguense de Derechos Humanos  
**Niger**-Association Nigérienne des Droits de L'Homme  
**Nigeria**-Civil Liberties Organisation  
**Nouvelle Calédonie**-Ligue des Droits de L'Homme de Nouvelle Calédonie  
**Ouganda**-Foundation for Human Rights Initiative  
**Pakistan**-Human Rights Commission of Pakistan  
**Palestine**-Al Haq  
**Palestine**-Palestinian Centre for Human Rights  
**Panama**-Centro de Capacitacion Social  
**Pays Bas**-Liga Voor de Rechten Van de Mens  
**Pérou**-Asociacion Pro Derechos Humanos  
**Pérou**-Centro de Asesoría Laboral  
**Philippines**-Philippine Alliance of Human Rights Advocates  
**Polynésie Française**-Ligue Polynésienne des Droits Humains  
**Portugal**-Civitas  
**RDC**-Ligue des Electeurs  
**RDC**-Association Africaine des Droits de L'Homme  
**RDC**-Groupe Lotus  
**République de Djibouti**-Ligue Djiboutienne des Droits Humains  
**République Tchèque**-Human Rights League  
**Roumanie**-Ligue pour la Défense des Droits de L'Homme  
**Royaume-Uni**-Liberty  
**Russie**-Citizen's Watch  
**Russie**-Moscow Research Center for Human Rights  
**Rwanda**-Association pour la Défense  
**des Droits des Personnes et Libertés Publiques**  
**Rwanda**-Collectif des Ligues pour la Défense des Droits de L'Homme Au Rwanda  
**Rwanda**-Ligue Rwandaise pour la Défense et la Défense des Droits de L'Homme  
**Sénégal**-Organisation Nationale des Droits de L'Homme  
**Sénégal**-Rencontre Africaine pour la Défense des Droits de L'Homme  
**Serbie et Montenegro**-Center for Antirwar Action - Council for Human Rights  
**Soudan (Royaume Uni)**-Sudan Organisation Against Torture  
**Soudan (Royaume Uni)**-Sudan Human Rights Organization  
**Suisse**-Ligue Suisse des Droits de L'Homme  
**Syrie**-Comite pour la Défense des Droits de L'Homme en Syrie  
**Tanzanie**-The Legal & Human Rights Centre  
**Tchad**-Association Tchadienne pour la Promotion et la Défense des Droits de L'Homme  
**Tchad**-Ligue Tchadienne des Droits de L'Homme  
**Tchad**-Asociacion Pro Derechos Humanos  
**Togo**-Ligue Togolaise des Droits de L'Homme  
**Thaïlande**-Union for Civil Liberty  
**Tunisie**-Conseil National pour Les Libertés en Tunisie  
**Tunisie**-Ligue Tunisienne des Droits de L'Homme  
**Turquie**-Human Rights Foundation of Turkey  
**Turquie**-Insan Haklari Dernegi / Ankara  
**Turquie**-Insan Haklari Dernegi / Diyarbakir  
**Union européenne**-FIDH AE  
**Uzbekistan**-Legal Aid Society  
**Vietnam (France)**-Comite Vietnam pour la Défense des Droits de L'Homme  
**Yemen**-Human Rights Information and Training Center  
**Yemen**-Sisters' Arabic Forum for Human Rights  
**Zimbabwe**-Zimbabwe Human Rights Association Zimbabwe

The International Federation for Human Rights (FIDH) is an international non-governmental organisation dedicated to the world-wide defence of human rights as defined by the Universal Declaration of Human Rights of 1948. Founded in 1922, the FIDH has 141 national affiliates in all regions. To date, the FIDH has undertaken more than a thousand international fact-finding, judicial, mediation or training missions in over one hundred countries.

## La Lettre

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