

Situation of human rights in Egypt

February 2007

I. The use of the Emergency Law¹ and Counter-terrorism Law as justification to torture, ill treatments, arbitrary detentions and summary condemnations violates the respect of the right to a fair trial and to detention conditions in conformity with the provisions of international human rights standards.

On 2 November 2006, at an international conference in Germany, the *Cairo Institute for Human Rights Studies* (CIHRS) denounced the persistent manipulation of the Emergency Law in Egypt and the subsequent violation of the right to a fair trial, ensuing from continued operation of State Security Courts and referring citizens to the Military Court, as it recently happened for the number-three ranking Brotherhood official, Khayrat al-Shater, and 39 others militants of the Egypt's largest opposition group.

CIHRS inveighed also against the systematic use of torture in Egyptian prisons and the inability of the judicial system to ensure equity to the victims. The on-going violations of human rights principles by security forces of the Ministry of Interior and their systematic assault on citizens' freedoms represent a real threat to Egyptians, who dread the idea of having to go into police stations and continue to be terrified of security personnel because of the cruel treatment awaiting them in these stations. The Ministry of Interior constantly denied these facts and deemed them as "prejudiced rumours", but documented filmed scenes, known as "torture clips", are circulated now through internet and have disclosed the reality.

According to *Egyptian Organisation for Human Rights* (EOHR) report, of the 263 reported cases of torture in police stations in Egypt from 2000 to 2005, 79 people died. The report underlines as torture has become a « phenomenon » in Egypt: those responsible are not normally/usually brought to justice and it is extremely hard for the victims to take any legal action against them.

EMHRN, FIDH and OMCT welcome the Egyptian National Council of Human Rights' proposal for amending some articles of the Penal Code and improving the treatment of detainees. "One of the most important laws that must be amended is the one governing administrative detention and its procedures, so that torture against detainees is punished. [...] A system of overseeing/monitoring the implementation of the Penal Code must be put in place to ensure the good treatment of prisoners"² states the NCHR's report, focused on the treatment of prisoners and abuses by security service, as in the cases of Egypt's bloggers and human rights activists that have been daily releasing new evidence of abuse by police.

In the context of reforms of the Constitution, formally requested last December by President Hosni Mubarak, EMHRN, FIDH and OMCT welcome the integration of the principle of citizenship into the Constitution, the flexibility that gives room for the adjustment of the electoral system and the affirmative action for women and ask for the application of the same rules to Copts. In this regard we join the concern of Egyptian Civil Society organizations, recalling the UE that some of the proposed amendments will weaken constitutional guarantees of human rights, namely those related to the judicial supervision of the elections, combating terrorism and prohibition of religious-based parties³. For instance, amendments of article 88 would curtail judicial supervision of general elections and it will mean a return to regime control of election results. Others include further interference with judicial independence via the creation of a new supervisory body headed by the President.

CIHRS has rang alarm bells on the introduction of the new Counter-terrorism Law, in spite of the already

¹ Egypt has been under emergency rule-Emergency Law No. 162 of 1958-for most of the past thirty-five years and continuously since the assassination of President Anwar Sadat in October 1981

² National Council of Human Rights, *3rd annual report*, 4 February 2007

³ CIHRS Statement, « *CIHRS Sends a Memorandum on the Constitutional Amendments to the People's Assembly and Shura (Consultative) Council* », 13 February 2007

existing 1992⁴.

The UN Special Rapporteur on Counter-Terrorism and Human Rights, Mr. Martin Scheinin, is continually denied access to Egypt in order to investigate these policy impacts. FIDH and its organisations in Egypt joined in Mr. Scheinin critic to Egypt - both in terms of national legislation and the Arab Counter-Terrorism convention, which came into force in 1999 - for using loose and broad definition of terrorism⁵ that rigidly restrict freedom of expression, the right to association, and undermine justice.

Once again, we highlighted that no country, under international law, is allowed to renege unconditionally on its commitments in times of danger - whether domestic or foreign - and that torture, arbitrary detention and unfair trials can by no means be justified under the pretext of counter-terrorism.

We also deplore that, following the five terrorist attacks which occurred between October 2004 and April 2006 in Sinai, the Egyptian government's reaction to the bombings has been essentially confined to the security sphere: tracking down and eliminating the perpetrators, but ignoring the deeper causes of discontent. In fact beneath the terrorism problem appears the serious and enduring « Sinai question »⁶, whose people require the full integration and participation in national political life.

As already mentioned, trials of civilians before courts established under emergency jurisdiction, including State Security Courts, continued to take place. Cases involving national security or "terrorism"-related charges are often tried before military courts. These courts deny the right to an independent and impartial trial as well as the right of full review before a higher tribunal.

Meanwhile, our organisations are concerned at the wave of arrests targeting members of the Muslim Brotherhood – whose parliamentary existence is now threatened by proposed amendments to the Egyptian Constitution – have continued unabated:

over 1,000 Brotherhood members have been arrested since pro-reform protests in May 2006. On 2 January 2007, 29 of their members have allegedly been arrested during raids in Sharqiya, Gharbiya and Daqaliya governorates, in the Nile Delta.

We recall that the referral of civilian defendants to military courts constitutes a flagrant interference of the executive authorities in the conduct of justice, and a spoliation of the defendants' constitutional right to appear before an independent tribunal⁷.

We call upon the EU to reject the resolution of conflicts with any political faction through security banishment, exceptional measures and trials and ensure the right of defendants to appear before an independent tribunal.

II. Infringements of the right to freedom of expression and necessary amendment of the law on political parties.

According to EOHR's report of July 2006⁸, some improvements have been recorded regarding the respect of freedom of expression, in particular the abrogation of Art. 303 of the Penal Code providing imprisonment for defamation. Nevertheless, many articles of the Penal Code and of the Press law among others, providing prison sentence or the possibility to be tried before a military court, have still to be amended or removed⁹..

⁴ Following a resurgence of political violence, the government introduced "anti-terror" decrees, notably Law No. 97 of 1992, that gave security and intelligence forces still greater powers of arrest and detention.

⁵ "any use of force or violence or any threat or intimidation to which the perpetrator resorts in order to carry out an individual or collective criminal plan aimed at disturbing the peace or jeopardizing the safety and security of society and which is of such a nature as to create harm or create fear in persons or imperil their lives, freedom or security; harm the environment; damage or take possession of communications; prevent or impede the public authorities in the performance of their work; or thwart the application of the Constitution or of laws or regulations".

⁶ International Crisis Group, *Egypt's Sinai Question*, Middle East/North Africa Report N° 61, 30 January 2007

⁷ CIHRS Press Release, « *Muslim Brothers referral to military trial: A violation of the Independence of the judiciary, of criteria of justice and an indicator of the purpose of constitutional Amendments* », 11 February 2007

⁸ EOHR, *Journalism In Egypt: Caught Between Laws And the Government*, July 2006.

⁹ EMHRN Statement, « *Human Rights Organizations call upon President Mubarak to commit to his Promises not to Imprison Journalists for their Writings* », 10 January 2007

Egypt remains one of the 13 countries on *RSF Blacklist*; it also ranks number 133 on the annual press freedom index.

In light of recent information, the situation seems to become more critical. Egyptian authorities use the law to prevent freedom of the press, often violating their own laws.

On 4 February 2007, an Egyptian coalition of organisations¹⁰ denounced that the Supreme Council of Press (SCP) is seeking to limit the freedom to issue newspapers in Egypt, trying to hinder the release of *Al-Badiel* newspaper, which met all the provisions of release according to the Press law. SCP has adopted an inflexible instance since the first day of establishing the newspaper. The SCP shut down the paper without adhering to the rules, which require them to announce their objections within a 40-day period. The SCP Trustee officials failed to respond to the demands of the newspaper's editors to be notified by current or expected faults in order to immediately avoid them. In addition, it wrote a letter after the end of the legally assigned period to request more formal clarifications on one of the submitted documents. This reflects the desire to waste time and non-adherence to legal dates. To date, the organization is refusing to publicly disclose the reason for their action, despite the requests and demands of the paper's editors.

Freedom of the press plays out to the whims of the government and of the allegedly independent organizations, such as the SCP, that it sets up to do its bidding.

In January 2007, Ms. Howeida Tahaa, a journalist for the London newspaper, *Al-Quds al-Arabi*, was held under/in custody for interrogation, based on the fact that she was preparing a documentary program on citizens' complaints from the Egyptian police machinery for Al-Jazeera. She was accused of being involved in acts harming Egyptian national interests, obtaining and imparting deceitful photos and giving incorrect account of the situation in the country¹¹.

Last June, the Administrative Court of the State Council approved the Ministry of Information and Communication decision allowing the authorities to block, suspend or close all web sites suspected to be a threat for the « State security ».

Media professionals, journalists and especially bloggers are the target of harassment by the authorities: since 25 May 2006, two bloggers are being detained for allegedly defaming the Government; another one Alaa Abd El-Fatah, released on 22 June 2006 after 45 days of detention, has claimed to have been tortured in prison. The trial of Abdel Kareem Soleiman,¹² a young Egyptian blogger, detained in Alexandria since 7 November 2006, and awaiting to be tried for allegedly slandering and defaming both the government and Islam, has gained media attention.

According to Naila Hamdy, professor at the American University of Cairo, the government crackdown on political bloggers is a bad sign. "It's not a terrible situation yet, but it's not a good sign when the government is looking to prevent freedom of expression on the Internet": the government is trying to control the blogosphere as it does with the traditional media.

On 31 January 2007, the Egyptian Airport security prohibited Mohamed al Maskati, the director of Bahrain Youth Society for Human rights from entering Cairo for a conference on youth and human rights. Mr Al Maskati who is known to be critical towards the Bahraini authorities, has recently participated in a demonstration in support of the Egyptian blogger Kareem Amer. According to the Arab Network for Human Rights Information, this is a clear example of the cooperation between the security bureau of Arab Ministries of Interior to hinder and punish credible human rights activists.

Considering the deterioration of the situation of freedom of expression, EMHRN, FIDH, OMCT and their member organisations in Egypt urge the European Union/EU to recall to the Egyptian authorities their engagements in compliance with the relevant international standards.

¹⁰ The Arabic Network for Human Rights Information, Cairo Institute for Human Rights Studies, Association for Human Rights Legal Aid, Habi Center for Environmental Rights, Civil Observatory of Human Rights, El-Ganob Center for Human Rights, One-World Foundation for Development and Civil Society Care, Freedom of Thought and Expression Foundation et Land Center for Human Rights

¹¹ EMHRN Press Release, « *Human Rights Organizations request an end to harassment of media personnel and a suspension of the interrogation of Howeida Taha* », 16 January 2007

¹² EOHR statement, *EOHR Demands Shelving Investigations in Mohamed Omara's Case and Dropping all Charges of Karim Amer*, January 2007

Egypt should in particular end all forms of harassment and detention against the media professionals and, more generally, the human rights defenders and activists calling for reforms, and fully respect the freedom of expression, in conformity with the UE Guidelines on Human Rights and Art. 19 of the UN International Covenant on Civil and Political Rights ratified by Egypt since 1982.

Furthermore, our organizations join the call of numerous Egyptian associations and NGOs of/for the implementation of a new law on political parties. Following the decision of the Parties Committee, recently also the First Chamber of the Supreme Administrative Court of the State Council has closed the chapter of litigation concerning the establishment of 12 political parties, by announcing the repudiation of appeals presented by claimants. Between the refused parties we signal: *Al Wasat Party*, whose application has been turned down four times in eleven years, and *Al Karama Party*, which proclaimed itself nearly seven years ago.

The Court relied on the allegation that appealing parties did not fulfil the requisites of establishment stipulated in the Law of Political Parties – which raised the minimum number of founders of any new party twenty fold (from 50 to 1000 founding members in ten governorates).

In addition/In addition, the law deprives parties from the right to challenge the ruling, because lawsuits pertaining to parties are not heard by two chambers and appellants had no option except to return to square one and wait for several more years. Thus, they presented new applications to the Political Parties Committee that since its creation in 1977, obstructed the establishment of more than 60 parties.

Most of the authorized parties "seized" their right to existence through court rulings and are beset by administrative, legislative and security restrictions. Now, the party landscape includes mostly parties that do not exist except in the files of the Parties Committee.

We call upon the European Union/EU to take all the measures to encourage Egypt to amend its law on political parties and to put an end to the one-party system.

EMHRN, FIDH and OMCT follow the request of the Egyptian organisations on 24 January 2007 to the President of the Republic to reduce – as enactment of Article 149 - the punishment imposed on Dr. Ayman Nour, the former president of *Al Ghad Party* and a former MP, as consequences of deterioration of his health conditions¹³. In prison for a period of five years, he was charged in Case 169/2005 (State Security).

III. The Independence of the Judiciary

In April 2006, the Minister of Justice, Mahmoud Abul-Leil, recommended that Hisham Bastawisi and Mahmoud Mekki both Vice presidents of the Court of Cassation and widely perceived as leaders of the pro-reform judges, face proceedings before a disciplinary board. This recommendation followed allegations that Mekki and Bastawisi prepared a list of judges who had been involved in irregularities in the 2005 Parliamentary elections, and that this list subsequently tarnished the reputations of those members of the judiciary. Both of the accused judges denied these allegations, insisting that conversely they had in fact been deliberately cautious not to name names. In accordance with article 108 of the judiciary law, these disciplinary proceedings (which attracted considerable media and public attention), resulted in the curious verdict that Mekki was to be absolved of all charges, whilst Bastawisi was to be reprimanded – a form of moral punishment without any professional or personal repercussions. Curiously, there does not seem to have been any clear legal rationale for the differing verdicts (especially as the law as it stands does not actually

¹³ « The undersigned organizations reaffirms that what Nour's sufferers inside the prison is considered direct violation to national legislation and international human rights documents such as Article 3 of the Universal Declaration for Human Rights. [...] Also the undersigned organizations demand from the Prosecutor General to enact Article 42 of the Criminal Procedures Code and dispatch a representative of the Prosecution Office to investigate the conditions inside Mazraat Tora Prison and to determine the health conditions of Nour to avoid endangering his life ». EMHRN Statement, *Human Rights Organizations Call Upon the President to Reduce the Punishment imposed on Ayman Nour*, 24 January 2007

provide for acquittal), and it is probable that this verdict was the result of a face-saving manoeuvre strongly influenced by the executive.

We recall that the events culminated in May 2005 with the 'Judges club' vowing to boycott their constitutionally mandated supervisory role in elections unless judicial reforms and reforming the electoral law were enacted.

The boycott was aimed at bringing about both electoral and judicial reform in the form of independence from executive influence. This was an evident challenge to Egypt's climate of authoritarianism, including a criticism of the long standing 'state of emergency' and the politically manipulated system of exceptional courts. Thus an (updated) draft law was proposed which called specifically for: budgetary independence, a change in disciplinary procedure – shifting the control away from the executive (MOJ), and a reform of the system which Judges may be appointed to positions to various ministries or in foreign states.

The calls for reform also include internal amendments such as: the broadening of the composition of the Supreme Judicial Council to include two members each from the Court of cassation and the Cairo Court of appeal elected by their respective courts; enabling the Court of cassation to elect its own head (who will also be the head of the Supreme Judicial Council); and for the 'Judges Club' to be legally established as the representative judicial association with its affairs entirely and exclusively under judicial control.

We call upon the EU to encourage a judicial reform in Egypt as the independence of the judiciary is a cornerstone in the process of democratic reform and stands as an essential safeguard to human rights.

IV. Respect and protection of the rights of migrants, refugees - in particular Iraqi and Sudanese refugees - and asylum seekers

Egypt does not have a real migration policy, the responsibilities over non nationals and the foreign workers are shared between different ministers, with problems of coordination. According to the last official survey in 1996, the number of foreign resident citizens in Egypt exceeds 116.000, most of them Palestinians, Sudanese¹⁴ and Russians. But there is a big group of refugees not recognized, not distinguishable from the irregular migrants. There is a lack of information about the location of illegal movements of migrants in Egypt and no internal law to protect the asylum seekers and the responsibility is directly passed to UNHCR including the conduct of refugee status determination (RSD) and the provision of assistance in its various forms.

Refugees and asylum seekers are victims of discrimination and arbitrary detentions. In flagrant violation of the principle of *non-refoulement*, cases of deportation of people persecuted in their country have been signaled.

Since 2003, the number Iraqi refugees dramatically increased from around 800 before 2003 to 150 000 people today.

After their arrival, Iraqis get a one-month tourist visa and then apply for a three-month renewable residency permit. The Egyptian government has become more stringent, refusing to renew residency permits: authorities have started to refuse granting residency status, or are turning down those who seek to renew it.

Concerned that Iraq's Shia-Sunni split could spread to Egypt, authorities rejected in February a request by

¹⁴ Statistics released by the UNHCR Cairo office show that between 1994 and the end of 2005, 58,535 Sudanese nationals sought asylum and registered with the agency. By December 2005, 31,990 of them had been accorded refugee legal status and 16,675 had been resettled in third countries. An additional 15,000 of the recognized refugees did not meet the resettlement countries' criteria and most, if not all, remained in Egypt under "local integration" status. This leaves just over 315 individuals who, according to UNHCR, were referred for resettlement but whose procedures for travel have not yet been completed. Of those who sought refugee status with UNHCR, 16,000 were rejected and eventually became "closed files," and another 10,200 were given temporary asylum seeker protection. As of the end of 2005, 13,327 recognized refugees remained in Egypt. These numbers undergo monthly revision by UNHCR as decisions are made and individuals shift between categories. The numbers only include those Sudanese who approached UNHCR and received interviews. Many more may have arrived in Egypt for similar or other purposes; if they have not approached UNHCR, there is no way to accurately count them » The American University of Cairo Fmrs, *A tragedy of failures and false expectations*, June 2006.

Iraqis to open a Shia Mosque in Sixth of October, a Cairo suburb where many Iraqis live¹⁵.

EMHRN, FIDH and OMCT are deeply worried about the recent Accord in force between Egypt and Sudan, stating that a Sudanese who arrives in Egypt cannot be considered as a refugee, but as migrant, therefore subject to the same procedures as migrant workers, which does not allow them to benefit from the protection granted to refugees.

By the end of 2005, Egyptian security forces have repressed a group of 1500 Sudanese that were protesting in front of the UNHCR office in Cairo: 27 people died and a lot were injured and arrested, 500 people were kept in detention for weeks. This event has determined a crackdown in the unsustainable situation of absence of policy in migrants and refugees matter. Instead, Egypt has parallel policies that relate entirely to its special relationship with Sudan, that often conflict with or confuse the information regarding services and rights available to Sudanese asylum seekers and refugees.

EMRHN, FIDH, OMCT and their member organizations recall that even if Egypt has ratified both the 1951 UN Convention relating to the Status of Refugees (and its Optional Protocol 1967) and the 1969 OAU Convention Governing the Specific Aspects of Refugee Problems in Africa, as well as the International Convention on the Protection of the Rights of all Migrants Workers and Members of their Family in 1993 (and entered into force in 2003) and that the Egyptian Constitution granted the rights of refugees, migrants and refugees usually face harsh discrimination and situation of precariousness. Once more, EMHRN, FIDH and OMCT warn UE that Egypt has no guiding policy for the treatment of refugees and it has not taken steps to fully implement the principles of the Conventions through its national legislation.

V. Respect for women's rights and the guarantee to equality between men and women before the law

Although some efforts have been made - two recent laws¹⁶ voted- to eliminate legal gender discrimination and fulfil Egypt's obligations under the UN Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW), which it ratified in 1981, the effective implementation of equal rights in Egypt, is a long way from realisation.

At present, Egypt, as the majority of the States in the region, has not removed reservations to the CEDAW that undermine its spirit and its aims, in relation to both the extent and the content of the application of the articles to which reservations have been entered, in particular articles 9(2) – concerning the double nationality, 16 – concerning the equal rights for women and man in the framework of the marriage and the divorce - and 29(1 and 2). In addition, until now the country report that has to be due in October 2002, has never been submitted and Egypt has not taken any actions concerning the Optional Protocol to CEDAW (OP-CEDAW).

We call upon the Egyptian government to envisage the lifting of all reservations to CEDAW regarding women's rights; the harmonisation of national legislation with its provisions and the ratification of the Optional Protocol to CEDAW, in accord with the « *Equality without Reservation* » campaign's objectives¹⁷.

¹⁵ *Daily Star Newspaper*- 6 February 2007

¹⁶ First, in January 2000, the Egyptian National Assembly passed Law No. 1, granting women the right to a no-fault divorce within three months without a husband's consent. Then, in July 2004, an amended nationality law extended nationality rights to children of Egyptian women married to non-Egyptian husbands. However, the nationality law failed to give nationality rights to foreign husbands and forbade the children of these marriages from holding government positions, even though the law extends such rights to foreign wives and children of Egyptian fathers.

¹⁷ Further information are available at: www.fidh.org/article.php3?id_article=3474