



UPR Submission  
Egypt  
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Human rights violations in Egypt are widespread and routine, including arbitrary detention, torture, and unfair trials before state security and military courts. The government invokes emergency legislation, in place since 1981, to suppress peaceful political activities and critics. Security officials arrest bloggers for their on-line writings, and Egypt's laws allow for the imprisonment of journalists. State Security Intelligence (SSI), a bureau of the Ministry of Interior, polices the political sphere and considers any exercise of freedom of assembly a security threat, frequently beating and arresting peaceful demonstrators. SSI officials in particular continue to enjoy impunity for serious human rights violations.

### **Emergency law**

Egypt's Emergency Law (Law No. 162 of 1958) allows authorities to detain individuals without charge and to try them in special security courts that do not meet international fair trial standards. The government renewed the Emergency Law most recently in May 2008 for two additional years, despite President Hosni Mubarak's earlier commitment to allow it to expire. Thousands of detainees have been imprisoned in Egypt under the emergency law without charge for years, some for more than a decade.

Constitutional amendments approved in a March 2007 referendum incorporated some of the worst aspects of emergency rule into the constitution, effectively removing safeguards requiring the government to obtain judicial warrants before searching a citizen's home, correspondence, telephone calls, and other communications, when the government deems the activity being investigated is terrorism-related. The president can send cases to "exceptional" courts or military tribunals, whose proceedings fall short of international fair trial standards. Human Rights Watch is concerned that a draft counterterrorism law, if adopted, will codify several of the extraordinary powers the emergency law grants to the executive, effectively making permanent what have at least nominally been temporary measures.

### **Arbitrary arrest and detention, enforced disappearance**

Using the emergency law, State Security Investigations (SSI) agents continue to arrest arbitrarily and detain individuals without charge. They frequently detain them incommunicado at unknown locations, meaning that many are subject to enforced disappearance. SSI using its emergency powers arbitrarily arrested activists and bloggers, especially in connection with political demonstrations or labor strikes but also in connection with what they write on the internet. Muslim Brotherhood members remain vulnerable to arbitrary detention and torture. Authorities regularly arrest large numbers of the Muslim Brotherhood members, charge them with membership in an illegal organization, and try

them before military and state security courts. These crackdowns frequently occur prior to parliamentary elections.

### **State Security Courts and Military Tribunals**

Egyptian authorities continue to rely on these exceptional courts to try civilians in cases they deem to involve national security. On April 15, 2008, a military tribunal sentenced Khairat al-Shatir, the Muslim Brotherhood's deputy supreme guide, and 24 other civilians to prison terms ranging between three and ten years. He and sixteen of his codefendants had earlier been acquitted of the same charges by a civilian court in Cairo in January 2007, but police re-arrested them moments after that verdict and President Mubarak then transferred their cases to the military tribunal.

### **Torture and Impunity**

Torture in Egypt has become epidemic, affecting large numbers of ordinary citizens who find themselves in police custody as suspects or in connection with criminal investigations. The authorities do not investigate the great majority of allegations of torture despite their obligation to do so under Egyptian and international law. In cases in which ordinary police officers have been prosecuted for torture or ill-treatment, charges were often inappropriately lenient and penalties inadequate. A top Egyptian Interior Ministry official, in meetings with Human Rights Watch in February 2004 and February 2005, stated that the government has undertaken no criminal investigations or disciplinary measures in response to allegations of torture and ill-treatment by SSI officers since 1986. This lack of effective public accountability and transparency has led to a culture of impunity.

As defined in article 126 of Egypt's Penal Code, torture is limited to physical abuse, when the victim is "an accused," and when torture is being used in order to coerce a confession. This narrow definition does not meet the definition of torture according to the UN Convention, as it excludes cases of severe mental pain or suffering, and cases where the torture is committed against someone other than "an accused" or for purposes other than securing a confession, such as punishment or obtaining information.

### **Restrictions on Freedom of Expression**

Egyptian authorities frequently detain people solely for peacefully criticizing officials or government policies. Egyptian law continues to allow for the imprisonment of journalists for the content of their writing. Amendments to Egypt's Press Law, passed in 2006, left in force Article 308 of the Penal Code, which imposes a minimum prison sentence of six months on journalists whose articles attack "the dignity and honor of individuals, or an outrage of the reputation of families." Article 179 calls for the detention of "whoever affronts the president of the republic." Article 102(bis) allows for the detention of anyone "whoever deliberately diffuses news, information/data, or false or tendentious rumors, or propagates exciting publicity, if this is liable to disturb public security, spread horror among the people, or cause harm or damage to the public interest." These broadly-worded provisions invite abuse and contravene international standards of freedom of expression, particularly in their vague and sweeping restrictions, and the use of prison for the peaceful exercise of free speech and comment, and criticism of the government.

### **Freedom of Association, including the right to form independent trade unions**

Although Egypt's Constitution guarantees the right to freedom of association, Egyptian non-governmental organizations (NGOs) operate in an extremely restrictive legal environment. The Law on Associations (84/ 2002) enables the government to interfere with the registration, governance and operation of NGOs. The law allows the Ministry of Social Solidarity to dissolve associations by administrative order and restricts the right of NGOs to seek and receive foreign funding to support their activities. It imposes prison penalties on NGO members and activists for offences related to their activities.

Egyptian laws also effectively prohibit independent political or trade union activities. The Trade Union Law establishes a central pyramidal trade union structure: all trade unions are compelled to affiliate with the only legally-recognized labor federation, the Egyptian Trade Union Federation (ETUF). Union elections and other matters are supervised solely by the Ministry of Manpower. All collective bargaining mechanisms are subject to ETUF approval, and ETUF membership is compulsory for all public sector employees.

### **Freedom of Religion**

Islam is the religion of most of society and of the state. Egyptian officials cite Article 2 of the Constitution, which stipulates that Islamic law is the principal source of legislation, to justify policies that conflict with the government's obligation to guarantee freedom of religion. Authorities have arrested persons who converted to Christianity, particularly those who publicly announced their conversion or appeared to be proselytizing, and routinely deny Muslim converts to Christianity any ability to reflect their conversion in vital identification documents. Authorities have also arrested individuals for public adherence to a non-orthodox understanding of Islam or Christianity. In such instances, the authorities typically charged those persons with violating Article 98(f) of the Penal Code, which criminalizes any use of religion "to promote or advocate extremist ideologies... with a view toward stirring up sedition, disparaging or showing contempt for any divinely-revealed religion, or prejudicing national unity and social harmony."

### **Migrants and Refugees**

Since June 2007, Egyptian border guards have shot dead at least 41 African migrants and injured scores of others trying to cross into Israel, including shooting dead seven migrants since May 2009. Egypt arbitrarily detains refugees and migrants apprehended in the Sinai and tries them before military tribunals for illegal entry. Egyptian security forces have arrested hundreds of migrants, including children, and held them in harsh conditions. Egypt denies these refugees and migrants their right to make asylum claims to the United Nations High Commission for Refugees. Egypt has forcibly deported large groups of Eritreans to their home country, where they face a substantial risk of torture, most recently in December 2008 and January 2009. In June 2008, Egypt summarily returned to Eritrea up to 1,200 undocumented Eritreans who had crossed into Egypt over its southern border with Sudan.

### **Women and Children**

Despite reforms, particularly of nationality laws, Egypt's family and penal laws still discriminate against women and girls. Discriminatory personal status laws governing marriage, divorce, custody, and inheritance have institutionalized the second-class status of women in the private realm. The penal code does not effectively deter or punish domestic

violence, and police are routinely unsympathetic to the concerns of battered women and girls. The Egyptian government has failed to create a legal environment that protects women from violence, encourages victims to report attacks, or deters perpetrators from committing these abuses.

Extensive amendments to Egypt's Child Law in June 2008 included positive reforms such as criminal penalties for officials who detain children with adults, but did not include an absolute ban on violence against children and allowed for corporal punishment by the child's caregiver in Article 7(bis)(a). Article 31(bis) amends the Civil Code to require mandatory testing showing that couples who wish to marry are "free of diseases that affect life or health of each of them, or on their offspring," in order to register a marriage which is a violation of the right to privacy and the right to found a family. The government continues to arrest homeless or truant street children who are not charged with any crime on arrest. The authorities do not routinely monitor conditions of detention for children, investigate cases of arbitrary arrest or abuse in custody, or discipline those responsible.

### **Crackdown on homosexual conduct**

Men suspected of being homosexual remain at risk of arbitrary arrest. The most recent arrest of men suspected of having consensual sex with other men took place in January 2009. Between October 2007 and April 2008, Cairo police jailed 12 men as part of a hunt for people suspected of being HIV-positive; nine of them were later sentenced to prison terms for "habitual practice of debauchery," a phrase that in Egyptian law encompasses consensual sexual acts between men.

### **Recommendations**

#### **Regarding arbitrary arrest and detention, state security courts, torture and the emergency law:**

- Promptly release persons in detention who have not been charged with a recognizable criminal offense and ensure that all persons in detention are taken before a judicial authority, with the power to order their release, no later than 24 hours after arrest or entry into Egyptian custody.
- Ensure that all persons in detention are able to exercise their right to legal counsel, to appeal their detention, and to a fair trial. Persons convicted by military tribunals or special security courts should be released or re-tried before courts that meet international fair trial standards including that no member of the military should be a member of a court that tries a civilian.
- Direct the Office of the Prosecutor General to fulfill its responsibility under Egyptian law to investigate in a thorough, impartial, and timely manner, all torture allegations against law enforcement officials. Ensure the independence of the Prosecutor General's office from political interference and mandate prosecutors to conduct unannounced inspections of all places of detention, speaking to inmates in conditions of privacy, and taking complaints. Make public the results.

#### **Regarding freedom of expression**

- Repeal all articles in the penal code which allow for the imprisonment of journalists for their writing, including Article 308 and Article 179.

- Amend the press provisions of the penal code to state explicitly that journalists should not be imprisoned or otherwise criminally punished solely for exercising their right to free expression, as set out in relevant international law.

#### **With regards to freedom of association:**

- Amend Law 84/2002 to ensure that all associations formed for any legal purpose are allowed to acquire legal personality by making registration and membership entirely voluntary.
- Amend Article 11 of Law 84/2002 to eliminate its restrictions on political and trade union activities by NGOs;
- Ensure that any involuntary dissolution of an association takes place only by judicial order, and only in response to serious violations of the law.

#### **With regards to Freedom of Religion**

- Instruct officials of the Ministry of Interior to cease pressuring individuals to accept an official religious identity against their wishes, and discipline officials who engage in such practices.
- Promote religious tolerance and equal citizenship rights, and clarify that changing one's religion from Islam or publicly adhering to a religion other than orthodox Islam, Christianity, or Judaism should have no punitive civil or criminal consequences.
- Ensure that individuals whose rights to freedom of religion or belief are violated shall have an effective remedy.

#### **Regarding the rights of refugees and migrants:**

- Order border police to use lethal force only as a proportional and necessary response to a threat to life. Conduct a thorough and impartial investigation into the fatal shootings and prosecute any officer identified as having ordered or carried out shootings that killed or injured migrants.
- Guarantee UNHCR unhindered, ongoing access to all asylum seekers and refugees in official custody, as well as to migrants not yet registered with UNHCR.
- Cease deporting detained migrants until a system guaranteeing such access to UNHCR is fully functional, and ensure that this system is operational in all detention facilities in which migrants and refugees are detained.

#### **Regarding the rights of women and children:**

- Enact a specific set of laws explicitly criminalizing all forms of domestic and familial violence.
- Ensure that complaints of domestic violence are properly registered by the police and investigated, and any crimes prosecuted leading to the conviction of the perpetrators.
- Amend Article 7(bis)(a) the child law to exclude corporal punishment and ensure that corporal punishment is prohibited in all public and private settings.
- Repeal Article 31(bis) which requires mandatory testing of couples wishing to marry to ensure they are free of disease since it violates the right to privacy and the right to found a family.

#### **Regarding the arrested of men for homosexual conduct:**

- End arrests and prosecutions solely for adult, consensual homosexual conduct.
- Amend Law 10/1961 "On the Combating of Prostitution" to eliminate all references to "debauchery" (fujur).
- End compulsory HIV testing and forced anal examinations of men suspected of homosexual conduct.



## Annex of Relevant HRW reporting

### **[Egypt: Anatomy of a State Security Case: The "Victorious Sect" Arrests](#)**

This report describes the experience of one group of men as a case study to illustrate how the SSI operates more generally. Based on Human Rights Watch's research into SSI operations and interviews with attorneys for other detainees, there is a strong basis to conclude that abuses similar to those suffered by this group of 22 men have occurred in other cases.

December 2007

### **[Egypt: "Sinai Perils: Risks to Migrants, Refugees and Asylum Seekers in Egypt and Israel,"](#)**

This report calls on Egypt to halt the use of lethal force against border crossers and all deportations of persons to countries where they risk persecution or ill-treatment. Israel should halt forced returns of migrants to Egypt, where they face military court trials and possible unlawful deportation to their countries of origin. Both countries should respect the rights of persons seeking asylum.

November 2008

### **[Egypt: Stop Deporting Eritrean Asylum Seekers](#)**

#### ***Egyptian Authorities Should Give UN Refugee Agency Access to Detained Migrants***

Egypt should immediately halt deportations of Eritrean asylum seekers to their home country, where they face detention and the risk of torture, Human Rights Watch said today.

January 8, 2009

### **[Egypt: Mass Arrests and Torture in Sinai](#)**

February 2005

This report documents how, in the weeks and months after a bombing that killed 30 people in the resort town of Taba, the State Security Investigation agency conducted mass arrests in northern Sinai without a warrant or judicial order as required by Egyptian law and subjected many detainees to torture.

### **[Black Hole: The Fate of Islamists Rendered to Egypt](#)**

May 2005

This report looks at the practice of rendering wanted persons to Egypt. Human Rights Watch has identified at least sixty-three individuals who have been rendered to, and in a few cases from, Egypt since 1995. In many cases the returning country is a neighboring Arab or South Asian state. In most cases there is no indication that any form of judicial procedure, such as a formal extradition request and hearing, was used; even where warrants may have been issued, in the face of Egypt's terrible record of torture the state holding the suspect should

have declined the request, in accordance with international law forbidding any country from sending someone to a country, including his or her country of origin, where he or she will likely be subjected to torture. The report examines the cases of six Egyptians forcibly returned from Yemen.

### [Reading between the "Red Lines" The Repression of Academic Freedom in Egyptian Universities](#)

June 2005

This report details ongoing government restrictions on classroom discussions, research projects, student activities, campus demonstrations and university governance. The report addresses conditions in public institutions including Cairo, Alexandria, `Ain Shams, and Hilwan Universities, and private institutions like the American University in Cairo.

### [Egypt: Margins of Repression](#)

#### **State Limits on Nongovernmental Organization Activism**

July 2005

This report discusses the impact of the law governing associations and concludes that the most serious barrier to meaningful freedom of association in Egypt is the extra-legal role of the security services. Human Rights Watch documented numerous cases where the security services rejected NGO registrations, decided who could serve on NGO boards of directors, harassed NGO activists, and interfered with donations reaching the groups.

### [False Freedom: Online Censorship in the Middle East and North Africa](#)

November 2005

This 144-page report documents online censorship in Egypt as well as Tunisia, Iran, and Syria. Government attempts to control the flow of information online contradict governments' national and international legal commitments to freedom of opinion and expression.