



**May 2008**

## **RECOMMENDATIONS ON HUMAN RIGHTS IN EGYPT**

### **In view of the Sub-committee on political matters: human rights and democracy, international and regional issues between the EU and Egypt 2-3 June 2008**

In view of the meeting of the Sub-committee on political matters: human rights and democracy, international and regional issues between the EU and Egypt to be held on 2-3 June 2008, the Euro Mediterranean Human Rights Network (EMHRN), the International Federation of Human Rights (FIDH) and the World Organization Against Torture (OMCT) are deeply concerned about the deterioration of the human rights situation since the adoption of the European Neighbourhood Policy action plan in March 2007. The Egyptian government has not shown political will to implement its commitments. Furthermore it has adopted tough new measures that contradict with the human rights chapter in the action plan.

While the constitutional framework in Egypt allows the exercise of fundamental freedoms, in practice, with the maintenance of the state of emergency, it has remained rather restrictive. Indeed, in April 2006, the Government extended twenty-two years of continuous emergency rule for another two years. The state of emergency has been facilitating serious human rights violations like prolonged detention without charge, torture and ill-treatment, undue restriction on freedoms of speech, association and assembly, and unfair trials before military courts and State Security Courts.

We are deeply concerned by the recent renewal of the state of emergency until 2010. The proposed draft law on anti-terrorism will replicate the abusive provisions of the emergency legislation. The Government has been using the state of emergency and anti-terrorism policies to harass peaceful opposition, civil society and restrict freedom of expression. The Government amendment of the constitution in the beginning of 2007 further devalued the rights and freedoms chapter for the sake of the coming anti-terror law expanding the use of military court to try civilians. These courts represent a severe abuse of the right to fair trial and its judgments cannot be appealed. Recently 25 members of the opposition Muslim Brotherhood were sentenced to up to 10 years in prison by an Egyptian military court. We reckon that this trial may have been politically motivated as those cases were transferred to

the military court according to a Presidential decree after a regular criminal court had acquitted some of the defendants of all charges.

The Egyptian government has multiplied restrictive measures on freedom of association during the previous months<sup>1</sup> and the decision ordering the registration of the Center for Trade Union and Workers Services (CTUWS) has not been implemented yet. A lot of other NGOs and particularly rights groups have been facing systematic security intervention in their activities and internal affairs. Furthermore, the Government is preparing a new amendment to the association law that is expected to enforce administrative and security restrictions on NGOs.

The continuous harassment of private media was once again demonstrated through the consecutive indictment of tens of journalists and the ongoing prosecution of others for publications offences. In most of these cases the government uses ambiguous and unclear provisions from the penal law to muzzle freedom of expression. These articles criminalize publishing what the Government calls "false news, statements or rumors likely to disturb public order" or "criticizing public figures".

Torture and other ill-treatments are systematic in places of detention in Egypt, including police stations, premises run by SSI services (State Security Investigation) and prisons and perpetrators are rarely brought to justice<sup>2</sup>. Arbitrary arrests followed by incommunicado and secret detention are a persistent feature linked to the state of emergency and anti terrorism laws.<sup>3</sup> Many cases were documented in 2007. No measures have been taken to bring justice for victims or to hold the perpetrators to account leading to a culture of impunity. To the contrary, very recently two doctors of the El Nadim Centre for Psychological Management and Rehabilitation of Victims of Violence have been assaulted and intimidated immediately before they were to appear in Court to testify in a torture case<sup>4</sup>.

Several cases of killings, by Egyptian security forces, of migrants and asylum seekers, at the border area between Egypt and Israel were reported. The Egyptian authorities have not announced that these crimes would be investigated. Furthermore, no concrete action has been taken in order to ensure that such acts do not repeat themselves again in the future. It is also to be recalled that the killings, by Egyptian security forces, of 27 Sudanese asylum seekers, during a demonstration in Cairo in December 2005, still remain unpunished. The enquiry was closed without any clarifications by the Public prosecutor.

The failure to respect basic economic, social and cultural rights in Egypt and in particular the rights of farmers that represent over 50% of the country's population is well documented. The resulting wide spread poverty and dislocation has lead to the farmers and their families, as well as others, being subjected to violence on a wide scale, including torture and other forms of ill-treatment perpetrated by state and non-state actors. Unfortunately, certain negative effects of the implementation of the agricultural provisions of the EU Association Agreement

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<sup>1</sup> The Association for Human Rights Legal Aid was closed arbitrarily on 16 September 2007

<sup>2</sup> We wish to welcome the recent decision by which an Egyptian court condemned to three-year prison sentences two police officers convicted of torturing Emad al-Kabir in 2006 and hope this decision will lead to systematic punishment for acts of torture and ill-treatment.

<sup>3</sup> See also Amnesty International report "Egypt: Systematic abuses in the name of security" 11/04/2007 available at [http://www.amnesty.org/en/alfresco\\_asset/8f8380b2-a30b-11dc-8d74-6f45f39984e5/mde120012007en.html](http://www.amnesty.org/en/alfresco_asset/8f8380b2-a30b-11dc-8d74-6f45f39984e5/mde120012007en.html)

<sup>4</sup> See the Observatory for the protection of human rights defenders' (a joint programme OMCT-FIDH) urgent appeal EGY 001/0508/OBS 074

have been identified as exacerbating the situation.<sup>5</sup> The EU Egypt dialogue can help address this situation by identifying the positive and negative impacts of the implementation of all the elements of the Association Agreement and the ENP Action Plan on the enjoyment of economic, social and cultural rights and identifying ways in which the Egyptian Authorities can move to effectively ensure the enjoyments of those rights.

Despite the amended nationality law no. 154 year 2004, a large number of Egyptian women married to Palestinian husbands are prevented from passing their nationality to their children. Due to unjust exceptions put by the Ministry of Interior and the claim that the Egyptian government is applying a recommendation of the Arab League issued in 1959 prohibiting giving Palestinians other nationalities to preserve their Palestinian identity. In fact, representative of Palestinian State in the Arab League has sent official letter to the Egyptian immigration department asking them to end the suffering of those women, enabling them to pass on their Egyptian nationality to their children. Furthermore, Egyptian Department of passport and immigration refused to execute judicial rulings of Egyptian courts, which gave children of Egyptian women married to Palestinian husbands Egyptian nationality.

Many Egyptian women suffered sexual harassment and were beaten badly in streets while they were participating in peaceful demonstrations and in public events in the presence of the Egyptian Police.

We are deeply concerned and disappointed by the negative developments mentioned above. We stress that the credibility of the ENP action plan with Egypt is dependent on prioritizing human rights issues discussions between the EU and the Egyptian government. The efficiency of the action plan strongly requires concrete measures and a concrete timetable to fulfill the human rights section.

We welcome the convening of the present subcommittee which contributes to the reinforcement of the dialogue on human rights between Egypt and the EU. This subcommittee represents a major opportunity to monitor the situation of human rights and reforms. It should hold regular and systematic consultations with civil society to seek its assessment of the evolution of the human rights situation in Egypt.

In view of the meeting of the EU-Egypt Sub-committee, we urge that the following points be included in the agenda as essential issues to be discussed. We call upon the EU to urge the Egyptian authorities to:

### **International human rights standards**

- Respect their commitment to abide by relevant international standards. International human rights law should be the main reference and should outweigh any national provision invoked.

### **The State of Emergency**

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<sup>5</sup> See OMCT “Agrarian policy, human rights and violence in Egypt. Information and recommendations for the European Union in the context of the Association Agreement between the European Union and Egypt” 28 May 2006. Prepared with the Land Centre for Human Rights (Egypt). See also Chapter 5 Egypt: country profile and case studies in “Attacking the Root Causes of Torture: Poverty, Inequality and Violence – An Interdisciplinary Study” OMCT 2006. [www.omct.org](http://www.omct.org)

- End the State of Emergency
- Repeal the emergency legislation used to justify practices and abuses that deny or illegally restrict freedoms, in particular freedoms of expression, assembly and association as well as safeguards for fair trial, prompt access to lawyers and the ban of using evidence extracted under torture, and that facilitates human rights violations such as arbitrary and incommunicado detentions, torture and other ill-treatments.
- Put an end to the use of provisions of the laws on the state of emergency and against terrorism, and all other security-related legislation, as a basis for criminalising or imposing arbitrary restrictions on the peaceful activities and freedom of expression of civil society organisations

## **Torture**

- Ensure that the practice of torture and ill-treatment is stopped by making the necessary legal changes into the domestic legislation and by ensuring accountability for acts of torture. Egypt should abide by its commitments under the UN Convention against Torture (CAT) whose provisions must be incorporated into domestic legislation by amending the definition of torture to bring it in line with the UN CAT definition. Indeed, according to the Egyptian Penal Code, torture is limited to physical abuse and it occurs only when the victim is “an accused” and when it is used to obtain a confession. This implies that cases against other individuals, mental or psychological abuses or torture for other purposes than obtaining a confession fell outside the definition of torture, contrary to the definition of torture of CAT.
- Ratify the Optional Protocol to the Convention against Torture (OPCAT) and respond positively to the UN Special Rapporteur on Torture visit request which is pending since 1996.

The Egyptian authorities should take significant steps

- in providing safeguards during detention and interrogation,
- in promptly, effectively and impartially investigating allegations of torture and
- in prosecuting those responsible.

## **Justice**

- Respect the role of the judiciary as the cornerstone in the process of democratic reform and the development of the Rule of Law and the main safeguard for human rights and fundamental freedoms
- Ensure and strengthen the independence of the judiciary by amending or repealing all legal provisions that infringe or do not sufficiently guarantee that independence. In particular, all appointments to the highest positions within the judiciary, including at the High Judicial Council and High Constitutional Court, should be made without the discretionary interference of the Executive
- Respect and protect the freedom of association and expression of judges in accordance with Articles 8 and 9 of the UN Basic Principles on the Independence of the Judiciary. Put an immediate end to all defamation campaigns in public media, harassment measures and abusive disciplinary proceedings against judges who resort to their freedoms of expression or association
- Abolish the possibility to refer civilians to martial courts and amend the Law on martial courts No. 25 of 1966 in order to limit these courts’ jurisdiction to the trial of military officers accused of committing martial crimes and crimes committed within military units and barracks only

## **Freedom of expression, association**

- Urge the Government to implement the recent decision ordering the registration under the association law of the Center for Trade Union and Workers Services (CTUWS)
- Undertake a review of the code to disallow criminal prosecution for defamation and other offences violating the right to free expression
- Put an end to illegitimate interferences of the security services at all stages in the life of associations and in all their activities
- Put an end to harassment measures, including judicial measures, taken against human rights defenders and the members of organisations seen as hostile to the government, such as the Centre for Trade Union and Workers' Services and the Association for Human Rights Legal Aid (AHRLA)
- Adopt a genuinely participative approach towards civil society organisations and ensure, through an adequate consultative mechanism, that they will contribute to decision-making related to public policy

## **Rights of Human rights defenders**

- Ensure in all circumstances the integrity and safety of human rights defenders. The government should investigate the recent physical harassment against prominent women human rights defenders, such as the director of Nadim Center for victims of torture harassed while she was in a human rights mission and publish its conclusions.
- Put an end to all forms of harassment against all human rights defenders in Egypt.
- Ensure the free use of the internet and put an end to any harassment and arrest against internet activists and persons involved in the on line advocacy of human rights and fundamental freedoms.
- Put an end to and conduct impartial investigation into latest violence and harassment against democratic movement activists and protesting movements
- Conform to the provisions of the Declaration on Human Rights Defenders adopted by the UN General Assembly on December 9, 1998, and, more generally, ensure in all circumstances respect for human rights and fundamental freedoms in accordance with international human rights standards and international instruments ratified by Egypt.

## **Rights of minorities**

- Allow all citizens to use their actual religious identity when required to list religion on government documents and abstain from resorting to discriminatory practice, directed in particular at Baha'is, by which converts from Islam are prevented from listing their true belief

## **Women's rights**

- Lifting all exceptions made by the Egyptian Passport and Immigration Department to the execution of the amended nationality law no. 154 year 2004, which prohibit Egyptian women married to Palestinian husbands from passing their nationality to their children. Ending these discriminatory measures which make those women and their families suffer , ensuring their full enjoyment of their citizenship rights and equal

status with other Egyptian women married to non Egyptians who can pass their nationality to their children.

- Executing Egyptian courts judicial rulings which gave children of Egyptian women married to Palestinian husbands Egyptian nationality.
- Take all necessary measures to end physical and sexual harassment of women while participating in demonstrations and public events, in streets and elsewhere ensuring respecting their human rights to safety and body integrity.
- Withdraw its reservations on the International Convention against all Forms of Discrimination against Women (articles 2 &16) and ratify the Optional Protocol on filing complaints
- Protect women from all forms of physical, psychological and sexual violence, and enact legislations which explicitly criminalize domestic violence
- Allocate financial resources from the State's budget to activities related to the elimination of violence against women, and increase the penalties for crimes classified as violence against women, such as beating and forced abortion.
- Ensure promotion of gender equality in its policies and programs on all levels and all areas of work.

### **Rights of migrants, refugees and asylum seekers**

- Fully implement the principles of the Conventions, through its national legislation, to which Egypt is Party i.e. 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 (entered into force in 2003).
- Deliver residency documents, work permits or other similar documents, in order to enable all recognised refugees to fully access their rights, notably work, health care and education.
- Reopen the investigations on the killing of the 27 Sudanese asylum seekers in December 2005, as requested by the UN Committee on the rights of Migrant Workers, in its concluding remarks to Egypt;
- Open independent investigations on the killings and ill treatments of migrants and refugees; more particularly, investigate the killings by Egyptian security forces of migrants and refugees crossing the Egyptian borders toward Israel, in an attempt to seek asylum in the later country; Ensure that these crimes do not remain unpunished and no more occur in the future.
- Fully apply article 3 of the UN Convention against Torture (CAT) and thus restrain itself from forcibly returning any migrant and/or refugee to a country where she/he may face mistreatments; Make the necessary investigation concerning the alleged forcible return to their country of origin of a group of migrants and refugees, arrested after attempting to cross to Israel; Ensure that such acts no more take place in the future; Make public the information about the whereabouts of those who may still be detained and enable local civil society organisations to have access to them and provide them with the necessary assistance.
- The government should clarify the legal status of Sudanese migrants in Egypt, including by undertaking legislative and administrative measures aimed at the effective

implementation of the ‘Four Freedoms’ Agreement<sup>6</sup>. The government should promote awareness among employers and the public at large of the status enjoyed by Sudanese migrants in Egypt under the ‘Four Freedoms’ Agreement.

- Egypt should amend the Labor Code in order to extend legal protection to domestic workers. Complaints of psychological or physical violence should be impartially and promptly investigated and their perpetrators prosecuted and punished. The fact for “anyone, other than a public official duly authorized by law, to confiscate, destroy or attempt to destroy identity documents, documents authorizing entry to or stay, residence or establishment in the national territory or work permits” (art.21) should be expressly prohibited under domestic law.

### **Economic, Social and Cultural Rights**

- The European Union and Egypt should agree to give priority consideration to ensuring respect for the economic, social and cultural rights of the country’s population and in particular farmers and their families. Focus should be given to those measures that can reduce the vulnerability of farmers and their families to violence. A working group should be set up, open to the participation of civil society organisations, that would be charged with identifying specific measures to be taken by the EU and Egypt to further respect economic, social and cultural rights, identifying relevant indicators and monitoring and evaluating progress. Additional detailed recommendations can be found in the report on agrarian policy cited in footnote 2.

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<sup>6</sup> The agreement gives to Egyptians and Sudanese freedom of movement, residence, work and ownership in either country.