



Fédération internationale des ligues des droits de l'Homme

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DU CONSEIL DE L'EUROPE ET D'OBSERVATEUR AUPRES DE LA COMMISSION AFRICAINE DES DROITS DE L'HOMME ET DES PEUPLES

International Federation
for Human Rights

Federación Internacional
de los Derechos Humanos

الغدرالية الدولية لحقوق الإنسان

FIDH RECOMMENDATIONS ON HUMAN RIGHTS IN EGYPT

In view of the EU-Egypt Association Council April 2009

In view of the EU-Egypt Association Council to be held on the 27th of April 2009 and on the eve of the 2009 ENP Action plan's release, the International Federation for Human Rights (FIDH) calls upon the EU to echo its deep concern about the deterioration of the human rights situation in Egypt since the adoption of the ENP action plan in March 2007. n

FIDH is particularly concerned by the existing gap between the official commitments taken by the Egyptian Government in the ENP Action plan and the lack of concrete improvements on the ground. The Egyptian government has not demonstrated its political will to implement jointly agreed priorities.

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 highly concerned that the recent draft law on anti-terrorism due to replace the emergency legislation 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.

The Egyptian government has multiplied restrictive measures on freedom of association. Many 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 justice¹. Arbitrary arrests followed by incommunicado and secret detention are a persistent feature linked to the state of emergency and anti terrorism laws.² 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. The role of Egypt in international networks of arbitrary detention and anti-terror efforts must also be thoroughly investigated due to various allegations of rendition of suspects into Egypt for interrogation.

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 inquiry 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 led 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 Partnership Agreement have been identified as exacerbating the situation.³ 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 Partnership Agreement 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

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.

¹ Our organisations 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.

² 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

³ 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

In view of the meeting of the EU-Egypt Sub-committee, we call upon the EU to urge the Egyptian authorities to take into consideration the following recommendations:

International human rights standards

- Egypt should respect its 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

- End the State of Emergency, which should not be replaced by the new anti-terrorism bill, as drafted
- 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 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 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 and media

- Undertake a review of the code to disallow criminal prosecution for defamation and other offenses 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
- In so doing, rescind arbitrary administrative measures, such as those taken against the Centre for Trade Union and Workers' Services and the Association for Human Rights Legal Aid, and ensure that such decisions are translated immediately from legal decisions into actions on the ground rather than the deliberate delay that faced the CTUWS decision and faces AHRLA currently.
- 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 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.
- Actively persecute those who are involved in incitement of violence on religious grounds, given the unfortunate acts of terror against the Baha'i community in the governorate of Sohad in the period from March 28-31, during which several Baha'i homes were burnt by villagers. The police dispersed the crowds but made no arrests and the Public Prosecutor has yet to indict those responsible for direct incitement.⁴

Women's rights

- 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.

Rights of migrants, refugees and asylum seekers

⁴ For more information:
<http://eipr.org/en/press/09/0204.htm>

- 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)
- Open independent investigations on the killings and ill treatments of migrants and asylum seekers and ensure that these crimes do not remain unpunished; support calls for the reopening of the investigations on the killing of the 27 Sudanese asylum seekers in December 2005; and further call on the Egyptian authorities to ensure that similar violations do not occur in the future.
- 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. 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 for 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 mentioned in footnote 2.

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