



Egypt: human rights concerns

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Introduction

In light of the upcoming EU-Egypt Association Council, Amnesty International would like to provide background information on five key human rights concerns in Egypt.

First, Amnesty International is concerned that the forthcoming counter-terrorism bill would entrench the human rights abuses committed under the long standing state of emergency due to be lifted by the end of May 2008. The Egyptian authorities announced in December 2007 that the draft anti-terrorism law was completed but have not yet presented it before parliament. The text was not made public and no consultation was made with civil society and human rights organizations in the country. Fears were expressed that the state of emergency might be extended again until the new law on counter-terrorism is adopted.

Second, freedom of expression and association witnessed a serious setback in 2007. A dozen journalists and human rights activists were sentenced to prison terms for publishing offences, including four newspaper editors, who were all sentenced to one year's imprisonment. In 2008, one of them was also sentenced to six-months in prison. Two human rights organizations were closed in 2007.

Third, Egyptian border police allegedly used excessive and lethal force against many migrants, refugees and asylum-seekers who tried to illegally cross into Israel from Egypt. According to reports 11 were shot dead in the first four months of 2008, including three women. In 2007, four men and two women were also shot dead in similar circumstances.

Fourth, in 2007-2008 40 members of the Muslim Brotherhood opposition organization were tried before military court (seven in their absence) although they are civilians. In April 2008, 25 received sentences ranging from three to ten years imprisonment, while 15 others were acquitted. The trial of the men started in April 2007 on charges of terrorism and money laundering after the Egyptian President referred them to a military court in February 2007. Despite numerous attempts, Amnesty International and other national and international human rights organizations were denied access to court to observe the trial.

Fifth, nine men received prison sentences between one and three years on charge of same-sex sexual relations ('habitual practice of debauchery') on the grounds of their HIV status. All men are now serving their sentences in prison. Allegations of torture and ill-treatment of these men during their pre-trial detention have not been investigated. Amnesty International considers them prisoners of conscience and calls for their immediate and unconditional release.

The European Union should use the opportunity of the EU-Egypt Association Council meeting to make it clear to the Egyptian authorities that they must:

- act to end the human rights violations that have been facilitated because of the Emergency Law and other restrictive laws such as the Press Code and the Law on Associations.
- Ensure the counter-terrorism bill complies fully with Egypt's international human rights obligations;
- lift all restrictions in law and practice on freedom of the press and freedom of association;
- investigate all the killings and the other violations by the security forces against migrants who attempt to cross the border with Israel with a view to determining the circumstances in which the use of lethal and excessive force occurred and bring those responsible for such breaches to justice;
- retry promptly by a civilian court that conforms to international fair trial standards all civilians convicted by a military court, including the 40 members of the Muslim Brotherhood opposition group, or else release them; and
- immediately and unconditionally release all those convicted of 'habitual practice of debauchery'.

1. Counter-terrorism bill and state of emergency

The state of emergency, in force continuously since 1981, has facilitated human rights violations including prolonged detention without charge, torture and ill-treatment, undue restrictions on freedom of speech, association and assembly, and unfair trials before military courts and (Emergency) Supreme State Security Courts. In April 2006, the state of emergency was renewed for an additional two years or until a new counter-terrorism law is in place. As the bill has not yet been presented before parliament, there are fears amongst human rights and political activist that the state of emergency might be extended again at the end of May 2008.

Mufid Shehab, Minister of State for Legal Affairs and Parliamentary Councils, announced on 27 December 2007 that the ministerial committee in charge of the new anti-terrorism law has completed the drafting of the bill which now contains 58 articles. However, so far no consultation is known to have taken place in Egypt.

The Egyptian authorities have been committing systematic abuses of human rights in the name of national security and Amnesty International has urged the government to ensure the planned anti-terrorism law does not entrench these human right abuses.

Thousands of Egyptians have been locked up in the name of security; some have been held without charge or trial for years, often despite court orders for their release, while others have been sentenced after grossly unfair trials. The Egyptian government has a duty to protect the public and combat terrorism, but when doing so it must abide by basic human rights standards and its obligations under international human rights law.

An Amnesty International report (*Egypt: Systematic abuses in the name of security- MDE 12/001/2007*) describes arbitrary arrests, prolonged detention without trial, torture and other ill-treatment by security officials, particularly the State Security Investigations (SSI) services, who have wide powers under the state of emergency that the government has maintained almost continuously for the past 40 years. It also condemns the use of special emergency and military courts to try civilians accused of security offences. Many of those tried by such courts have been sentenced to death and executed (see point 4).

Amnesty International notes the declaration made by the Presidency of the Council of the European Union on 3 April 2007 (8205/07) which stated 'the EU will follow very closely developments concerning the foreseen new anti-terrorism law, and expects any new legislation to abide by international standards'.

Amnesty International urges the EU to press the Egyptian authorities to:

- ensure the counter terrorism bill provides safeguards for the basic rights of detainees to communicate with their family and their lawyer, to be promptly informed of the charges against them and presented before a judge without delay;
- ensure the counter-terrorism bill does not entrench the human right abuses perpetrated under the current state of emergency and abides by Egypt's obligations under international human rights law;
- make public the text of the counter-terrorism bill and organize proper consultation with Egyptian civil society, specialists, and national human rights organizations; and
- allow the UN Special Rapporteur on the promotion and protection of human rights while countering terrorism immediate access to Egypt and seek his advice in relation to the counter-terrorism bill.

2. Freedom of expression, association and assembly

The rights to freedom of expression, association and assembly continued to be restricted. Journalists continued to be threatened, harassed and imprisoned because of their work and some NGOs have faced obstacles registering and obtaining legal status while others have been dissolved or forced to close.

On 13 September 2007, an Egyptian court sentenced four editors to a one-year prison term on account of "publishing false information likely to disturb public order". All were also fined 20,000 Egyptian Pounds (around 2'300 Euros). They were all released on bail pending their appeal. Their next appeal session is now scheduled on 3 May 2008. The sentences are part of a concerted campaign by the authorities to stifle criticism and reflect the urgent need for a revision of the country's controversial press law. The four editors are Wael al-Abrashy of the weekly Sawt al-Umma, Adel Hammouda of the weekly Al-Fajr, Abdel Halim Qandil, former editor of the weekly Al-Karama, and Ibrahim Eissa of the daily Al-Dustour. The latter was sentenced on 26 March 2008 to six month prison term for publishing articles concerning the alleged ill-health of President Mubarak.

In July 2006, controversial amendments to the Press Code were passed by parliament that continued to curtail freedom of expression. Certain publishing offences, such as insulting public officials, continued to carry custodial sentences. Independent and opposition newspapers withheld publication for a day in protest at the new law and hundreds of media workers protested outside the National Assembly.

The decision in August 2007 to dissolve the Association for Human Rights and Legal Aid (AHRLA) and the forced closure of the Centre for Trade Union and Workers' Services (CTUWS) office, in April 2007, represent a serious blow to freedom of association. Such measures do not bode well for the forthcoming amendments to the law on associations. Egyptian human rights organizations fear that the authorities are seeking through the proposed amendments to the already restrictive Law on Associations (Law No. 84 of 2002) to further restrict and control their activities through increased administrative measures, purportedly for security reasons.

The attack on AHRLA appears to be linked to its active work in supporting victims of torture and exposing human rights violations in Egypt. The Association has been providing legal advice to victims of such violations; in particular to those who have been tortured while in custody at police stations or other detention centres, including by representing them before Egyptian courts. AHRLA has appealed the decision of closure before an administrative court and the next court session is scheduled for May 2008.

The attack against the CTUWS offices appear to be linked to its role in informing workers of their rights, including during the trade union elections in October 2006, and in reporting on the widespread irregularities that characterized those elections. They also seem to be linked to a CTUWS report critical of the recent trade unions elections and the role played by the Egyptian Trade Unions Federation and the Ministry of Manpower and Immigration. The CTUWS has appealed before an administrative court against the decision of closure as well as the refusal of the Ministry of Solidarity to register it under the law on associations on spurious security grounds. On 30 March 2008, the administrative court ruled in favour of the CTUWS allowing for its registration and resuming its work. In another development, the General Coordinator of CTUWS, Kamal Abbas, and Mohamed Helmy, Lawyer at the Centre, were both acquitted by an appeal court on 27 February 2008 after they were sentenced to one-year prison term in October 2007 in a defamation case.

Amnesty International believes that by closing down the AHRLA, the Egyptian authorities are not only breaching their obligations to respect the right to freedom of association, but are also preventing torture victims from receiving valuable independent advice and legal aid in support of their rights. Amnesty International welcomes the administrative court decision to allow for the registration of the CTUWS as the government's decision to close down the centre was preventing workers from receiving valuable independent advice and legal aid in support for their labour rights, including the right to strike and to organize freely.

Amnesty International calls on the EU to urge the Egyptian authorities to:

- revise the press law with a view of repealing provisions allowing prison sentences for publishing offences;
- rescind the decisions to dissolve AHRLA and lift any other restrictions imposed on them to allow them to provide much needed assistance in defence of human rights and workers' rights; and

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- ensure that the planned amendments to the law on associations give more, not less, freedom to NGOs to enable them to conduct their legitimate work in defence of human rights without fear of intimidation or imprisonment.

3. Lethal and excessive use of force against migrants and refugees

Thousands of migrants, refugees and asylum seekers, mostly from Sudan and Eritrea or other parts of sub-Saharan Africa, try to cross from Egypt into Israel each year. Their numbers have been increasing since 2007; according to the Israeli Minister of Interior Meir Sheerit some 300 now try every week to cross into Israel.

According to reports, in the first four months of 2008, eight men and three women were shot dead by Egyptian security forces while they were attempting to cross the border into Israel; the latest being an Eritrean man killed on 17 April 2008. On 27 March, two men believed to be from Côte d'Ivoire were shot dead. On 10 March and 18 March, a Sudanese man and Eritrean woman were killed in similar circumstances. Six others were killed earlier in February and January, including two women from Eritrea. In 2007, at least four men and two women were shot dead in similar circumstances. Egyptian security forces shot dead a man trying to cross into Israel on 16 September 2007. The man, believed to have been Eritrean, was apparently shot in the back. Several other Eritreans trying to cross into Israel with him were arrested. This follows the reported death of two men believed to be of Sudanese origin, who were allegedly shot dead by Egyptian security forces as they attempted to cross the border during the night of 1 August 2007. Egyptian official sources denied that the shootings took place, although they have confirmed that two men were arrested by the Egyptian border police on 2 August, one of whom is said to have been seriously injured. There were also reports of excessive use of force which have left dozens of such migrants injured.

Amnesty International is concerned that Egypt may be sending law enforcement officials to the area who do not have the necessary training for dealing with crowd-control situations, thus putting the lives of more migrants, refugees and asylum seekers at risk.

In October 2007, the Egyptian authorities reportedly returned to Sudan at least five of the 48 asylum seekers that were forcibly transferred to them from Israel in August 2007. Reports indicate that the 48 have not had access to the UNHCR office in Cairo and that the whereabouts and fate of the 43 others who are still believed to be in Egypt remains unknown.

Amnesty International calls on the EU to urge the Egyptian authorities to:

- protect the human rights of individuals intercepted at the border with Israel who include refugees, asylum-seekers and migrants, and to launch immediately a thorough, independent, and impartial investigation into the killings of at least seventeen refugees or asylum seekers in 2007-2008, and make its findings public;
- respect the international prohibition on collective expulsions and guarantee that each case of expulsion is examined and decided individually. In every case, Egyptian authorities should ensure that no individual is forcibly returned to a country where he or she faces a risk of serious human rights abuses, in accordance with Egypt's obligations under international law, including the 1951 Convention Relating to the Status of Refugees and the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment; and
- ensure that any decision to deport individuals found not to be in need of international protection following a fair and satisfactory asylum procedure must only be taken after a careful examination of each individual case and must include adequate procedural safeguards, including the ability to challenge deportation decisions.

4. Special courts

4.1. Military courts

Since April 2007, forty members of the Muslim Brothers, a leading opposition organization in Egypt, have been facing trial before a military court, although they are all civilians. The defendants were all tried on terrorism-related and money laundering charges, which they denied. Specifically, they were alleged to have financed a banned organization and provided students with weapons and military training.

On 15 April 2008, the Supreme Military Court in Heikstep, Cairo, handed down prison sentences of up to 10 years against 25 defendants, including seven in absentia. Fifteen other defendants were acquitted and are yet to be released. Khairat al-Shatir, the third highest ranking Muslim Brotherhood leader, and Hassan Malek, received seven years' imprisonment. Sixteen others received prison sentences ranging from three to five years. Five of those who were tried in absentia received 10 year prison terms, while the other two received a sentence of five years each. Seventeen of the defendants were previously acquitted of the same charges by an ordinary criminal court.

Following amendment of the 1966 Code of Military Justice in 2007, they can appeal to the Supreme Court of Military Appeals, but this can only examine procedural matters, not the substance of the case.

President Hosni Mubarak took the decision to send them for trial before a military court in February 2007, using powers given to him under the Code of Military Justice. In effect, this allows the President to bypass the ordinary criminal justice system, where the defendants' fair trial rights would be better protected.

The Egyptian government's use of military courts to try civilians contravenes international law in particular, Article 14 of the ICCPR which states that everyone is entitled to a public hearing by a competent, independent, and impartial tribunal established by law. The African Commission on Human and Peoples' Rights, for example, states: "The only purpose of military courts shall be to determine offences of a purely military nature committed by military personnel... Military courts should not, in any circumstances whatsoever, have jurisdiction over civilians."

Amnesty International's observers who tried to attend the first sessions of the trial on 3 June, 15 July and 3 August 2007 were not permitted entry to the court. They were also barred from attending trial sessions on 10 and 11 February 2008. Neither national nor international observers have been allowed to attend the trial since it started in April 2007.

4.2. Emergency courts

(Emergency) Supreme State Security Courts which are established by the Emergency Law continue to try terrorism-related cases despite the fact that they violate some of the basic guarantees for a fair trial, including the right to appeal to a higher tribunal.

Muhammed Gayiz Sabbah, Usama 'Abd al-Ghani al-Nakhlawi and Yunis Muhammed Abu Gareer were tried before the (Emergency) Supreme State Security Court in Ismailia in connection with a series of bomb attacks in Taba and elsewhere on the Sinai Peninsula in October 2004. Amnesty International condemned these attacks, which left at least 34 people dead, and called on the Egyptian authorities to bring those responsible to justice in accordance with international standards and without recourse to the death penalty. The emergency court sentenced the three men to death in November 2006. Ten other people were convicted in connection with the bomb attacks and sentenced to terms of imprisonment.

Amnesty International does not know if Muhammed Gayiz Sabbah, Usama 'Abd al-Ghani al-Nakhlawi and Yunis Muhammed Abu Gareer were involved in the bomb attacks. It does know, however, that they face execution after an unfair trial before a special court and that their convictions are based on "confessions" extracted under torture. If the Egyptian state does execute these men, it will have

arbitrarily deprived them of their right to life and violated international law.

The African Commission on Human and Peoples' Rights called on the Egyptian authorities to stay the executions in December 2006 and subsequently declared the case admissible and scheduled to examine it in its next session in May 2008.

Amnesty International urges the EU to press the Egyptian authorities to:

- stop referring civilians to military courts;
- halt all pending trials of civilians in military courts immediately, and transfer the cases to civilian courts for a new trial;
- halt the executions of Muhammed Gayiz Sabbah, Usama Abd al-Ghani al-Nakhlawi and Yunis Muhammed Abu Gareer, who were sentenced to death after a grossly unfair trial; and
- ensure that all those convicted in this case are retried before an ordinary criminal court in proceedings that meet international fair trial standards, including the right to appeal.

5. Nine men convicted of 'debauchery'

In 2008, nine men were convicted in two separate trials of same-sex sexual relations ('habitual practice of debauchery') on the grounds of their HIV status. In one case, on 9 April 2008, five men received a three year prison sentence by a criminal court in Cairo. Their appeal is scheduled on 7 May 2008. In another case, four men were sentenced to one-year prison term on 14 January 2008. The decision was upheld by the appeal court on 2 February 2008. Their case was submitted before the Cassation court but no date has yet been set for its consideration.

Cairo police have detained 12 men since October 2007 in a spreading hunt for people suspected of being HIV-positive. The arrests began when one man, stopped on the street during an altercation, told officers he was HIV positive. Police arrested him and the man with him, beat and abused them, and began picking up others whose names or contact information they found through interrogating the first detainees.

All the men were charged with the "habitual practice of debauchery," a term which in Egyptian law includes consensual sexual acts between men.

Doctors from the Ministry of Health and Population also subjected all the detainees to forcible HIV tests without their consent. Doctors from Egypt's Forensic Medical Authority performed forcible and abusive anal examinations on the men to "prove" they had had sex with other men. Several of the men have told lawyers that police and guards beat them in detention. A prosecutor informed one of them that he had tested positive for HIV by saying: "People like you should be burnt alive. You do not deserve to live."

Those who tested HIV-positive were held in hospitals, chained to their beds, for months. After a domestic and international outcry, the Ministry of Health and Population ordered the men unchained on 25 February 2008.

Amnesty International urges the EU to press the Egyptian authorities to:

- immediately and unconditionally release all men convicted of debauchery as they are all prisoners of conscience;
- end campaign of arrests against people suspected of having HIV. Such a campaign can undermine the authorities' efforts to prevent the disease and drive people with HIV to hiding;
- ensure that personnel affiliated with the Ministry of Health and Population, or the National AIDS Program, neither condone nor participate in torture, ill-treatment, or criminal interrogations of detainees, and immediately report any instances of torture or ill-treatment to the appropriate authorities; and
- ensure that all detainees receive the highest available standard of medical care for any serious health conditions.