



**Egypt's Compliance with the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment
Suggested List of Issues Relating to the Death Penalty**

Submitted by The Advocates for Human Rights

a non-governmental organization in special consultative status with ECOSOC since 1996

The World Coalition Against the Death Penalty

and

Reprieve

for the

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The Advocates for Human Rights (The Advocates) is a volunteer-based non-governmental organization committed to the impartial promotion and protection of international human rights standards and the rule of law. Established in 1983, The Advocates conducts a range of programs to promote human rights in the United States and around the world, including monitoring and fact finding, direct legal representation, education and training, and publications. In 1991, The Advocates adopted a formal commitment to oppose the death penalty worldwide and organized a death penalty project to provide pro bono assistance on post-conviction appeals, as well as education and advocacy to end capital punishment. The Advocates currently holds a seat on the Steering Committee of the World Coalition against the Death Penalty.

The World Coalition Against the Death Penalty is a volunteer-based non-government organization committed to strengthen the international dimension of the fight against the death penalty. Established in 2002, its ultimate objective is to obtain the universal abolition of the death penalty. To achieve its goal, the World Coalition advocates for a definitive end to death sentences and executions in those countries where the death penalty is in force. In some countries, it is seeking to obtain a reduction in the use of capital punishment as a first step towards abolition.

Reprieve is a charitable organization registered in the United Kingdom (No. 1114900), with special consultative status with the United Nations Economic and Social Council (ECOSOC). Reprieve provides free legal and investigative support to those who have been subjected to state-sponsored human rights abuses. Reprieve's clients belong to some of the most vulnerable populations in the world, as it is in their cases that human rights are most swiftly jettisoned and the rule of law is cast aside. In particular, Reprieve protects the rights of those facing the death penalty and delivers justice to victims of arbitrary detention, torture, and extrajudicial execution.

Ensemble contre la peine de mort (ECPM) endorses this report.

EXECUTIVE SUMMARY

1. This report addresses Egypt's compliance with its human rights obligations with regard to the death penalty. Egypt ranks in the top 5 countries for executions.¹ According to Reprieve, between January 2020 and March 2022, Egypt executed at least 230 people.² Reprieve reports that there have been at least 53 mass trials since 2011, in which 2,182 people were sentenced to death.³ This high number of executions and death sentences is particularly concerning in light of evidence of due process violations, including the use of torture to extract confessions, inadequate access to counsel for people accused of capital crimes, a lack of transparency in court proceedings, and the reluctance of judicial authorities to investigate allegations of inhumane treatment and torture.
2. Legal safeguards against torture are ineffective, and individuals accused of capital crimes are subjected to enforced disappearances, incommunicado detention, torture, and other forms of inhumane treatment. The Egyptian constitutional rights to due process and adequate legal representation are violated in the use of mass trials and the use of military courts for civilian trials. Egypt has not taken concrete steps to reduce the number of crimes eligible for the death penalty, and the use of torture and other due process violations related to judicial proceedings render all death sentences arbitrary.
3. During its last Universal Periodic Review in 2019, Egypt accepted recommendations to consider reducing the number of crimes punishable by death and to ensure that all death sentences are reviewed,⁴ but Egypt has not made any progress in implementing these recommendations. Moreover, Egypt has consistently voted against the UN General Assembly Resolution calling for a moratorium on the application of the death penalty.

Egypt fails to uphold its obligations under the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment

4. On 11 September 2021, Egypt launched its inaugural “National Human Rights Strategy,” including a commitment to a “framework for reviewing the ‘most serious crimes’ for which the death penalty is imposed, taking into account societal conditions and specialised studies in accordance with international and regional agreements of human rights ratified by Egypt.”
5. Despite this commitment, Egyptian law still retains 104 offenses punishable by death.⁵ The Egyptian Criminal Code and related laws identify dozens of crimes that are eligible for the death penalty.⁶ These crimes include aggravated murder, premeditated killing by substances,

¹ Reprieve, *The Death Penalty in Egypt – Ten Years After the Uprising*, (Jan. 28, 2022), <https://reprieve.org/uk/2021/05/24/the-death-penalty-in-egypt-ten-year-after-the-uprising/>

² Reprieve and local partners collect and maintain data on the composition of death rows around the world, including Egypt. Figures referenced in this report were retrieved from that data or from Reprieve's 2021 report, *The Death Penalty in Egypt – Ten Years After the Uprising*.

³ Reprieve, *The Death Penalty in Egypt – Ten Years After the Uprising*, (Jan. 28, 2022), <https://reprieve.org/uk/2021/05/24/the-death-penalty-in-egypt-ten-year-after-the-uprising/>.

⁴ See Human Rights Council, *Report of the Working Group on the Universal Periodic Review: Egypt*, UN Doc. A/HRC/43/16 (Dec. 27, 2019), ¶¶ 31.91, 31.101.

⁵ Email from Reprieve to The Advocates for Human Rights (Jan. 23, 2023) (on file with The Advocates for Human Rights).

⁶ See e.g., Criminal Code of Egypt (Qanun al-Ugubat), Law No. 85 of 1937, Arts. 86-90, 93, 102, 203-234, 257, 290, 295 [hereinafter Criminal Code].

and murder with intention to commit any misdemeanor,⁷ as well as arson leading to death, perjury leading to death of a convicted person because of false testimony, and kidnapping a female accompanied with a felony of having sex with the female without her consent.⁸ The death penalty is also an available penalty for a variety of gang-related offenses, including forming or leading a gang that intends to overthrow the government, that attacks a community, or that intentionally uses force to occupy any part of a public building.⁹ Several terrorism-related crimes that result in death are subject to the death penalty, including intentionally resorting to terrorism to disturb public order, hijacking, resisting a law-enforcement officer, taking hostages, using or attempting to use explosives, wounding or beating a person, and deliberately killing a person without premeditation.¹⁰

6. Even if no death results, a person may be sentenced to death for intentionally using explosives to commit crimes such as damage to public buildings or installations, or for other acts of terrorism not resulting in death, such as using terrorism to disturb the public order, damage the environment, cause detriments to communications or transportation or property, or preventing public authorities from working, or interrupting the order protected by laws or statutes.¹¹
7. Military Rules Law No. 25 of 1966 authorizes the death penalty for 14 crimes, such as sedition and disobedience, destruction of property, disobedience, abuse of power or authority, and not reporting a crime listed in the first chapter of the military code.¹²
8. Law No. 122 of 1989 identifies several drug-related offenses that are eligible for the death penalty, even if they do not result in death.¹³ These crimes include exporting, importing, or producing any narcotic substances with the intent to trade or without legal authorization, forming or managing a gang to trade drugs, possessing, delivering, purchasing, or selling any drug with the intention of trading without legal authorization, and managing any premises for the use of drugs.¹⁴ Such crimes are death-eligible if they have one or more of the following aggravating factors: using any person under the age of 21 or any relative under the accused's care, or any person over whom the accused has authority; the accused has the duty to combat narcotic drugs; the accused uses the force of law to facilitate the offense; the accused commits the crime in a place of worship, an educational institution, or a public park; the accused offers or sells drugs to anyone under the age of 21 or induces such a person to use drugs by force or deceit; the narcotic substance is cocaine or heroin; or the accused person is a repeat offender of a drug-related offense.¹⁵
9. A variety of treason-related offenses are eligible for the death penalty even if they do not result in death.¹⁶

⁷ Criminal Code Arts. 203-234.

⁸ Criminal Code Arts. 257, 295, 290.

⁹ Criminal Code Arts. 87, 89, 90.

¹⁰ Criminal Code Arts. 68, 88, 102, 168, 240-241, 234.

¹¹ Criminal Code Arts. 86, 102 C.

¹² Law No. 25, 1966 on military rules (Al Ahkam Al 'Askariya); *see also* Mohamed Gaber, *Reforming the Death Penalty in Egypt: An Islamic Law Perspective* (Dec. 2017), art. 18 (Master of Laws Thesis, Indiana University Maurer School of Law). Also available at: <https://www.repository.law.indiana.edu/etd/52/>.

¹³ Law No. 122 of 1989 Amending Certain Provisions of Decree-Law No. 182 of 1960, Arts. 33-34.

¹⁴ Law No. 122, Art. 33-34.

¹⁵ Law No. 122, Art. 34.

¹⁶ Law No. 122, Art. 34.

10. An amendment to the Firearms Control Legislation of 1954 makes the death penalty mandatory for any individual who acquires or possesses non-permitted weapons or related ammunition in a public place with intent to use the arms or ammunition in any act against public order and security or to undermine the system of government, the constitution, national unity and social harmony.¹⁷
11. Under Law No. 122, the death penalty is mandatory for assault “against any of the public officials or personnel charged with the enforcement” if the assault leads to death.¹⁸
12. The Confronting Terrorism Law No. 95 of 2015 introduced several new offenses that are eligible for the death penalty. The law broadly defines terrorism as “any use of force or violence or threat or terrorizing that aims to: Disrupt general order or endanger the safety, interests or security of society; harm individual liberties or rights; harm national unity, peace, security, the environment or buildings or property; prevent or hinder public authorities, judicial bodies, government facilities, and others from carrying out all or part of their work and activity.”¹⁹ The law authorizes the death penalty for founding, regulating, managing, or being a leader of a terrorist group; financing terrorist groups; and collecting counterintelligence with the purpose of committing terrorist attacks, among others.²⁰ The law mandates the death penalty for funding a terrorist group or terrorist act.²¹
13. Even where the law stipulates that the death penalty is mandatory, a judge may impose a different penalty if lenity is warranted.²²
14. Three different courts have jurisdiction over capital cases: civilian Courts of Appeal, State Security Courts, and Military Courts.²³ Death sentences issued by civilian courts are subject to a mandatory appeal to the Court of Cassation, but that court may consider only issues of law, including whether the lower court violated, misapplied, or misinterpreted the law, whether the verdict is legally invalid, and whether procedural irregularities had an effect on the verdict.²⁴
15. Military Courts have jurisdiction over civilians accused of crimes related to terrorism and national security, as well as crimes committed in border areas and crimes against military

¹⁷ Criminal Code Arts. 77, 78, 80, 1, 83, 91.

¹⁸ Law No. 6 of 2012, 2 AL JARIDAH AL RASMIYAH 2012, Jan. 12, 2012, pp. 5–8, accessed Mar. 21, 2019, https://www.loc.gov/law/help/firearms-control/egypt.php#_ftn13; see also Firearms Control Legislation No. 394 of 1954 (amend. 1981), art. 2; Mohamed Gaber, “Reforming the Death Penalty in Egypt: An Islamic Law Perspective” (Dec. 2017), 18 (Master of Laws Thesis, Indiana University Maurer School of Law). Also available at: <https://www.repository.law.indiana.edu/etd/52/>.

¹⁹ Confronting Terrorism Law No. 95 of 2015, art. 2.

²⁰ *Id.*; see also Mohamed Gaber, “Reforming the Death Penalty in Egypt: An Islamic Law Perspective” (Dec. 2017), 19 (Master of Laws Thesis, Indiana University Maurer School of Law). Also available at: <https://www.repository.law.indiana.edu/etd/52/>.

²¹ Human Rights Watch, *Egypt: Counterterrorism law Erodes Basic Rights*, (Aug. 19, 2015), <https://www.hrw.org/news/2015/08/19/egypt-counterterrorism-law-erodes-basic-rights>.

²² Dr. Mohamed Al Ghamry, *Death Penalty In Egypt: Theoretical and Practical Study in the Light of Islamic Shariah and International Human Rights Law*, 17 (Arab Penal Reform Organization: 2008), http://www.aproarab.org/modules.php?name=Reports_Publications.

²³ Mohamed Gaber, “Reforming the Death Penalty in Egypt: An Islamic Law Perspective” (Dec. 2017), 23 (Master of Laws Thesis, Indiana University Maurer School of Law). Also available at: <https://www.repository.law.indiana.edu/etd/52/>.

²⁴ *Id.* at 22.

production facilities.²⁵ Military courts are not open to the public.²⁶ Decisions of those courts may be appealed to the Supreme Military Court.²⁷ Law No. 136 of 2014 for the Securing and Protection of Public and Vital Facilities expanded the jurisdiction of military courts by placing all public property under military jurisdiction.²⁸

16. Supreme State Security Courts may be established by order of the Egyptian President and consist of three judges, at least two of whom are military justices.²⁹ These courts have jurisdiction over crimes committed in violation of orders issued by the Egyptian President, and the President may designate cases involving crimes punishable under Egyptian criminal law to be heard by these courts.³⁰ Decisions of the Supreme State Security Courts cannot be appealed and are irrevocable after being signed by the President.³¹
17. According to Amnesty International, on October 25, 2021, “President Abdel Fattah al-Sisi announced that he would not extend the state of emergency in the country, which he had declared in 2017. This move will eventually end trials in Emergency State Security Courts (ESSCs), created under emergency laws, which among other things have imposed death sentences in grossly unfair trials. But while the end of the state of emergency meant that the authorities were not able to refer new cases to the emergency courts, existing trials were set to continue to be heard before them.”³²
18. According to Amnesty International, in 2021 Egypt carried out at least 83 executions, ranking third after China and Iran.³³ Of that number, eight of the people executed were known to be women.³⁴ 2021 figures mark a drop from at least 107 known executions in 2020.³⁵ In 2021, Egyptian courts sentenced at least 356 people to death, an increase from at least 264 in 2020.³⁶ At least 10 people sentenced to death in 2021 were sentenced for drug-related offenses.³⁷

²⁵ U.S. Library of Congress, Legal Research Guide: Egypt, accessed Mar. 21, 2019, <https://www.loc.gov/law/help/legal-research-guide/egypt.php>.

²⁶ U.S. Department of State, Bureau of Democracy, Human Rights and Labor, *Country Reports on Human Rights Practices for 2018* (2019),

<http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm?year=2018&dld=289203>.

²⁷ Mohamed, Gaber, “Reforming the Death Penalty in Egypt: An Islamic Law Perspective” (Dec. 2017), 25 (Master of Laws Thesis, Indiana University Maurer School of Law). Also available at:

<https://www.repository.law.indiana.edu/etd/52/>.

²⁸ Human Rights Watch, *Egypt: 7,400 Civilians Tried in Military Courts*, (Apr. 13, 2016),

<https://www.hrw.org/news/2016/04/13/egypt-7400-civilians-tried-military-courts>.

²⁹ Mohamed, Gaber, “Reforming the Death Penalty in Egypt: An Islamic Law Perspective” (Dec. 2017), 26 (Master of Laws Thesis, Indiana University Maurer School of Law). Also available at:

<https://www.repository.law.indiana.edu/etd/52/>

³⁰ *Id.*

³¹ *Id.* at 22.

³² Amnesty International, *Death Sentences and Executions 2021* (2022), 42. Also available at: <https://www.amnesty.org/en/documents/act50/5418/2022/en/>.

³³ *Id.* at 5.

³⁴ *Id.* at 10.

³⁵ *Id.* at 11.

³⁶ *Id.* at 12-13.

³⁷ *Id.* at 15.

19. Egypt's criminal procedure requires people on death row, and their families, to be notified of their execution dates in advance. But Reprieve has documented the recent practice of executing people suddenly and without notifying their families.³⁸

I. Suspects and potential witnesses are subjected to torture in order to obtain evidence, and such evidence is used to obtain convictions and sentence people to death. (Concluding Observations paragraph 5(b)-(e))

20. In its 2002 Concluding Observations, the Committee expressed concern about the many consistent reports received concerning the persistence of the phenomenon of torture and ill-treatment of detainees by law enforcement officials, and the absence of measures to ensure effective protection and prompt and impartial investigations. Many of these reports relate to numerous cases of deaths in custody.³⁹ The Committee also expressed concern at the widespread evidence of torture and ill-treatment in administrative premises under the control of the State Security Investigation Department.⁴⁰

21. The Committee recommended that Egypt adopt a definition of torture which fully corresponds to the definition in article 1, paragraph 1, of the Convention.⁴¹

22. In its Fifth Periodic Report, Egypt asserts that all of the forms of torture envisaged in article 1 of the Convention are covered in different parts of the Criminal Code and that, in some cases, the Criminal Code expands the scope to include certain acts as torture which would not be considered torture as defined in article 1, paragraph 1, of the Convention.⁴²

23. Egypt also asserts that the inadmissibility of statements proven to have been extracted as a result of torture is a constitutional and legal norm. Article 55 of the Constitution deems any statement that is shown to have been made by a detainee as a consequence of torture, intimidation or coercion, or of physical or mental abuse, or the threat thereof, null and void.⁴³ Article 302 of the Code of Criminal Procedure also makes any statement given by an accused person or witness that is shown to have been extracted using coercion or threats inadmissible.⁴⁴

24. Despite these assertions, civil society organizations continue to document widespread use of torture in Egypt, including reliance on evidence obtained through torture. Amnesty International reports that torture and other ill-treatment are routine in official places of detention and are systematic in National Security Agency detention facilities.⁴⁵ Human Rights Watch reports that in 2020, Egypt's Interior Ministry's security forces and National Security Agency (NSA) forcibly disappeared, arbitrarily arrested, and tortured political dissidents, including children.⁴⁶ Amnesty International reports that Egyptian courts rely heavily on reports

³⁸ Reprieve, *The Death Penalty in Egypt – Ten Years After the Uprising*, (Jan. 28, 2022), <https://reprieve.org/uk/2021/05/24/the-death-penalty-in-egypt-ten-year-after-the-uprising/>.

³⁹ Committee Against Torture, *Concluding observations: Egypt* (23 December 2002), U.N. Doc. CAT/C/CR/29/4, ¶ 5(b).

⁴⁰ *Id.*, ¶ 5(c).

⁴¹ *Id.*, ¶ 6(b).

⁴² Committee against Torture, *Fifth periodic report submitted by Egypt under article 19 of the Convention, due in 2004*, (Dec. 27, 2021), ¶¶ 11-20

⁴³ *Id.*, ¶ 120

⁴⁴ *Id.*

⁴⁵ Amnesty International, *Amnesty International Report 2017/18: The State of The World's Human Rights*, (Feb. 22, 2018), <https://www.amnesty.org/en/documents/pol10/6700/2018/en/>.

⁴⁶ Human Rights Watch, *Egypt: Events of 2020*, <https://www.hrw.org/world-report/2021/country-chapters/egypt>.

of the NSA and unreliable evidence, including confessions extracted through torture, in their sentencing.⁴⁷ A 2018 Amnesty International report documents that dozens of detained human rights activists, journalists and members of the opposition are being held in solitary confinement and physically abused, including beatings by prison guards and having their heads repeatedly dunked into a container containing human excrement.⁴⁸

25. In its last Universal Periodic Review in 2019, Egyptian authorities asserted that Article 111 of the Law of the Child prohibits imposition of the death penalty on children.⁴⁹ But Reprieve has documented at least one case in which Egyptian authorities have subjected a child to torture and subsequently sentenced him to death. A.S., age 17 when he was arrested, was found guilty for allegedly participating in the attempted assassination of Judge Fathi al-Bayoumi, even though the attempted assassination did not take place until 23 March 2015, when A.S. had already been in custody for 21 days.⁵⁰ Egyptian security officers tortured A.S., subjecting him to beatings and electric shock.⁵¹ They coerced him into signing a false confession admitting to crimes he did not commit.⁵² Authorities tried A.S. in a mass trial alongside adult co-defendants and sentenced him to death on 19 February 2018.⁵³ The court did not exclude evidence obtained through torture at trial.⁵⁴
26. Since March 2021, authorities have released dozens of people held for political reasons, but hundreds of human rights defenders, lawyers, political opponents, protesters, and others remain detained, and arrests of perceived critics and opponents continue.⁵⁵ Egyptian courts continued to impose the death penalty for cases of alleged political violence and terrorism in which defendants' claims of forced disappearance and torture frequently went uninvestigated by judges.⁵⁶ According to Reprieve's monitoring alongside local partners, at least 56 out of 319 (17%) of executions known to have been carried out in Egypt between January 2018 and March 2022 arose from events related to political opposition.⁵⁷
27. Sixteen men sentenced to death in July 2021 are at imminent risk of execution, including two brothers, A.A. and al-M.A., who were subjected to enforced disappearances and torture by the

⁴⁷ Amnesty International, *Amnesty International Report 2017/18: The State of the World's Human Rights*, (Feb. 22, 2018), <https://www.amnesty.org/en/documents/po110/6700/2018/en/>.

⁴⁸ Amnesty International, *Egypt: The Use of Indefinite Solitary Confinement Against Prisoners Amounts to Torture*, (May 7, 2018), <https://www.amnesty.org/en/latest/news/2018/05/egypt-the-use-of-indefinite-solitaryconfinement-against-prisoners-amounts-to-torture/>.

⁴⁹ See Human Rights Council, *Report of the Working Group on the Universal Periodic Review: Egypt*, UN Doc. A/HRC/43/16 (Dec. 27, 2019), ¶ 24.

⁵⁰ Reprieve, *The Death Penalty in Egypt – Ten Years After the Uprising*, (Jan. 28, 2022), <https://reprieve.org/uk/2021/05/24/the-death-penalty-in-egypt-ten-year-after-the-uprising/>.

⁵¹ Documents held on file with Reprieve.

⁵² Reprieve, *The Death Penalty in Egypt – Ten Years After the Uprising*, (Jan. 28, 2022), <https://reprieve.org/uk/2021/05/24/the-death-penalty-in-egypt-ten-year-after-the-uprising/>.

⁵³ Reprieve, *The Death Penalty in Egypt – Ten Years After the Uprising*, (Jan. 28, 2022), <https://reprieve.org/uk/2021/05/24/the-death-penalty-in-egypt-ten-year-after-the-uprising/>.

⁵⁴ *Id.*

⁵⁵ Amnesty International, *Disconnected from Reality: Egypt's National Human Rights Strategy Covers Up Human Rights Crisis*, (Sept. 2022), <https://www.amnesty.org/en/documents/mde12/6014/2022/en/>.

⁵⁶ *Id.*

⁵⁷ Reprieve and local partners collect and maintain data on the composition of death rows around the world, including Egypt. Figures referenced in this report come from that data or from Reprieve's 2021 report, *The Death Penalty in Egypt – Ten Years After the Uprising*.

NSA.⁵⁸ The judge relied on torture-tainted “confessions” and testimonies by policemen to convict them.⁵⁹

28. Reprieve has documented that changes in Egyptian law have increased the chances that courts will uphold on appeal an initial death sentence handed down in a trial containing violations of the right to fair trial. In 2017, Law no. 57 of 1959 was amended to limit appeals in the Court of Cassation, Egypt’s highest court. Prior to the amendments, the court was able to reverse a conviction and send the case back for a second trial.⁶⁰ This provision gave many people sentenced to death a retrial and two rounds of appeal at the Court of Cassation.⁶¹ As of 2017, the court can assess both legal and factual matters during the first appeal and issue a final judgement.⁶² Thus, people now sentenced to death usually do not have the opportunity for a re-trial, where most acquittals and commutations used to occur.⁶³ Since 2018, the Court of Cassation has upheld 202 death sentences, nearly an eightfold increase from the prior four years.⁶⁴ These laws, in addition to the law granting the President the power to appoint the most senior members of the justice system, undermine the independence of the judiciary.⁶⁵

II. Authorities subject suspects and potential witnesses to administrative detention, incommunicado detention, and enforced disappearances with lengthy pre-trial detentions and give them little to no opportunity to communicate with family and legal counsel both prior to and following their trial. (Concluding Observations paragraph 5(f), (h), paragraph 6 (o))

29. The Committee recommended that Egypt (i) ensure that all detained persons have immediate access to a doctor and a lawyer, as well as contact with their families,⁶⁶ (ii) eliminate all forms of administrative detention,⁶⁷ and (iii) abolish incommunicado detention.⁶⁸

30. In its Fifth Periodic Report, Egypt asserts that as of 2 June 2013, authorities no longer permit administrative detention orders and persons can be imprisoned only under a judicial warrant.⁶⁹

31. The list of issues prior to the submission of the fifth periodic report of Egypt states that more than 10,000 persons are currently detained administratively under article 3(1) of the Emergency Law (Law No. 162 of 1958), providing for the arrest and detention of criminal

⁵⁸ Amnesty International, *Disconnected from Reality: Egypt’s National Human Rights Strategy Covers Up Human Rights Crisis*, (Sept. 2022), <https://www.amnesty.org/en/documents/mde12/6014/2022/en/>.

⁵⁹ *Id.*

⁶⁰ Reprieve, *The Death Penalty in Egypt – Ten Years After the Uprising*, (Jan. 28, 2022), <https://reprieve.org/uk/2021/05/24/the-death-penalty-in-egypt-ten-year-after-the-uprising/>.

⁶¹ *Id.*

⁶² *Id.*

⁶³ *Id.*

⁶⁴ *Id.*

⁶⁵ Amnesty International, *New Legislation Threatens Judicial Independence in Egypt*, (Apr. 27, 2017), <https://www.amnesty.org/en/latest/press-release/2017/04/new-legislation-threatens-judicial-independence-in-egypt/>.

⁶⁶ Committee Against Torture, *Concluding observations: Egypt* (Dec. 23, 2002), U.N. Doc. CAT/C/CR/29/4, ¶ 6(o).

⁶⁷ *Id.*, ¶ 6(f).

⁶⁸ *Id.*, ¶ 6(h).

⁶⁹ Committee against Torture, *Fifth periodic report submitted by Egypt under article 19 of the Convention, due in 2004*, (Dec. 27, 2021), ¶ 42.

suspects, and of “persons who are dangerous to public security and order.”⁷⁰ According to Human Rights Watch, judges and prosecutors have kept thousands of people in pretrial detention, many beyond the two-year limit Egyptian law provides.⁷¹

32. Prosecutors from the Supreme State Security Prosecution (SSSP) detain thousands for months and sometimes years, based on terrorism-related accusations on the basis of reports by the National Security Agency (NSA), investigations that defendants and their lawyers are banned from accessing, without allowing them to challenge the lawfulness of their detention.⁷² In 2021 alone, the SSSP had opened at least 2,380 investigations into terrorism-related or other national security offences. From January to 20 September 2022, the SSSP has opened at least 1,634 such investigations.⁷³
33. Reprieve reports that security forces have subjected hundreds of people to enforced disappearance, many of whom are later sentenced in mass trials.⁷⁴ Authorities are using mass trials and mass death sentences as political weapons to silence opposition to the government.⁷⁵ Torture for the purpose of extracting confessions is a common practice in the lead-up to these mass trials.⁷⁶
34. According to Reprieve, from July 2013 through September 2018, Egyptian courts issued 2,443 preliminary death sentences.⁷⁷ 1,884 of the preliminary death sentences were handed down in mass trials of 15 defendants or more.⁷⁸ In at least five separate trials during this period, courts recommended death sentences for 75 or more defendants at once.⁷⁹
35. Reprieve has documented how mass trials undermine the right to individual adjudication and limit the right of access to lawyers.⁸⁰ Extremely short trials with hundreds of defendants make it impossible for a court to consider each defendant individually.⁸¹ Many of the defendants are tried in absentia.⁸² In some mass trials, defendants are unable to meet with counsel prior to the

⁷⁰ Committee Against Torture, *List of issues prior to the submission of the fifth periodic report of Egypt*, (Jul. 13, 2010), U.N. Doc. CAT/C/EGY/Q/5, ¶ 6.

⁷¹ Human Rights Watch, *Egypt: Events of 2020*, <https://www.hrw.org/world-report/2021/country-chapters/egypt>.

⁷² Amnesty International, *Disconnected from Reality: Egypt’s National Human Rights Strategy Covers Up Human Rights Crisis*, (Sept. 2022), 2. Also available at: <https://www.amnesty.org/en/documents/mde12/6014/2022/en/>.

⁷³ *Id.*

⁷⁴ Reprieve, *Mass Injustice: Statistical Findings on the Death Penalty in Egypt*, (Aug. 1, 2019),

<https://reprieve.org/uk/2019/08/01/mass-injustice-statistical-findings-on-the-death-penalty-in-egypt/>

⁷⁵ *Id.*

⁷⁶ *Id.*

⁷⁷ *Id.*

⁷⁸ *Id.*

⁷⁹ *Id.*

⁸⁰ Reprieve, *The Death Penalty in Egypt – Ten Years After the Uprising*, (Jan. 28, 2022),

<https://reprieve.org/uk/2021/05/24/the-death-penalty-in-egypt-ten-year-after-the-uprising/>.

⁸¹ *Id.*

⁸² *Id.*

start of the trial.⁸³ Mass trials also interfere with the presumption of innocence, which is already limited, as Egypt's law explicitly permits guilt by association.⁸⁴

III. Complaints of torture or ill-treatment are not investigated promptly, impartially, and independently, and such violations take place in a climate of near total impunity for security forces responsible for such abuses, with the complicity of prosecutors and judges. (Concluding Observations paragraph 5(b)-(d), (i))

36. The Committee expressed concern regarding (i) the lack of monitoring machinery by independent groups to investigate abuses and prosecute those responsible, (ii) the legal and practical restrictions on the activities of non-governmental organizations engaged in human rights work.⁸⁵
37. The Committee recommended (i) guaranteeing that all complaints of torture or ill-treatment, including those relating to death in custody, are investigated promptly, impartially and independently, (ii) ensuring that non-governmental organizations engaged in human rights work can pursue their activities unhindered, and in particular that they have access to all places of detention and prisons so as to guarantee greater compliance with the ban on torture and ill-treatment, and (iii) ensuring that mandatory inspection of all places of detention by prosecutors, judges or another independent body takes place at regular intervals.⁸⁶
38. In its Fifth Periodic Report, Egypt asserts that it has set up a mechanism to conduct prompt, impartial and independent investigations into complaints of torture or ill-treatment, in the form of the human rights department in the Office of the Public Prosecutor. The Fifth Periodic report contends that the State Prosecution Office, being part of the judiciary, is itself independent and impartial, in accordance with articles 184 and 189 of the Constitution.⁸⁷ Egypt further asserts that under the law, NGOs can visit places of detention and prisons in cooperation with the National Council for Human Rights and that visits by NGO representatives have recently been organized in a number of prisons.⁸⁸
39. Despite these assertions, there are no independent, impartial bodies that have oversight over places of detention. Egyptian authorities do not permit prison visits by non-governmental observers.⁸⁹ The National Council for Human Rights conducts visits, but those visits are irregular, limited in scope, and pre-arranged with the Ministry of Interior. Independent national and international observers are banned from prison visits and the public prosecution, including its human rights department, routinely ignores or dismisses prisoner complaints.⁹⁰

⁸³ *Id.*

⁸⁴ *Id.*

⁸⁵ Committee Against Torture, *Concluding observations: Egypt* (Dec. 23, 2002), U.N. Doc. CAT/C/CR/29/4, ¶ 5(d) and 5(i).

⁸⁶ *Id.*, ¶ 6(c), (d), and (m).

⁸⁷ Committee against Torture, *Fifth periodic report submitted by Egypt under article 19 of the Convention, due in 2004*, (Dec. 27, 2021), ¶ 134.

⁸⁸ *Id.*

⁸⁹ U.S. Department of State, Bureau of Democracy, Human Rights and Labor, *Country Reports on Human Rights Practices for 2018* (2019), <http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm?year=2018&dliid=289203>.

⁹⁰ Amnesty International, *Disconnected from Reality: Egypt's National Human Rights Strategy Covers Up Human Rights Crisis*, (Sept. 2022), <https://www.amnesty.org/en/documents/mde12/6014/2022/en/>.

40. Egypt also asserts that Articles 1747 to 1750 of the judicial instructions regulating the work of the State Prosecution Office require solicitors-general of the main State prosecution offices, or their deputies, to inspect the ordinary prisons located within their respective areas of jurisdiction.⁹¹ The heads or directors of regional State prosecution offices must conduct unannounced inspections of the regional prisons under their jurisdiction, at least once every month.⁹² They must launch an investigation into any violations or offences discovered during the course of the inspection, and inform the Deputy Public Prosecutor thereof.⁹³ Under the Police Authority Act, the directorate-general for inspections of the Ministry of the Interior is responsible for investigating disciplinary violations imputed to officers, while the directorate-general for police personnel is responsible for investigating disciplinary violations imputed to personnel.⁹⁴
41. Contrary to these assertions, Amnesty International notes that prosecutors and judges have routinely failed to order investigations into complaints of torture and enforced disappearance by detainees or their relatives and lawyers, as well as into the causes and circumstances of deaths in custody.⁹⁵ Most judges reject arguments that forced confessions should not be presented as evidence by the prosecution.⁹⁶
42. Human Rights Watch reports that the Interior Ministry's regular police and its NSA have been involved in systematic, widespread enforced disappearances and torture. The Prosecutor General's Office has conducted investigations into several such cases of abuse and torture, but the investigations are largely secretive and do not involve the National Council for Human Rights, independent legal experts, or human rights defenders.⁹⁷
43. Human Rights Watch reports that judicial authorities have investigated very few officers (and prosecuted even fewer) for abuses, including enforced disappearances and torture.⁹⁸
44. The experiences of Father I., who was executed on May 9, 2021, demonstrate the lack of accountability for torture. Reprieve documented his case in its report, *The Death Penalty in Egypt – Ten Years After the Uprising*.⁹⁹ Father I. was a Coptic Christian monk who was sentenced to death after multiple human rights violations. After his arrest, authorities interrogated him for 48-hours, when they beat him and deprived him of access to a toilet. Authorities held him incommunicado for 27 days, where he was interrogated and forced to sign a “confession” without a lawyer present. Authorities continued to torture him, and when he refused to “re-enact” the murder of which he was accused, “Security Forces beat him, electrocuted him, and insulted his faith, until he complied.”¹⁰⁰ Father I.'s lawyer told the court at trial that he had spent days trying to locate Father I., but his name was not on any detention

⁹¹ *Id.*

⁹² *Id.*

⁹³ *Id.*

⁹⁴ *Id.*

⁹⁵ *Id.*

⁹⁶ *Id.*

⁹⁷ Human Rights Watch, *Egypt: Set Independent Torture Inquiry: Prosecutor's Denial of Abuses Signifies Lack of Accountability*, (Feb. 14, 2019), <https://www.hrw.org/news/2019/02/14/egypt-set-independent-tortureinquiry>.

⁹⁸ Human Rights Watch, *Egypt: Events of 2018* (2019), <https://www.hrw.org/world-report/2019/countrychapters/egypt>.

⁹⁹ Reprieve, *The Death Penalty in Egypt – Ten Years After the Uprising*, (Jan. 28, 2022), 16, <https://reprieve.org/uk/2021/05/24/the-death-penalty-in-egypt-ten-year-after-the-uprising/>.

¹⁰⁰ *Id.*

log. Father I first spoke with his lawyer on the day of his first hearing, nearly one month after his arrest. At trial, Father I. testified about the torture, identified the responsible official, and recanted his “confession.” A witness even confirmed Father I.’s account of his first interrogation. Father I.’s attorney presented the court and the Public Prosecutor with a memorandum setting out the torture allegations, but authorities have not investigated the allegations. Moreover, the trial court relied almost exclusively on the “confession” and coerced re-enactment to find Father I. guilty. On appeal, the Court of Cassation affirmed the death sentence in a hearing that lasted just 15 minutes. If this appeal had happened prior to the 2017 changes to the criminal procedure, the Court of Cassation would likely have accepted the appeal and remitted the case for retrial. But the appeal took place in 2020 under the new procedures, resulting in affirmation of his sentence. According to Reprieve, “the appeal judgment shows that the Court of Cassation performed a cursory survey of the issues raised by defence counsel . . . and failed to initiate an investigation into Father [I.]’s allegation of torture.”¹⁰¹ Father I.’s family received no notice of his execution in May 2021 until after the fact.¹⁰²

45. Reprieve’s research demonstrates that the 2019 NGO law bans NGOs “from receiving funding or fundraising domestically or abroad, and from carrying out certain human rights activities, such as conducting research and publishing findings without government permission.”¹⁰³ Authorities have “the right to object to the registration of NGOs.”¹⁰⁴ Authorities may also dissolve NGOs and prosecute their staff on the basis of vague violations of the NGO law.¹⁰⁵ Egyptian authorities target NGO workers and human rights defenders, including lawyers, journalists, and academics.¹⁰⁶
46. Detention conditions amount to cruel, inhuman, and degrading treatment. Amnesty International reports that prison officials systematically hold people in conditions characterized by overcrowding and inadequate accommodation, poor ventilation, substandard sanitation and hygiene, shortage of nutritious food, and little or no access to fresh air and exercise.¹⁰⁷ According to Amnesty International, the cumulative impact of the abysmal conditions coupled with the denial of adequate healthcare has contributed or led to preventable deaths in custody.¹⁰⁸ In 2021, 56 detainees died in prison following medical complications, up from 35 in 2020.¹⁰⁹ Egyptian authorities systematically fail to carry out effective investigations into the causes and circumstances of suspicious deaths in custody and bring responsible persons to justice.¹¹⁰

IV. Victims of torture and ill-treatment have no direct access to the courts to lodge complaints against law enforcement officials and there are significant disparities in

¹⁰¹ *Id.*

¹⁰² *Id.*

¹⁰³ Reprieve, *The Death Penalty in Egypt – Ten Years After the Uprising*, (Jan. 28, 2022), 8, <https://reprieve.org/uk/2021/05/24/the-death-penalty-in-egypt-ten-year-after-the-uprising/>.

¹⁰⁴ *Id.*

¹⁰⁵ *Id.*

¹⁰⁶ *Id.*

¹⁰⁷ Amnesty International, *Disconnected from Reality: Egypt’s National Human Rights Strategy Covers Up Human Rights Crisis*, (Sept. 2022), <https://www.amnesty.org/en/documents/mde12/6014/2022/en/>.

¹⁰⁸ *Id.*

¹⁰⁹ *Id.*

¹¹⁰ *Id.*

compensation granted to the victims of torture and ill-treatment. (Concluding Observations paragraph 5(g) and (j))

47. The Committee recommended that Egypt (i) consider adopting the declarations referred to in articles 21 and 22 of the Convention, and (ii) establish precise rules and standards to enable the victims of torture and ill-treatment to obtain full redress, while avoiding any insufficiently justified disparities in the compensation which is granted.¹¹¹

48. In response to the Committee's recommendation, the Fifth Periodic Report provides a brief and incomplete response:

Paragraph 6 (p) concerns the adoption of the declarations referred to in articles 21 and 22 of the Convention. In fact, the Government is constantly examining the possibility of acceding to international human rights treaties, and it periodically reviews its reservations to the treaties to which it has already acceded.¹¹²

49. In its Fifth Periodic Report, Egypt asserts that the establishment of the human rights department in the Office of the Public Prosecutor has helped to ensure that complaints are investigated within a reasonable timeline.¹¹³ Additionally, a prisoner being held in solitary confinement has the right to file a complaint regarding any violation of his rights, to lodge a grievance against the solitary confinement itself and to appeal against the decision before the administrative judiciary, in line with normal procedures.¹¹⁴

50. Egypt additionally asserts that pursuant to Egyptian law, the amount of compensation is left to the discretion of judges who are able to follow the clear standards set forth in articles 221 and 222 of the Civil Code.¹¹⁵ The law embraces the principle of full reparation for damages.¹¹⁶ Thus, the Egyptian government asserts, variations in the amount of compensation are justified by variations in the damage.¹¹⁷

51. According to Amnesty International, on some occasions, solitary confinement is "used to discipline prisoners who complain of ill-treatment, as well as those caught sending letters communicating poor prison conditions."¹¹⁸

¹¹¹ Committee Against Torture, *Concluding observations: Egypt* (Dec. 23, 2002), U.N. Doc. CAT/C/CR/29/4, ¶ 6(n), (p).

¹¹² Committee against Torture, *Fifth periodic report submitted by Egypt under article 19 of the Convention*, due in 2004, (Dec. 27, 2021), ¶ 148.

¹¹³ *Id.*, ¶ 138.

¹¹⁴ *Id.*, ¶ 131.

¹¹⁵ *Id.*, ¶ 146.

¹¹⁶ *Id.*

¹¹⁷ *Id.*

¹¹⁸ Amnesty International, *Egypt: The Use of Indefinite Solitary Confinement Against Prisoners Amounts to Torture*, (May 7, 2018), <https://www.amnesty.org/en/latest/news/2018/05/egypt-the-use-of-indefinite-solitaryconfinement-against-prisoners-amounts-to-torture/>.

52. Direct complaints of torture or ill-treatment to prosecutors go unheeded¹¹⁹ and judges reject or refuse to hear complaints without adequate grounds.¹²⁰ It is customary for judges and prosecutors to ignore allegations of torture during investigations, before trial, or during trial, despite defendants' assertions and descriptions of the methods of torture used, especially in cases involving torture by National Security Agents.¹²¹
53. Based on information gathered by Amnesty International, none of the people arrested in relation to the 2019 and 2020 protests have been referred to trial, and while authorities have released some protestors, they have not compensated people whom they arbitrarily detained.¹²²
54. In 2016, Egyptian authorities froze the bank account of the El Nadeem Center for Rehabilitation of Victims of Violence, which provides torture victims and families of people who have been subjected to enforced disappearance with services, including counseling and legal assistance.¹²³

V. Suggested Questions for the Government of Egypt:

55. The coauthors of this report suggest the following questions for the Government of Egypt:
- What progress have Egyptian authorities made in moving toward abolition of the death penalty, and in the interim instituting a de jure moratorium on executions and limiting the crimes for which people may be sentenced to death to the “most serious” crimes, as defined by international human rights standards?
 - What is the status of the National Human Rights Strategy’s commitment to a framework for reviewing the “most serious crimes” for which the death penalty is imposed?
 - Please provide updated data about all people sentenced to death within Egypt and all people executed since 2002, disaggregated by sex, age, ethnicity, nationality, offense, relationship (if any) to the victim, status as a civilian or member of the armed forces, date the death sentence was pronounced, whether the sentence was pronounced in absentia, jurisdiction pronouncing the death sentence, number of codefendants at trial, status of any appeals or clemency petitions, and date of execution (if applicable).
 - Please provide data about all complaints received alleging torture or other ill-treatment with respect to evidence that prosecutors attempted to introduce at trial, including the nature of the complaint, the authority receiving the complaint, investigative measures taken, results of the investigation, whether evidence was ultimately introduced at trial, accountability measures pursued, and remedies, if any, provided to the victim.

¹¹⁹ Dignity, *Torture in Egypt: Systemic and Systematic*, (2021). Also available at: <https://www.dignity.dk/wp-content/uploads/publication-series-38.pdf>.

¹²⁰ *Id.*

¹²¹ *Id.*

¹²² Amnesty International, *Disconnected from Reality: Egypt’s National Human Rights Strategy Covers Up Human Rights Crisis*, (Sept. 2022), <https://www.amnesty.org/en/documents/mde12/6014/2022/en/>.

¹²³ Amnesty International, *Egypt: Freeze of Torture Rehabilitation Centre’s Financial Assets a Cruel Blow to Human Rights*, (Nov. 10, 2016), <https://www.amnesty.org/en/latest/press-release/2016/11/egypt-freeze-of-torture-rehabilitation-centres-financial-assets-a-cruel-blow-to-human-rights/>.

- Please provide data about all complaints received alleging torture or other ill-treatment against persons under sentence of death, including the nature of the complaint, the authority receiving the complaint, investigative measures taken, results of the investigation, accountability measures pursued, and remedies, if any, provided to the victim.
- What steps has Egypt taken to ensure impartial, thorough, and transparent investigations into cases of torture perpetrated by state actors?
- What procedures are in place to reform the judicial system to ensure that courts do not consider evidence obtained through torture, except when individuals are tried for committing acts of torture?
- Please provide data on all complaints received alleging torture or other ill-treatment with respect to evidence that prosecutors attempted to introduce at trial, including: the nature of the complaint; the authority receiving the complaint; investigative measures taken; results of the investigation; whether evidence was ultimately introduced at trial; accountability measures pursued; and remedies, if any, provided to the victim.
- Please provide data on the number of criminal prosecutions (whether complete or pending) against State officials or agents for allegedly committing acts of torture and/or ill-treatment against suspects or defendants, including the relevant sentencing outcomes.
- Please confirm which authorities are mandated to investigate allegations of torture and ill-treatment by the State including: the process by which investigations are carried out; how that process complies with the international minimum standards set out by the Istanbul Protocol; who is responsible within the relevant authority for carrying out the investigation; the length of time between complaint and investigation; steps taken by the investigating authority on a positive finding of torture or ill-treatment; and remedies available to victims.
- What concrete measures has Egypt taken to regulate interrogation methods and their procedures, duration, and location?
- What progress has Egypt made to ensure that all persons accused of capital offenses may have legal counsel present during any interrogation or questioning?
- Please describe the laws and policies in place to ensure that any person at risk of being sentenced to death is afforded qualified legal counsel from the time of arrest or interrogation through trial and on appeal.
- What provisions are in place to ensure that any person at risk of being sentenced to death is able to consult with legal counsel before trial to prepare a meaningful defense?
- What steps has the State Party taken to improve the quality of legal representation for people at risk of being sentenced to death?
- What training does the State Party provide to public defenders and other attorneys who represent people charged with crimes that may be subject to the death penalty, and what financial resources does the State Party provide to the defense team to ensure they are able to conduct a thorough investigation to mount an adequate defense and to gather and present mitigation evidence at the time of sentencing?

- How have authorities sensitized officials and guards in detention facilities to the Nelson Mandela Rules and the Bangkok Rules governing detention conditions to ensure compliance with those minimum standards?
- What measures have authorities taken to ensure that the 2019 NGO law does not restrict civil society space, particularly for opponents of the death penalty and human rights defenders and journalists working to hold officials accountable for the use of torture?
- Please provide information about how authorities ensure follow-up and implementation of recommendations Egypt accepts in the framework of the Universal Periodic Review, particularly with respect to the death penalty and torture.