

Human Rights in Egypt
A History of Oppression,
Prevarication and Duplicity

The Forum of Independent Human Rights NGOs

Contents

Preface	5
Chapter One A Joint Report by the Coalition of Egyptian Human Rights Non-Governmental Organizations (NGOs) on the Universal Periodic Review (UPR) of Egypt	7
Chapter Two The Cairo Institute for Human Rights Studies (CIHRS)'s Individual Report on the Universal Periodic Review (UPR) of Egypt	29
Chapter Three Comments by the Coalition of Independent Egyptian Human Rights Non-a Governmental Organizations (NGOs) on the Egyptian Government Report for the UN Universal Periodic Review (UPR)	43
Chapter Four Recommendations by the Coalition of Independent Egyptian Human Rights Non-a Governmental Organizations (NGOs) for the UN Universal Periodic Review (UPR) of Egypt	53

Preface

This booklet has been put together by the Coalition of Independent Egyptian Human Rights Non-Governmental Organizations (NGOs) and it encompasses the efforts made in preparation for the Universal Periodic Review (UPR) of Egypt before the United Nations Human Rights Council.

The booklet is made up of the Joint report by the Coalition of Sixteen Egyptian NGOs (whose logos are printed on the back of the booklet) that was sent to the Human Rights Council for consideration during Egypt's UPR, The Cairo Institute for Human Right's Studies (CIHRS)'s individual Report that was also sent to the Human Rights Council for the same purpose, Comments by the Coalition on the report that was sent to the Human Rights Council by the Egyptian Government and finally, the recommendations made by the coalition for the UPR of Egypt.

Worth mentioning that the Coalition of the Egyptian NGOs was established more than 2 years ago for networking, exchange of information and coordination. Moreover, to tackle prominent human rights issues in a collective manner, and to benefit from each individual NGO's expertise. The Universal Periodic Review (UPR) of Egypt was on top of the coalition's agenda for the last year.

Chapter One

A Joint Report by the Coalition of Egyptian Human Rights Non-Governmental Organizations (NGOs) on the Universal Periodic Review (UPR) of Egypt

I. Introduction

1. This report offers the collective testimony of the Forum for Independent Human Rights NGOs⁽¹⁾ on the human rights situation in Egypt. Although the report focuses on the last four years, it relies on the products of nearly a quarter century of human rights advocacy and activism, both on the ground and in the legal arena. Since this report cannot document all the pertinent developments and abuses witnessed during the period under review, it will focus on those events and cases that are broadly indicative of the major problems and obstacles preventing Egyptians from exercising rights upheld

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by international human rights treaties that have been ratified by the Egyptian government.

II. A general view on the human rights situation in Egypt

2. It cannot be viewed separately from an entire set of laws, policies, and distinct practices. Indeed, the basic feature of human rights in Egypt today is the prevalence of a policy of exception in which those responsible for violations usually escape punishment amid a climate of impunity intentionally created and fostered over several decades. The State of Emergency, declared in Egypt in 1981 and extended uninterrupted since then, has played a fundamental role in creating this policy and fostering such a climate, such impunity has become the norm. As a result, the rule of law and the state's legal institutions have been eroded, constitutional guarantees for rights and public liberties have been suspended, and citizens' confidence in the state and their own self-worth destroyed. This oppressive environment continues although recent years have seen growing segments of the population resist abuses and the policies that produce them. Indeed, certain sectors of the independent media, civil society, and new social movements have wrested away new spaces for freedom, despite policies, practices, and a legal environment that resist such change.

3. With this policy of impunity gradually becoming the norm, the prerogatives of the security apparatus have been expanded and Egypt has been turned into a police state. In addition to the direct violations of citizens' rights by the security apparatus, which usually go unpunished, this apparatus has come to play a central role in all areas of public life. Not only does it intervene in the affairs of political, civic, educational, religious, and media institutions, it also often

obstructs the execution of judicial rulings and court orders.

4. Social justice indicators have continued to deteriorate as poverty rates have increased, urban-rural economic disparities have grown, and the gap between rich and poor has widened, such violation of economic, social and cultural rights is now as systematic and prevalent as the violation of civil and political rights in Egypt.

5. The government has used several methods to divert attention from its deteriorating rights record. These include exaggerating the danger represented by political Islam to the future of the state and the region, politically manipulating religion and culture to justify and legitimize human rights abuses, establishing institutional facades that give the impression of concern for human rights, and introducing changes to selected laws that do not change the existing autocratic legislative structure in the country. At best, the state has taken positive, though limited steps to improve women's and children's rights and attempted to highlight them before the international community to deflect further criticisms and distract attention from the broad array of legislative and political measures needed to truly put an end to human rights violations in Egypt.

6. The Egyptian government has played a major role in weakening international and regional mechanisms for the protection of human rights. Particularly from within the UN Human Rights Council (HRC), the Egyptian government has repeatedly sought to protect governments that have perpetrated grave human rights abuses, restrict freedom of expression using the pretext of protecting religions from contempt, weaken the independence of the independent experts appointed by the council, and silence the voices of NGOs during UPR review of human rights records in several Arab countries.

7. The foregoing observations led us to conclude that the persistent erosion of human rights is not a product of a particular social culture, a lack of material resources, or a need for training and capacity building—all of which are excuses used by the government and its institutions. Rather, it is a product of the government's unwillingness to abandon certain policies and respect human rights.

III. Assessing the Egyptian government's observance of its human rights obligations

A. The Right to Life, Liberty, and Personal Security

8. Egyptians enjoy no protection against torture a systematic, routine practice. Crimes of torture continue to be an everyday practice in police stations, State Security police headquarters, and other detention facilities, including at times in prisons and even on public roads. In many documented cases, torture has resulted in death. No matter how much the Egyptian government insists that these are nothing more than a few isolated incidents committed by a handful of corrupt officers, hundreds of documented testimonies indicate that torture is a systematic policy carried out by police officers on a broad scale all over the country against both political and criminal detainees, suspects and convicts, men and women, adults and minors. Everyone who falls in the grasp of the police, particularly the poor, is in imminent danger of torture and bodily harm inflicted through various means, including beatings, kicks, floggings, burnings with cigarettes, sexual harm or threats thereof, being held blindfolded and naked during torture sessions, electroshocks to the feet, head, sexual organs, and breasts, and hanging from iron bars or the door of the cell. In the case of women, torture and mistreatment includes a sexual dimension that ranges from threats of rape to actual sexual harm, forced stripping, confinement with

detained men, head-shaving, and electroshocks to sensitive parts of the body. More recently, the police started using sexual violence against men as well, as indicated by an increasing number of documented cases. The Egyptian government has expanded its torture activities and is now even torturing on behalf of other countries (extraordinary rendition), such as the US.

9. The government has always resisted all attempts to redefine the extremely limited definition of torture in the Egyptian law; in order to make the law consistent with the UN definition. The government ignores all documented reports and cases indicating that torture is now used for a long list of reasons, including to intimidate or recruit police informers, to discipline or punish at the behest of a third party, to force a citizen to renounce an apartment or plot of land, as part of a hostage-taking policy that usually targets women and children related to a suspect, and to punish those who dare to challenge policemen's absolute authority or demand to see judicial warrants or arrest and search orders. The law also prohibits victims of torture from suing their torturers directly in a court of law and gives this authority solely to the Public Prosecutor, who closes or shelves the cases of the vast majority of complaints without charge. In addition, officers with the State Security police enjoy additional immunity against prosecution. In the rare cases in which the Public Prosecutor refers a police officer to trial, the Ministry of Interior does not suspend the officer or transfer him during the investigation or trial, but leaves him on the job where he can further pressure the victims, abuse them, and sometimes re-arrest and torture them again to compel them to withdraw their complaints.

10. Egyptian legislation allows for the death penalty in a large number of crimes defined by the Penal Code, the Military Code of Justice, the Arms and Ammunition Law,

and the Drug and Anti-Drug Trafficking Law. At the same time, criminal courts in Egypt, which issue all death sentences in cases unrelated to terrorism, offer no recourse to appeal before a higher judicial body. The defendant has only the right to contest verdicts before the Court of Cassation, whose role is limited to determining whether the law was adequately interpreted and applied, without a reconsideration of the facts or evidence in the case. More serious are the several death sentences for civilians issued by emergency courts or military tribunals, since these courts do not provide the minimum standards of a fair trial. Since 1992, military tribunals and emergency courts have issued at least 137 death sentences in terrorism cases, at least 67 of which have been carried out.

11. In recent years many people have been killed or injured by the police during police pursuits, home searches and as police break up demonstrations and peaceful assemblies. At least 27 Sudanese refugee migrants were killed in one such incident when the police used violence to break up a peaceful sit-in of Sudanese in front of the UN High Commissioner's Office for Refugees (UNHCR) in December 2005. The Public Prosecutor closed the investigation without referring even one person to trial and the government refused to allow an international investigation. The police forces on the Egyptian-Israeli border also opened fire directly on African migrants in 2007 as they attempted to cross the border to Israel for economic reasons. This policy led to the death of 33 migrants in 2008 alone. The Egyptian government has announced no investigation or trials in any of these cases.

12. Regarding enforced disappearances, the Egyptian security apparatus continues to refuse to divulge the fate of many detainees whose whereabouts after their arrest remains unknown to their relatives and attorneys. In 2007, the Egyptian Organization for Human Rights (EOHR) documented at least 53 cases of enforced disappearance since

1992, most notably journalist Reda Helal.

13. In recent years, the police have expanded the use of collective, arbitrary raids, particularly after bombings and criminal or sectarian assaults. These raids normally involve the illegal detentions without being brought before the proper judicial authority or allowed to contact family or attorneys. The security apparatus also commonly detains entire families as hostages to force wanted fugitives to turn themselves in. The State of Emergency has contributed to the systematization of these violations, particularly since the Emergency Law allows administrative detention for anyone who might be considered “a danger to public security.” Detainees are not permitted to contest the legality of their detention before a judicial body until a full month has passed since their arrest, and even when detainees obtain release orders from the courts, the Ministry of Interior often issues a new arrest order without releasing the detainee – violation of the Emergency Law itself. As a result of this policy, there are now some 12-14 thousand detained persons, some of whom have been under detention for 15 years without charge or trial, although many have received numerous release orders.

14. Finally, Egyptian prisons suffer from severe overcrowding, low standards of cleanliness and hygiene, polluted water, a paucity of food with little nutritional value, while prohibiting prisoners from exercise. Diseases such as tuberculosis and scabies are widespread and health care inside prisons faces a severe lack of human and material resources. For political prisoners, the Ministry of Interior habitually denies visits and contact with the outside world through orders locking down certain prisons and prohibiting all visits for security reasons, or limiting visitation periods and heavily monitoring correspondence. Often the ministry does not inform the family of a prisoner or detainee when the detainee is moved to another prison and does not allow the

detainee to inform his family.

B. The Administration of Justice and the Rule of Law

15. The Egyptian legal system contains various provisions that violate due process and undermine the independence of the judiciary. The consistent application of Emergency Law since October 6, 1981, has led to the very real erosion of the principles of sovereignty of the law and equality before the law, in addition to undermining the institutions of justice through the establishment of parallel, exceptional legal systems. The Emergency Law has allowed the security apparatus to suspend constitutional provisions for nearly three decades, permitting security to place restrictions on the freedom of individuals to assembly, movement, and residence, although the constitution upholds these liberties and prohibits security personnel from intervening in their exercise. Warrantless arrests and searches have become so commonplace that this exceptional power has become the general rule of the security apparatus and citizens are no longer able to object or inquire as to the reason for their arrest or detention.

16. Under the Emergency Law, exceptional State Security “Emergency” courts have been established to hear a broad range of crimes that are punishable under common law. These courts do not provide the minimum guarantees of a fair trial and their verdicts cannot be appealed. In addition, the President can intervene in the composition of these courts and introduce military personnel on the judicial panel. The Emergency Law also gives the President the right to intervene in their verdicts after issuance either to ratify the judgment, alter it, suspend it, or order a new trial in another circuit.

17. The State of Emergency also allows the President to refer any cases of civilians to military tribunals instead of regular courts. This not only violates the principle of equality before the law, the military tribunals themselves violate the principles of due

process and a fair trial, including the right of the accused to be tried in public before an impartial, independent court (rather than before military officers subordinate to the executive), Military tribunals are not only used against those accused of terrorism-related crimes, but on several occasions they have also targeted journalists, writers, political dissidents, and parliamentarians.

18. The constitutional amendments of 2007, sponsored by the government, provide constitutional protection for this exceptional state of affairs by circumventing the regular judiciary and establishing a permanent, parallel court system for cases that the state does not wish to refer to the regular courts. The newly added Article 179 allows the president of the republic to refer suspects in terrorism cases to “any judiciary body stipulated in the constitution or law,” thus cementing the role of the exceptional judiciary. The same article also gives the state the right to issue a counterterrorism law that will suspend those sections of the constitution that provide for personal freedoms, protect the sanctity of private life and the home, and prohibit warrantless arrests, searches, and the monitoring of personal communication. Such a law threatens to incorporate all the prerogatives enjoyed by the security apparatus under the state of emergency into the body of regular law if the Emergency Law is lifted. It should be noted that the government issued a counterterrorism law in 1992 and it, along with Emergency Law, is still in effect.

19. At the same time, the Egyptian government has continued to violate the independence of the judiciary in various ways, from the executive branch’s control over the appointment, discipline, deputation, assignment, training and mandating of judges, to the subordination of judicial oversight to the Ministry of Justice, with the executive influence over judges and prosecutors this entails, to laws that give the Minister of Justice the authority to assign the heads of primary courts, oversee court administration, and intervene in their internal systems by forming court circuits and assigning cases to the various circuits.

C. Freedom of religion, belief, opinion, expression, organization, assembly, and public participation

20. The freedom of religion and belief has eroded in recent decades as the government persists in maintaining laws and policies that entrench discrimination on the basis of religion or faith, particularly discrimination against Copts, who constitute 8 to 10% of the population. The most prominent forms of discrimination are those related to the freedom to engage in religious rites and establish or renovate churches, restrictions placed on the right to choose or change one's religion or faith, and certain discriminatory measures against non-Muslims in personal status. In addition, Copts are poorly represented in public office and parliamentary and municipal representative councils. Those adhering to a faith not recognized by the Egyptian state, primarily Egyptian Bahai's, face discrimination as well. The security apparatus has continued to harass or arrest individuals because of their religious beliefs, citing the crime of "showing contempt for heavenly religions" found in the Penal Code. This provision allows the security apparatus to harass those who belong to or promote a religious belief that does not meet with the official interpretation of Islam, including Shiite Muslims and other individuals who hold or express beliefs at odds with the prevailing interpretation of Islam, such as the so-called Quranists. The gravest danger in the area of religion is the state's utter failure to deter religious bigotry, expressed particularly in the growing harassment of Copts and, more recently, Bahai's. The state apparatus also shows no interest in tackling the rising tide of sectarian tension and violence between Muslims and Christians, even as sectarian attacks become more frequent and more geographically widespread across the country.

21. Regarding freedom of opinion and expression, violations and restrictions have continued, despite the success of the media in gaining a wider margin for freedom of the press in recent years. The government continues to refuse to amend several legal provisions that allow imprisonment

in publication cases. The legal harassment of journalists continues—led by the state or elements linked to it—which has led to prison sentences or heavy fines for journalists in recent years. There have also been more cases in which journalists have been physically assaulted with impunity while doing their job, in addition to pressure on private satellite channels, intervention in their affairs, the closure of their offices, and the legal harassment of some of their employees on charges related to the practice of their profession. The confiscation of printed material and the blocking of websites continued and the security apparatus has arrested several bloggers due to their political opinions and blog content and referred some of them to trials that ended with prison sentences. Although some independent newspapers have been permitted to publish in recent years, the state still refuses to lift legislative restrictions on the freedom to issue and own newspapers or establish private radio and television stations, which are used as a negotiating card with those who wish to obtain licenses to interfere with their media's content. In addition, official religious institutions have exerted increasing pressure against the freedom of literary and artistic expression, filing law suits and launching smear campaigns against certain literary figures or intellectuals and branding them as “infidels.”

22. Student and academic freedom has witnessed the same ongoing constraints and violations. The Universities Law makes them completely subordinate to the authority of the Supreme Council for Universities, which is headed by the Minister of Higher Education. Elected until 1994, university presidents are now appointed by a presidential decree. Security approval has also become a prerequisite for appointment, promotion, travel abroad by members of the academic community for academic purposes, and candidacy for academic missions. University professors are required to receive prior approval from security before engaging in joint research projects with a foreign partner or inviting foreign professors to participate in seminars and conferences or give lectures inside the university. Pursuant to a law issued in 1964, the Central Agency for Public Mobilization and Statistics

is responsible for issuing all permits for poll research. The statutes regulating student activities impose many restrictions on students' right to freedom of opinion, expression, and organization. They also set complex, prohibitive conditions for prospective candidates in student elections that permit the security apparatus or university administration to strike students from the candidates' list because of their political or intellectual beliefs and give the administration the authority to control all student activities. Egyptian students do not have the freedom to elect their representatives in student unions with the exception of students enrolled in some foreign universities in Egypt in which student elections are not subject to security interference.

23. In law and in practice, the state imposes excessive restrictions on the freedom to form NGOs and blatantly violates this right. The NGO Law of 2002 imposes severe restrictions⁽²⁾ and on the ground, the state continues to violate the provisions of even this overly restrictive law. The security apparatus has interfered in the operation of NGOs by illegally canceling conferences and activities and exploiting legal provisions requiring prior government approval for outside funding to barter with NGOs, pressure them for information, or coerce them into altering or canceling some

⁽²⁾ Restrictions imposed under the NGO Law of 2002 include: 1) NGOs are required to obtain a license from the Ministry of Social Solidarity the reasons for which the ministry can reject a license application are extensive and vague and are used to deny registration to many NGOs, most of them human rights groups; 2) executive bodies have prerogatives allowing them to intervene in the internal affairs of NGOs, from the drafting of the articles of association to the selection of members of an NGOs leadership bodies, the right to disqualify candidates for membership in these bodies without cause, control over an NGOs affiliation with regional and international networks, intervention in the decisions of the NGOs board, and even the authority to issue administrative orders dissolving an NGO without a court order. In 2007, two advocacy organizations were dissolved on such orders (they later received court orders allowing them to resume their activities); and 3) the law prescribes prison terms of three months to one year for charges of engaging in civic work without a license, joining networks or alliances outside the country, or starting operations before the registration process is complete.

of their activities. In reality, the Ministry of Social Solidarity has simply become the contact point between NGOs and the security apparatus.

24. Egyptians do not have the freedom to form political parties. Political association is subject to severe restrictions imposed by the Political Parties Law of 1977, which grants massive prerogatives to the Political Parties Committee, controlled by the ruling party. The committee is responsible for approving new parties and can suspend a party's activities. This gives the ruling party the ability to choose its political competitors or eliminate them. Indeed, the committee has refused to license at least 75 parties. In addition, it has issued decrees to freeze some parties and has deepened internal conflicts in other parties by supporting one party to a dispute over another, in violation of the law.

25. Egyptians do not enjoy the freedom to form independent trade unions. Law 35/1976 on labor unions puts all such associations under the supervision and oversight of the Ministry of Labor Forces and gives the Ministry the right to oppose the formation of trade unions and to intervene in the organizations and administration of union elections. This administrative interference, not to mention interventions by security, deprives thousands of workers of their right to stand as candidates and leads to wide-scale electoral tampering, which ultimately cements the control of pro-government elements over all levels of the official labor union. With the increasing use of temporary employment contracts, temporary labor now constitutes a substantial portion of the labor force, and this segment of workers is denied the right to compete in elections in the official labor union. As for professional trade syndicates, Law 100/1993 on elections in professional syndicates, which aims to prevent these syndicates from becoming involved in politics, imposes severe, arbitrary restrictions that, in practice, have led to the freezing of elections for 14 years in 12 professional syndicates.

26. Egyptians do not enjoy the right to peaceful assembly. The state uses legislative restrictions and excessive violence to prevent citizens from exercising this right and by refusing to grant permits to peaceful demonstrations and protests, as well as through the use of excessive force in assaulting demonstrators. Of course, the Emergency Law also imposes severe restrictions on peaceful assembly. Although peaceful protests have become more widespread in recent years, most are organized in violation of these reprehensible laws, and in many demonstrators have been assaulted, resulting in several dead (as in al-Mahalla al-Kubra in April 2008) and hundreds injured.

27. Egyptians face severe violations of their right to participate in public life through elections and those who seek to exercise this right must contend with a broad array of restrictions and abuses by both the executive and security. The most recent constitutional amendments put in place impossible restrictions that effectively prohibited independent candidates from competing in the presidential election. The parliamentary elections of 2005, overseen by a committee headed by the Minister of Justice, were the occasion of severe violence that left 13 citizens dead after Central Security troops imposed a tight security cordon at polling stations to prevent access to candidates. The vote counting and announcement of results also witnessed strong administrative and security interference during which many judicial rulings were disregarded. During the Shura Council elections of 2007, security forces prohibited prospective candidates from reaching registration areas, assaulted civil society observers, and arrested opposition candidates and their lawyers as they filed their candidacy papers. The outcome of the election aptly illustrated the result of this intervention: of 88 open seats, the ruling party “NDP” won 84. Of the remaining four seats, three went to other candidates linked with the NDP. The municipal elections of 2008 entailed some of the most

flagrant violations seen in elections in the country: the result was that the NDP “won” 99.13% of the seats.

D. Economic, social and cultural rights

28. One in every five Egyptians lives in poverty according to the UN and World Bank. The Egypt Human Development Report of 2008, issued by the state, indicates that the poverty rate had risen from 16.7% in 2000 to 19.6%. In Upper Egypt, the rate stands at a sheer 52%. The clear disparities between urban and rural areas are the result of discriminatory policies in the provision of services and economic and social rights. Although only 56% of Egyptians live in rural areas, rural Egyptians constitute 78% of the poor and 80% of the extreme poor. The picture grows darker the further south one goes: although the governorates of Upper Egypt hold no more than one-quarter of the population, their residents constitute 66% of the extreme poor. Some 95% of the 1,000 poorest villages in Egypt are located in Upper Egypt, and the situation in the south has only deteriorated in recent years. Women and children pay the highest price of poverty.

29. Regarding the right to health, at a time when nearly half the population has no insurance coverage for treatment, public health expenditure remains remarkably low, constituting no more than 3.6% of public spending in the 2008-09 state budget. According to the Ministry of Health in 2008, only 3,000 of the 87,000 health clinics across the country are located in rural areas. The lowest-income cohort receives only 16% of public health expenditure, while the highest-income cohort receives 24%.

30. The right to adequate housing has been similarly eroded. Recent years have seen growth in the wide belt of informal housing areas surrounding the capital and a parallel increase of violations of housing rights in Egypt through

forced housing evacuations, which have left many residents of informal areas homeless instead of providing alternative, adequate housing.

31. Population groups living in peripheral areas face additional marginalization and abuses. The Bedouins of the Sinai Desert are denied ownership of the land on which they live. Since the bombings in Sinai in 2004, Bedouins have faced blatant security abuses: their residential areas have been raided and thousands of Bedouin men arrested and tortured.

32. Similarly, Nubians in Egypt's far south continue to pay the price of their gradual collective transfer over the twentieth century as part of several large waterworks projects. State authorities refuse to respond to Nubians' demands for the recognition for their rights, including the reestablishment of their villages on Lake Nubia, the implementation of a program to facilitate migrants' return to these villages, the provision of jobs, infrastructure, and sustainable development in the region and guarantees of their right to participate in decision-making and implementation of projects in their region.

E. Women's rights

33. Several advances have been made in women's rights in Egypt, including the issuance of a family court law, the partial elimination of discrimination against women in their ability to pass on the Egyptian citizenship to their children, measures implemented that clear the way for the appointment of women in the administrative prosecution and the judiciary, and the issuance of a law that will temporarily allocate seats to women in the People's Assembly (although it is expected that the latter step will be used as a means to increase the NDP's overwhelming parliamentary majority). Nevertheless,

Egyptian women still face serious discrimination in legislation, in addition to the discrimination and violence they face in daily life. Regarding discrimination against women enshrined in legislation, divorce remains an exclusively male right, available only to women who have explicitly reserved this right in their marriage contracts. Other than these rare cases, women still spend years in family courts or make use of the Khula' system, which requires women to renounce all their material rights in exchange for a relatively rapid divorce. Not only does the Penal Code prescribe imprisonment as a penalty for adultery, the penalty is stiffer for women. Egypt continues to express reservations on three articles of the Convention for the Elimination of Discrimination Against Women (CEDAW). The gravest of them is the one on Article 2, which requires ratifying nations to take the necessary measures to bring their national legislation in line with the convention's goals, for without such measures, the convention remains a dead letter. Regarding discrimination on the ground, all local and international statistics indicate that more women than men are illiterate, particularly in the countryside; they receive fewer health services, including reproductive health services, which explain the high maternal death rate in Egypt. Women represent no more than one-quarter of the work force in the formal labor sector and even working women do not receive a fair wage—their income is only one-fifth that of men. Unemployment rates among women are higher than among their male peers.

34. Regarding violence against women, despite the absence of the term “honor crimes” in Egyptian legislation, the murder of women in honor crimes is viewed sympathetically by the courts and light sentences are handed down in crimes that are tantamount to intentional homicide. The Penal Code, allows the judge to reduce a sentence by two degrees if he believes the circumstances of the crime warrant it. Courts use the same article at times to issue lenient sentences for

rape and sexual violence as well. In addition, Egyptian law does not have a provision criminalizing domestic violence. Women can seek a divorce because of violence if medical reports and witnesses can prove the harm inflicted, but this rules out all forms of psychological abuse, and even in cases where evidence is available. Egyptian law does not also recognize marital rape and there is no specific legislation that criminalizes sexual harassment in the workplace. In addition to all this, women who decide to file complaints about abuse or violence face difficulties ranging from the absence of mechanisms to protect victims to a lack of interest by police or even police involvement in violence against women.

35. As for working women, the Unified Labor Law of 2003 contains some sections that entrench inequality between men and women in cases of women working at night or in dangerous or hazardous positions and in issues related to motherhood. Despite women's increasing economic role—33% of Egyptian families are supported by women. As a result of economic liberalization policies, privatization, the state's shrinking role in the provision of basic services, and higher levels of unemployment, this role has normally come as a reaction to the spread of poverty and male unemployment and thus has not been accompanied by advances or increased legal rights within the family. Despite the pressing need for legal protection in this context, the Unified Labor Law withdrew many of the gains that women had made previously: women no longer have the right to labor leave before having served ten months on the job, while the previous law specified six months. They are often treated as temporary labor that is liable to leave the job at any time because of their reproductive role in the family. As a result, they are deprived of promotions and the wage and incentive increases that come with supervisory positions.

F. The rights of refugees and asylum seekers

36. Although Egypt ratified the 1951 Convention Relating to the Status of Refugees and its Additional Protocol, it expressed reservations on certain articles that have a major impact on the economic and social rights of refugees, particularly in primary education, employment, and social welfare services. In reality, refugees are deprived of even more rights. Although Egypt did not officially object to refugees' right to earn a living through work, the Egyptian government does not issue work permits to refugees at all, which pushes them all into the informal labor market, already crowded with Egyptian citizens, and compels them to accept inhumane work conditions for a barely adequate wage. Refugees in Egypt also face the same restrictions on the freedom to assembly noted above, which makes it impossible for them to organize themselves or establish mutual aid societies. Asylum seekers also face harassment, maltreatment, random arrest, and illegal detention by police. In 2008, the government engaged in a severe violation of international law when it illegally deported some 1,400 refugees and asylum seekers from Eritrea and Sudan, despite its knowledge that sending them back will put their lives in grave danger.

IV. Conclusion

37. Despite the bleak picture painted by this report, Egyptian society continues to witness several forms of resistance, collective and individual, to these abuses and policies, and in recent years, additional segments of the population have joined the struggle. Despite some achievements made, in general systematic violations of human rights and a climate of impunity persist, as does the lack of political will to confront the situation

Chapter Two

The Cairo Institute for Human Rights Studies (CIHRS)'s Individual Report on the Universal Periodic Review (UPR) of Egypt

Restrictions on Forming Civic Associations

The goal of this paper is to examine the substantial restrictions placed on various forms of civic organization and NGO activity as a result of legislative restrictions that the Egyptian NGO law is full of. The paper also looks at how the law is at times arbitrarily applied to give the security apparatus increased control over civic activity in violation of the provisions of the law itself, and the way other laws incompatible with freedom of expression and the right to peaceful assembly are used to give the security establishment the final word in civic activities and societies.

Under law 84/2002 (the NGO law), no association may be established or engage in civil society activities without a license from the competent administrative body, represented by the Ministry of Social Solidarity and its various district offices (Article 6). As such, the law enforces obligatory registration even if the founders of an association do not wish to register the group or want to set up an association using another legal framework available under civil law. Indeed, the law requires associations established under other legal frameworks to settle their status and register in accordance with the provisions

of the NGO law; otherwise, they are considered disbanded under the law and their officials are subject to up to six months imprisonment pursuant to Article 76 of the law. The law furthermore touched upon restrictions under which NGOs can be denied a permit, frozen or administratively dissolved. Article 11 prohibits the establishment of associations whose goals or activities constitute a threat to national unity, violate the public order, advocate discrimination, engage in political activity limited to political parties, or engage in trade union activity limited to trade unions. These are all very elastic expressions and thus can easily be used to expand the scope of the restrictions.

Although the law's implementing regulations (Article 25) sought to offer a precise definition of the nature of activities limited to political parties, yet the definition may be interpreted to limit or influence NGO activity for example, if a study examines the degree to which party platforms represent democratic values and human rights, or if several NGOs coordinate their programs with political party platforms in a way that expresses their common aspirations.⁽¹⁾ When it comes to activities that are limited to trade unions, the law's implementing regulations indicate that these include supporting demands for the rights of workers in a particular profession against employers. Thus, if an NGO engages in solidarity work to support the legitimate rights of a particular group against the exploitation of their employers or government offices, it may make the NGO liable to penalties that may go as far as freezing its activities or dissolving the association.

The law leaves abundant room for arbitrary intervention and confiscates the right of an NGO's founders and members to determine its basic system; it also restricts the right of members and founders to choose their own optimal

⁽¹⁾ The definition of activities limited to political parties includes engaging in partisan propaganda, promoting a party's platform, or contributing to electoral campaigns to support particular candidates in elections.

internal structures and their own representatives in the NGO's leadership structure. Article 8 of the law gives the administrative body the right to object to founding members of the NGO by name while Article 34 gives it the authority to disqualify at will candidates for the membership of governing bodies within the NGO.

Article 32 of the law arbitrarily imposes a special system for elections to NGO boards and rules for convening the general assembly. Article 38 regulates meetings of the board of trustees and specifies the manner in which decisions are made on the board. In effect, these articles allow the government to usurp the prerogatives of the founders and members of the general assembly and their right to establish the association's basic order and internal administrative structure.

In addition, the NGO law gives broad authority to the administrative body to intervene in the activities of any association. Article 16 prohibits associations from joining or claiming affiliation with any NGOs, agencies, or organizations based outside Egypt without informing the administrative body, which has 60 days to register an objection. Article 17 bans NGOs from receiving or collecting donations, both from natural and non-natural persons, except with the approval of the administrative body. The same article prohibits associations from receiving outside funds or grants, whether from Egyptians or foreign figures or agencies, except with the approval of the Minister of Social Solidarity.

Article 23 allows the administrative body to demand that an association rescind any decision or decree issued by one of its constituent parts if it believes the decree to be in violation of the law or the basic order. The law also requires the association's board of trustees to inform the administrative body of all decisions issued by it or the group's general assembly. All of these prerogatives—particularly those that restrict an association's right to receive funds—allow the

administrative body to effectively quash any association whose activities it deems unacceptable.

Article 42 of the law allows the Minister of Social Solidarity to issue a decree dissolving any association if it:

- Allocates or disburses association funds for any purpose other than that for which the association was established
- Receives funds from foreign bodies or collects donations without prior permission from the administrative body
- Establishes institutional ties with organizations outside Egypt without informing the administrative body or in violation of its objections
- Commits any violations to Article 11 of the law
- Commits a grave violation of the law, the public order, or public morals (those violations that may be considered “grave” are left undefined)

Although the law gives associations the right to appeal decrees dissolving them before the administrative courts, yet serious amendments to Article 97 of the implementing regulations made in 2007 allow the administrative body to take executive measures to dissolve any association even when an administrative court ruling on the validity of these measures is still pending.

This amendment was used for the first time just a few days after it was issued when a decree was issued dissolving the Association for Human Rights Legal Aid (AHRLA) in September 2007 on the grounds that it had received grants from abroad without the consent of the administrative authority (although, in fact, AHRLA had followed the legal procedures for obtaining this consent). The administrative body immediately dissolved the association and confiscated its papers, assets, and property, although the Administrative Court ruled in October 2008 in favor of the association. This

suggests that the arbitrary measures were a calculated move against the association by the administrative body. The court found that even assuming the violations attributed to AHRLA were true they were past violations that should have been penalized at the time and not later with a dissolution order. The court ruled that the decree to dissolve the association was issued without basis in reality or the law.

There are signs that suggest that the oldest and biggest rights organization in Egypt—the Egyptian Organization for Human Rights (EOHR) that was founded in 1985—may be slated for dissolution. EOHR received a letter from the administrative body in late April 2009 warning it that it was subject to dissolution under Article 42 of the law. The EOHR had been forced to disburse a grant to fund one of its projects after the administrative body withheld its consent for nearly eight months, although the law states that permission to use any outside grants should be granted or denied within two months of the request.

It is worth noting that the bureaucratic procedures followed by the administrative body when considering requests to use of foreign funds means in practice that many months may pass—in several cases, more than a year—before a response is received from the administrative body. In turn, this leads to a breach in commitments and timelines in projects funded by donors and large disrupts the programs and activities of the NGO in question.

On the other hand, the NGO law also contains articles that undermine the right of associations to voluntarily establish coalition networks or federations among themselves. Articles 65, 66, 67, and 68 of the law elaborate specific rules for forming regional or collective federations rather than leaving the elaboration of these rules to NGOs themselves. Indeed, the law defines the prerogatives of such federations and bans the establishment of more than one regional federation in a

province. Articles 69 and 70 impose the establishment of a National Federation for Associations and give the president the right to appoint the chair of the federation and one-third of the board's thirty members. More important, this federation, whose leadership is chosen by the executive, enjoys the authority to appoint officials to the Aid Fund for Civic Associations. The law also gives it a consulting role in measures taken by the administrative body in regard to NGOs.

In fact, the current NGO law makes voluntary participation in civic work a risk with an uncertain outcome. Article 76 mandates prison terms from three months to one year for civil society activists who engage in civil society activities without completing the licensing procedures, continue an association's activities after an order has been issued dissolving it, violate the restrictions on collecting donations or receiving outside funding, use funds for some purpose other than that for which the association was established, violate the rules on affiliations with groups outside the country, or engage in the association's work before the registration procedures are complete.

More Arbitrary in Practice

Even given the foregoing, actual practice is often much more arbitrary than even the provisions of the law itself. The provisions of the law are often violated by the security apparatus, which, for all practical purposes, has the final say in the operation of associations with no legal basis.

The findings of a recent field study carried out by the Cairo Institute for Human Rights Studies (CIHRS) are relevant in this context:

1. On several occasions, Administrative Court rulings have found that the administrative body's objections to the establishment of certain NGOs or their founders or candidates for the board have been based on investigations and directives from the security establishment. These rulings have stated repeatedly that such interventions lack any legal basis.

The efforts of dozens of NGOs have been exhausted in appealing such arbitrary decrees before the courts, including the "New Woman Association", the South Center for Development and Human Rights, Awlad al-Ard for Human Rights, the Association to Protect the Legal and Constitutional Heritage, the Sawasya Center for Human Rights and Anti-Discrimination, Enlightening Minds, the Kalima Center for Human Rights, and the Center for Trade Union and Workers' Services (CTUWS). The latter association was established as a civil company nearly twenty years ago and tried to settle its status in the framework of the NGO law. In 2007, its offices were suddenly closed just as the administrative body announced that it had rejected the group's application for a license based on objections from the security apparatus. In many cases, including the case of CTUWS, the administrative courts ordered the Ministry of Social Solidarity to license the association and overturned administrative decrees disqualifying certain founding members or candidates for the board.

2. Although the NGO law "theoretically" gives foreign NGOs the right to operate in Egypt, on the condition that they obtain a permit from the Ministry of Social Solidarity pursuant to an agreement with the Foreign Ministry, many international human rights organizations have been unable to conclude such agreements or obtain a permit to operate, despite years-long negotiations in some cases. This includes prominent international organizations such as the

International Federation of Human Rights (FIDH) and Human Rights Watch. The authorities' actions toward these regional and international groups are perfectly consistent with its refusal to host the regional office of the UN High Commissioner for Human Rights for North Africa in Egypt.

3. In addition to arbitrary interventions by the security apparatus, the administrative body has used its prerogatives to arbitrarily deny licenses to several NGOs. One of the most prominent examples is the Egypt Association Against Torture, which sought to register in mid-2003. Shockingly, the administrative body refused to license the group on the grounds that the association's objectives were incompatible with the law. In citing the grounds for its objections, the administrative body stated that the objectives of the association include "working to change Egyptian laws to make them consistent with human rights conventions" and that the association would seek "to create lobby groups and engage in campaigns against the crime of torture."

In the same context, in 2008 the administrative body refused to recognize "Egyptians Against Discrimination in One Nation" on the grounds that its objectives were incompatible with Article 11, which bans associations from engaging in activities that may constitute a threat to national unity or advocate discrimination, although the aims of the association were, in fact, to combat discrimination, not incite to it.

4. Another aspect of security interventions to restrict civic activity without a legal basis is apparent in the fact that the Ministry of Social Solidarity does not approve any outside grants until it receives authorization from the security apparatus, which is not stipulated in the NGO law.

5. These interventions are also apparent in directives ostensibly issued by the Ministry of Social Solidarity or its

district offices. An example is the general directive received by some NGOs in Greater Cairo in August 2008 warning them against inviting foreign or Arab delegations or accepting invitations issued by foreign or Arab bodies without obtaining security approval or seeking the approval of the National Security Agency before issuing or accepting such invitations. Although officially issued by the administrative body and not the Interior Ministry, the warning cautioned that “any shortcomings in this regard will be met with the utmost severity.”

There are similar directives that seem dictated by the security apparatus, although they are officially issued by the administrative body. These include directives received by some associations in several provinces which were themselves a violation of the freedom of information and assembly. The directives, issued in February 2007, ordered the associations not to offer any data or information to any party without first consulting the administrative body. They also ordered the associations not to accept any invitation or hold any meeting whatsoever without first consulting the administrative body.

In the same vein as these security-inflected decrees, the security apparatus has also directly intervened on several occasions to prevent seminars and activities planned by rights organizations. For example, in 2008, security intervened to cancel a seminar on the amendments to Egypt’s law on the rights of the child organized by the New Woman Association. Security also pressured the same association to stop its annual commemoration of the International Women’s Day. In another instance, similar pressure placed on a hotel led it to cancel arrangements to host a seminar organized by the Arab Center for the Independence of the Judiciary and Legal Profession on ways to activate International Covenant on Civil and Political Rights (ICCPR).

Another aspect of the pressure on civic institutions and those involved in them is apparent in the use of the enormous restrictions on freedom of expression to harass and prosecute civil society activists. For example, Dr. Saad al-Din Ibrahim, the head of the Ibn Khaldoun Center for Development Studies, was sentenced to two years in prison with bail set at LE 10,000 after he was convicted of harming Egypt's reputation and damaging national interests through his writings in the American and world press. In these articles, Ibrahim advocated linking US aid to Egypt to progress on human rights issues and democratization.

The general coordinator of the CTUWS was also facing a one-year prison sentence after the center issued a publication that allegedly libeled a member of the National Democratic Party. The initial judgment was overturned in February 2008 by an appellate court.

Final Conclusions

1. CIHRS reiterates that putting an end to all forms of government guardianship and financial, administrative, and security pressure on NGOs requires the Egyptian government to adopt legislation aimed at strengthening public liberties, most importantly the freedom of expression, the freedom of peaceful assembly, and the freedom to organize, as consistent with Egypt's commitments under the ICCPR and the UN Declaration on Human Rights Defenders.

2. Members of the UN Human Rights Council should support the efforts of civil society organizations in overturning Law 84/2002, which is inconsistent with international standards, and pass a democratic law instead that would be more in line with international standards that uphold the right to organize, and in particular:

- The freedom to form associations by a simple notification, without need for prior licensing
- A guarantee that an association's general assembly shall have the sole prerogative to design the association's policies, establish its basic order, and form its managing board
- A guarantee of the right of associations to create federations and build local networks and alliances without administrative interference
- A guarantee of the right of associations to join international and regional networks and alliances
- A prohibition on the dissolution of an association or the disqualification of its board by administrative decree
- A prohibition on the dissolution of an association or the suspension of its activities except by judicial ruling with a complete appeals process
- A guarantee of the right of associations to hold meetings in or out of their offices and to issue journals and publications without prior permission
- A guarantee of the right of NGOs to receive adequate funding for their activities without prior permit and by simple notification of the administrative body; NGOs shall be obligated to declare their sources of funding and expenditure accounts

Chapter Three

Comments by the Coalition of Independent Egyptian Human Rights Non- a Governmental Organizations (NGOs) on the Egyptian Government Report for the UN Universal Periodic Review (UPR)

The Problem is Not a Cultural One but a Lack of Political Will

*Comments by the Coalition of Independent Egyptian Human
Rights Non-a Governmental (NGOs) on the Egyptian a Government
Report for the UN Universal Periodic Review Mechanism*

The Coalition of Egyptian human rights non-governmental organizations (NGOs), made up of independent Egyptian NGOs, regrets to state that the report submitted by the Egyptian government for the UN Universal Periodic Review does not reflect a serious desire to engage in a constructive dialogue designed to improve human rights in Egypt, which is the ultimate objective of the UPR mechanism. The report avoids addressing the real issues that have contributed to the deteriorating status of human rights compliance in Egypt, as documented previously by Egyptian and international human rights organizations, as well as by various UN agencies and Special Rapporteurs.

The report adopts an apologetic stance that attempts to justify human rights problems by pointing to the dangers of terrorism, the impact of the global financial crisis, and the absence of a culture of human rights. Thus, the report ignores the entire system of laws, policies, and practices that have fostered abuses and entrenched impunity for those responsible for them; in particular, the state of emergency in effect since 1981, which has obstructed various constitutional guarantees upholding civil rights and liberties. At the same time, the sovereignty of the law has been eroded, undermining the proper functioning of state institutions and agencies and the components of a nation of laws.

Under the state of emergency, the role of the security apparatus has inflated in all areas of public life such that it has the final say in the affairs of political, civic, educational, religious, and media institutions. In tandem, crimes of torture and the use of excessive force have also increased, whether during the pursuit of criminal suspects, the repression of peaceful assemblies, or the arrest and even killing of illegal migrants attempting to cross the Egyptian border. Court orders and rulings are neither respected nor implemented, and the Egyptian authorities have adopted a broad array of laws and statutes that criminalize or restrict the right to independent political, partisan, civic, and labor organization. In addition, enormous legal limitations have been established to circumscribe the freedom of expression, the media, and peaceful assembly. Moreover, several bills that are even more restrictive are currently making their way through parliament where they will undoubtedly be passed due to the ruling party's control of 80 percent of seats in the house.

The regrettable state of human rights has been exacerbated in recent years as the regime, faced with declining political legitimacy, has made an increasingly cynical use of religion

as a tool to achieve political ends. This has been accompanied by the maintenance of several laws, policies, and practices that cement discrimination on the basis of religion and faith, particularly against Egyptian Copts and Baha'is. The security apparatus harasses citizens on the basis of their religious beliefs, even Muslims who hold to schools of thought that may conflict with the official interpretation of Islam. Security forces have also raided the homes of Copts suspected of holding private worship services in villages without churches. In such a climate where official policies continue to stoke religious bigotry, which is manifested in the growing sectarian violence that has become more frequent and has expanded geographically, talk of the lack of a human rights culture has no meaning.

Constitutional Setback

In its attempt to put a positive spin on the state's performance in the realm of human rights, the government's report falsified the facts in numerous instances. For example, in its discussion of constitutional protections for human rights and liberties, it studiously avoided noting that these protections are often undermined by legal statutes that explicitly restrict them. Even the constitution itself contains provisions that act to annul protections contained in other articles. For example, constitutional guarantees for equal citizenship and non-discrimination are contradicted by Article 2 of the document, which states that Islamic law is the primary source of national legislation. This article allows the advancement of militant legal interpretations of Islam that institutionalize legal restrictions to women's right to equality and non-discrimination and circumscribe freedom of expression, creativity, thought, belief, and academic freedom. Citing insults to Islam, the defamation of religion,

or violations of Islamic law, literary, artistic, and intellectual works have been confiscated and banned. At the same time, official institutions, such as the Ministry of Awqaf and al-Azhar, invest public funds in the publication and distribution of books that incite the defamation of other religions and justify the killing of and/or abuse of property owned by followers of those religions. The result can be seen in the latest round of sectarian bloodshed that took place in January 2010 in Naga Hamadi in Upper Egypt.

While the government report boasts of amendments to 34 constitutional articles, it wholly ignores the fact that these amendments constitute the worst constitutional backslide seen in 50 years. The amendments removed guarantees of judicial oversight of public elections and gave the ruling party the power to choose its competitors in presidential elections, thus making the elections more akin to a referendum on the ruling party's candidate for the position, particularly given the severe restrictions on the right of independents to stand for office. Citing the need to combat terrorism, the amendments legitimized the suspension and violation of constitutional protections of personal freedom and security, the sanctity of one's home, and privacy. They also gave constitutional status to the circumscription of the regular judiciary, allowing the creation of a permanent, parallel court system to try cases that the authorities deem unsuitable for the regular court system.

The revised version of Article 179 of the constitution renders the government's pledge to issue a balanced counterterrorism law meaningless insofar as it paves the way for the integration of exceptional security prerogatives into the counterterrorism law, which will make the "temporary" provisions of emergency law a permanent feature of the Egyptian legal system.

Use of the Emergency Law Against Opponents

The government's report claims that the exceptional prerogatives granted by the state of emergency are deployed only against terrorism and drug crimes. However, reports from rights organizations have documented the increasing use of these provisions to confront various forms of political and social ferment and narrow the range of freedom of expression, particularly against internet activists, who have been targets of abduction, administrative detention, and enforced disappearance. In its discussion of the independence of the judiciary and due process, the report neglects to mention the exceptional court system established by The Emergency Law. The decisions of the Emergency State Security Courts cannot be appealed, and the president has the right to intervene to alter the verdict or sentence, or order a retrial. In addition, military courts have been repeatedly used to try civilians, which is a violation of their right to be tried before their natural judge.

While the government's report highlights very limited developments, such as the suspension of imprisonment terms for some press and publication crimes, it does not mention that these punishments continue to hang over journalists and opinion makers in more than 30 other articles in the Penal Code, in the Publications Law, and in other statutes regulating the flow of information that still prescribe prison terms for press and publication crimes. While the report justifies the state's failure to abolish these provisions by pointing to the need for a "public" debate, it ignores the fact that journalists and rights organizations have approved bills over the past 15 years that would abolish these freedom-depriving punishments and prohibit their use to repress freedom of expression whereas the executive authority and the People's Assembly, both dominated by the ruling party, have turned their backs on these same bills.

The Tactic of “Voluntary Pledges”

Many of the voluntary pledges contained in the report are in fact commitments that the Egyptian government is obligated to keep. For example, a comprehensive review of Egyptian laws related to human rights cannot be viewed as a “voluntary” initiative undertaken by the government, but is rather a step that has been incumbent on the state for the past 25 years, since it joined the Covenant on Civil and Political Rights and the Covenant on Economic, Social, and Cultural Rights. Despite making this pledge, for a quarter of a century the state has not responded to repeated calls from UN agencies and local and international human rights groups to meet its responsibilities in this regard. The same is true of the government’s pledge to review the definition of torture in Egyptian law to make it in line with the definition of this crime as found in the Convention Against Torture, which Egypt joined in 1989.

Moreover, the promise to issue certain new laws is no cause for optimism, but rather an issue that raises further concerns. For example, the amendments that the government has promised to bring to the NGOs law maintain provisions allowing administrative and security oversight of the establishment and dissolution of civic organizations, intervention in their internal bylaws and structures, objections to the list of founders or board members, regulation of sources of funding, and objections to the decisions of the elected board or general assembly of the organization. Indeed, the amendments will give the General Federation of Associations, an agency controlled by the government as the chair and one-third of board members are appointed by the president, additional prerogatives in the funding, establishment, dissolution, and regulation of NGOs.

The government’s promise to issue a “balanced” counterterrorism law is also a cause for profound skepticism.

The UN Special Rapporteur on the promotion and protection of human rights while countering terrorism has stated that the most recent relevant constitutional amendment may allow for human rights abuses inherited from The Emergency Law, and he cautioned against using the impending Counterterrorism Law to target human rights organizations and dissident political groups or restrict freedom of opinion and expression.⁽¹⁾

As for pledges to intensify human rights education and curricula and improve human-rights capacity-building programs, which often serve to lecture and train apologists for human rights abuses and those inimical to Egyptian and international human rights organizations, we must reiterate that the persistent decline in the status of human rights in Egypt is not the product of some cultural or social resistance to human rights as the government attempts to portray it. Instead, it is due to the absence of the necessary political will on the part of state agencies to forgo policies and practices that are inimical to human rights, adopt serious reform programs that promote human rights, and provide a suitable climate for the dissemination of a culture of human rights in all fields of life.

The Egyptian government's human rights record over several decades is an ongoing series of pledges, followed by the failure to keep them, and further empty promises made to avoid accountability and give a pretty face to an ugly reality. The apologetic tone of the report, as well as its refusal to engage with the real problems that plague human rights observance in Egypt, in and of itself confirms the absence of the serious political will needed to improve the human rights situation in the country.

⁽¹⁾<http://www2.ohchr.org/english/issues/terrorism/rapporteur/docs/A_HRC_13_37_Add2.doc>.

List of the Coalition of the Independent Egyptian Human Rights Non-Governmental Organizations (NGOs)

1. CIHRS (The Cairo Institute for Human Rights Studies), Cairo, Egypt;
2. Al Nadeem Centre (Al-Nadim Center for Treatment and Psychological Rehabilitation for Victims of Violence);
3. Andalusitas (Andalus) Institute for Tolerance and Anti-Violence Studies);
4. APRO (Arab Penal Reform Organization);
5. AHRLA (Association for Human Rights Legal Aid);
6. GHRLA (The Group for Human Rights Legal Aid);
7. HMLC (Hesham Mubarak Law Center);
8. LCHR (Land Center for Human Rights);
9. NWRC (New Woman Research Center);
10. ANHRI (The Arabic Network for Human Rights Information);
11. CTUWS (The Center for Trade Union and Workers' Services);
12. EACPE (The Egyptian Association for Community Participation Enhancement);
13. EIPR (Egyptian Initiative for Personal Rights);
14. HRCAP (The Human Rights Center for the Assistance of Prisoners);
15. AFTE (Association for Freedom of Thought and Expression);
16. ECESR (The Egyptian Center For Economic and Social Rights);

Chapter Four

Recommendations by the Coalition of Independent Egyptian Human Rights Non- Governmental Organizations (NGOs) for the UN Universal Periodic Review (UPR) of Egypt

I. Civil and Political Rights

A. Constitutional reform

Egypt needs a new constitution, or at least a fundamental reform of the 1971 constitution, which constitutes the primary source of the chronic institutional and structural illnesses that plague human rights observance in Egypt, largely because it gives the executive authority absolute power over the legislature and judiciary and grants the president of the republic unlimited authority subject to no oversight or external review.

Although when issued the 1971 constitution was better than the constitutions imposed on Egypt since the July 1952 revolution, subsequent amendments introduced in 1980 and in 2007 have made it the worst post-revolution constitution. It is difficult to imagine engaging in any constitutional reform without revising a large number of the document's articles and fundamentally altering its guiding philosophy and structure, which is beyond the scope of these recommendations.⁽¹⁾

⁽¹⁾ On several occasions political parties and human rights organizations have drafted a new constitution or offered serious suggestions for constitutional reform, but the government has paid no attention and no serious debate has taken place.

The most significant areas for constitutional reform from the human rights perspective are:

1. Guarantees for the separation of power, including an end to the executive's hegemony over the legislative and judicial branches, the introduction of limits on the absolute authority of the president, and the institution of oversight and review mechanisms in a way that promotes the balance of power among the three branches of government. This requires:

- Amending Article 76, which establishes a purely formal mechanism for the election of the president that is more akin to a referendum, in practice prohibiting independent figures from declaring candidacy for office, and thus almost limiting the voting to the ruling party's candidate.

- Amending Article 77 to institute a two-term limit on the presidency.

- Abolishing Article 74, which gives the president unlimited authority to take whatever measures he deems necessary to confront any grave threat to “national unity” or the “safety of the nation,” which has always been used to repress public liberties.

- Revising Article 148, which gives the president the authority to declare an open-ended state of emergency, to guarantee that states of emergency are declared only in times of war, armed domestic conflicts, or national disasters, and that they are only applied to the geographic area affected by the emergency rather than to the entire country. A 90-day limit should also be established for these emergency periods, renewable only by a new decree approved by at least two-thirds of the members of the People's Assembly.

- Amending Article 48 to guarantee independence from the executive power for state-owned media, and ensure that they reflect the intellectual, political, cultural, religious, ethnic, and social pluralism that characterizes Egyptian society.

2. Protection for the sovereignty of constitutional guarantees of public rights and liberties over all other laws that complement the constitution or regulate the practice of these rights and liberties. This requires:

- Introducing an article at the beginning of Chapter 3 of the constitution dealing with public rights and liberties that explicitly prohibits undermining, eroding, or violating these guarantees on the pretext of regulating them by law.

- Abolishing the recently added Article 179 on combating terrorism, which institutionalizes and legalizes the suspension of four of the most important constitutional protections for human rights and allows the exceptional state of emergency to become a permanent state of affairs.

- Amending Article 151 dealing with the status of international conventions in Egyptian legislation to add a paragraph noting that international human rights conventions ratified by the state are not subject to abrogation, amendment, or suspension by any subsequent law.

3. Guarantees for state neutrality towards adherents of all Abrahamic and Non-Abrahamic religions and beliefs, which requires:

- Amending Article 2 of the constitution, which states that “Islam is the state religion and the principles of Islamic law are the principal source of legislation.” This article has supplied justification for increasing pressure on liberties in the name of religion, and it has allowed the issuance of judicial rulings that impinge on freedom of belief, religion, expression, and creativity. The article is also used politically and in the media to deprive women of the right to equality, to justify discrimination between Muslims and Non-Muslims, and to legitimize assaults on intellectual, literary, artistic, and academic freedom. Moreover, it strengthens the interventionist role of religious institutions in matters of

legislation, politics, economics, education, media, intellectual production, and literary and artistic creativity, at the expense of human rights standards.

- Amending Article 11, which entrenches a stereotypical view of women's role within the family and obstructs the achievement of full equality.

B. Legal reform and non-legislative measures

4. End the exceptional state of emergency in effect since 1981 and take immediate steps to release all those held under administrative detention without charge or trial under the emergency law.

5. Until emergency law is lifted, its application should be prohibited against all forms of peaceful expression, particularly against journalists and bloggers, and the Interior Ministry must be held accountable for every violation of this interdiction.

6. Refrain from issuing any new law that further entrenches the absolute authority of the security apparatus on the pretext of combating terrorism. Not only has a counterterrorism law been in effect for 18 years (Law 97/1992), but also it is inconsistent with international human rights norms and should be reassessed. In particular, its expansive definition of terrorism and terrorist crimes are used to harass and criminalize some forms of peaceful expression and opposition. The law should be amended to make all police measures taken to combat terrorism subject to judicial oversight.

7. The president should issue a political declaration prohibiting the public prosecutor, minister of justice, or any other ministry or institution from complying with directives from the Interior Ministry that violate the constitution and existing laws in the country, particularly those related to

torture, detention, forced disappearance and religion-based violence, which will lead the general prosecutor to disclose the investigations undertaken over the last two decades in the reported torture incidences, some of which have led to death in religion-based violence against Christians and Baha'is.

8. The Egyptian government should pledge to ensure that all ministries, government institutions, and syndicates influenced by the ruling party with all court orders of relevance to them⁽²⁾.

9. Amend the Judiciary Law to guarantee independence for the public prosecutor from the executive branch, prevent the Justice Ministry from intervening in judicial procedures, ensure that the general assemblies of courts refer cases to the competent judges without intervention, and guarantee independence for Judges' Clubs.

10. Amend Article 126 of the Penal Code to ensure that the crime of torture is punished in accordance with the comprehensive definition of the crime and its perpetrators as contained in Article 1 of the International Convention Against Torture.

11. Amend the Code of Criminal Procedure to ensure that victims of grave police abuses or their families have the right to file criminal suits against the perpetrators of these abuses.

12. Stiffen the penalties for torture and ban the discretionary granting of leniency to prevent evasions of the prescribed punishment for these crimes.

13. Open State Security Headquarters, where torture is commonly used against detainees and prisoners, to periodic inspections by the Public Prosecutor's Office and human rights organizations, and give human rights groups access to all other detention centers and prisons.

⁽²⁾ This recommendation addresses incidences where the government and some syndicates influenced by the ruling party refrain from executing court's rulings.

14. Ban the referral of civilians to trials before military tribunals by amending the code of military justice to limit the prerogatives of the military judiciary to the prosecution of military personnel who have committed crimes, and violations or infractions committed inside military units or during the course of military duty. Article 6 of the law allowing the president to refer civilians to military trials should be abolished.

15. Review articles in the Penal Code to reduce the number of crimes punishable by death, as a preliminary measure to the future abolition of the death penalty, and prohibit depriving defendants of such crimes from appearing before their natural judge.

16. Abolish the political parties law (Law 40/1977) and its amendments, which gives the ruling party the right to veto licenses for any political party and intervene in their affairs, and replace it with a law based on international standards that protect the freedom to organize, including guarantees for the establishment of political parties through simple notification. The natural judge in such affairs should be the body charged with overseeing and later regulating the establishment and practices of political parties.

17. Abolish the NGOs Law (Law 84/2002) and replace it with a law based on international standards that guarantees the right to organize and includes the following particulars:

- NGOs shall be established by simple notification with no need for advance licensing.

- The general assembly has the sole authority to establish the association's policies, articles of association, and board members.

- Guarantees for the right of NGOs to establish general, regional, or activity-related federations without restrictions, and the right to build networks and alliances and join

international and regional networks without administrative oversight.

- Ban the dissolution of NGOs or the dismissal of their boards by administrative order.

- Ban the dissolution or suspension of any NGO save by a court order subject to appeal.

- Guarantee the right of NGOs to receive the funding necessary for their activities without prior consent.

- Until the new law is issued, all forms of security intervention in the affairs of civil society should stop, particularly since these interventions are in violation of existing law.

18. Guarantee the freedom of trade and labor syndicates, which requires:

- Guarantees of the right to pluralism in professional and labor syndicates and the abolition of Law 35/1976, which imposes government custodianship over trade syndicate activities, undermines syndicate freedoms, and forces trade syndicates to adopt a unilateral, authoritarian structure that reinforces a monopoly of power.

- Implementing court orders overturning the results of labor and syndicate elections in 1,850 syndicate committees, 23 general syndicates, and the 2006-2011 session of the General Federation of Trade Unions.

- Abolishing Law 100/1993 and its amendments and holding elections in all professional syndicates, which have been delayed for more than 14 years; ending judicial custodianship of the Engineers Syndicate, in place since 1994, and implementing court orders for elections in the syndicate.

19. Guarantee the freedom of the media by:

- Ending the control of the executive authority and the ruling party over state-owned media outlets and taking action to restructure visual and aural media to reinforce pluralism, competitiveness, and free democratic expression. In contrast to the bill prepared by the government, any law in this field must guarantee:

- The conversion of state-owned aural and visual media into public institutions with independence of action in administration, funding, and programming. The boards of these media should be representative, and members should be chosen based on competence and in consideration of the representation of various views and opinions.

- The licensing of visual and aural media outlets should be the purview of a national media council that is not subject to custodianship by the executive branch, whether by the Ministry of Information or the cabinet. The law establishing this council should uphold the right of judicial review of any of its decisions.

- Abolishing the legislative and administrative restrictions on the freedom of information and citizens' right to knowledge, and adopting a law that guarantees the right of media workers to access and publish sources of information and punishes any obstruction to information access.⁽³⁾

- Abolishing all freedom-depriving punishments for press and publication crimes and prohibiting provisional detention for these crimes, including the crime of insulting the president. All articles in the Penal Code and the publications law should be reviewed to prevent the use of such punishments to stigmatize or deter freedom of opinion, expression, and the press.

⁽³⁾ The government-sponsored bill imposes arbitrary restrictions on access to information.

20. Reform the electoral system, including:

- Adopt a system of unconditional proportional lists, which can guarantee better representation for political parties and increase the opportunity for political participation by women and non-Muslims.

- Revise the system of state funding for political parties in general elections to redirect some funding to encourage parties to include young people, women, and Copts on their electoral lists.

- Amend the law on political rights (Law 73/1956, amended by Law 17/2007, Law 73/1972, Law 175/2005, and law 174/2005 that regulates the presidential election) to end the dominance of the Ministry of Interior over the administration of general elections, including the presidential election, and invest the supervision with one independent judicial body chosen by judges through the General Assembly of the Courts. This body should be granted the prerogatives necessary to fully oversee the electoral process, starting from the preparation, review, and updating of voter rolls, to the reception of candidacy applications and appeals; the determination of electoral districts, and general and subsidiary polling stations; the drafting of campaign regulations; the use of legal provisions that criminalize thuggery, violence, and vote-buying; and the use of religious slogans, houses of worship, public monies, or state facilities to support certain candidates, and ending with the declaration of the election results. This task requires a judicial police force subsidiary to the independent judicial agency -not the Ministry of Interior- to guarantee that the agency's directives are carried out.

- Legalize the right of non-governmental organizations to monitor the electoral process at all stages and extend all the necessary facilities to enable them to conduct this mission independently; the system by which the National Human

Rights Council issues permits in this regard should be abolished.

- Accept the principle of international monitoring of general elections.

21. Take legislative and non-legislative measures to promote the principles of equality and non-discrimination among followers of all religions and faiths and their right to manifest their religious beliefs, build houses of worship, and engage in their religious rites and practices. In particular:

- End the official, undeclared ban on the construction, renovation, and repair of Non-Sunni Muslim houses of worship.

- Take decisive measures to confront public calls for or incitement to religious hatred and sectarian violence and dismiss members of the Islamic Research Academy who issue religion-based interpretations or publications containing such incitement, particularly since this institution is state funded.⁽⁴⁾

- Strictly apply the law to all parties who engage in sectarian violence, regardless of their religious affiliation, and stop the impunity that has grown in recent years, particularly in 2009.

- Stop all forms of arbitrary security intervention in the personal affairs or travel of people because of their beliefs.

- Stop raids on the homes of Copts who hold worship services there and prohibit the forced displacement of Copts or Baha'is from villages and cities that witness sectarian violence.

- Eliminate calls for religious bigotry or hatred in educational curricula and state-run media programs and replace them with content that reinforces the values of

⁽⁴⁾ The law states that the president has the right to appoint the members and chair of the Islamic Research Academy.

tolerance and equality.

- Abolish official undeclared rules that prevent the application of the principles of equality, equal opportunity, and non-discrimination in all public jobs and offices such that the assumption of these positions is dependent only on qualifications.

22. Take the measures necessary to foster the principles of equality and non-discrimination based on ethnicity or place of origin, particularly in regard to the Nubians' right to return to their original homeland and establish and own homes in respect of their special cultural heritage. This applies as well to the right of Sinai residents to own land, enjoy protection from security harassment, and enjoy safety and security.

23. Amend Article 317 of the law regulating universities, specifically provisions for the presence of security personnel on campus, and implement court orders requiring the suspension of all university police activity on campus. Pledges must be made to end security interventions in student activities, in the appointment of faculty members, and in academic work, as well as administrative and security interference in faculty elections and student unions.

II. Economic and social rights

24. Implement Article 134 of the Labor Law (Law 12/2003) to set a minimum wage commensurate with the cost of living.

25. Amend Articles 91⁽⁵⁾ and 94⁽⁶⁾ of the Labor Law, which restrict women's right to maternity and childcare leave.

⁽⁵⁾ The article states that a woman must be with her current employer for ten months before taking maternity leave and limits such leaves to two.

⁽⁶⁾ The article states that at least 50 workers must be employed at the facility for a woman to take maternity leave and also limits such leaves to two.

26. Amend Article 192⁽⁷⁾ and 193⁽⁸⁾ of the Labor Law and abolish Prime Ministerial Decree 1185/2003⁽⁹⁾ to enable workers to exercise their right to strike.

27. Abolish Article 97 of the Labor Law, which excludes female agricultural workers from legal protections, in order to protect the right of women to work in Articles 88 and 96.

28. Abolish Section F of Article 57⁽¹⁰⁾ of the Labor Law, which restricts various forms of labor solidarity.

29. Guarantee social insurance through the following measures:

- The state must repay the insurance funds it has borrowed, totaling more than LE360 billion.
- The independence of pension funds must be maintained

⁽⁷⁾ Section A of the article states that workers and civil servants must pursue any strike through a professional or labor syndicate for the strike to be legal, and prohibits workers from striking on their own; Section B states that only labor unions, not professional syndicates, can approve strikes; Section C compels all workers in Egypt—even those who do not belong to a trade organization or believe that their organization is hostile to their rights—to receive consent to strike from the General Industrial Syndicate to which they are affiliated, although in many facilities workers are not organized into trade unions.

⁽⁸⁾ The article prohibits strikes in which workers seek to amend collective contracts that are still in force; it also bans the organization or declaration of strikes during all stages of mediation and arbitration.

⁽⁹⁾ The decree enumerates several vital and strategic sectors in which strikes or calls to strikes are prohibited. Although such a ban should be as narrow as possible, the decree is expansive and covers numerous facilities, including hospitals, medical centers, pharmacies, bakeries, transport sectors (ground, sea, and air), cargo transport, civil defense facilities, electricity, water, gas, and sewage facilities, communications facilities, ports and airports, and educational institutions.

⁽¹⁰⁾ The section prohibits the collection of money or donations, the distribution of fliers, the collection of signatures, and the organization of meetings in the workplace without the consent of the employer.

separate from government control, and the government must be prohibited from funding the state budget through these pensions. This requires: a) abolishing Presidential Decree 422/2005,⁽¹¹⁾ and b) abolishing Finance Ministerial Decree 272/2006 to amend the implementing regulations of the state budget law.⁽¹²⁾

- The creation of a governing board for pension funds which will include representatives from beneficiaries, trade unions, and civil society institutions.

30. Eliminate all environmental encroachments that pollute the Nile and provide clean, safe drinking water to all citizens.

31. Implement court orders to halt the privatization of the General Agency for Health Insurance.

32. Take action to improve the quality of public education by raising wages for those involved in the educational process; increasing the number of schools; providing a pedagogical, academic, and athletic structure that fosters education; and developing academic curricula that encourages innovation and free thinking.

III. Gender equality

33. Review the provisions of Law 1/2000, known as the khula' law, to put an end to discrimination against women, who are forced by the current law to renounce all monetary and financial claims on their spouses in exchange for a divorce.

34. Amend articles in the Penal Code that institutionalize gender discrimination in honor crimes and adultery.

⁽¹¹⁾ The decree invests the finance minister with authority over insurance and pensions.

⁽¹²⁾ Since currently insurance revenues are considered part of general state revenues and payments part of state payments.

35. Adopt a bill to prohibit and punish violence against women within and outside the family, including a provision criminalizing marital rape.

36. Adopt appropriate measures for the social protection of battered women.

IV. The institutional structure for human rights compliance

A. International conventions and declarations

37. Join the optional protocols of the International Covenant on Civil and Political Rights, the International Covenant on Economic, Social, and Cultural Rights, the International Convention Against Torture, the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW), the Convention on the Rights of the Child, and the International Convention on the Rights of Persons with Disabilities.

38. Ratify the International Criminal Court's articles of association.

39. Withdraw the state's objections to Article 2, 9, and 16 of CEDAW; Article 20 and 21 of the Convention on the Rights of the Child; and Article 4 and Paragraph 6 of Article 18 of the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families.

40. Withdraw the declarations submitted by the Egyptian government when ratifying the Covenant on Civil and Political Rights and the Covenant on Economic, Social, and Cultural Rights, both of which contain a general, expansive reservation on the state's obligation to comply with the provisions of the conventions if they contradict any provisions

of Islamic law. In practice, this negates Egypt's obligations under the conventions.

41. Withdraw a similar declaration submitted by the Egyptian government on Articles 21 and 22 of the International Convention Against Torture, which allows the convention committee to examine complaints from individuals or states who are party to the convention regarding torture in Egypt.

42. Ratify the Convention Relating to the Status of Stateless Persons and the Convention on the Reduction of Statelessness, issued in 1961 and 1954.

43. Cooperate constructively with UN convention agencies and special UN mechanisms, specifically:

- Review the Egyptian constitution and legislation in light of obligations under international conventions ratified by Egypt and make them consistent with international human rights standards.

- The government should submit its reports to UN convention agencies in a timely manner without delay, and the reports should be prepared with due seriousness and responsibility with a view to responding to repeated inquiries and observations from UN agencies and experts, some made over several decades.

- Respond to requests by numerous UN Special Rapporteurs to visit Egypt, particularly the Special Rapporteur on Torture, who has requested access repeatedly for 15 years.

- Stop playing a destructive role in UN human rights agencies, attempting to weaken UN mechanisms and the independence of their experts, and curbing the role of NGOs in these agencies, particularly in the UN Human Rights Council.

B. State agencies working in human rights

44. Foster and encourage the role of human rights committees and offices in the various ministries, particularly the Ministries of Foreign Affairs, Interior, and Justice, and ensure that they receive the information necessary to do their jobs; eliminate all restrictions on their cooperation with non-governmental human rights organizations and competent international agencies and organizations; refrain from using such cooperation as a purely instrumental means of improving the government's image before the international community; carefully consider and respond to reports from human rights organizations and refrain from dismissing them out of hand.

45. Foster and encourage the role of the Parliamentary Human Rights Committee, supply it with information, compel ministers and senior officials to appear before it, and stop using it as a platform from which to attack local and international human rights organizations.

46. Guarantee independence for the National Human Rights Council by:

- Staffing it with independent figures, ending the dominance of the ruling party and its supporters (who currently constitute two-thirds of its members), and strengthening representation for independent human rights organizations (who currently have only 1 of 27 members on the council).

- Ensuring that council members are able to administer their affairs without intervention, and without the need not submit their reports for prior review; and ensuring that they do not have their priorities and agendas imposed from above, such that the council is able to give priority to human rights problems at home rather than focusing on giving a false picture of the situation to international parties.

- The government must consider the council's reports with all due seriousness, comment on them responsibly, and respond to its communications and citizens' complaints made through the council.

- Not using the council as a way to exercise government custodianship over independent human rights organizations, particularly through the system of permits granted by the council to monitor general elections.

C. Capacity-building programs in human rights

47. Undertake a thorough review of educational and training programs in human rights organized by the government or the National Human Rights Council to ensure that they actually meet their objectives.

48. Stop including lecturers and trainers in these programs who are known for their hostility to human rights principles and international and local organizations, or who have themselves either violated human rights or justified the violation. This also applies to training sessions organized by the National Human Rights Council.

D. Human rights organizations

49. The government must act in accordance with the standards included in the International Declaration on Human Rights Defenders, issued by the UN General Assembly in 1998, particularly since the Egyptian government was a prominent objector to the declaration, and review all relevant laws, particularly the NGOs law, to ensure that they create an appropriate climate for action in accordance with international norms.

50. Cooperate seriously and responsibly with other human rights organizations, particularly through an in-depth discussion of their reports and recommendations, and refrain from dismissing them out of hand.

51. Stop all forms of administrative and security harassment of human rights defenders while they do their jobs.

52. Enable human rights organizations to exercise oversight over the authorities' performance in the relevant fields, particularly through inspections of official and non-official detention centers and the monitoring of general elections without oversight by a third party.

E. UN agencies and international donors

53. These parties must ensure that their financial support of human rights (whether to government institutions, the National Human Rights Council, or non-governmental organizations -particularly to GONGOs) is in fact spent on achieving the objectives agreed upon by both parties, and that funds are not used to achieve political objectives that are in contradiction with the agreed upon objectives.