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**AMNESTY  
INTERNATIONAL**



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Arab Republic of Egypt

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Your Excellency

As Egypt embarks upon a historic new phase with the election of a civilian President, Amnesty International is addressing you, as the new President of the Arab Republic of Egypt, to stress the fundamental importance of the protection of human rights in Egypt, in order to begin to turn the page on decades of abuse.

In this regard, I have the honour to enclose a memorandum submitted by Amnesty International for your attention, detailing what the organization considers to be the principal human rights concerns in Egypt. The memorandum outlines the need to combat the abuses committed with virtual total impunity in the past, the need to restore the rule of law, and finally the need to protect the rights of all Egyptian without discrimination in the future. The organization is writing with the hope that you will launch an ambitious program to uphold the human rights of all Egyptians without any discrimination.

In this spirit, Amnesty International makes a comprehensive set of recommendations to address the legacy of human right abuses, which for decades were committed with impunity. These recommendations are based on the international human rights treaties to which Egypt is a state party.

We appreciate the many challenges facing your administration. Yet, dismantling the machinery of repression in Egyptian law and practice, as well as responding to Egyptians' demands for freedom, dignity and social justice, should be among the authorities' first and most urgent priorities.

I remain at your disposal should you have any questions or concerns.

Yours sincerely

Salil Shetty  
Secretary General

# AMNESTY INTERNATIONAL

## MEMORANDUM TO THE PRESIDENT OF THE ARAB REPUBLIC OF EGYPT

Amnesty International presents the following memorandum to His Excellency President Mohamed Morsi. The memorandum outlines the organization's principal concerns about the human rights situation in Egypt. It also presents, for the President's consideration, a number of key recommendations for human rights reform.<sup>1</sup>

In November 1981, Amnesty International wrote to the newly appointed President Hosni Mubarak, urging him to break with his predecessor's record of abuses – mass arrests of people for their conscientiously held beliefs; torture and other ill-treatment; and the imprisonment of individuals for non-violent, banned political activity. Instead, Hosni Mubarak's rule was characterized by both serious human right violations and the systematic erosion of the rule of law. Under the state of emergency, security forces operated above the law and suppressed all forms of dissent. Thousands of Egyptians were held in administrative without charge or trial on the order of the Minister of the Interior. Following the "25 January Revolution", the Supreme Council of the Armed Forces (the SCAF) have taken only piecemeal reform. Amnesty International has documented further restrictions to freedoms of expression, association and assembly, the unfair trials of thousands of civilians before military courts, and a series of lethal crackdowns on protesters. A hallmark of the rule of both Hosni Mubarak and the SCAF has been the virtual total impunity for human rights abuses.<sup>2</sup>

Amnesty International is now urging President Morsi and his new administration to break the cycle of abuse. The organization is calling for investigations into the human rights violations of the past, including under the rule of Hosni Mubarak and the SCAF. Amnesty International is further urging Egypt's President to restore the rule of law by undertaking a series of institutional and legal reforms. Urgent steps must be taken to end the military's powers to arrest, detain and try civilians, to reform the security forces, and to bring Egyptian legislation, used to repress Egyptians, into line with international law and standards. Furthermore, Amnesty International is calling on the President to undertake comprehensive human rights reforms, including to combat discrimination against women and religious minorities; to protect and promote civil and political and economic, social and cultural rights, including workers' rights; and to end forced evictions of slum-dwellers. Finally, the organization is calling on the President and his administration to ensure future policies and government action respect and realize the human rights of all Egyptians, without discrimination.

The power of the President to instigate far-reaching reforms has, in some respects, been challenged by the SCAF's June 2012 amendments to the Constitutional Declaration. Amnesty International has expressed concern over these amendments, which effectively remove the military from civilian oversight.<sup>3</sup> It is also unclear what role and powers the National Defence Council will have to decide on issues of "national security". However, Amnesty International is presenting this memorandum to President Morsi in the hope that he will strive to combat impunity, restore the rule of law, and govern through the principle of non-discrimination.

Amnesty International's concerns and recommendations are based on Egypt's international human rights obligations. In this regard, Egypt is a state party to the following UN human rights instruments:<sup>4</sup>

- The International Covenant on Civil and Political Rights (ICCPR). Egypt has yet to submit its fourth period report to the Human Rights Committee. The report was due in November 2004.
- The International Covenant on Economic, Social and Cultural Rights (ICESCR). Egypt submitted its second, third and fourth combined periodic reports in November 2010.
- The Convention against Torture and Other Cruel Inhuman or Degrading Treatment or Punishment (CAT). Egypt has yet to submit its fifth, sixth and seventh periodic reports to the Committee against Torture. The reports were due in June 2004, 2008 and 2012 respectively.
- The Convention on the Elimination of All Forms of Discrimination against Women (CEDAW). Egypt submitted its sixth and seventh periodic reports to the Committee on the Elimination of Discrimination against Women in February 2008.

- The International Convention on the Elimination of All Forms of Racial Discrimination (CERD). Egypt has yet to submit its 17<sup>th</sup> or 18<sup>th</sup> periodic reports to the Committee on the Elimination of Racial Discrimination. The reports were due in January 2004.
- The International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (CMW). Egypt has yet to submit its second period report to the Committee on the Protection of the Rights of All Migrant Workers and Members of their Families (CMW). The report was due in July 2009.
- The Convention on the Rights of Persons with Disabilities (CPD). Egypt has yet to submit its first periodic report to the Committee on the Rights of Persons with Disabilities. The report was due in May 2010.
- The Convention on the Rights of the Child (CRC). Egypt submitted a combined third and fourth periodic report to the Committee on the Rights of the Child in December 2008. The third report had been due in September 2002.

Egypt has also ratified the African Charter on Human and People's Rights (ACHPR). The African Commission on Human and People's Rights has also noted that Egypt is overdue in submitting its periodic reports.<sup>5</sup>

Despite pending requests, Egypt has yet to facilitate the visits of a number of UN human rights experts, including the Special Rapporteur on torture, the Special Rapporteur on extrajudicial, summary or arbitrary executions, the Special Rapporteur on the independence of judges and lawyers, the Special Rapporteur on the situation of human rights defenders, the Special Rapporteur on freedom of religion or belief, the Special Rapporteur on freedom of association and assembly, and the Working Group on Arbitrary Detention.<sup>6</sup>

Egypt is also yet to ratify Optional Protocols to key human rights treaties, including the ICCPR, ICESCR and the CAT.<sup>7</sup> Egypt has signed, but not ratified, the Protocol to ACHPR on the Establishment of the African Court on Human and Peoples' Rights.<sup>8</sup>

Egypt is an important international and regional actor. Yet, within UN bodies, Egypt has a record of seeking to weaken the international human rights systems. We urge President Morsi to reverse this by taking steps to ratify human rights treaties, and co-operating with international human rights bodies. Amnesty International is calling on President Morsi and his new administration to:

- Implement recommendations by UN treaty bodies and special procedures, and submit overdue reports to international treaty bodies, including the Human Rights Committee, the Committee against Torture and the Committee on Economic, Social and Cultural Rights.
- Issue a standing invitation to all UN human rights experts, and facilitate immediately the visits requested by the special procedures.
- Ratify the Rome Statute of the International Criminal Court and implement it in national law. Accede to the International Convention for the Protection of All Persons from Enforced Disappearance and implement it in national law. Accede to the Optional Protocol to the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment. Ratify the optional protocols to the international covenants on Civil and Political, and Economic, Social and Cultural Rights. Ratify the Protocol to ACHPR on the Establishment of the African Court on Human and Peoples' Rights.

## **PAST: INVESTIGATE ABUSES**

Amnesty International is urging President Morsi to order thorough, independent and impartial investigations into human rights violations committed during the rule of Hosni Mubarak and under the Supreme Council of the Armed Forces (the SCAF). The organization is prepared to make its archive of human rights reports available to the Egyptian authorities to assist in any such investigation.

The SCAF have not mandated any investigation into abuses under the three-decade rule of Hosni Mubarak. To date, the SCAF have also failed to hold a single member of the armed forces accountable for abuses during their rule. In the few instances where the SCAF have announced investigations into abuses by military forces, the scope, methodology, findings and recommendations of these

investigations have remained completely opaque. Amnesty International believes that the military cannot adequately and impartially investigate abuses for which its forces are alleged to be largely responsible.<sup>9</sup>

#### THE RULE OF HOSNI MUBARAK

Amnesty International is particularly calling for any investigations into the rule of Hosni Mubarak to examine the system of administrative detention, under which thousands were held without charge or trial on the order of the Minister of Interior. In this respect, any investigation should look at the role played by officials in the now-dissolved State Security Investigations (SSI) service, who were primarily charged with overseeing this system. SSI officials have yet to be held to account for the years of abuses under the rule of President Mubarak. The authorities are also yet to provide truth, justice and reparation for the thousands of individuals arbitrarily detained and tortured over the years. The lack of investigations has left former administrative detainees with no effective means of remedy. Their right to compensation has not been fully respected. Many of them are still waiting for long overdue compensation to try to secure a dignified life for them and their families.

#### THE '25 JANUARY REVOLUTION'

Amnesty International strongly welcomed the establishment of the "Fact-Finding National Commission about 25 January Revolution", as well as a separate investigation instigated by the National Council for Human Rights (NCHR).<sup>10</sup> However, the organization is concerned that, a year and a half after the uprising, investigations by the Public Prosecution have often failed to lead to convictions of members of the security forces. Amnesty International considered that the conviction of former President Hosni Mubarak and Interior Minister Habib el-Adly on 2 June 2012 to be a significant step towards combating long-standing impunity in Egypt. However, the acquittal of six senior security officials, including the former head of the SSI, raised serious questions about the extent of the authorities' co-operation with the investigation.<sup>11</sup> Amnesty International is preparing a separate analysis of the need for accountability for the "25 January Revolution", which it will make available to the Egyptian authorities in due course.

#### THE SUPREME COUNCIL OF THE ARMED FORCES

Hosni Mubarak's departure led to hopes that there would be a break with the cycle of abuse. Yet, abuses continued and continue to this day in a different uniform.

Amnesty International is particularly calling for any investigations into the rule of the SCAF to examine the torture and other ill-treatment committed by the armed forces, the system of military trials, under which thousands of civilians have been unfairly tried and imprisoned. The organization's concerns about military trials of civilians, and its recommendations to end them, are detailed below. Amnesty International is further calling for investigations to examine a number of incidents where the army and security forces used lethal force against protesters:

- The forcible dispersal of a demonstration organized mainly by Coptic Christians around the Maspero building in Cairo on 9 October 2011, which led to the killing of 27 protesters;
- The use of lethal force by security forces against protesters on Mohamed Mahmoud Street, near the Interior Ministry, in November 2011, in which 50 people died;
- The forcible dispersal of a sit-in by army soldiers outside the Cabinet Building in Cairo on 16 December 2011, and the policing of subsequent protests, in which 17 protesters were killed.

#### INTERNATIONAL STANDARDS

The Egyptian authorities are required by international law and standards to ensure that investigations into abuses are conducted promptly and impartially.<sup>12</sup> The UN Updated Set of Principles to Combat Impunity states that it is the state's obligation to ensure that the truth is told and justice done and those responsible for violations held accountable (Principle 19).<sup>13</sup>

The right to an effective remedy for victims of human rights violations is guaranteed in international law. It is enshrined in Article 2(3) of the ICCPR and further expanded in UN Human Rights Committee General Comment No. 31 on the "Nature of the General Legal Obligation imposed on States Parties to the Covenant", adopted on 29 March 2004 at its 2187th meeting. It is also recognized in Article 8 of

the Universal Declaration of Human Rights; Article 14 of the Convention against Torture; Article 6 of the International Convention on the Elimination of All Forms of Racial Discrimination; Article 39 of the Convention on the Rights of the Child; Article 7 of the ACHPR; and Article 23 of the Arab Charter on Human Rights.

All victims of human rights violations are entitled to financial compensation without discrimination. However, the exact amount of financial compensation awarded must take into account the gravity of the violation and the harm suffered, and be based on objective criteria that are not discriminatory in nature or in their implementation. According to the UN Basic Principles and Guidelines on the Right to a Remedy and Reparation, compensation should be provided for any economically assessable damage, as appropriate and proportional to the gravity of the violation and the circumstances of each case, such as: “(a) Physical or mental harm; (b) Lost opportunities, including employment, education and social benefits; (c) Material damages and loss of earnings, including loss of earning potential; (d) Moral damage; (e) Costs required for legal or expert assistance, medicine and medical services, and psychological and social services.”

Amnesty International is calling on President Morsi and his administration to:

- Establish independent, thorough and impartial investigations into human rights abuses committed under the rule of Hosni Mubarak and under the Supreme Council of the Armed Forces.
  - Each investigation should be provided with sufficient resources to accomplish all its tasks effectively and promptly, and have powers to gain access to all relevant documents, other evidence and persons.
  - The findings of each investigation must be made public and should include recommendations aimed at ending and preventing further human rights abuses and at ensuring justice, truth and full reparation for the victims, including restitution; rehabilitation; compensation; satisfaction; and guarantees of non-repetition.
- Ensure that no amnesty or immunity from prosecution is granted to any person, whether a member of the security forces or the armed forces, who has committed serious human rights abuses, and that thorough, impartial and independent investigations are launched into all allegations of human rights violations before any decision on amnesty or closure of judicial proceedings is taken.
- Ensure that all persons who provide information to investigations into human right abuses are adequately protected from reprisals, or any other form of intimidation.

## **PRESENT: RESTORE THE RULE OF LAW**

Amnesty International is calling on President Morsi to take concrete steps to restore the rule of law in Egypt. Principally, the organization is urging that the President end the military’s power to police civilians, reform the security forces, and order a far-reaching review of Egyptian legislation to ensure that it is in line with international human rights law and standards.<sup>14</sup> In particular, Amnesty International is seeking the repeal of all legislation that purports to give sweeping powers of arrest to the police and which allows the executive authorities to bypass ordinary courts and refer people suspected of terrorism to military and special courts.

The rule of Hosni Mubarak and the SCAF badly eroded the rule of law. Undue interference of the executive in all state institutions flouted the principles of separation of powers, supremacy of the law, equality before the law, legal certainty and transparency, and fairness in its application. The state of emergency entrenched and facilitated patterns of serious human rights violations. In effect, the state of emergency created a shadow justice system which bypassed the normal judicial system and its safeguards. Security forces, in particular the SSI, operated without any effective judicial control or oversight. Amendments to the SCAF’s 2011 Constitutional Declaration have effectively removed the military from civilian oversight.

It is therefore crucial that respecting and strengthening the rule of law is the fundamental principle for any government led by President Morsi. State actions that impact upon human rights must be made subject to review by an independent judicial authority. All police and security services must be subject to independent oversight and scrutiny.

Respect for the rule of law is essential for the enjoyment of human rights by all. This requires a system in which all institutions and persons are accountable to laws which are consistent with international human rights norms and standards, publicly promulgated, equally enforced, and independently adjudicated.

## RELEASE PRISONERS OF CONSCIENCE, THOSE IMPRISONED AFTER MILITARY TRIALS, AND HELD UNDER EMERGENCY LEGISLATION

As an immediate measure, Amnesty International is calling on President Morsi and his administration to:

- Release immediately and unconditionally all prisoners of conscience – those deprived of their liberty solely for the peaceful exercise of their right to freedom of conscience, thought, opinion, expression, association or assembly.
- Ensure that any civilian imprisoned following an unfair trial before a military court is released, or charged with a recognizable criminal offence and fairly tried.
- Ensure that any person who continues to be held under the lapsed Emergency Law (Law 162 of 1958) is released, or charged with a recognizable criminal offence and fairly tried.<sup>15</sup>

## END THE MILITARY'S POWER TO ARREST, DETAIN, INVESTIGATE AND TRY CIVILIANS

Amnesty International opposes the trials of civilians before military courts and has repeatedly called on the Egyptian government to end this practice. Since the SCAF assumed power in February 2011, thousands of civilians have been tried unfairly before military courts. The military's refusal to give up its powers to police civilians, and to be subject to civilian oversight, constitute the most serious challenge to the rule of law in Egypt today.

Trials of civilians before military courts are fundamentally unfair and breach a number of fair trial safeguards. These include the right to a fair and public hearing before a competent, independent and impartial tribunal established by law; the right to have adequate time to prepare a defence; the right to be defended by a lawyer of one's choosing; and the right to appeal against conviction and sentence to a higher tribunal.<sup>16</sup> Such safeguards are guaranteed under Article 14 of the ICCPR.

In July 1993 the UN Human Rights Committee expressed deep concern about military courts trying civilians. It concluded that "military courts should not have the faculty to try cases which do not refer to offences committed by members of the armed forces in the course of their duties".<sup>17</sup> When examining Egypt's report in 2002, the Committee reiterated its concerns, noting that "military courts and State security courts have jurisdiction to try civilians accused of terrorism although there are no guarantees of those courts' independence and their decisions are not subject to appeal before a higher court (Article 14 of the Covenant)."<sup>18</sup>

The military's powers to arrest, detain and try civilians are set out in several different laws.

## CODE OF MILITARY JUSTICE

The Code of Military Justice (Law No. 25 of 1966, as amended) is the principle law used to refer civilians to the military judiciary. The army's power to do so under the law is regulated by several key provisions, including:

- Article 5, which provides that military will have jurisdiction over people who commit crimes against army facilities or equipment. Amendments introduced in 2010 also allow the referral of certain crimes of the Penal Code for trial in military courts (Article 5(d)). These crimes include internal and external security, corruption, embezzlement of public money, use of force, violence and threats against public officials to force them to do or prevent them from doing their duties, and stopping work in institutions of public interest. Article 5(c) allows the referral to military courts of crimes committed in specific border areas of the country.
- Article 6, which provides for the President to refer crimes to the military judiciary. The first applies if the crimes fall under certain sections of the Penal Code and "related crimes". The second allows the President to refer any crime under any law to military judiciary – provided that a state of emergency is in place.<sup>19</sup> In May 2012, Parliament voted to amend the Code of Military Justice to

strip the President of his power to transfer cases to military courts under Article 6. At time of writing, is unclear as to the extent to which this has been implemented.

- Article 48 allows the military judiciary to determine its own jurisdiction.

#### DECREE NO. 4991

Decree No. 4991 of 13 June 2012 gives Military Police and Intelligence Officers the powers of arrest and detention of civilians under a number of provisions of the Penal Code.<sup>20</sup> The offences covered include offences of state security, as well as offences often used to penalize peaceful protesters, including “obstructing traffic” and “thuggery”. The offences also include striking, as defined by the Penal Code.<sup>21</sup> At time of writing, this decree has reportedly been overturned by an administrative court. It is unclear to what extent the authorities will have the power to implement its provisions.

#### CONSTITUTIONAL DECLARATION AMENDMENTS

Under Article 53bis2 of the amended Constitutional Declaration, promulgated by the SCAF in June 2012, the President may issue a decree to engage the armed forces to police in situations of “unrest”.<sup>22</sup> In such a situation, it would fall to Egyptian law to delineate the powers and mandate of the armed forces. The law would similarly have to specify the armed forces’ jurisdiction and power to arrest and detain, as well as to use force. The law would further detail situations and cases involving “non-liability” for the armed forces.

Amnesty International is calling on President Morsi and his administration to:

- Abolish trials of civilians before military courts. Halt immediately all trials of civilians before military courts and either release them or transfer them to civilian courts for fair trial.
- Repeal or amend all legislation allowing for members of the armed forces to arrest, detain, investigate and try civilians, including the Code of Military Justice (Law No. 25 of 1966, as amended); Minister of Justice Decree No. 4991 of June 2012; Article 53bis2 of the Constitutional Declaration; and the Anti-Terrorism Law (Law No. 97 of 1992), which has been used as the legal basis for trials of civilians before military courts.

#### REFORM THE SECURITY FORCES

Amnesty International is calling for President Morsi and his administration to initiate a fundamental overhaul of all the security and law enforcement bodies. The organization has documented decades of abuses by the security forces, who have operated with virtual impunity. No member of the security apparatus should be allowed to act above the law.

Amnesty International is calling on President Morsi and his administration to:

#### ESTABLISH TRANSPARENCY AND OVERSIGHT OF THE SECURITY FORCES

- Make public a clear structure of the various security branches with a clear chain of command.
- Establish an oversight body which is able to hold the security forces, including members of the military, to account for abuses. Such a body should have an independent, effective, and impartial complaints mechanism which can deal with complaints about security forces’ misconduct and human rights violations. The independent security forces complaints mechanism should have independent investigation teams, to deal specifically with complaints against or involving the security forces.
- Establish a vetting system to ensure that, pending investigation, those reasonably suspected of serious human rights abuses do not remain, or are not placed in, positions where they could repeat such violations.

#### STRENGTHEN PROTECTION DURING DETENTION

- End immediately the use of incommunicado detention.
- Take steps to ensure officers carrying out arrests identify themselves to those arrested and notify them in writing of the reasons for the arrest, the authority ordering the arrest, and the place where they will be detained.

- Take steps to ensure that the families of those detained are informed promptly of the place of detention of their relatives, and any subsequent transfers to other places of detention, without delay.
- Take steps to ensure that all detainees are able to exercise their right to be examined by an independent doctor as soon as they are arrested and after each period of questioning; and monitoring the quality of medical reporting.
- Take steps to ensure that all detainees are brought before a judge within 24 hours of arrest.
- Take steps to ensure that all detainees can exercise their right to consult a lawyer of their choice in private, and to have a lawyer present during questioning and the making of statements, from the outset of detention and throughout the period in custody.

#### ENSURE USE OF FORCE MEETS INTERNATIONAL STANDARDS

- Make public, as a matter of urgency, clear instructions on the use of force – including the use of firearms – that strictly adhere to international law and standards, including the UN Code of Conduct for Law Enforcement Officials and the UN Basic Principles on the Use of Force and Firearms by Law Enforcement Officials.
- Open independent investigations into all cases where the security forces are reported to have used excessive force. Evidence of human rights abuses, including unlawful killings, must not be tampered with or destroyed. Investigations into killings must follow the methods set out in the UN Principles on the Effective Prevention and Investigation of Extra-legal, Arbitrary and Summary Executions. Ensure that the reports of such investigations are made public, and that those identified as responsible for human rights abuses are brought to justice in fair trials and without recourse to the death penalty.

#### COMBAT TORTURE AND OTHER ILL-TREATMENT

The hallmark of the rule of Hosni Mubarak was the widespread use of torture and other ill-treatment. Far from stopping after he was forced from office, the abhorrent practice has continued under the rule of the SCAF. Amnesty International has continued to document torture and other ill-treatment in Egypt under the rule of the SCAF. The organization is now calling on President Morsi to eliminate this endemic problem once and for all.

Torture is defined under Articles 126-132 of the Penal Code and falls far short of the internationally recognized definition of torture as set out in the CAT. The most severe penalties for torturers are up to 10 years' imprisonment for anyone "who ordered or committed torture to force an accused to make a confession" or, when the victim dies, to "the same sentence stated for intentional killing" (with the maximum punishment of the death penalty). Torture, including death threats, can be punished by imprisonment under other provisions, including Article 282 of the Penal Code. However, this only applies when the person tortured has been arrested unlawfully, as specified in Article 280 of the Penal Code, by someone purporting to be a police officer or wearing police uniform. Article 282 stipulates "Whoever arrests, confines or detains a person without an order from one of the concerned authorities, and in other than the cases wherein the law and statutes authorize the arrest of the suspects, shall be punished with the detention or a fine not exceeding two hundred pounds."

Egyptian law does contain some safeguards to protect detainees from torture and other ill-treatment. Article 36 of the Code of Criminal Procedure (CCP) stipulates that a detainee must be brought before a Public Prosecutor for questioning within 24 hours of arrest, after which the detention period can be extended or the detainee should be released. Article 40 of the CCP prohibits the "physical and moral harm" of detainees. In practice, however, these safeguards have proved inadequate to protect detainees from torture and other ill-treatment.

While the eradication of torture and other ill-treatment would require the restoration of the rule of law, immediate steps must be taken to show that torture and other ill-treatment will not be tolerated. Amnesty International is calling on President Morsi and his administration to:

- Publicly condemn torture and other ill-treatment; ensure that these practices cease; and make clear to all officers involved in arrest, detention and interrogation that torture and other ill-treatment will not be tolerated under any circumstances.



- Ensure there are investigations into all allegations of torture or other ill-treatment, in line with the Principles on the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, even when no official complaint has been made; bring all those responsible to justice; and provide adequate reparation to victims.
- Modify the definition of the crime of torture in Egyptian law to ensure it complies fully with the definition in Article 1(1) of the UN Convention against Torture. All forms of cruel, inhuman or degrading treatment or punishment should be explicitly prohibited. It should be made clear that the prohibition is absolute and must not be suspended under any circumstances, including during a state of war or other public emergency.
- Adopt a mechanism that provides for the mandatory conduct of independent, unrestricted and unannounced visits to all places of detention (which include confidential interviews with any detainees of the visiting body's choice), including any national security and military installations involved in counter-terrorism that have been identified as being used for detentions.<sup>23</sup>

## ENSURE ANTI-TERRORISM AND OTHER SECURITY-RELATED LEGISLATION DOES NOT FACILITATE ABUSE

The Anti-Terrorism Law (Law No. 97 of 1992) gives wide-reaching powers to the security forces and allows the authorities to restrict freedom of expression, association and assembly in the name of security. Along with the now-lapsed Emergency Law, it has facilitated human rights violations and the erosion of the rule of law.

The UN Human Rights Committee has stated that the law contravenes a number of rights enshrined in the ICCPR, in particular articles 6, 7, 9 and 15.<sup>24</sup> The Committee also stated that the “definition of terrorism contained in that law is so broad that it encompasses a wide range of acts of differing gravity”. It called on Egypt to review the law, especially those provisions that widened the scope of the death penalty.

Article 86 of the Egyptian Penal Code, as amended by Law No. 97 of 1992, defines the offence of “terrorism” to mean “any use of force or violence or any threat or intimidation to which the perpetrator resorts in order to carry out an individual or collective criminal plan aimed at disturbing the peace or jeopardizing the safety and security of society and which is of such nature as to harm or create fear in persons or imperil their lives, freedoms or security; harm the environment; damage or take possession of communications; prevent or impede the public authorities in the performance of their work; or thwart the application of the Constitution or of laws or regulations.”

Amnesty International is calling on President Morsi and his administration to:

- Ensure that Egypt's counter-terrorism legislation complies fully with international human rights law and standards, including the Anti-Terrorism Law (Law No. 97 of 1992) and the Penal Code.
- In particular, ensure that anti-terrorism legislation defines “acts of terrorism” clearly and in unambiguous terms, in a manner that does not impinge upon or criminalize acts that are consistent with the exercise of rights and freedoms guaranteed under international human rights law, including freedom of expression, association and peaceful assembly.

## END THE DEATH PENALTY

Amnesty International opposes the death penalty in all circumstances as the ultimate cruel, inhuman or degrading punishment and a violation of the right to life. The death penalty was used extensively under Hosni Mubarak, and was expanded under the rule of the SCAF.<sup>25</sup> In cases where people face the death penalty, international law requires scrupulous respect of the guarantees of fair trial.<sup>26</sup> In addition, international human rights standards specifically indicate that civilians should not be prosecuted before military courts and that military courts should not impose death sentences due to the severe shortcomings in guaranteeing fair trial standards.<sup>27</sup>

Pending the abolition of the death penalty, Amnesty International calls on President Morsi to:

- Impose an immediate moratorium on all executions.
- Commute all death sentences.

- Review the Penal Code in order to reduce the number of capital offences, with a view to working towards abolition of capital punishment.

## PROTECT THE INDEPENDENCE OF THE JUDICIARY

The President and the government retain the power to make judicial appointments. Under the Judicial Authority Law, the President directly appoints a number of high-ranking judicial authorities, including the Head of the Court of Cassation, the Head of the Supreme Constitutional Court and the Public Prosecutor.<sup>28</sup> Under Article 9 of the law, the Minister of Justice also appoints the heads of Egypt's High Courts and has administrative supervision over courts.<sup>29</sup>

In July 2006 the UN Special Rapporteur on the independence of judges and lawyers expressed concern about the then-draft legislation regulating the judiciary. The Special Rapporteur noted that the law "fails to clearly address the separation between the prosecution and the executive power," and particularly criticised the lack of clear criteria for the selection and appointment of judges, and the absence of basic fair trial guarantees in the disciplinary procedures for judges.<sup>30</sup>

The independence and impartiality of the judiciary has come under threat during the rule of both Hosni Mubarak and the SCAF. Under Hosni Mubarak, the Emergency Law facilitated a parallel justice system of emergency and military courts which were not independent of the executive. In addition, the system of administrative detention allowed thousands to be held without charge or trial for years, seriously eroding the criminal justice system's capacity to uphold the rule of law. Under the SCAF, military courts have been vastly expanded, trying thousands of civilians in unfair trials without effective recourse to appeal. In the past, disciplinary measures have been brought against judges who have challenged the authorities.

Independence of the judiciary is a fundamental pre-condition for full respect for human rights, both because it is expressly required as an aspect of fair trial rights, for instance under Article 14 of the ICCPR, and because the judiciary is expected to play a crucial role in securing and enforcing respect for human rights, and its independence must be guaranteed if it is to fulfil this role effectively.<sup>31</sup>

Article 14 of the ICCPR provides that, "In the determination of any criminal charge against him, or of his rights and obligations in a suit at law, everyone shall be entitled to a fair and public hearing by a competent, **independent** and impartial tribunal established by law" [emphasis added]. The Human Rights Committee has explained that:

*The requirement of competence, independence and impartiality of a tribunal in the sense of article 14, paragraph 1, is an absolute right that is not subject to any exception. The requirement of independence refers, in particular, to the procedure and qualifications for the appointment of judges, and guarantees relating to their security of tenure until a mandatory retirement age or the expiry of their term of office, where such exist, the conditions governing promotion, transfer, suspension and cessation of their functions, and the actual independence of the judiciary from political interference by the executive branch and legislature. States should take specific measures guaranteeing the independence of the judiciary, protecting judges from any form of political influence in their decision-making through the constitution or adoption of laws establishing clear procedures and objective criteria for the appointment, remuneration, tenure, promotion, suspension and dismissal of the members of the judiciary and disciplinary sanctions taken against them.*<sup>32</sup>

It has further elaborated that:

*A situation where the functions and competencies of the judiciary and the executive are not clearly distinguishable or where the latter is able to control or direct the former is incompatible with the notion of an independent tribunal. It is necessary to protect judges against conflicts of interest and intimidation. In order to safeguard their independence, the status of judges, including their term of office, their independence, security, adequate remuneration, conditions of service, pensions and the age of retirement shall be adequately secured by law. ... Judges may be dismissed only on serious grounds of misconduct or incompetence, in accordance with fair procedures ensuring objectivity and impartiality set out in the constitution or the law.*<sup>33</sup>

An independent and impartial judiciary is also recognised to be an important safeguard against torture and other ill-treatment of prisoners, as required by the UN Convention against Torture.<sup>34</sup>

Amnesty International is calling on President Morsi and his administration to:

- Take steps to ensure that the judiciary is fully independent from the executive;
- Ensure that legislation regulating the judiciary contains clear and fair procedures and objective criteria for the appointment, remuneration, tenure, promotion, suspension and dismissal of the members of the judiciary and disciplinary sanctions taken against them that comply with the requirements of the ICCPR, as explained by the Human Rights Committee;
- Ensure that judges' terms of office are specified, and that they are afforded independence and security of tenure;
- Provide for a process whereby adequate judicial remuneration, conditions of service, pensions and age of retirement are determined by a body and process that is itself independent of the executive; and
- Ensure that legislation regulating the judiciary includes provisions whereby judges are appointed based on ability, training and qualifications with no discrimination, including on the grounds of race, colour, sex, religion, political or other opinion, national or social origin, property, birth or status.

## UPHOLD FREEDOM OF EXPRESSION

Amnesty International is urging President Morsi to end restrictions on the right to freedom of expression in Egypt. The right to freedom of expression is guaranteed in Article 19 of the ICCPR.

Egypt's Penal Code contains a number of provisions which restrict the peaceful exercise of the right to freedom of expression. In practice, they have allowed the imprisonment of journalists and others for vaguely defined offences, such as harming "national interest" or "social peace". Under Hosni Mubarak, the authorities would also use provisions in the Penal Code to prosecute journalists for reporting on the health of the President, and other matters considered to be "red lines".

Under both Hosni Mubarak and the SCAF, editions of newspapers containing material that the authorities deem to be politically sensitive have been confiscated or amended.<sup>35</sup> Television broadcasters have been intimidated, subjected to bureaucratic restrictions, and at times even raided.

Under the SCAF, it has been common for journalists, human rights activists and others who have publicly criticised the military council in print, on television or on-line to be summonsed by military prosecutors. Scores of Egyptians have been summonsed to appear before military prosecutors, following their public criticism of the armed forces on-line, on television or in print. Among those summonsed have been political and human rights activists, bloggers, candidates for public office, and broadcasters and journalists. Some have been let go after questioning. Others have faced charges and the threat of unfair trials before military courts.<sup>36</sup>

## END CRIMINAL DEFAMATION CHARGES

Under Hosni Mubarak, criminal defamation charges were often used to suppress those who voiced criticism of public figures or policies.<sup>37</sup> The Press Code (Law 96 of 1996, as amended) maintains prison sentences and fines for anyone who criticises the conduct of a public person. The practice has continued under the SCAF.

The use of criminal defamation charges in Egypt has been criticised by the UN Working Group on Arbitrary Detention, in its ruling on an Egyptian blogger in November 2008. The WGAD said that charges related to defamation, libel and slander should be dealt with by the Egyptian authorities under civil, not criminal, law, and that there should not be prison sentences for such charges. The WGAD stated: "The fundamental right to freedom of opinion and expression, which is the core basis of the human rights system, must prevail when it implies political criticism, even when this criticism is focused in the activities of some concrete persons who have assumed high political responsibilities."<sup>38</sup>

## REPEAL LEGISLATION ON 'CONTEMPT OF RELIGION'

Amnesty International is also concerned at a provision in the Penal Code which outlaws "contempt of religion". Article 98(f) of the Penal Code stipulates imprisonment of between six months to five years for "exploiting religion... for extremist ideas with the aim of provoking a conflict or of showing scorn or contempt for one of the divinely revealed religions... or harming national unity or social peace".

Historically, this provision has been used to prosecute members of religious minorities, including Shi'a, Qoranis,<sup>39</sup> and Ahmadis,<sup>40</sup> and people who have peacefully expressed views critical of religion. Under the rule of the SCAF, Amnesty International has documented an increasing use of this article to suppress freedom of expression. Where individuals have been imprisoned solely because they peacefully exercised their right to freedom of expression, Amnesty International considers them to be prisoners of conscience, and calls for their immediate and unconditional release.

Amnesty International is calling on President Morsi and his administration to:

- Ensure the Egyptian authorities uphold the right to freedom of expression, including by protecting the freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers and through any media; and by refraining from imposing undue restrictions on internet and mobile telecommunications services.
- Repeal or amend, with a view to bringing into conformity with international law, the provisions of the Penal Code that infringe freedom of expression, in particular articles 80(d), 98bis(b), 98(f), 102, 102bis, 171, 178, 179, 181, 188, 201 and 308; as well as Law 96 of 1996.

## UPHOLD FREEDOM OF ASSOCIATION

Under Hosni Mubarak and the SCAF, the Egyptian authorities have restricted the right to freedom of association. The authorities have especially targeted human rights organizations. The right to freedom of association is enshrined in Article 22 of the ICCPR. In practice, the authorities use strict legislation on registration, regulation and foreign funding to restrict the activities of civil society. Under Hosni Mubarak, the law was often used to suppress Egyptian human rights organizations. Under the SCAF, the Egyptian authorities have also targeted international organizations (see below).

### THE NGO LAW

The Law on Associations (Law 84 of 2002) gives the Ministry of Insurance and Social Solidarity wide-ranging powers over non-governmental organizations (NGOs). Under the law, human rights groups have faced restrictions in registering their organizations, arbitrary restrictions on funding, and the constant threat of prosecution and administrative dissolution. The broad list of prohibited activities set out by the law under Article 11 is often used by the authorities to justify such restrictions.<sup>41</sup>

Egyptian human rights organizations seeking to register under Law 84 of 2002 have often been refused on the vague grounds that their activities would breach Article 11. However, once an organization is registered, the Ministry of Insurance and Social Solidarity has wide-ranging powers over it, and its activities are effectively regulated by and subject to the Ministry's oversight. The Ministry can block funding, approve board nominees (Article 34), and has broad powers to dissolve organizations if they are found to have received funding without official permission or to have violated "public order or morality" (Article 42).<sup>42</sup> Amnesty International has documented several instances where the law's restrictions have been used to target Egyptian human rights organizations, either through refusing to register them, threatening them with funding reviews, or taking steps to close them down.

The Egyptian authorities have also used the law to restrict the activities of international organizations.<sup>43</sup> In practice, the authorities have simply ignored the applications of such organizations to work in Egypt, or have never formally accepted them. This has effectively forced these organizations to operate in a legal limbo, without official approval but also without any official rejection of their application.

The United Nations Human Rights Committee has specifically commented on the ways in which legislation regulating associations in Egypt has violated the right to freedom of association. In 2002 the Committee called on Egypt to "review its legislation and practice in order to enable non-governmental organizations to discharge their functions without impediments which are inconsistent with the provisions of article 22 of the Covenant, such as prior authorization, funding controls and

administrative dissolution.”<sup>44</sup> The strict regulations on NGOs in Egypt under the current legislation have also been criticized by a number of UN treaty bodies over the last decade, including by the Committee on the Rights of the Child (2011);<sup>45</sup> the Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families (2007);<sup>46</sup> and the Committee against Torture (2002).<sup>47</sup>

On 1 June 2012, Amnesty International addressed a memorandum to the Human Rights Committee of the People’s Assembly. The memorandum raised concerns about draft legislation to replace Law 84 of 2002. In particular, Amnesty International raised concerns that the activities prohibited by the draft law were overly broad and, in practice, would retain the Minister of Insurance and Social Solidarity powers to arbitrarily reject NGOs’ registration and block their funding. The organization called on the People’s Assembly to ensure that any new NGO law upheld the right to freedom of association.

#### INVESTIGATION AND TRIAL OF NGOS

Amnesty International is also concerned about an ongoing investigation into the registration and funding of Egyptian human rights organizations and international non-governmental organizations. The investigation, ordered by the Minister of Justice in July last year, has reportedly identified Egyptian human rights organizations working on issues such as torture, housing rights and judicial independence.<sup>48</sup> The investigation led to prosecutors launching raids in December on the offices of five international organizations and two Egyptian human rights organizations.<sup>49</sup> The judges leading the investigation then referred to trial 43 staff members of the international organizations, charged with breaching Egyptian law on registration and foreign funding. The judges also stated that Egyptian human rights organizations were still under investigation.<sup>50</sup>

The charges against the 43 are based on Egypt’s Penal Code, articles 98(c1), which prohibits branches of international NGOs from operating in Egypt without a license from the government; 98(d), which prohibits individuals from receiving money from abroad in relation to the first article; and 98(e), which allows the courts to seize the assets of international organizations which have been operating illegally. Those found guilty face up to five years in prison and a fine of up to one thousand Egyptian pounds (US\$165).

The ongoing investigation and trial has raised serious questions about the Egyptian authorities’ commitment to protect freedom of association. While the charges are based on the organizations’ registration and foreign funding in Egypt, all of the international organizations have outstanding requests for registration or agreements with the Ministry of Foreign Affairs. All of the organizations have also informed the authorities of their activities in Egypt.

Civil society organizations have played a vital role in the years in documenting abuses of power and human rights violations in Egypt, often at great peril. The vital role civil society has played should be recognized and independent civil society celebrated. In this regard, Amnesty International, which has been independently and impartially documenting human rights violations in Egypt for decades, as well as providing capacity-building in the field of human rights to civil society organizations, will be preparing a formal request for official registration, with the hope that its application will be expedited.

Amnesty International is calling on President Morsi and his administration to:

- As an immediate measure, independent civil society organizations who have faced repression and obstruction on the part of the authorities, limiting their ability to fulfil their vital role in documenting human rights violations, should not be prevented from registering under legislation which fully respects international law and standards, should they wish to do so.
- Ensure Egyptian legislation regulating NGOs is in line with international law and standards, including Articles 19 and 22 of the ICCPR, and the Declaration on human rights defenders.
- In particular, ensure that the legislation guarantees that, in line with the 2002 concluding observations of the UN Human Rights Committee, non-governmental organizations are able to carry out their activities without impediments which are inconsistent with the provisions of Article 22 of the ICCPR, such as prior authorization, funding controls and administrative dissolution.

- In line with the recommendations of the UN Special Rapporteur on the situation of human rights defenders, ensure that persons forming associations are not required to register the association unless they wish to enjoy the benefits of a separate legal personality for the association.<sup>51</sup>

## END DISCRIMINATION IN LAW AND PRACTICE

### END DISCRIMINATION AGAINST WOMEN

Amnesty International is concerned at the continuing discrimination against women in law and practice. Women have stood alongside men both during and after the uprising to demand their human rights, and to call for reform. However, they have been marginalized in the political process. This has translated as no women being appointed to the Constitutional Committee, and a drop in the number of women elected to Parliament after the legislative elections. Today in Egypt, virtually no women are in high-ranking and decision-making positions. Women have largely been excluded from the Egyptian Cabinet. No woman has ever been appointed as governor. Women have also been discriminated against in the judiciary.<sup>52</sup> Amnesty International welcomes reports that the President is considering nominating a woman Vice-president, yet much more is needed.<sup>53</sup>

Women and girls in Egypt face a wide range of discriminatory provisions and practices:<sup>54</sup>

- The Egyptian Penal Code does not adequately protect women from domestic violence, including marital rape. It also allows for leniency towards men who commit murder in the name of “honour”.
- Sexual harassment of women is common. Women are often reluctant to report it because of social attitudes and pressures, and those who do receive little support from police officers and judiciary.
- Articles 260-263 of the Penal Code criminalize abortions in all cases, including for survivors of rape and incest, and when pregnancies threaten a woman’s health.
- Female genital mutilation is still widely practiced, especially in rural areas, and the law continues to permit such procedures for “medical necessity”. The authorities still struggle to fully and effectively implement the prohibition of female genital mutilation, including through Law No. 126 of 2008, as well to prosecute and adequately punish the perpetrators.
- The Personal Status Law discriminates against women in marriage, divorce and custody rights. A woman is required to be obedient to her husband by law. Men can divorce their wives by repudiation, while women must go to court and ask for a divorce. Although divorced women now have longer custody of their children, they often do not receive alimony from their former husbands.
- Women, regardless of their religion, are only entitled to half the inheritance of men when both have the same relationship to the deceased, as decreed in the Inheritance Act 77/19 43. In practice, many women, especially in rural areas, do not claim any of their inheritance.
- Egyptian women cannot pass their nationality to non-Egyptian spouses. Women married to Palestinian men had to wait until May 2011 to be allowed to pass their nationality to their children.
- Women continue to face discrimination in the work place in terms of pay and position. The vast majority of women working in the informal sector are not protected by the Labour Law.

In February 2010, the Committee on the Elimination of Discrimination against Women raised a number of concerns about the situation facing women. The Committee noted a series of discriminatory provisions in the Family Status Code and the Penal Code, and urged Egypt to give priority to reform in those areas.<sup>55</sup> The Committee also noted the inadequate protection, or even knowledge, of women’s rights in Egypt generally and in the judiciary in particular, and called upon Egypt to remedy this to ensure women have equal and effective access to justice.<sup>56</sup>

### WOMEN’S RIGHT TO PARTICIPATE IN PUBLIC LIFE

While Hosni Mubarak and his wife trumpeted women’s rights, in practice they did little to address the deeply-seated discrimination affecting Egyptian women in law and practice. The SCAF have also done little to promote or protect the rights of women, or to ensure their participation in the political process. In July 2011, the SCAF removed the quota system for women in the election law, ruling instead that each political party must include at least one woman on its candidate list. However, there was no requirement for women to be placed high on the lists, limiting their chance of standing successfully. As a result, only a handful of women were directly elected in the parliamentary elections.

Political parties in Egypt have also been reluctant to commit to upholding women's rights. Ahead of parliamentary elections in November 2011, Amnesty International published a Human Rights Manifesto for Egypt, which included a pledge to protect women's rights. Amnesty International wrote to 54 political parties and sought meetings with 15 key parties, nine of whom signed up to the manifesto, either in its entirety or to some of the pledges. Three others gave oral feedback. While parties were happy to sign many of the pledges, in practice many objected to signing to fully protect women's rights. The Freedom and Justice Party was one of three parties not to respond substantively, despite considerable efforts by Amnesty International to seek its views.<sup>57</sup>

### **TARGETING OF WOMEN PROTESTERS**

The armed forces have also targeted women protesters on a number of occasions, apparently on the basis of their gender. One of the most egregious examples was the forced "virginity tests" on 17 women protesters by army personnel on 9 March 2011. To date, no one has been brought to justice for the "virginity tests" and in March 2012 a military court dismissed a case brought by one of the women.<sup>58</sup>

Protesters calling for women's rights and for an end to sexual harassment have also been targeted on a number of occasions by groups of men in plain clothes, most recently in June 2012.<sup>59</sup> Using sexual harassment and assault against women protesters is a tactic that was frequently used under Hosni Mubarak. In 2005, groups of men were reportedly hired to attack women journalists taking part in a protest calling for the boycott of the referendum on constitutional reform.

Amnesty International is calling for President Morsi and his administration to:

- Introduce legal provisions to combat domestic violence, including marital rape, and sexual harassment, in compliance with Egypt's obligations under international human rights law.
- Publicly condemn all forms of sexual harassment.
- Implement the February 2010 recommendation of the Committee on the Elimination of Discrimination against Women, which calls on the Egyptian authorities to take the necessary measures to secure the participation of women in the various phases of the electoral process.
- Comprehensively review existing and proposed legislation on personal status, ensuring that women and men have equal rights to marriage, divorce, the custody of children and inheritance, in line with Egypt's obligations under the Convention on the Elimination of All Forms of Discrimination against Women.
- Amend Articles 260-263 of the Penal Code to allow abortion for women and girl survivors of rape and incest, or when a pregnancy poses a grave risk to the health of the woman or girl.
- Amend Law No. 126 of 2008 to prohibit female genital mutilation in all cases.

### **RELIGIOUS MINORITIES**

Amnesty International is concerned that religious minorities continue to face discrimination in law and practice. In particular, Coptic Christians, Egypt's largest religious minority, continue to be under-represented in appointments to high public offices and key security positions. Amnesty International welcomes the reported announcement that a Coptic Christian will be appointed as a Vice-president.

Coptic Christians have also raised concerns that the authorities have not done enough to protect them from sectarian attacks. Under Hosni Mubarak, Egypt saw at least 15 major attacks on Copts.<sup>60</sup> Under the SCAF, there have also been a series of major attacks on churches and/or incidents of sectarian violence between Muslims and Copts.<sup>61</sup> The authorities have often favoured "reconciliation" over the prosecution of offenders as a way to address sectarian violence. Under Hosni Mubarak, conflicts between Copts and Muslims were treated as national security issues and dealt with by the now-dissolved SSI service, rather than the General Security Investigations, which usually deals with common law crimes, such as assault, theft or fights. Following clashes, the SSI would often arrest equal numbers of Muslims and Copts, accuse them of involvement in the violence, and present them before the Public Prosecution. After a couple of weeks in detention, the families would be forced to "reconcile" in order to secure the release of those detained.

In addition, both Hosni Mubarak and the SCAF failed to end discriminatory practices preventing Copts from building houses of worship or restoring existing ones. Churches have been closed or destroyed because the authorities alleged that the communities did not have the right permission to build or renew them. Presidential Decree 291/2005 makes repair or expansion of Christian churches subject to a permit from the regional governor. In some cases, this has reportedly been used by the local authorities to delay or impede the construction or repair of churches.

Amnesty International is calling on President Morsi and his administration to:

- Review, amend or abolish all laws that discriminate on the basis of race; colour; religion; ethnicity; birth; sex; sexual orientation; gender identity; political or other opinion; national or social origin; property; or other status.
- Change all laws and practices that discriminate against religious or ethnic minorities to ensure that they uphold Article 18 of the ICCPR, which guarantees freedom of thought, conscience and religion. Such laws include Presidential Decree 291/2005 and Article 98(f) of the Penal Code, which criminalizes the exploitation of religion to “disturb national peace”.

### FULLY REALIZE ECONOMIC, SOCIAL AND CULTURAL RIGHTS

The Egyptian authorities face considerable social and economic challenges. Around 40 per cent of the country’s 80 million people live on or near the internationally accepted poverty line of US\$2 a day.<sup>62</sup> However, Amnesty International is urging President Morsi to commit to fully realizing Egypt’s obligations under ICESCR, including to:

- Ensure, for the whole population, minimum essential levels of economic, social and cultural rights, such as the rights to food, water, sanitation, health care and housing and, where necessary, seek international co-operation and assistance to do so.
- Review national laws and institutions to ensure that effective remedies are available to all victims of violations of economic, social and cultural rights.

In this respect, Amnesty International is calling on President Morsi and his administration to take a number of concrete steps towards realizing economic, social and cultural rights, including in respect of the right to adequate housing and worker’s rights.

### END FORCED EVICTIONS

Official numbers vary but an estimated 12.2 million people live in 870 informal settlements across Egypt, over half of them in 156 settlements in the Greater Cairo region.<sup>63</sup> The Informal Settlements Development Facility (ISDF) has estimated that 850,000 people live in 404 “unsafe” areas.<sup>64</sup> Amnesty International is concerned that the authorities’ plans for Egypt’s informal settlements are being developed and implemented in ways that fail to respect the human rights of residents.<sup>65</sup> The organization is also concerned at the continuing forced evictions of slum-dwellers, a practice which is illegal under international law.

The Egyptian authorities are continuing to stage forced evictions of residents of informal settlements.<sup>66</sup> Forced evictions have not stopped under the rule of the SCAF. Residents have neither been consulted before eviction nor provided with adequate notice. The forced evictions have also resulted in dozens of families being made homeless.

Under international human rights law, evictions should only be carried out as a last resort and after all feasible alternatives have been explored in genuine consultation with affected communities. This, along with broader obligations to realise the right to adequate housing, requires the government to explore solutions to improve housing and living conditions. In practice, the authorities have failed to consult residents on resettlement options, to provide them with information on the authorities’ plans, or to respect other procedural guarantees while carrying out evictions. As such, the evictions are unlawful under international law.



As a state party to both the ICESCR and the ICCPR, the Egyptian government must end forced evictions. According to the UN Committee on Economic and Social and Cultural Rights, evictions can only be carried out when appropriate procedural protections are in place. These include an opportunity for genuine consultation with those affected; adequate and reasonable notice for affected people prior to the eviction; provision of legal remedies; and provision, where possible, of legal aid to people who are in need of it to seek redress from the courts. The Committee has stressed that evictions should not result in people becoming homeless.

The residents of “unsafe areas” have also not been consulted over official plans devised by governorates in co-operation with the ISDF, including in terms of alternatives to eviction, and alternative housing options. Residents have also not been provided with adequate eviction notice and legal means to challenge it. Proposed alternative housing has not met international standards on adequacy of housing, particularly in terms of location of the resettlement sites that are far from sources of livelihood in new urban cities.

Amnesty International has also expressed concerns about the authorities’ Strategic Vision for Greater Cairo in 2050 (Cairo 2050 plan).<sup>67</sup> The plan may lead to forced evictions on a large scale, especially because communities living in “unsafe areas” and elsewhere in informal settlements have not been consulted.<sup>68</sup>

Amnesty International is calling on President Morsi and his administration to:

- Immediately order an end to all forced evictions and enforce a clear prohibition on forced evictions.
- Ensure that no evictions, including from state-owned land, are carried out until the procedural protections required under international human rights law are in place in national law and adhered to.
- Develop a comprehensive plan, consistent with Egypt’s obligations under international human rights law, to address the inadequate housing conditions of people living in informal settlements, prioritizing those situations where there are threats to the life and health of residents.
- Make public the plans for the Cairo 2050 development project, and ensure the active participation of, and genuine consultation, with the affected communities in developing and implementing the plans.

## UPHOLD WORKERS’ RIGHTS

### ESTABLISH A SYSTEM TO GUARANTEE A FAIR MINIMUM WAGE

Under Hosni Mubarak and the SCAF, Egyptian workers staged thousands of protests, strikes and sit-ins have been staged in both the public and private sectors, protesting the rising cost of living and demanding better wages and working conditions.

Article 23 of the 1971 Egyptian Constitution stated that a minimum and a maximum wage should be fixed in order to ensure less disparity in income. In the 2011-2012 budget, the authorities set the minimum wage at around LE700 a month (US\$115).<sup>69</sup> Following a decision by the authorities in late 2011, both the private and public sectors have the same minimum wage.<sup>70</sup> However, Egyptian workers’ rights advocates have criticized the current minimum wage as insufficient, calling for it to be raised immediately to LE1,200 a month (US\$198).<sup>71</sup>

Article 7 of the ICESCR stipulates that states must ensure that all workers get, as a minimum, a fair wage. Egypt is a party to the C131 Minimum Wage Fixing Convention which requires states to establish a system of minimum wages.<sup>72</sup> The Committee on Economic, Social and Cultural Rights (CESCR) has repeatedly called on governments to ensure that minimum wages enable workers and their families to enjoy adequate standards of living.

### TRADE UNIONS

Under Article 8 of the ICESCR, the Egyptian authorities are obliged to uphold the right to form and join trade unions.

Under previous administrations, the right to form trade unions was curtailed. In 1957 the Egyptian authorities designated the Egyptian Trade Union Federation (ETUF) as the sole trade union structure in the country and restricted freedom of association by forbidding workers to organize and form unions outside the general labour unions affiliated to the ETUF. In the decades that followed, the ETUF, and labour unions affiliated to it, were criticized for their close links to the authorities. The ETUF's board, elected in widely-criticized elections under Hosni Mubarak, was finally dissolved by the authorities in August 2011.<sup>73</sup>

Since the “25 January Revolution”, new trade unions have emerged, independent of the ETUF. This has included at the national level, with the rise of the Egyptian Federation of Independent Trade Unions (EFITU). In March 2011, the Minister of Manpower announced the “full autonomy and independence of all trade unions, away from the supervision of the competent authority (the Ministry of Manpower and Migration)”.<sup>74</sup> However, the law regulating trade union activity (Law No. 35/1976) has remained in force. The authorities are reportedly considering new legislation to replace the current legislation, but to date no law has been issued.

### LAWS ON STRIKING

Amnesty International is concerned at provisions in Egyptian law which arbitrarily restrict and criminalize striking. Article 124 and 124bis of the Penal Code punish with imprisonment and/or a fine employees who go on strike or call for such a strike. According to Article 192 of the Labour Law, the right to strike is subject to approval by a two-thirds majority of the general union's executive committee. Article 194 bans strikes or calls for strikes where the interruption of work at the workplace “threatens national security or basic services to citizens”.

On 12 April, the SCAF decreed Law 34 of 2011, which provides for imprisonment and/or a fine for whomever, during a state of emergency, “stages a sit-in or takes action that prevents or delays or obstructs from working any state institution or public authority or a public or private workplace”. While the state of emergency has since lapsed, Amnesty International remains concerned that it could be applied in the event that a future state of emergency is announced.

The legislation breaches Egypt's international obligations to uphold the right to strike under Article 8 of the ICESCR. The Committee on Economic, Social and Cultural Rights, in its Concluding Observations on Egypt (2000), has expressed concern over workers' rights in Egypt, commenting about “the uncertainty of workers' rights as guaranteed under article 8 of the Covenant. In particular, the Committee notes with concern that in spite of the State Security Court's conclusion that the Penal Code should be amended to allow the right to strike, article 124 of the Penal Code continues to characterize strikes as criminal offences. In this regard, the Committee further expresses its concern about the new proposed labour law that reportedly contains provisions infringing upon the rights of workers, such as barring labour committees from negotiating collectively on behalf of workers and denying workers the right to strike without the approval of two thirds of a trade union's membership.”<sup>75</sup>

Amnesty International is calling on President Morsi and his administration to:

- Set up and enforce a system to ensure a fair minimum wage so that all workers and their families are guaranteed decent living conditions.
- Ensure that workers are able to establish in practice trade unions that can represent them, negotiate on their behalf or allow them to bargain collectively.
- Repeal or amend Law 34 of 2011 on striking, as well as Article 124 and 124bis of the Penal Code and Article 192 of the Labour Law, to bring them into line with international law and standards, including the International Labour Organization (ILO) principles concerning the right to strike.<sup>76</sup>

### PROTECT REFUGEES, ASYLUM-SEEKERS AND MIGRANTS

Amnesty International is concerned at continuing abuses faced by refugees, asylum-seekers and migrants in Egypt. These include arbitrary arrest and detention, as well as the forcible return of foreign nationals to countries where they would be at serious risk of human rights violations. Egyptian border security forces have also used excessive, lethal force against foreign nationals. Egypt is party to both the UN Convention Relating to the Status of Refugees, its 1967 Protocol, and the 1969 Convention

Governing the Specific Aspects of Refugee Problems in Africa. These treaties require Egypt to provide international protection to refugees, and, in particular, to refrain from acts of *refoulement*.

According to a 1954 Memorandum of Understanding between Egypt and United Nations High Commissioner for Refugees (UNHCR), the Egyptian authorities are obliged to grant asylum-seekers access to the UNHCR and respect its determination of individuals as refugees. However, in practice the Egyptian authorities have often hindered UNHCR's work by denying its representatives access to individuals whose entitlement to international protection it is mandated to UNHCR to determine, or by delaying or limiting such access.

Under Hosni Mubarak and the SCAF, Amnesty International has documented multiple instances of forcible returns, in violation of the principle of *non-refoulement*. Single individuals and groups of foreign nationals, including asylum-seekers, have been forcibly returned to countries where they faced a real risk of serious human rights violations.<sup>77</sup>

Amnesty International is calling on President Morsi and his administration to:

- Ensure border guards and all other law enforcement officials are instructed that they may only use force, including lethal force, in accordance with the strict limitations imposed by relevant international human rights standards, and that they are not deployed into situations in which they may be required to use force until they have been adequately trained in such standards.
- Respect Egypt's international obligations, including *inter alia*, under the 1951 Convention Relating to the Status of Refugees and the UN Convention against Torture, not to forcibly return people to countries where they face a real risk of egregious human rights violations.
- Ensure that all asylum-seekers are given immediate access to UNHCR in Egypt to assess their asylum claims and that any refugee and asylum-seeker in detention is given prompt access to a procedure by which they can challenge the lawfulness of their detention and their removal in the case of those at risk of being forcibly returned.
- Stop detaining refugees and asylum-seekers purely because of their immigration status.
- Take all necessary measures to secure the safe release of trafficked people.
- Ensure that individuals who have been victims of people-trafficking are provided with medical, psychological, legal and other relevant forms of assistance and protection.
- Investigate and, where sufficient admissible evidence is gathered, prosecute those allegedly responsible for the crime of people-trafficking and try them in fair proceedings.

## **FUTURE: A COMMITMENT TO HUMAN RIGHTS FOR ALL**

### **EQUAL ABOVE THE LAW AND NONE ABOVE THE LAW**

Amnesty International welcomes the statement by President Morsi that he will be a President for all Egyptians. The organization is urging the President to uphold the principle of non-discrimination throughout his administration.

The general principle of non-discrimination is a cornerstone of international human rights law. It is enshrined in key human rights treaties to which Egypt is a state party, including the International Covenants on Civil and Political Rights and Economic, Social and Cultural Rights; the African Charter on Human and Peoples' Rights; as well as the Convention on the Elimination of all Forms of Discrimination against Women. The principle of non-discrimination is further detailed in specific provisions of these treaties, such as provisions guaranteeing equality before the law and the equality of spouses as to marriage, during marriage and at its dissolution.

Several United Nations human rights treaty monitoring bodies have explained the relationship between the rights to equality and non-discrimination. For example, the Committee on Economic, Social and Cultural Rights notes in its General Comment 16 on the right to equal enjoyment of rights between men and women that the rights to equality and non-discrimination are "integrally related and mutually reinforcing." The committee further notes that the elimination of discrimination [on all prohibited grounds] is fundamental to the enjoyment of [human] rights on a basis of equality."<sup>78</sup>

Both the International Covenant on Civil and Political Rights and the International Covenant on Economic Social and Cultural Rights contain a clause protecting the equal enjoyment of rights between men and women, as well as a broader provision prohibiting any discrimination in the enjoyment of the human rights recognised in the treaties on any grounds, including (but not limited to) “race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.”<sup>79</sup>

The ICCPR includes an even more general provision that “All persons are equal before the law and are entitled without any discrimination to the equal protection of the law” and that “the law shall prohibit any discrimination and guarantee to all persons equal and effective protection against discrimination on any ground such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.”<sup>80</sup> In this respect, both the Human Rights Committee and the Committee on Economic, Social and Cultural Rights have repeatedly affirmed that these provisions prohibit discrimination on grounds of sexual orientation.<sup>81</sup>

President Morsi and his administration have huge challenges ahead of them. Dismantling the repressive apparatus is a priority. Yet, a society where the rule of law prevails and the human rights are guaranteed requires building institutions based on the rule of law and respect for human rights. State institutions should not be a means for the executive to abuse power, but should serve the needs of all Egyptians, without discrimination.

Amnesty International is calling for President Morsi’s administration to be based on human rights and the rule of law, and to strive to meet the aspirations of all Egyptians for freedom, dignity, equality, and social justice for both themselves and the next generations. The administration must guarantee the rights of all Egyptians, not just the majority; indeed, the majority of today might become the minority of tomorrow. The law must be the ultimate guarantor of Egyptian’s protection against abuse.

Respect for the rule of law is essential for the enjoyment of human rights by all. This requires a system in which all institutions and persons are accountable to laws which are consistent with international human rights norms and standards, publicly promulgated, equally enforced, and independently adjudicated.

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<sup>1</sup> On 10 February 2011, Amnesty International presented a comprehensive set of recommendations for reform to the Egyptian authorities in a Human Rights Agenda for Change (Index: MDE 12/015/2011). This memorandum updates Amnesty International’s concerns, and expands on a number of the agenda’s original recommendations. The Human Rights Agenda for Change is available at: <http://www.amnesty.org/en/library/info/MDE12/015/2011>

<sup>2</sup> For an overview of Amnesty International’s concerns on the rule of Hosni Mubarak and the SCAF, see reports *Time for justice: Egypt’s corrosive system of detention* (Index: MDE 12/029/2011), 20 April 2011: <http://www.amnesty.org/en/library/info/MDE12/029/2011>; and *Broken promises: Egypt’s military rulers erode human rights* (Index: MDE 12/053/2011), 22 November 2011: <http://www.amnesty.org/en/library/info/MDE12/053/2011>

<sup>3</sup> See Amnesty International, “Egypt: Unrestrained army powers threat to human rights” (Index: PRE01/295/2012), 19 June 2012: <http://www.amnesty.org/zh-hant/node/32669>

<sup>4</sup> See list of instruments and reporting status at: <http://www.unhcr.ch/tbs/doc.nsf/NewhvVAIISPRByCountry?OpenView&Start=1&Count=250&Expand=54#54>

<sup>5</sup> See reporting status at: <http://www.achpr.org/states/>

<sup>6</sup> See list of outstanding requests at: <http://www2.ohchr.org/english/bodies/chr/special/countryvisits-a-e.htm>

<sup>7</sup> Egypt has ratified both Optional Protocols to the CRC: The Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict (CRC-OP-AC); and the Optional Protocol to the

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Convention on the Rights of the Child on the sale of children child prostitution and child pornography (CRC-OP-SC).

<sup>8</sup> See ACHPR list of ratifications available at: <http://www.achpr.org/states/egypt/ratifications/>

<sup>9</sup> See for example Amnesty International, "Conclusion", *Broken promises: Egypt's military rulers erode human rights* (Index: MDE 12/053/2011), 22 November 2011, pp50-51: <http://www.amnesty.org/en/library/info/MDE12/053/2011>

<sup>10</sup> For a full analysis of the "Fact-Finding National Commission about 25 January Revolution" see Amnesty International, "7. Time for remedy", *Egypt rises: Killings, detentions and torture in the '25 January Revolution'* (Index: MDE 12/027/2011), 19 May 2011: <http://www.amnesty.org/en/library/info/MDE12/027/2011>

<sup>11</sup> See Amnesty International, "Egypt: Mubarak verdict fails to deliver full justice", 2 June 2012: <http://www.amnesty.org/en/news/egypt-mubarak-2012-06-02>

<sup>12</sup> As required under the ICCPR and CAT; as well as under international standards such as the Principles on the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment; and Principles on the Effective Prevention and Investigation of Extra-legal, Arbitrary and Summary Executions. In addition, where incidents of abuse have been linked to firearms, the Basic Principles on the Use of Force and Firearms by Law Enforcement Officials state "...Governments and law enforcement agencies shall ensure that an effective review process is available and that independent administrative or prosecutorial authorities are in a position to exercise jurisdiction in appropriate circumstances. In cases of death and serious injury or other grave consequences, a detailed report shall be sent promptly to the competent authorities responsible for administrative review and judicial control." (22)

<sup>13</sup> See UN Doc: E/CN.4/2005/102/Add.1, 8 February 2005, and UN Commission on Human Rights Resolution 2005/81 on Impunity, 21 April 2005, paras20-22.

<sup>14</sup> Amnesty International considers the rule of law to be a fundamental principle, and has addressed similar recommendations to other countries following the uprisings in the Middle East and North Africa. See for example *Tunisia: Submission for consideration by the National Constituent Assembly on the guarantee of political, civil, economic, social and cultural rights in the new Constitution* (Index: MDE 30/004/2012), 12 April 2012: <http://www.amnesty.org/en/news/tunisia-constitution-must-stand-test-time-2012-04-12>

<sup>15</sup> In June, the Public Prosecutor reportedly gave instructions for cases that would have been tried by Emergency Courts to be heard instead by felony and misdemeanour courts. See *Al-Masry Al-Youm*, "Public prosecutor refers emergency law cases to civil courts", 11 June 2012: <http://www.egyptindependent.com/news/public-prosecutor-refers-emergency-law-cases-civil-courts>

<sup>16</sup> In 2009, the Special Rapporteur on terrorism and human rights, while welcoming the Egyptian authorities' reform to allow appeal by cassation, highlighted that only "a full review of the conviction and sentence, including of the factual basis of the verdict, is sufficient to reach compliance with article 14 (5) of the International Covenant [on Civil and Political Rights]". See *Report of the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism, Mission to Egypt* (UN Doc: A/HRC/13/37/Add.2), 14 October 2009, para33.

<sup>17</sup> UN Doc: CCPR/C/79/Add.23, para9, July 1993.

<sup>18</sup> UN Doc: CCPR/CO/76/EGY, para16(b), 28 November 2002.

<sup>19</sup> The first presidential decree was Decree 370 of 1992 based on Article 6(2) of the Code of Military Justice. See Amnesty International, *Egypt: Systematic abuses in the name of security* (Index: MDE 12/001/2007), 11 April 2007: <http://www.amnesty.org/en/library/info/MDE12/001/2007>

<sup>20</sup> Chapters 1, 2bis, 7, 12 and 13 of Book 2; and Chapters 15 and 16 of Book 3.

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<sup>21</sup> Article 124 and 124bis. See section on Worker's Rights.

<sup>22</sup> Under the amended Constitutional Declaration, the President's such a decree would be subject to the approval of the SCAF.

<sup>23</sup> Article 1bis of Law on Prison Regulations (Law No. 396 of 1956) states that "individuals deprived of their liberty can be detained in one of the places of detention previously specified in this law as well as in places defined by decree of the Minister of Interior...". In practice, this has led to detainees being held in state security detention centres and military camps, premises that, unlike other more regular detention facilities, are not liable to inspection by the Public Prosecutor or any other judicial authority as required by Article 42 of the Code of Criminal Procedures and Article 85 of the Law on Prison Regulations.

<sup>24</sup> UN Doc: CCPR/C/79/Add.23, 9 August 1993, para8. These Articles guarantee the right to life (Article 6), the right not to be subjected to torture or other ill-treatment (Article 7), the right not to be arbitrarily detained and deprived of liberty (Article 9), the legality of the offence (that is, the requirement to limit both criminal liability and punishment to clear and precise provisions in the law that existed and were applicable at the time when the offence was committed, except in cases where a later law imposes a lighter sentence) (Article 15).

<sup>25</sup> Prior to the SCAF's rule, Egyptian law already contained a large number of capital offences. In 2002, the Human Rights Committee expressed concern at the "very large number of offences which, under Egyptian law, are punishable by the death penalty," stating that certain offences were incompatible with the ICCPR, which states that capital punishment "may be imposed only for the most serious crimes" (Article 6, para2). See *Concluding observations of the Human Rights Committee: Egypt*. (UN Doc: CCPR/CO/76/EGY), 28 November 2002: <http://www.unhchr.ch/tbs/doc.nsf/%28Symbol%29/CCPR.CO.76.EGY.En?Opendocument>

<sup>26</sup> Human Rights Committee, *General Comment No. 32 on the right to equality before courts and tribunals and to a fair trial (Article 14)*, 2007, paras6 and 59

<sup>27</sup> *Safarmo Kurbanova v. Tajikistan, Views of the Human Rights Committee. Communication No. 1096/2002* (UN Doc: CCPR/C/79/D/1096/2002), 12 November 2003, paras7.6, 7.7., where the Committee noted an "absence of any information by the State party to justify a trial before a military court".

<sup>28</sup> The President's choice is typically limited to candidates with the requisite experience and seniority. The Head of the Court of Cassation also leads the Supreme Judicial Council, the body that oversees the nomination, appointment, placement and promotion of judges.

<sup>29</sup> Judicial Authority Law, Article 93. The appointments are made in conjunction with the Supreme Judicial Council.

<sup>30</sup> The law was a draft at the time of the statement but was promulgated soon afterwards. See Office of the High Commissioner for Human Rights, "Human rights expert concerned over law on the judiciary in Egypt", 14 July 2006: <http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=2854&LangID=E>

<sup>31</sup> See for instance, ICCPR articles 2(3)(b), 9(3) and (4); African Commission on Human and Peoples' Rights, 'Resolution on the Right to Recourse and Fair Trial' (Res 4(XI)92), 1992; and 'Principles and Guidelines on the Right to a Fair Trial and Legal Assistance in Africa' (DOC/OS(XXX)247), 2001, "Principle C [Right to an Effective Remedy]". See also Revised Arab Charter articles 12, 13 and 14(5) and (6).

<sup>32</sup> Human Rights Committee, *General Comment No. 32: 'Article 14: Right to equality before courts and tribunals and to a fair trial'* (UN Doc: CCPR/C/GC/32), 23 August 2007, para19 (emphasis added).

<sup>33</sup> Human Rights Committee, *General Comment No. 32: 'Article 14: Right to equality before courts and tribunals and to a fair trial'* (UN Doc: CCPR/C/GC/32), 23 August 2007, para19-20 (emphasis added).

<sup>34</sup> Committee against Torture, *General Comment No. 2: 'Implementation of article 2 by States parties'* (UN Doc: CAT/C/GC/2), 24 January 2008, para13.

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<sup>35</sup> See report, Amnesty International, *Egypt: "Shouting slogans into the wind": Human rights concerns ahead of the parliamentary elections* (Index: MDE 12/032/2010), 21 November 2010: <http://www.amnesty.org/en/library/info/MDE12/032/2010>

<sup>36</sup> See Amnesty International, "Freedom of expression threatened", *Broken promises: Egypt's military rulers erode human rights* (Index: MDE 12/053/2011), 22 November 2011, pp10-11: <http://www.amnesty.org/en/library/info/MDE12/053/2011>

<sup>37</sup> See for example Amnesty International, "Independent voices targeted", *Egypt: 'Shouting slogans into the wind': Human rights concerns ahead of the parliamentary elections* (Index: MDE 12/032/2010), 21 November 2010, p21: <http://www.amnesty.org/en/library/info/MDE12/032/2010>

<sup>38</sup> The full decision is available at: Amnesty International, *UN experts condemn detention of Egyptian blogger*, 23 April 2009: <http://www.amnesty.org/en/news-and-updates/un-experts-condemn-detention-egyptian-blogger-20090323>

<sup>39</sup> A Muslim group which relies almost exclusively on the Qur'an as authoritative for Islam, to the exclusion of the prophetic traditions (Hadith) and other sources of Islamic law.

<sup>40</sup> The Ahmadi Muslims believe in all of Islam's five pillars and other articles of faith in Islam, but differ from other Muslims in their belief in their founder, Hadhrat Mirza Ghulam Ahmad, as a Prophet within Islam, and consider that Jesus survived the attempted crucifixion. Ahmadi Muslims also believe in the continuation of divine revelation. This applies primarily to the Khalifas whose authority, they believe, derives from God.

<sup>41</sup> Article 11 prohibits "Threatening national unity, violating public order or morality or advocating discrimination against citizens, on account of sex, origin, colour, language, religion or creed." The article also prohibits the practice of "any political or trade union activity exclusively restricted to political parties and trade unions."

<sup>42</sup> In March 2012, the Ministry of Insurance and Social Affairs stated that it had blocked the requests of 20 organizations for 21 million Egyptian pounds in foreign funding since the "25 January Revolution", apparently because the requests were not in line with Law 84 of 2002. See *Al-Masry Al-Youm*, "Cairo refused LE21 million in foreign NGO funding since 25 January uprising", 23 March 2012: <http://www.egyptindependent.com/node/728576>

<sup>43</sup> The process for INGO registration is detailed in the Implementing Regulations of Law 84 of 2002 (No. 178 of 2002).

<sup>44</sup> See *Concluding observations of the Human Rights Committee: Egypt. 28/11/2002* (UN Doc: CCPR/CO/76/EGY), 28 November 2002, para21.

<sup>45</sup> See *Concluding observations: Egypt* (UN Doc: CRC/C/EGY/CO/3-4), 20 June 2011, paras31-32.

<sup>46</sup> See *Concluding observations of the Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families* (UN Doc: CMW/C/EGY/CO/1), 25 May 2007, para9.

<sup>47</sup> The Committee did not refer to specific legislation, but to "The legal and practical restrictions on the activities of non-governmental organizations engaged in human rights work". See *Conclusions and recommendations of the Committee against Torture: Egypt* (UN Doc: CAT/C/CR/29/4), 23 December 2002, para5(i).

<sup>48</sup> The findings of the investigation have been leaked to the Egyptian press. See for example See *El-Fagr*, "Official Report to the Prosecutor Uncovers Names and Amounts: 1.344 Billion Egyptian Pounds Given from the United States, Europe and the Gulf to Egyptian Organizations in the Last Four Months", 22 September 2011: <http://pomed.org/wordpress/wp-content/uploads/2011/09/El-Fager-article.pdf>

<sup>49</sup> On 29 December 2011, prosecutors raided the offices of five international NGOs, the US-based National Democratic Institute (NDI), International Republican Institute (IRI), Freedom House (FH) and International Centre

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for Journalists (ICFJ), as well as the German-based Konrad Adenauer Stiftung (KAS). The prosecutors also raided at least two Egyptian organizations, including the Arab Centre for the Independence of the Judiciary and Legal Profession (ACIJLP) and the Budgetary and Human Rights Observatory (BAHRO).

<sup>50</sup> In a press conference in February, one of the judges investigating the case said “This part of the probe is only related to the foreign NGOs, while the remaining local NGOs are [also] under investigation...” . As reported in *Daily News Egypt*, “Judge says NGOs were lawfully inspected, not 'raided'”, 8 February 2012: [www.thedailynewsegypt.com/judge-says-ngos-were-lawfully-inspected-not-raided.html](http://www.thedailynewsegypt.com/judge-says-ngos-were-lawfully-inspected-not-raided.html); and Al Jazeera, “Egypt PM defends action against NGO”, 9 February 2012: <http://www.aljazeera.com/news/middleeast/2012/02/201228163612204719.html>

<sup>51</sup> UN Special Rapporteur on the situation of human rights defenders, Report to the General Assembly (UN Doc: A/64/226), 4 August 2009.

<sup>52</sup> A law banning female judges was lifted in 2007 by the Special Council, the body governing the State Council. This was followed by the appointment of 31 female judges to family courts by presidential decrees. Until then, there had been only one female judge in the Supreme Constitutional Court, also appointed by presidential decree. In 2010, the Special Council voted to suspend hiring female graduates in entry-level judicial positions following renewed debates about female judges in the State Council’s General Assembly.

<sup>53</sup> As reported in *Guardian*, “Mohamed Morsi to pick woman and Christian as Egypt's vice-presidents”, 26 June 2012: <http://www.guardian.co.uk/world/2012/jun/26/mohamed-morsi-christian-woman-egypt>

<sup>54</sup> See also Amnesty International, *Women demand equality in shaping new Egypt* (Index: MDE 12/050/2011), 31 October 2011: <http://www.amnesty.org/en/library/info/MDE12/050/2011>

<sup>55</sup> Committee on the Elimination of Discrimination against Women, “Concluding Observations of the Committee: Egypt”, CEDAW/C/EGY/CO/7, 5 February 2010, para16.

<sup>56</sup> *Ibid*, para20.

<sup>57</sup> For a breakdown of responses by party, see Amnesty International, *Egypt: Parties pledge to end state of emergency, many stop short of committing to women's rights*, 24 January 2012: <http://www.amnesty.org/en/news/egypt-parties-pledge-end-state-emergency-many-stop-short-committing-women-s-rights-2012-01-24>

<sup>58</sup> In June 2011, during a meeting with Amnesty International’s Secretary General, Major General Abdel Fattah al-Sisi of the Supreme Council of the Armed Forces admitted that “virginity tests” had been conducted on women detainees in March, and pledged that they would not happen again. The general also noted that women seeking to work for the army were required to undertake “virginity tests”. An administrative court in Egypt ruled in December 2011 that the forced “virginity tests” carried out on women in March 2011 were illegal and ordered that they be stopped. The court ruling cited Amnesty International’s meeting with al-Sisi.

<sup>59</sup> See for example, Amnesty International, “Egypt: Investigate attacks on women protesters”, 11 June 2012: <http://www.amnesty.org/en/for-media/press-releases/egypt-investigate-attacks-women-protesters-2012-06-11>

<sup>60</sup> 1970: Akhmim Church; 1972: al-Khanka, Qalyoubiya; 1981: Zawya al-Hamra; 1987: Abu Qerqas; 1990: Imbaba, Greater Cairo; 1992: Dirout and Sambu; 1998: Khusheh 1; 1999: Kusheh 2; 2005: Mar Guerguis Church in Alexandria (attack); 2006: Four churches in Alexandria (attack); 2007: al-Eiyat Church (attack); 2008: Dir Abu al-Fina; Minya (attack); 2009: Mar Mirquess, Fayoum (burning); 2010: Nagaa Hammadi (drive-by shooting); 2011: al-Quediseen Church in Alexandria (bombing).

<sup>61</sup> 4 March 2011: The destruction of Shahidayn Church (Mar Mina and Mar Girgis) in Soul Village in Atfih, Helwan, (south of Cairo); 8 March 2011: violent clashes between Muslims and Copts in the Manshiyet Nasser neighbourhood, at the Al-Muqattam Hill, east Cairo, home to a large Coptic community of garbage collectors (*zabbaleen*). The clashes left 10 dead and others injured; April 2011: Clashes between Muslims and Copts in Abu



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Qerqas in Minya left two dead; May 2011: Attacks by alleged groups of Muslim fundamentalists on Mar Mina Church and the burning of the Virgin Mary Church in Imbaba, Greater Cairo. The clashes left at least 15 dead; September 2011: the destruction of Mar Girgis Church, in Marinab village in Idfu, in Aswan; October 2011: attacks on Coptic protesters by armed forces and unidentified individuals believed to be “thugs”.

<sup>62</sup> See: United Nations Development Programme, *Arab Human Development Report 2009, Challenges to Human Security in the Arab Countries*, 2009, p11: <http://www.arab-hdr.org/contents/index.aspx?rid=5>; See also: “Egypt’s Mubarak aims for 8 percent annual growth”, Associated Press, 25 December 2010: [http://news.yahoo.com/s/ap/20101225/ap\\_on\\_re\\_mi\\_ea/ml\\_egypt\\_mubarak](http://news.yahoo.com/s/ap/20101225/ap_on_re_mi_ea/ml_egypt_mubarak)

<sup>63</sup> Central Agency for Population Mobilization and Statistics, *Study of Informal Settlements in Egypt* [original in Arabic], April 2008, pp23-34.

<sup>64</sup> The ISDF is a fund established in 2008 to co-ordinate government efforts on informal settlements. See presentation by Sherif Algoahy and Ali El-Faramawy, ISDF, “Egyptian Approach to Informal Settlements Developments”, 2 June 2010, available at: [www.slideshare.net/GRFDavos/egypt-for-idrc-2-june-2010-finalpptx](http://www.slideshare.net/GRFDavos/egypt-for-idrc-2-june-2010-finalpptx)

<sup>65</sup> Informal settlements are defined in Article 2 of the Law on Building No.119 of 2008 as “unplanned areas that grew in contravention to the laws and regulations governing planning and building”.

<sup>66</sup> An abuse defined by the UN Committee on Economic, Social and Cultural Rights (CESCR) as “the permanent or temporary removal against their will of individuals, families and/or communities from the homes and/or land which they occupy, without the provision of and access to, appropriate forms of legal or other protection.” See CESCR, *General Comment 7, The Right to Adequate Housing: forced evictions*, para3.

<sup>67</sup> Designed by the General Organization for Physical Planning (GOPP) at the Ministry of Housing, Utilities and Urban Development, this master-plan aims to “redistribute” residents of Cairo and Giza to the outer fringes of new cities, mainly 6 October City and Helwan. The Cairo 2050 plan foresees the creation of more new cities, including two with a population of around 1 million each, and the expansion of existing new cities to host around two-thirds of Greater Cairo’s projected 2050 population of 30 million. These cities are to absorb populations from informal settlements, requiring an estimated 2.5 million housing units.

<sup>68</sup> The plan, which has not yet been presented to the general public for discussion, also includes major transport projects for roads and an underground train system, water and sanitation networks, gardens, a new government complex, new universities, and investment in tourism and industry. Ministry of Housing, Utilities and Urban Development, General Organization of Physical Planning, *For a Vision of Cairo 2050 in the Framework of a National Vision of Egypt* [original in Arabic], March 2009. Also: Ministry of Housing, Utilities and Urban Development, General Organization of Physical Planning, *Cairo 2050, Strategic long term plan for Greater Cairo Region* [original in Arabic], 2008.

<sup>69</sup> See for example, *Foreign Policy*, “What have workers gained from Egypt’s revolution?”, 20 July 2011: [http://mideast.foreignpolicy.com/posts/2011/07/20/what\\_have\\_workers\\_gained\\_from\\_egypt\\_s\\_revolution](http://mideast.foreignpolicy.com/posts/2011/07/20/what_have_workers_gained_from_egypt_s_revolution)

<sup>70</sup> See for example, *Ahram Online*, “Egypt’s private sector minimum wage just an ‘initial step’: Official”, 23 October 2011: <http://english.ahram.org.eg/NewsContent/3/12/24919/Business/Economy/Egypt-private-sector-minimum-wage-just-an-initial.aspx>

<sup>71</sup> See for example, *Al-Masry Al-Youm*, “Labor activists denounce LE700 minimum wage”, 5 June 2011: <http://www.almasryalyoum.com/en/node/464061>

<sup>72</sup> See Amnesty International, “Egypt: sweeping reform needed to protect workers’ rights” (Index: MDE 12/020/2010), 30 April 2010: <http://www.amnesty.org/en/library/info/MDE12/020/2010/en>

<sup>73</sup> The Egyptian government appointed a temporary board to manage the ETUF until elections.

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<sup>74</sup> See “Declaration of the Egyptian Minister of Manpower and Migration on 'The Freedom of Association' In Egypt”, 12 March 2011: [http://www.ilo.org/global/about-the-ilo/press-and-media-centre/statements-and-speeches/WCMS\\_153009/lang--en/index.htm](http://www.ilo.org/global/about-the-ilo/press-and-media-centre/statements-and-speeches/WCMS_153009/lang--en/index.htm)

<sup>75</sup> See CESCR, *Concluding observations of the Committee on Economic, Social and Cultural Rights: Egypt.*, 23 May 2000 (UN Doc: E/C.12/1/Add.44), para18:  
<http://www.unhchr.ch/tbs/doc.nsf/%28Symbol%29/E.C.12.1.Add.44.En?Opendocument>

<sup>76</sup> See International Labour Organization, *ILO principles concerning the right to strike*, first published in the *International Labour Review*, Vol. 137 (1998), No. 4.:  
[http://www.ilo.org/wcmsp5/groups/public/@ed\\_norm/@normes/documents/publication/wcms\\_087987.pdf](http://www.ilo.org/wcmsp5/groups/public/@ed_norm/@normes/documents/publication/wcms_087987.pdf)

<sup>77</sup> A significant proportion of those deported since February 2011 were Eritrean nationals. Large numbers of Eritreans flee their country to escape compulsory and indefinite national service, religious persecution, and other widespread and systematic human rights violations. Given Eritrea’s record of egregious human rights violations, UNHCR has issued guidelines over the years opposing – almost in all cases – the forcible return of any Eritrean to the country, including of those whose international protection claims have been dismissed. These guidelines are still in force. Those Eritrean nationals forcibly returned to their country from Egypt have faced a serious risk of arbitrary detention, torture and other ill-treatment.

<sup>78</sup> Committee on Economic Social and Cultural Rights, *General Comment No. 16: 'The equal right of men and women to the enjoyment of all economic, social and cultural rights (art. 3 of the International Covenant on Economic, Social and Cultural Rights)'* (UN Doc: E/C.12/2005/4), 11 August 2005, para3.

<sup>79</sup> ICCPR, articles 2(1) and 3; ICESCR, article 2(2). See also articles 2, 3, and 18(3) and articles 3 and 11 of the Revised Arab Charter.

<sup>80</sup> ICCPR, Article 26.

<sup>81</sup> E.g. Human Rights Committee, *Toonen v Australia* (UN Doc: CCPR/C/50/D/488/1992), 31 March 1994, para8.7; *Young v Australia* (UN Doc: CCPR/C/78/D/941/2000), 6 August 2003, para10.4; Committee on Economic Social and Cultural Rights, *General Comment 20: 'Non-discrimination in economic, social and cultural rights (art. 2, para. 2, of the International Covenant on Economic, Social and Cultural Rights)'* (UN Doc: E/C.12/GC/20), 2 July 2009, para11.