



**Egypt's Compliance with the Convention against Torture and Other Cruel Inhuman or Degrading Treatment or Punishment: the death penalty**

**Submitted by The Advocates for Human Rights,**

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

**Reprieve,**

a non-governmental organization in special consultative status with ECOSOC since 2018,

and

**The World Coalition Against the Death Penalty**

**for the 78th Session of the Committee Against Torture**

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

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

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

## EXECUTIVE SUMMARY

1. This report addresses Egypt's compliance with its human rights obligations regarding the death penalty. Egypt ranks in the top five countries for executions.<sup>1</sup> This report provides updates to the written information the coauthors submitted in January 2023 at the List of Issues stage (the January 2023 Suggested LOI),<sup>2</sup> and provides additional information on women sentenced to death in Egypt and the Egyptian Government's misplaced reliance on "state sovereignty" in response to calls for the country to abolish the death penalty.
2. According to Reprieve, between January 2020 and March 2022, Egypt executed at least 230 people.<sup>3</sup> Reprieve reports that Egyptian courts have held at least 53 mass trials since 2011, in which 2,182 people were sentenced to death.<sup>4</sup> This high number of executions and death sentences is particularly concerning in light of evidence of due process violations, including the use of torture to extract confessions, inadequate access to counsel for people accused of capital crimes, a lack of transparency in court proceedings, and insufficient investigations of allegations of torture and other forms of cruel, inhuman or degrading treatment.
3. Legal safeguards against torture are ineffective, and individuals accused of capital crimes are subjected to enforced disappearances, incommunicado detention, torture, and other forms of inhuman treatment. Authorities conducting mass trials and trying civilians in military courts violate the constitutional rights to due process and adequate legal representation. Egypt has not taken concrete steps to reduce the number of crimes eligible for the death penalty, and the use of torture and other due process violations related to judicial proceedings render all death sentences arbitrary.<sup>5</sup>
4. In addition to information about the number of executions occurring in 2021 discussed in paragraph 18 of the January 2023 Suggested LOI, Egypt carried out 24 known executions in 2022.<sup>6</sup> Egypt imposed 538 recorded death sentences in 2022, an increase from an estimated 356 in 2021.<sup>7</sup> In 2023, Egypt carried out executions as recently as June 14.<sup>8</sup>

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<sup>1</sup> Reprieve, *The Death Penalty in Egypt – Ten Years After the Uprising*, (Jan. 28, 2022),

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

<sup>2</sup> The Advocates for Human Rights, The World Coalition Against the Death Penalty and Reprieve, *Egypt's Compliance with the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment; Suggested List of Issues Relating to the Death Penalty* (Jan. [23], 2023), <https://www.theadvocatesforhumanrights.org/Publications/A/Index?id=627>.

<sup>3</sup> Reprieve and local partners collect and maintain data on the composition of death rows around the world, including Egypt. Figures referenced in this report were retrieved from that data or from Reprieve's 2021 report, *The Death Penalty in Egypt – Ten Years After the Uprising*.

<sup>4</sup> Reprieve, *The Death Penalty in Egypt – Ten Years After the Uprising*, (Jan. 28, 2022), <https://reprieve.org/uk/2021/05/24/the-death-penalty-in-egypt-ten-year-after-the-uprising/>.

<sup>5</sup> The Advocates for Human Rights *et al.*, *supra* note 2, ¶ 3.

<sup>6</sup> Amnesty International, *Death Sentences and Executions 2022*, (2023), <https://www.amnesty.org/en/documents/act50/6548/2023/en/>.

<sup>7</sup> Amnesty International, *Death Sentences and Executions 2022*, (2023), 12, <https://www.amnesty.org/en/documents/act50/6548/2023/en/>.

<sup>8</sup> Beatrice Farhat, Egyptian man executed one year after brutal killing of Nayera Ashraf, *Al-Monitor*, (Jun. 14 2023), <https://www.al-monitor.com/originals/2023/06/egyptian-man-executed-one-year-after-brutal-killing-nayera-ashraf>.

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

### **I. Evidence obtained under torture is used to obtain convictions and sentence people to death (List of Issues Paragraph 24).**

5. In its June 2023 List of Issues, the Committee made note of widespread allegations that people in detention are tortured to extract confessions or information for investigations and that judges may not be fully implementing the exclusionary rule to exclude evidence obtained under torture during court proceedings.<sup>9</sup>
6. In its Fifth Periodic Report, Egypt asserts that various parts of the Criminal Code address all of the forms of torture envisaged in article 1 of the Convention and that, in some cases, the Criminal Code expands the definition to include certain acts as torture which would not be considered torture under article 1, paragraph 1, of the Convention.<sup>10</sup>
7. Egypt also asserts that the inadmissibility of statements proven to have been extracted as a result of torture is a constitutional and legal norm. Article 55 of the Constitution deems null and void any statement that is shown to have been made by a detainee as a consequence of torture, intimidation or coercion, physical or mental abuse, or the threat thereof.<sup>11</sup> Article 302 of the Code of Criminal Procedure also makes inadmissible any statement given by an accused person or witness that is shown to have been extracted using coercion or threats.<sup>12</sup>
8. As discussed extensively in the January 2023 Suggested LOI, Egyptian courts continue to rely on reports of the National Security Agency and on other unreliable evidence, including confessions extracted through torture.<sup>13</sup>
9. In addition to cases discussed in paragraphs 24–28 of the January 2023 Suggested LOI, defendants alleged enforced disappearance and torture in seven capital cases known as the Hilwan Microbus cases and the Aynad Masr/Soldiers of Egypt cases. Despite allegations of torture and false confessions, Egypt executed four men in the Hilwan Microbus case on March 8, 2022, and three men in the Aynad Masr/Soldiers of Egypt case on March 10, 2022, all for terrorism-related offenses. The High Commissioner for Human Rights delivered a press release reiterating concerns about counterterrorism legislation in Egypt.<sup>14</sup>

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<sup>9</sup> Committee Against Torture, *List of issues in relation to the fifth periodic report of Egypt*, (June 7, 2023), U.N. Doc. CAT/C/EGY/Q5, ¶24.

<sup>10</sup> Committee against Torture, *Fifth periodic report submitted by Egypt under article 19 of the Convention, due in 2004*, (Dec. 27, 2021), ¶¶11-20.

<sup>11</sup> Committee against Torture, *Fifth periodic report submitted by Egypt under article 19 of the Convention, due in 2004*, (Dec. 27, 2021), ¶120.

<sup>12</sup> Committee against Torture, *Fifth periodic report submitted by Egypt under article 19 of the Convention, due in 2004*, (Dec. 27, 2021).

<sup>13</sup> The Advocates for Human Rights *et al.*, *supra* note 2, ¶¶ 20-28.

<sup>14</sup> Ravina Shamdasani, Spokesperson for the UN High Commissioner for Human Rights, *Press briefing notes on Egypt executions*, Office of the High Commissioner for Human Rights, (Mar. 15 2022), <https://www.ohchr.org/en/press-briefing-notes/2022/03/press-briefing-notes-egypt-executions>.

## II. Egypt continues to sentence people to death for crimes that do not rise to the level of “most serious” (List of Issues Paragraph 25).

10. In its June 2023 List of Issues, the Committee requested that the State provide evidence that the death penalty is imposed only for crimes involving an intentional killing, in line with international legal standards.<sup>15</sup>
11. As discussed extensively in the January 2023 Suggested LOI, Egyptian law still retains 104 offenses punishable by death.<sup>16</sup> These include aggravated murder, premeditated killing by substances, and murder with intention to commit any misdemeanor,<sup>17</sup> as well as arson leading to death, perjury leading to death of a convicted person because of false testimony, and kidnapping a female accompanied with a felony of having sex with the female without her consent.<sup>18</sup> The death penalty is also an available penalty for a variety of gang-related offenses, including forming or leading a gang that intends to overthrow the government, that attacks a community, or that intentionally uses force to occupy any part of a public building.<sup>19</sup> Several terrorism-related crimes that result in death are subject to the death penalty, including intentionally resorting to terrorism to disturb public order, hijacking, resisting a law enforcement officer, taking hostages, using or attempting to use explosives, wounding or beating a person, and deliberately killing a person without premeditation.<sup>20</sup>
12. Authorities have applied the death penalty to human rights defenders for terrorism-related charges that did not result in an intentional killing. Egyptian officials have also added charges that may carry the death penalty or life imprisonment to cases with other non-violent charges in order to hold individuals beyond the two-year pretrial detention limit for persons accused of nonviolent crimes.<sup>21</sup> Human rights groups reported that these instances of death-eligible charges being added to other charges occurred in politically-motivated cases or cases related to freedom of expression.<sup>22</sup> A monitoring group reported that in the first half of 2022, only 2.7 percent of the 13,000 decisions handling these types of cases resulted in release from pretrial detention.<sup>23</sup>
13. In a July 2022 statement, eight rights groups reported that Egyptian officials targeted human rights defenders on the basis of false terrorism charges<sup>24</sup>—charges that may result in a death

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<sup>15</sup> Committee Against Torture, *List of issues in relation to the fifth periodic report of Egypt*, (June 7, 2023), U.N. Doc. CAT/C/EGY/Q5, ¶25.

<sup>16</sup> The Advocates for Human Rights *et al.*, *supra* note 2, ¶¶ 4-20.

<sup>17</sup> *Criminal Code Arts. 203-234*.

<sup>18</sup> *Criminal Code Arts. 257, 295, 290*.

<sup>19</sup> *Criminal Code Arts. 87, 89, 90*.

<sup>20</sup> *Criminal Code Arts. 68, 88, 102, 168, 240-241, 234*.

<sup>21</sup> U.S. Department of State, Bureau of Democracy, Human Rights and Labor, *Country Reports on Human Rights Practices for 2022* (2023), 13, [https://www.state.gov/wp-content/uploads/2023/03/415610\\_EGYPT-2022-HUMAN-RIGHTS-REPORT.pdf](https://www.state.gov/wp-content/uploads/2023/03/415610_EGYPT-2022-HUMAN-RIGHTS-REPORT.pdf).

<sup>22</sup> U.S. Department of State, Bureau of Democracy, Human Rights and Labor, *Country Reports on Human Rights Practices for 2022* (2023), 13, [https://www.state.gov/wp-content/uploads/2023/03/415610\\_EGYPT-2022-HUMAN-RIGHTS-REPORT.pdf](https://www.state.gov/wp-content/uploads/2023/03/415610_EGYPT-2022-HUMAN-RIGHTS-REPORT.pdf).

<sup>23</sup> U.S. Department of State, Bureau of Democracy, Human Rights and Labor, *Country Reports on Human Rights Practices for 2022* (2023), 13, [https://www.state.gov/wp-content/uploads/2023/03/415610\\_EGYPT-2022-HUMAN-RIGHTS-REPORT.pdf](https://www.state.gov/wp-content/uploads/2023/03/415610_EGYPT-2022-HUMAN-RIGHTS-REPORT.pdf).

<sup>24</sup> U.S. Department of State, Bureau of Democracy, Human Rights and Labor, *Country Reports on Human Rights Practices for 2022* (2023), 43, [https://www.state.gov/wp-content/uploads/2023/03/415610\\_EGYPT-2022-HUMAN-RIGHTS-REPORT.pdf](https://www.state.gov/wp-content/uploads/2023/03/415610_EGYPT-2022-HUMAN-RIGHTS-REPORT.pdf).

sentence under current law. The Confronting Terrorism Law No. 95 of 2015 law broadly defines terrorism as “any use of force or violence or threat or terrorizing that aims to: Disrupt general order or endanger the safety, interests or security of society; harm individual liberties or rights; harm national unity, peace, security, the environment or buildings or property; prevent or hinder public authorities, judicial bodies, government facilities, and others from carrying out all or part of their work and activity.”<sup>25</sup>

### **III. Egypt continues to sentence women to death and execute them (List of Issues Paragraph 6).**

14. The Cornell Center on the Death Penalty Worldwide has noted that in many countries, such as Egypt, laws calling for the death penalty for murder “are gender-neutral on paper,”<sup>26</sup> but under Egyptian law “a man who kills his wife and her lover upon discovering her infidelity will enjoy a reduced sentence,” while women discovering and then killing their husbands under similar circumstances will be sentenced to death.<sup>27</sup>
15. According to the Egypt Death Penalty Index, which includes data on capital punishment between 25 January 2011 and December 2020, Egyptian authorities sentenced 168 women to death during that period.<sup>28</sup> Of those, all but 13 were sentenced to death for murder (7 for “storming government installations,” 2 for “terrorist acts,” 2 for espionage, 1 for rape, and 1 for “terrorism toward religious minorities”), and authorities executed at least 13 women during that period.<sup>29</sup> According to Amnesty International, Egyptian courts sentenced 47 women to death in 2022,<sup>30</sup> and Egyptian authorities executed at least 8 women in 2021.<sup>31</sup>
16. There is limited information about women who have been sentenced to death or executed in Egypt. Amnesty International explains that “Egyptian authorities do not publish statistics on executions or the number of prisoners on death row; nor do they inform families or lawyers in advance of executions.”<sup>32</sup>
17. After a woman is sentenced to death in Egypt, she is far more likely than a man to have her preliminary death sentence confirmed and to be executed. According to Reprieve, in the period between the January 2011 revolution and September 2018, individuals sentenced to death have been overwhelmingly male, but “women sentenced to death were executed during this period

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<sup>25</sup> Confronting Terrorism Law No. 95 of 2015, art. 2.

<sup>26</sup> Monash University, Eleos Justice, and the Cornell Center on the Death Penalty Worldwide, *Silently Silenced: State-Sanctioned Killing of Women*, March 2023, at 20, <https://deathpenaltyworldwide.org/wp-content/uploads/2023/04/Silently-Silenced-final-30-March-2023-2.pdf>.

<sup>27</sup> Monash University, Eleos Justice, and the Cornell Center on the Death Penalty Worldwide, *Silently Silenced: State-Sanctioned Killing of Women*, March 2023, at 45, <https://deathpenaltyworldwide.org/wp-content/uploads/2023/04/Silently-Silenced-final-30-March-2023-2.pdf>.

<sup>28</sup> Egypt Death Penalty Index, <https://egyptdeathpenaltyindex.com/index/defendants/?gender=female> (last visited Sept. 28, 2023).

<sup>29</sup> *Ibid.*

<sup>30</sup> Amnesty International, *Death Sentences and Executions 2022*, (2023), 32, <https://www.amnesty.org/en/documents/act50/6548/2023/en/>.

<sup>31</sup> Amnesty International, *Death Sentences and Executions 2021* (2022), 42, <https://www.amnesty.org/en/documents/act50/5418/2022/en/>.

<sup>32</sup> *Egypt: ‘horrifying execution spree’, with at least 57 killed in past two months*, Amnesty International UK (Press Release), Dec. 1, 2020, <https://www.amnesty.org.uk/press-releases/egypt-horrifying-execution-sprees-least-57-killed-past-two-months>.

at more than double the rate of men.”<sup>33</sup> Moreover, preliminary death sentences issued for women had an 82% confirmation rate, while death sentences issued for men were confirmed at just a 59% rate.<sup>34</sup>

18. The Cornell Center also notes that, on a global scale, there are “qualitative difference[s] in homicides committed by men and women.”<sup>35</sup> According to available data worldwide, including in Egypt, “the majority of women on death row had been sentenced to death for killing their intimate partner or a family member.”<sup>36</sup>
19. There is limited information available about the circumstances of the crimes for which women have been sentenced to death in Egypt, but available information suggests that legal proceedings are not gender-sensitive and do not take into account an accused woman’s experiences of gender-based violence or the power dynamics between an accused woman and her male codefendants. One woman was executed in 2015 for killing her husband.<sup>37</sup> In June 2021, a woman was executed for her involvement in the killing of her 11-year-old son, even though her lover and an accomplice kidnapped the child and killed him.<sup>38</sup> A 20-year-old woman was accused of killing her husband five days after their wedding. According to reports, she had refused to marry the man because she was in a relationship with someone else. In July 2020, the criminal court referred the case to the Grand Mufti of Egypt to issue a religious opinion about whether a death sentence would be appropriate.<sup>39</sup> According to Hands Off Cain, Egyptian authorities executed two women in February 2018. The women were two of five relatives executed on the same day for the kidnapping and murder of a girl in 2013. The women were a 40-year-old housewife and a 19-year-old woman.<sup>40</sup> In February 2023, an Egyptian court sentenced 20-year-old N.K. to death for killing her mother.<sup>41</sup> According to reports, she had done so with the help of her lover with the aim of preventing the mother from exposing their relationship.<sup>42</sup> It is unclear whether her codefendant was also sentenced to death.

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<sup>33</sup> *Mass Injustice: Statistical Findings on the Death Penalty in Egypt*, Reprieve, (2019), [https://egyptdeathpenaltyindex.com/wp-content/uploads/2020/11/2019\\_05\\_09\\_PUB-EGY-Egypt-data-report-Mass-Injustice-WEB-version.pdf](https://egyptdeathpenaltyindex.com/wp-content/uploads/2020/11/2019_05_09_PUB-EGY-Egypt-data-report-Mass-Injustice-WEB-version.pdf), at 3.

<sup>34</sup> *Mass Injustice: Statistical Findings on the Death Penalty in Egypt*, Reprieve, (2019), [https://egyptdeathpenaltyindex.com/wp-content/uploads/2020/11/2019\\_05\\_09\\_PUB-EGY-Egypt-data-report-Mass-Injustice-WEB-version.pdf](https://egyptdeathpenaltyindex.com/wp-content/uploads/2020/11/2019_05_09_PUB-EGY-Egypt-data-report-Mass-Injustice-WEB-version.pdf), at 31.

<sup>35</sup> Monash University, Eleos Justice, and the Cornell Center on the Death Penalty Worldwide, *Silently Silenced: State-Sanctioned Killing of Women*, March 2023, at 20, <https://deathpenaltyworldwide.org/wp-content/uploads/2023/04/Silently-Silenced-final-30-March-2023-2.pdf>.

<sup>36</sup> Monash University, Eleos Justice, and the Cornell Center on the Death Penalty Worldwide, *Silently Silenced: State-Sanctioned Killing of Women*, March 2023, at 33-34, <https://deathpenaltyworldwide.org/wp-content/uploads/2023/04/Silently-Silenced-final-30-March-2023-2.pdf>.

<sup>37</sup> Amira Mahmoud Othman, *The Death Penalty in Contemporary Egypt: States, Murderers, and State Murderers*, American University in Cairo, Fall 2019, at 45, <https://fount.aucegypt.edu/etds/1566>.

<sup>38</sup> *Mother executed after killing her 11-year-old son in Egypt*, Roya News, June 28, 2021, <https://en.royanews.tv/news/29211/2021-06-28>.

<sup>39</sup> Al-Masry Al-Youm, *Egyptian court refers “Beheira Bride” murder case to Grand Mufti to consider death sentence*, Egypt Independent, July 30, 2020, <https://www.egyptindependent.com/2621915damanhur-court-referrers-case-papers-of-bride-to-mufti-of-egypt-for-killing-her-husband-2/>.

<sup>40</sup> *Egypt executes six, two of whom were women*, Hands Off Cain, June 4, 2018, <https://www.handsoffcain.info/notizia/egypt-executes-six-two-of-whom-were-women-40305364>.

<sup>41</sup> *Egypt court sentences woman to death over killing mother*, Egypt Independent, Feb. 19, 2023, <https://cloudflare.egyptindependent.com/egypt-court-sentences-woman-to-death-over-killing-mother/>.

<sup>42</sup> *Ibid.*

20. Despite limited information, evidence suggests that women in Egypt face the death penalty in part because judicial proceedings discriminate against women and do not take into account the circumstances of the alleged crime. In a groundbreaking study, the Cornell Center on the Death Penalty Worldwide investigated the contexts within which women are sentenced to death and executed. The study acknowledged, as is the case in Egypt, that “most women on death row have been sentenced to death for the crime of murder.” The report found that “[m]any of these crimes involve murders of close family members in a context of gender-based violence.” In some cases, the woman was forcibly married, as was the case of the 20-year-old woman described in the previous paragraph. In other cases, women may face “capital prosecution arising out of domestic abuse,” subjecting them to “gender discrimination on multiple levels.” For example, “evidence of abuse is difficult to gather,” and courts are often reluctant to recognize that a woman may have acted in self-defense. Moreover, courts rarely consider domestic abuse as a mitigating factor during sentencing.<sup>43</sup> And in cases with multiple co-defendants from the same family or in an intimate partner relationship, courts also fail to account for power dynamics and tactics of coercive control that may influence a woman’s participation in a crime. Finally, in the words of the former UN Special Rapporteur on Extrajudicial, Summary or Arbitrary Executions, courts also “judge women not just for their alleged offenses, but also for what are perceived to be their moral failings as women . . . . Nowhere are transgressions of the social norms of gender behavior punished more severely than in a capital trial.”<sup>44</sup>

#### **IV. Egypt continues to subject human rights defenders and political opponents to enforced disappearances, torture, and ill-treatment (List of Issues Paragraph 26).**

21. In its June 2023 List of Issues, the Committee requested that the State “respond to the numerous allegations of threats, harassment, intimidation, assault, prolonged and illegal pretrial detention, arbitrary detention, prosecution and conviction on trumped up politically motivated charges of terrorism or disinformation, enforced disappearances, torture and ill-treatment and extrajudicial executions of human rights defenders, political opponents, civil society activists, journalists, lawyers, trade unionists, scholars, students, bloggers and artists who are critical of the Government.”
22. Egypt has a history of arbitrarily detaining, torturing, and disappearing human rights defenders and political opponents. As discussed extensively in the January 2023 Report, hundreds of human rights defenders, lawyers, political opponents, and protesters remain detained while arrests of perceived critics and opponents continue, and dozens of detained human rights activists, journalists and members of the opposition are being held in solitary confinement and physically abused.<sup>45</sup>
23. Torture of detained human rights defenders and political opponents in Egypt has continued since the January 2023 Suggested LOI. A March 20, 2023, leaked letter from S.-E. A.-H. S.—

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<sup>43</sup> Cornell Center on the Death Penalty Worldwide, *Judged for More Than Her Crime: A Global Overview of Women Facing the Death Penalty* (Sept. 2018), at 11-12, <https://www.deathpenaltyworldwide.org/wp-content/uploads/2019/12/Judged-More-Than-Her-Crime.pdf>.

<sup>44</sup> Agnes Callamard, UN Special Rapporteur on Extrajudicial, Summary or Arbitrary Executions, Cornell Center on the Death Penalty Worldwide, *Judged for More Than Her Crime: A Global Overview of Women Facing the Death Penalty* (Sept. 2018), at 3, <https://www.deathpenaltyworldwide.org/wp-content/uploads/2019/12/Judged-More-Than-Her-Crime.pdf>.

<sup>45</sup> The Advocates for Human Rights *et al.*, *supra* note 2, ¶¶ 24-26.

political activist, Deputy Minister of Islamic Endowment under the presidency of Mohamed Morsi, and father of prominent Egyptian rights defender Mohamed Soltan— stated that the authorities in Badr 1 prison, east of Cairo, have deprived him of adequate health care even though he has life-threatening heart and liver diseases as well as other complex medical conditions.<sup>46</sup>

24. In April 2023, the Geneva-based Committee for Justice documented the torture of a detainee and mass violations of human rights at the Minya 1 penitentiary in southern Egypt, in the latest evidence of human rights violations against political prisoners and widespread cases of torture with impunity.<sup>47</sup> In August 2023, the Committee for Justice documented a new case of a political detainee, Mahmoud Abd al-Rahim, who died in detention in Gamasa maximum security prison, Dakahlia Governorate, bringing the documented death cases inside Egyptian detention facilities since the beginning of 2023 to 24.<sup>48</sup>

**V. Egypt relies on misplaced assertions of “state sovereignty” to disregard its human rights obligations concerning the death penalty (List of Issues Paragraph 25, Reply Paragraph 89).**

25. At the UN General Assembly and the Human Rights Council, Egyptian authorities have repeatedly spoken against resolutions calling for a moratorium on executions and a reduction in the use of the death penalty, asserting that the death penalty is a matter of “state sovereignty” or the “sovereign right” of states. Egypt has done so as well before this Committee, in responding to the Committee’s List of Issues. In Paragraph 89 of the State Party’s Reply to the List of Issues, the Egyptian Government contends that the death penalty “falls within the scope of state sovereignty.” This paragraph is the only place in the 20-page document where the Egyptian Government references “state sovereignty.”

26. The Egyptian Government’s reliance on “state sovereignty” is misplaced and threatens to undermine respect for human rights obligations. The UN Charter recognizes the “principle of sovereign equality”—meaning the principle that all UN Member States are formally equal participants in the UN system, regardless of size or status.<sup>49</sup> The Charter does not recognize any “sovereign right” of states to take particular actions. Egypt’s reference to “state sovereignty” risks creating an artificial distinction between the principle of sovereign equality and human rights.

27. Article 2(7) of the Charter speaks to the principle of non-intervention of the UN in certain domestic matters of states: “Nothing contained in the present Charter shall authorize the United Nations to intervene in matters which are essentially within the domestic jurisdiction of any state . . . .” Certainly all Member States can and must develop their own legal systems, including application of appropriate legal penalties. But those obligations are not a shield

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<sup>46</sup> Human Rights Watch, *Egypt: Detained Academic at Risk of Death*, (May 3, 2023), <https://www.hrw.org/news/2023/05/03/egypt-detained-academic-risk-death>.

<sup>47</sup> Committee for Justice, *Egypt: Stop Torture in Minya Prison*, (Apr. 17, 2023), <https://www.cfjustice.org/egypt-stop-torture-in-minya-prison>.

<sup>48</sup> Committee for Justice, *Egypt: CFJ Documents New Death of a Political Detainee in Gamasa Prison, Dakahlia Governorate*, (Aug. 24, 2023), <https://www.cfjustice.org/egypt-cfj-documents-new-death-of-a-political-detainee-in-gamasa-prison-dakahlia-governorate>.

<sup>49</sup> UN Charter, Art. 2(1). *See also* The Advocates for Human Rights, *Moratorium Resolution: The amendment confounds the relationship between human rights and sovereignty*, Nov. 11, 2022, <https://www.theadvocatesforhumanrights.org/Res/Responses%20to%20the%20sovereignty%20amendment.pdf>.



against recognition of human rights obligations, particularly with respect to a country's obligations after ratifying or acceding to a human rights treaty such as the Convention against Torture.

28. Moreover, these principles in the UN Charter must be read in conjunction with one of the purposes of the UN, which is to promote respect for human rights.<sup>50</sup> A State's status as sovereign is not inconsistent with the promotion and protection of human rights, as recognized by Article 2 of the Universal Declaration of Human Rights, which states that all persons are entitled to rights, without distinction based on the status of the person's country, "whether it be independent, trust, non-self-governing or under any other limitation of sovereignty."

#### **VI. Suggested recommendations for the Government of Egypt**

29. The coauthors suggest that the Committee should make the following recommendations to the Government of Egypt:

- Immediately institute a de jure moratorium on executions with a view to abolishing the death penalty and, in the meantime, commute the death sentences of any persons currently under sentence of death and replace them with penalties that are fair, proportionate, and consistent with international human rights standards.
- Collect and regularly publish, on at least an annual basis, disaggregated data on the current number of persons on death row and persons executed over the previous year, including sex, age, ethnicity, nationality, offence, relationship to victim or codefendant (if any), court of conviction, date of conviction, current location (if applicable), date of execution (if applicable), and status of any appeals or requests for clemency.
- Ratify the Second Optional Protocol to the ICCPR.
- Regularly publish data about all complaints received alleging torture or other ill-treatment against persons under sentence of death, including the nature of the complaint, the authority receiving the complaint, investigative measures taken, results of the investigation, accountability measures pursued, and remedies, if any, provided to the victim or the victim's survivors.
- Establish training and safeguards to ensure that judges do not consider evidence obtained through torture, except when individuals are tried for committing acts of torture.
- Publish data on the number of criminal prosecutions (whether complete or pending) against State officials or agents for allegedly committing acts of torture and/or ill-treatment against criminal suspects or defendants, including the relevant sentencing outcomes.
- End impunity for all officials involved in torture. Ensure that the human rights department in the Office of the Public Prosecutor carries out independent investigations of all allegations of these human rights violations and provides

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<sup>50</sup> UN Charter, Art. 1(3), Art. 55(3), Art. 56.

victims of unauthorized detention and torture, and cruel, inhuman, or degrading treatment or punishment with adequate remedies.

- Take steps to provide heightened fair trial and due process safeguards in capital cases involving women defendants, including by providing them with access to effective legal representation with experience in capital cases and with training on gender-sensitive defense strategies.
- Collaborate with civil society to provide training to all defense counsel who take on capital cases regarding gender-specific mitigation and how to raise discrimination against clients on the basis of their gender, when appropriate.
- Codify gender-specific defenses and mitigation in capital cases, encompassing women's experiences of trauma, poverty, and gender-based violence.
- Ensure that all judicial officers responsible for sentencing in capital cases receive comprehensive training on gender-based discrimination, gender-based violence, and tactics of coercive control that may lead to women committing death-eligible offenses.
- Improve monitoring of detention facilities and take immediate action to improve prison detention conditions, consistent with the Nelson Mandela Rules and the Bangkok Rules, particularly with respect to ill-treatment of people in detention.
- Implement mandatory human rights-based training programs for all judicial officers, members of law enforcement, and security officials working in detention facilities, prisons, and jails.
- Ensure follow-up and implementation of recommendations that Egypt accepts in the framework of the Universal Periodic Review, particularly with respect to the death penalty and torture.
- Cease making assertions of "state sovereignty" during discussions of human rights concerns relating to the death penalty before UN mechanisms.