



**Additional information to the United Nations Committee on the Rights of the Child
on the Arab Republic of Egypt**

**Joint submission by Reprieve, The Advocates for Human Rights and The World
Coalition Against the Death Penalty**

April 2024

ABOUT REPRIEVE

Reprieve is a charitable organization registered in the United Kingdom (No. 1114900) in special consultative status with the United Nations Economic and Social Council (ECOSOC) that provides free legal and investigative support to those who have been subjected to state-sponsored human rights abuses. Our clients belong to some of the most vulnerable populations in the world. In particular, we protect the rights of those facing the death penalty and deliver justice to victims of arbitrary detention, torture, and extrajudicial execution.

ABOUT THE ADVOCATES FOR HUMAN RIGHTS

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

ABOUT THE WORLD COALITION AGAINST THE DEATH PENALTY

The World Coalition Against the Death Penalty, an alliance of more than 150 NGOs, bar associations, local authorities, and unions, was created in Rome on 13 May 2002. The aim of the World Coalition is to strengthen the international dimension of the fight against the death penalty. 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.



SUMMARY

This joint submission provides additional information to the Committee on the Rights of the Child (CRC) following the publication of the List of Issues in relation to the combined fifth and sixth period reports of the Arab Republic of Egypt (Egypt) published in October 2023, and ahead of the State’s review before the CRC at the 96th session. It provides that the list of issues failed to make a reference to article 122 of the Child Law, which allows for children to be tried alongside adults, putting the children at risk of the death penalty. Egypt’s State Report has not addressed the risk of the death penalty for children tried alongside adults, particularly in mass trials. The word count of this submission is 1181 words, excluding footnotes, cover page and glossary of terms.

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GLOSSARY OF TERMS AND KEY PRINCIPLES

Child/Children

A person who, under Egyptian law, has not yet attained the age of 18.¹ For the purpose of this submission, it refers to persons sentenced to death both before they turned 18 or for an alleged offence committed before reaching the age of 18.

Child Law or Child Code

A domestic law originally passed in 1996, and amended in 2008, which protects children under the age of 18 from the death sentence and life imprisonment.²

Mass trial

There is no single internationally accepted definition of a mass trial. For the purposes of this submission, a mass trial is defined as one in which 15 or more individuals are tried simultaneously.

¹ Egypt: Law no. 12 of 1996 Promulgating the Child Law amended by Law no.126 of 2008, article 133, unofficial English translation available at: https://sherloc.unodc.org/cld/uploads/res/document/egy/2002/egypt_child_act_english_html/Egypt_Child_Act_English.pdf.

² Reprieve, *'The Death Penalty in Egypt – Ten Years after the Uprising'* (January 2022), p4, available at: <https://reprieve.org/uk/2021/05/24/the-death-penalty-in-egypt-ten-year-after-the-uprising/>.

I. INTRODUCTION

1. This joint submission provides additional information to the Committee on the Rights of the Child (CRC) to detail the legal loopholes in article 122 of the Arab Republic of Egypt's (Egypt) Child Law, which allows for children to be sentenced to death and thereby in violation of Egypt's obligations under article 37 of the Convention on the Rights of the Child prohibiting the use of the death penalty for children.
2. On 27 September 2023, Reprieve attended the 96th Session of the CRC Pre-session Egypt review for NGOs. During this session, Reprieve's representative was able to respond to questions from Committee members regarding the death penalty, the right to life, special protection measures in the context of the death penalty and violence against children, emphasising the need to amend article 122 to protect children against the death penalty.³
3. Egypt's State Report has not addressed the risk of the death penalty for children tried alongside adults, particularly in mass trials.⁴ Egypt's mass trials complex has been recognised internationally as failing to meet the required guarantees for due process and fairness. They are underpinned by the Assembly Law and Protest Law, where often hundreds are tried at once with complete disregard for due process, the right to a fair trial, and significantly, the right to mount an individual defence.⁵
4. Following the pre-session, the CRC compiled a list of issues, which asked Egypt to explain the measures taken "to implement article 111 of the Child Law prohibiting the death penalty for all persons who under the age of 18 at the time of the alleged offence; to adopt the principle of presumption of minority in cases of doubt; and to

³ Article 122 states that "The Child Court shall exclusively deal with issues concerning the child when accused of a crime or in case of his delinquency. The Court shall also be entitled to pass judgments regarding criminal cases set forth in Articles 113 to 116 and in Article 119 of this Law. As an exception to the provision of the previous paragraph, the Criminal Court or the Supreme State Security Court, according to each case, shall have jurisdiction over criminal cases where the accused - at the time of committing the crime - is a child above fifteen (15) years of age while the accomplice is not a child and the case necessitated bringing the criminal action against the accomplice jointly with the child. In this case, the Court – prior to passing its judgment – shall examine the circumstances of the child from all aspects and may seek the assistance of experts if it so wishes." Egypt: Law no. 12 of 1996 Promulgating the Child Law amended by Law no.126 of 2008, article 122, unofficial English translation available at: https://sherloc.unodc.org/cld/uploads/res/document/egy/2002/egypt_child_act_english_html/Egypt_Child_Act_English.pdf

⁴ UN Committee on the Rights of the Child, *Egypt: Combined 5th and 6th periodic report submitted under Article 44 of the Convention on the Rights of the Child, due in 2016*, 09 February 2023, CRC/C/EGY/5-6, paras 209 - 219.

⁵ Reprieve, *'The Death Penalty in Egypt – Ten Years after the Uprising'* (January 2022), p10, available at: <https://reprieve.org/uk/2021/05/24/the-death-penalty-in-egypt-ten-year-after-the-uprising/>.

commute the existing death sentences for those who committed an offence while under the age of 18 years.”⁶

5. However, there was no reference to article 122 of the Child Law in the aforementioned list of issues. During the pre-session, representatives from Reprieve and UNICEF made the Committee aware of the gap provided by article 122 allowing for the death penalty to be applied to minors and highlighted the need to amend it to protect children from the death penalty.

II. THE RIGHT TO LIFE AND THE CHILD LAW

6. Article 122 provides that children alleged to have come into conflict with the law will be tried in specialist Child Courts.⁷ However, it also contains an exception that allows children over 15 years of age facing trial with an adult co-defendant to be tried alongside them in normal criminal courts:

“the Criminal Court or the Supreme State Security Court, according to each case, shall have jurisdiction over criminal cases where the accused - at the time of committing the crime - is a child above fifteen (15) years of age while the accomplice is not a child and the case necessitated bringing the criminal action against the accomplice jointly with the child.”⁸

7. While the Child Law prohibits the death penalty for all persons under the age of 18 at the time of the offence, it also allows children aged between 16 and 17 alleged to have come into conflict with the law alongside an adult co-defendant to be tried with them in adult courts.⁹

⁶ UN Committee on the Rights of the Child, *List of issues in relation to the combined fifth and sixth periodic reports of Egypt*, 10 October 2023, para 3(d).

⁷ Egypt: Law no. 12 of 1996 Promulgating the Child Law amended by Law no.126 of 2008, article 122, unofficial English translation available at:

https://sherloc.unodc.org/cld/uploads/res/document/egy/2002/egypt_child_act_english_html/Egypt_Child_Act_English.pdf

⁸ Egypt: Law no. 12 of 1996 Promulgating the Child Law amended by Law no.126 of 2008, article 122, unofficial English translation available at:

https://sherloc.unodc.org/cld/uploads/res/document/egy/2002/egypt_child_act_english_html/Egypt_Child_Act_English.pdf

⁹ Egypt: Law no. 12 of 1996 Promulgating the Child Law amended by Law no.126 of 2008, article 122, unofficial English translation available at:

https://sherloc.unodc.org/cld/uploads/res/document/egy/2002/egypt_child_act_english_html/Egypt_Child_Act_English.pdf.

8. This provision has enabled Egyptian authorities to sweep several 16- and 17-year-olds into adult courts, where their status as children is seldom recognised, even where official documents are provided to the court confirming their age, in which they are not afforded special protection measures provided for in domestic or international law.¹⁰
9. Furthermore, Egypt has stated that sufficient legal safeguards exist within the judicial system to protect children from the death penalty,¹¹ relying on article 133 of the Child Law which provides:

“If a judgment is passed sentencing the accused, who was considered to be above the age of fifteen (15) years, then it was established through official documents that he has not reached that age, the lawyer shall raise the issue to the Court where the judgment was passed to reconsider its ruling according to the Law. If the sentence is pronounced against the accused, who was considered to be above the age of eighteen (18) years, then through official documents it is established that he has not reached that age, the Attorney General shall raise the matter to the Court where the ruling was passed to reconsider its judgment, and pronounce a ruling abolishing that judgment, along with referring the papers to the Public Prosecution for action.”¹²

10. This provision is reactive rather than protective; children are seldom promptly recognised until after a death sentence is handed down, despite arresting authorities knowing their age or lawyers presenting official documents that confirm their client is a child at the trial court.¹³
11. Children sentenced to death are then subjected to lengthy appeals before their age is recognised and a death sentence is commuted. As a result, children lose years of their lives on death row waiting for a decision.¹⁴ They are separated from their families, are often victims of torture, and remain in prison in the belief that they may be executed.

¹⁰ Reprieve, *The Death Penalty in Egypt – Ten Years after the Uprising* (January 2022), p12, available at: <https://reprieve.org/uk/2021/05/24/the-death-penalty-in-egypt-ten-year-after-the-uprising/>.

¹¹ UN Committee on the Rights of the Child, *Egypt: Combined 5th and 6th periodic report submitted under Article 44 of the Convention on the Rights of the Child, due in 2016*, 09 February 2023, CRC/C/EGY/5-6, para 60.

¹² Egypt: Law no. 12 of 1996 Promulgating the Child Law amended by Law no.126 of 2008, article 133, unofficial English translation available at: https://sherloc.unodc.org/cld/uploads/res/document/egy/2002/egypt_child_act_english_html/Egypt_Child_Act_English.pdf.

¹³ See *Joint submission by Reprieve and The Advocates for Human Rights for Committee of the Rights of Child*, July 2023, case study of Ismail and Ahmed Saddouma.

¹⁴ See *Joint submission by Reprieve and The Advocates for Human Rights for Committee of the Rights of Child*, July 2023, case study of Ismail and Ahmed Saddouma.

Their age and levels of mental development can also mean that they are even more susceptible to the lasting effects of trauma experienced on death row.¹⁵

12. Nearly all cases where children have been sentenced to death followed mass trials, where they have been denied access to lawyers, the right to mount an adequate defence, the right to be heard and significantly, the right to be treated as a child alleged to have come into conflict with the law. Egypt's mass trials are undoubtedly insufficient to protect these rights. Extremely short trials and hundreds of defendants make it impossible for a court to consider each defendant individually.

III. CONCLUSIONS AND RECCOMENDATIONS

13. Egypt's Child Law does not sufficiently protect children from the death penalty. Children and child defendants are sentenced to death in breach of domestic and international law. Reactive provisions in the Child Law place children at risk of a death sentence before they are properly identified as children either by chance or on appeal.

14. Children end up caught in the mass trial complex system and are at risk of the death penalty due to legal loopholes that enable them to be tried alongside adults, as well as insufficient legal safeguards to ensure they are identified as children early on in proceedings.

15. We therefore recommend the following for inclusion in the List of Issues for Egypt's review before the CRC:

- Urge Egypt to amend article 122 of the Child Law to protect children from the death penalty, specifically to amend the gap in the law allowing 16-17 year olds to be tried alongside adults.
- Urge Egypt to provide information on how children tried alongside adults receive the full gambit of special protection measures to ensure they are not at risk of the death penalty; and

*Name anonymised.

¹⁵ Child Welfare Information Gateway, 'Understanding the effects of maltreatment on brain development' (2015) Washington, DC: U.S. Department of Health and Human Services, Children's Bureau, available at: https://www.childwelfare.gov/pubPDFs/brain_development.pdf.

REPRIEVE

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- Urge Egypt to provide information on the steps taken by arresting authorities, the prosecution, and the judiciary to formally identify children in mass trials to ensure they are not sentenced to death.