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Islamic Human Rights Commission

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The Islamic Human Rights Commission is an NGO in special consultative status with the United Nations Economic and Social Council.

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Executive Summary

In this submission, the Islamic Human Rights Commission (IHRC) provides information under section B, C and D, as stipulated in the General Guidelines for the preparation of the information under the Universal Periodic Review. Under section B, the IHRC gives background information about the emergency law which undermines the human rights framework in the Arab Republic of Egypt. Under section C, IHRC highlights concerns about human rights violations in the Arab Republic of Egypt, including the right to a fair trial in terms of arbitrary detention and torture and freedom of expression and association. IHRC raises the issues concerning the work of international agencies and the co-operation of Egypt with the UN. In section D, IHRC makes a number of recommendations for the government to address.

Key word: Arbitrary Detention, Fair trial, Freedom of expression.

B) Normative and Institutional Framework of Egypt

1. The Constitution of the Arab Republic of Egypt and the human rights protection provided by the constitution have been arbitrarily amended, suspended and abrogated since 1967. The government renewed the Emergency law (Law No. 162 of 1958) in May for an additional two years which not only provides a base for arbitrary arrest and detention but also for grossly unfair trials before the military and emergency courts.

2. On 19 March, parliament amended 34 articles of the constitution giving sweeping arrest powers to the police and authorising the President to bypass ordinary court which further erodes human rights protection. Other amendments seem politically motivated, for example, reducing the power of judges in supervising elections and banning the religious based political parties.¹

¹ For example Article 179 of the constitution of the Arab Republic of Egypt was amended to introduce anti-terror measures. A hotly protected article by the opposition and civil rights groups as it stipulates referring those charged with terror-related charges before Military courts, the verdict of which are not subject to appeal process. For analysis see Daily News Egypt. Available at: <http://www.thedailynewsegypt.com/article.aspx?ArticleID=6353> (Accessed 21 August 2009)

3. A parallel system of emergency justice involving specially constituted emergency courts and the trial of civilians before military courts, continued. Safeguards for fair trials, such as equality before the law, prompt access to lawyers and the ban on using evidence obtained from torture, were routinely violated. Security forces acting with impunity harassed and tortured rights activists, journalists and hundreds of members of the Muslim Brotherhood, the country's largest opposition group.²

C. Promotion and protection of human rights on the ground

Arbitrary arrests and detentions

4. Detainees in Egypt are rarely informed by the authorities of the crime of which they are accused due to the continued state of emergency since 1967. According to the Egyptian emergency law, the detainees can be held for up to 30 days without charge, but it must immediately inform the person of the reason for the arrest and allow the person to make a phone call.³ This right however is routinely violated by the government officials as a result thousands of detainees have been imprisoned in Egypt without charge for more than a decade.

Right to fair trial

5. The violations of the right to a fair trial are deeply rooted and it is difficult to reconcile Egypt's criminal justice system with the basic principles of international human rights law. The government of Egypt invokes the emergency law to refer any criminal case to the emergency or military courts restricting many basic human rights. The right to a fair trial is explicitly guaranteed under international humanitarian law during armed conflict and there is no justification for the derogation from these rights guarantees during other emergency situations.⁴

² For details see Islamic Human Rights Commission website at www.ihrc.org

Available at : <http://www.amnestyusa.org/document.php?lang=e&id=ENGMDE120222007> (Accessed 21 August 2009)

³ paragraph 3 of emergency law 162 of 1958

⁴ Para. 16. General comment 29

Incommunicado detention and torture

6. IHRC has regularly raised its concerns with the authorities for incommunicado and arbitrary detention. Those responsible for the “abuse of power” are the person of the Ministry of Interior and security forces who use unwarranted lethal force, torture and abuse of prisoners and detainees, in most cases with impunity.⁵

7. Even though article 71 of the Arab Republic of Egypt states that “detained person shall be entitled to communicate with any person of his choice to inform him of his arrest.”⁶ However, all these rights and guarantees of individual freedoms recognised by the constitution are rendered null and void by virtue of the state of emergency.

8. Even though Egypt is a party to ICCPR. Article 4(1) of ICCPR makes it very clear that “In time of public emergency which threatens the life of the nation and the existence of which is officially proclaimed, the State parties to the present Covenant may take measures such as derogation from obligations under the present covenant to the extent strictly required by the exigencies of the situation provided that such measures are not inconsistent with their other obligations under international law”. Article 4(2) explicitly states that no derogation can be made from article 7 (prohibition of torture or cruel, inhuman or degrading punishment).

Freedom of Expression:

9. By using the emergency law, the government of Egypt restricts the right of freedom of expression on a wide range of political and social issues, including criticism of government policies and especially direct criticism to the President.

10. On 13 September, a Cairo court sentenced Adil Hamouda, editor of the weekly Al-Faqr, Wael al-Ibrashi, of the weekly Sawt al Umma, Abd al-Halim Qandil, Former editor weekly Al-

⁵ By virtue of Decree No. 4 of 1982, the President gave power to the Minister of the Interior to take all necessary steps to ensure public order and security without the need to observe the Code of Criminal Procedure

⁶ Constitution of the Arab Republic of Egypt. Available at:

<http://www.sis.gov.eg/En/Politics/Constitution/Text/0407030000000001.htm> (accessed 21 August 2009)

Karama, and Ibrahim Issa, editor of the daily Al-Dustur, to one year prison. The court found them guilty of libeling President Mubarak and ruling party officials in articles published between July and September last year.⁷

11. In a separate case, Ibrahim Issa was convicted on charges of publishing false information about the President's health. He was sentenced for two months jail. The President later pardoned him.⁸

12. According to the information received by IHRC, Ms. Taha, an Al Jazeera journalist was arrested on 13 January 2007 and after a few days the authorities confiscated 50 video tapes from her at Cairo airport. The video tapes contained a documentary in which torture scenes had been reenacted based on victims' accounts. The authorities subsequently charged her with 'harming national interests and fabricating video material that would damage Egypt's reputation. She was held overnight and reportedly subject to several interrogation sessions. She was released the next day after she paid a bail of 13690 Euros.

13. On May 2007, Ms. Taha was convicted by a state security court to six months in prison together with a fine of 3500 Euros.⁹

14. Pervasive injustices are systematic and multiple violations of human rights are routinely practiced by the government of Egypt. Individuals in Egypt may find themselves detained and arrested for behavior that is not inherently criminal or offending to anyone.

D. Recommendations.

⁷ For details see World Association of Newspapers, WAN, WEF Protest against Egyptians Press Laws 19 September 2007

Available at <http://www.wan-press.org/article15141.html>

⁸ Ibid

⁹ For Details see www.ihrc.org

- The wide ranging and systematic human rights violations reported in the Arab Republic of Egypt due to the continuous emergency law constitute key challenges which the government must address to uphold its commitment to human rights.
- The authorities must take measures to ensure that the constitution and constitutional guarantees for the protection and promotion of human rights are not arbitrarily set aside.
- All torture and other ill-treatment must cease and bring the perpetrators to justice in accordance with the international standards of fair trial.
- The government must end all arbitrary detention and release those currently detained arbitrarily.
- Being a party to ICCPR, the Arab Republic of Egypt is obliged to promote its human rights obligation of due process and fair trial.