

HAUT-COMMISSARIAT AUX DROITS DE L'HOMME • OFFICE OF THE HIGH COMMISSIONER FOR HUMAN RIGHTS
PALAIS DES NATIONS • 1211 GENEVA 10, SWITZERLAND

Mandates of the Chair-Rapporteur of the Working Group on Arbitrary Detention; the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression; the Special Rapporteur on the rights to freedom of peaceful assembly and of association; the Special Rapporteur on freedom of religion or belief; the Special Rapporteur on the independence of judges and lawyers; the Special Rapporteur on extrajudicial, summary or arbitrary executions; the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism; the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment; and the Special Rapporteur on the promotion of truth, justice, reparation and guarantees of non-recurrence.

REFERENCE: UA
EGY 9/2014:

26 June 2014

Excellency,

We have the honour to address you in our capacity as Chair-Rapporteur of the Working Group on Arbitrary Detention; Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression; Special Rapporteur on the rights to freedom of peaceful assembly and of association; Special Rapporteur on freedom of religion or belief; Special Rapporteur on the independence of judges and lawyers; Special Rapporteur on extrajudicial, summary or arbitrary executions; Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism; Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment; Special Rapporteur on the promotion of truth, justice, reparation and guarantees of non-recurrence pursuant to Human Rights Council resolutions 24/7, 25/2, 24/5, 22/20, 17/2, 17/5, 25/7, 25/13, and 18/7.

In this connection, we would like to bring to the attention of your Excellency's Government information we have received concerning In this connection, we would like to bring to the attention of your Excellency's Government information we have received concerning the confirmation of mass death sentences against 220 individuals by a Criminal Court in Minya, Egypt.

According to the information received:

On 24 March 2014, a Criminal Court in the city of Minya, Upper Egypt, sentenced 529 people to death on charges related to an attack on a police station in

Matay, al-Minya governorate on 14 August 2013 in protest of the violent dispersal of supporters of the former President Mohamed Morsi in Cairo. The charges against the defendants ranged from belonging to a banned group and stealing fire arms to murder. The provisional sentences were pronounced reportedly after two brief hearings marred with irregularities, including lack of precision on the charges against each individual, limited access to lawyers, trials in absentia, and mass sentencing. The first hearing, which took place on 22 March 2013, only lasted less than 30 minutes and only 64 of the defendants were present in court. The judge allegedly did not allow the defense to cross-examine any witnesses and refused to consider evidence produced by the defense. The second hearing on 24 March took place in absence of all the defendants and the defense lawyers, who were barred from attending by the Court.

On 28 April 2014, another group of 683 individuals were provisionally sentenced to death by the same Court in connection to an attack on a police station in al-Adwa, al-Minya governorate on 14 August 2013, following a similarly brief trial laden with procedural flaws. None of the 683 men were present for the hearing or the sentencing. The charges against the defendants included threatening public order, burning a police station, belonging to a banned group and murder.

On the same date, the Court in Minya confirmed 37 of the 529 provisional death sentences that he had imposed during March's round of mass trials, and reviewed the provisional sentences of the remaining 492 defendants, sentencing them to life in prison.

On 21 June 2014, the same Court upheld 183 of the 683 provisional death sentences imposed on 28 April 2014. The sentences had previously been reviewed by Egypt's Grand Mufti. The 183 defendants, including Mulsim Brotherhood supreme guide Mohamed al-Badie, are all purportedly supporters of former president Mohamed Morsi. Of the remaining 500 defendants, four received life sentences and 496 were acquitted.

The detained defendants were reportedly transferred from El Wadi Al Gadid prison to Wadi El Natroun prison, on the Cairo Alexandria highway, around 450 km from El Minya.

According to available information, since January 2014 the Egyptian courts have recommended the death penalty for 1,247 individuals and upheld such sentences against 247 individuals, all of whom were reportedly Morsi supporters.

Information also points to the recent resumption of executions in the country, whereby six men and a woman convicted of murder and forced robbery have been hanged since 16 June, in the first recorded executions in Egypt since 2011.

Without making a judgment as to the accuracy of the information made available to us, we would like to express our concern about the repeated imposition of the death penalty following mass trials that contradict international standards of fair trial and due process. Concern is also expressed that the death penalty appears to be used as a tool to clamp down political dissent, particularly against supporters of former president Morsi. We also express concern that the trials may also be discriminating against persons or groups based on their religion or belief. Further concern is expressed at the recent resumption of executions of individuals sentenced to capital punishment.

While we do not wish to prejudge the accuracy of these allegations, the above alleged facts indicate a *prima facie* violation of the right to life and security, not to be arbitrarily deprived of life, not to be deprived arbitrarily of their liberty, to freedom of expression, and to freedom of peaceful assembly and of association, as set forth in Articles 3 and 9 of the Universal Declaration of Human Rights, and Articles 6 (1), 9, 19, 21 and 22 of the International Covenant on Civil and Political Rights, ratified by Egypt on 14 January 1982. In addition, these allegations appear to be in contravention of the persons' right to fair proceedings before an independent and impartial tribunal, and the right to be assisted by a lawyer, as set forth in Articles 10 of the UDHR and 14 of the ICCPR, and in the Basic Principles on the Role of Lawyers.

We wish to affirm that although the death penalty is not prohibited under international law, it has long been regarded as an extreme exception to the fundamental right to life. Article 6(2) of ICCPR provides that countries which have not abolished the death penalty may only impose it for the most serious crimes. This provision has consistently been interpreted by the Human Rights Committee to mean that the death sentence may only be imposed in respect of offences that result in the loss of life. Furthermore, Article 5 of the United Nations Safeguards Protecting the Rights of those Facing the Death Penalty provides that Capital punishment may only be carried out after legal process which gives all possible safeguards to ensure a fair trial. Only full respect for stringent due process guarantees distinguishes capital punishment as possibly permitted under international law from an arbitrary execution. In this context, we wish to refer to the Special Rapporteur on torture's report A/67/279 (paras. 60-61), stating that the imposition of the death penalty following an unfair trial amounts to a violation of the absolute prohibition of torture and other cruel, inhuman or degrading treatment or punishment.

The full texts of the human rights instruments and standards recalled above are available on www.ohchr.org /can be provided upon request.

In view of the allegations of unfair trial leading to the imposition of the mass death sentences mentioned above, we call upon your Excellency's Government to quash the sentences and to take all steps necessary to ensure a fair retrial to all defendants.

In view of the urgency of the matter, we would appreciate a response on the initial steps taken by your Excellency's Government to safeguard the rights of the above-mentioned persons in compliance with international instruments.

As it is our responsibility, under the mandates provided to us by the Human Rights Council, to seek to clarify all cases brought to our attention, we would be grateful for your observations on the following matters:

1. Please provide any additional information and any comment you may have on the above mentioned allegations.
2. Please provide information concerning the legal grounds for the detention, prosecution, conviction and sentencing of the 529 individuals and the 683 individuals mentioned above, and how these measures are compatible with international norms and standards as stated, inter alia, in the UDHR and the ICCPR.
3. Please provide detailed information on each stage of the judicial proceedings against the individuals sentenced to death and life in prison as confirmed by the Court in Minya on 28 April 2014 and 21 June 2014, and indicate how they comply with the requirement and guarantees of a fair trial as enshrined in international human rights standards. Please also provide information as to whether the defendants were guaranteed unhindered access to lawyers, allowed adequate time and facilities for the preparation of their defense and provided with effective legal representation in the Court.

While awaiting a reply, we urge that all necessary interim measures be taken to halt the alleged violations and prevent their recurrence and in the event that the investigations support or suggest the allegations to be correct, to ensure new and fair trials to all defendants.

Due to the urgency of the matter, we would like to inform your Excellency's Government of our intention to issue a press release particularly in light of the number of persons affected by the imposition of death sentences and the need for an urgent retrial in compliance with international standards. The experts are of the view that the information upon which this news release is going to be based is sufficiently reliable to indicate a matter warranting immediate attention. This news release will indicate that the experts have been in contact with the Government to clarify the issue/s in question.

Your Excellency's Government's response will be made available in a report to be presented to the Human Rights Council for its consideration.

Please accept, Excellency, the assurances of our highest consideration.

Mads Andenas
Chair-Rapporteur of the Working Group on Arbitrary Detention

Frank La Rue
Special Rapporteur on the promotion and protection of the right
to freedom of opinion and expression

Maina Kiai
Special Rapporteur on the rights to freedom of peaceful assembly
and of association

Heiner Bielefeldt
Special Rapporteur on freedom of religion or belief

Gabriela Knaul
Special Rapporteur on the independence of judges and lawyers

Christof Heyns
Special Rapporteur on extrajudicial, summary or arbitrary executions

Ben Emmerson
Special Rapporteur on the promotion and protection of human rights
and fundamental freedoms while countering terrorism

Juan E. Méndez
Special Rapporteur on torture and other cruel, inhuman or degrading
treatment or punishment

Pablo De Greiff
Special Rapporteur on the promotion of truth, justice, reparation
and guarantees of non-recurrence