



REPRIEVE

| **The Death Penalty in Egypt**
– Ten Years After the Uprising

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Foreword

Ibrahim Halawa

On 17th August 2017, I was visiting Egypt during my summer break, and was due to travel back to Ireland, my home country, in four days. Instead, I was arrested for taking part in protests. I was 17 years old. Witnessing people being massacred for democracy didn't sit right with me as a teen. I grew up believing that democracy and human rights have no borders, and that people shouldn't be kidnapped and murdered when calling for these rights.

I was charged in a mass trial along with hundreds of others. In jail, I was tortured: I was stripped naked, beaten and kept in sweltering, overcrowded cells. Any visitations that were permitted could only last for two minutes, while I was behind barbed wiring. I thought that if I was not executed, I would surely die in jail. After four years and two months of adjourned trials, I was acquitted and released. By the time I got home to Ireland, I was 21 years old.

I lost the crucial years from being a child to becoming an adult. While being in jail, two of my sisters got married, and five new babies were welcomed into the family. My mother was diagnosed with cancer and my uncle passed away. I received a letter from my best friend describing my high school graduation, which I had missed, and a few years later, my college graduation too. To this day flashbacks of what I endured continue to haunt me.

I first heard of Reprieve while in solitary confinement. It was my 18th birthday and I cried that I couldn't celebrate it with my loved ones. Reprieve sent me a birthday card with 8,000 signatures. It was a candle that lit my dark cell. I was released because of the tireless work of my family, the legal organisation Reprieve, assistance from the Irish government, and support from others who heard about my circumstances.

Thousands of other Egyptians have had the same terrifying experience. Egypt continues to use mass trials to sentence people to death. Some of those sentenced to death are children, like I was. Many of those sentenced in mass trials are eventually executed, and in 2020, the rate of executions in Egypt skyrocketed. This report lays bare the extent of this shocking crisis, with figures that make the scale of this disaster undeniable.

Continued attention on Egypt's trial and execution practices is essential so that no one else is subjected to the same injustices. I hope that this report draws attention to the urgency of the situation in Egypt and to those cellmates who said to me while I was walking out of my cell "Ibrahim, please don't forget us."

Methodology and Key Concepts

01



Reprive and partner organisations in Egypt gather information about the use of the death penalty in Egypt from official court documents and reviews of English and Arabic sources, including official government sources from Egypt, newspapers and other media sources from Egypt and around the Arab world, and reporting by Egypt-based human rights monitors. Events taking place after 31 December 2020 were not collected and therefore are not reflected in the data. The methodology by which we gather this information, many of the underlying sources, and our analysis of this information is available at <https://egyptdeathpenaltyindex.com/about/>.

It is important to note that the UN General Assembly has called on all states that continue to apply the death penalty to:

“make available relevant information, disaggregated by sex, age, nationality and race, as applicable, and other applicable criteria, with regard to their use of the death penalty, inter alia, the number of persons sentenced to death, the number of persons on death row and the number of executions carried out, the number of death sentences reversed or commuted on appeal and information on any scheduled execution, which can contribute to possible informed and transparent national and international debates, including on the obligations of States pertaining to the use of the death penalty.”

Unfortunately, the vast majority of executing states, including Egypt, have failed to make any such information available.ⁱ

Definitions

Offences punishable by the death penalty

104 offences are punishable by death under Egyptian law.ⁱⁱ Set out in the Penal Code,ⁱⁱⁱ Counterterrorism Law,^{iv} Military Judiciary Law,^v and Anti-Narcotics Law,^{vi} these crimes include a number of non-violent and non-lethal offences, including a wide and vaguely defined range of terrorism-related offences that expose people to the death penalty for perceived opposition to the current regime.^{vii}

Egypt's criminal court system

When a defendant is sentenced to death in Egypt, they are first given a preliminary death sentence, and their case is referred to the Grand Mufti.^{viii} The Grand Mufti is Egypt's highest Islamic religious authority. His religious opinions, issued on various matters, are non-binding but influential. The Grand Mufti issues an opinion on each preliminary death sentence handed down in Egypt, including sentences imposed on non-Muslims. The trial judge then takes the opinion into consideration before confirming or commuting the death sentence.

The death sentence can be appealed to the Court of Cassation, Egypt's highest court.^{ix} Under the current law, the Court of Cassation is no longer required to remit a capital case to a lower court for a retrial or rehearing.^x Instead, it has the power to confirm or alter the sentence.^{xi} Once a death sentence is confirmed by the Court of Cassation, it becomes final, pending presidential order of its implementation or pardon.^{xii} A defendant's lawyer can file a final request for reconsideration with the Prosecutor, who then communicates it to the Court of Cassation.^{xiii} Executions are carried out by hanging for civilians,^{xiv} including those who are tried before military courts, or by firing squad for military personnel.^{xv}

At risk of imminent execution

Someone is at risk of imminent execution when they have exhausted all of their court appeals, and there is no legal barrier to execution. Egypt's criminal procedure requires people on death row, and their families, to be notified of their execution dates in advance. But the recent practice has been to execute people suddenly and without notifying their families. Especially now, as Egypt is carrying out executions at an unprecedented rate, everyone with a finalised death sentence is considered at imminent risk.

Political criminal charge

Refers to charges where the facts and circumstances are perceived to be connected to the political and societal changes that have arisen in Egypt since the January 2011 revolution. These charges include terrorism, assembly, civilian clashes, storming a government installation, and membership in a terrorist organisation (when that organisation as a whole has committed other crimes). These are often the charges when political demonstrations result in violence between security forces and civilians.

Non-Political criminal charge

Refers to charges where the facts and circumstances are not perceived to be connected to the political and societal changes that have arisen in Egypt since the January 2011 revolution.

Mass trial

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

In absentia conviction

A conviction of a defendant who was not present at trial, i.e., a conviction handed down in the defendant's absence.^{xvi}

Assembly Law^{xvii}

A British Colonial-era law that enshrines the concept of collective liability, allowing the state to hold any individual accused of attending an assembly deemed illegal for being unlicensed jointly liable for any criminal act that allegedly arose because of that assembly.^{xviii}

Protest Law^{xix}

A law originally passed in 1923 and then replaced by the government of interim President Adly Mansour.^{xx} It was intended to complement the Assembly Law by prohibiting unlicensed gatherings of ten or more people in "public meetings" without notifying security forces and giving them the opportunity to limit or prohibit the gathering.

Child Law^{xxi}

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.

Executive Summary

02

Since the release of Reprieve's ground-breaking report on the death penalty in Egypt in 2019, exposing the magnitude of Egypt's use of capital punishment in the years following the 2011 revolution, Egypt's mass trial complex shows no sign of slowing. By analysing information collected by Reprieve's partners in Egypt, this report highlights the unprecedented levels of violence Egypt's current regime is wielding against its own citizens:

- Egypt remains fifth in global rankings for executions. Between 2018 and the end of 2020, Egypt carried out at least 241 executions. The vast majority of these executions were in 2020, when Egypt executed at least 152 people, the highest number of annual executions on record.
- At least 25 people are currently at risk of imminent execution.
- There are widespread and well-founded concerns that Egypt's criminal justice system cannot afford defendants the basic guarantees of due process and fair trial rights.
- Mass trials continue to proceed despite widespread international condemnation that they are simply unfit to meet the basic requirements of international fair trial protections. There have been at least 53 mass trials since 2011, in which 2,182 people were sentenced to death.
- Egypt has continued to used mass trials to issue death sentences in the last three years; at least 213 people have been sentenced to death in mass trials since 2018, a quarter of all death sentences in that period. In the same period, at least 27 people were executed after being convicted in mass trials.
- Egypt continues to sentence children to death in contravention of both domestic and international law. At least 17 children have received preliminary death sentences since 2011.
- Civilians are being tried in military courts at an unprecedented rate. There are concerns that proceedings in these courts are even less likely to adhere to international fair trial obligations; between 2017 and 2020, at least 55 people received the death penalty before military courts.
- Changes in 2017 to the law to truncate the appeals process have now been fully implemented by Egypt's judiciary; since 2018, at least 202 death sentences have been upheld by Egypt's highest court, the Court of Cassation.
- The escalating use of the death penalty is even more concerning in the context of the systemic use of torture by the authorities, often to obtain a "confession".
- The decimation of fair trial procedures has affected both those who have been targeted for involvement in real or perceived political dissent, as well as the 153 people executed for non-political criminal charges since 2018.

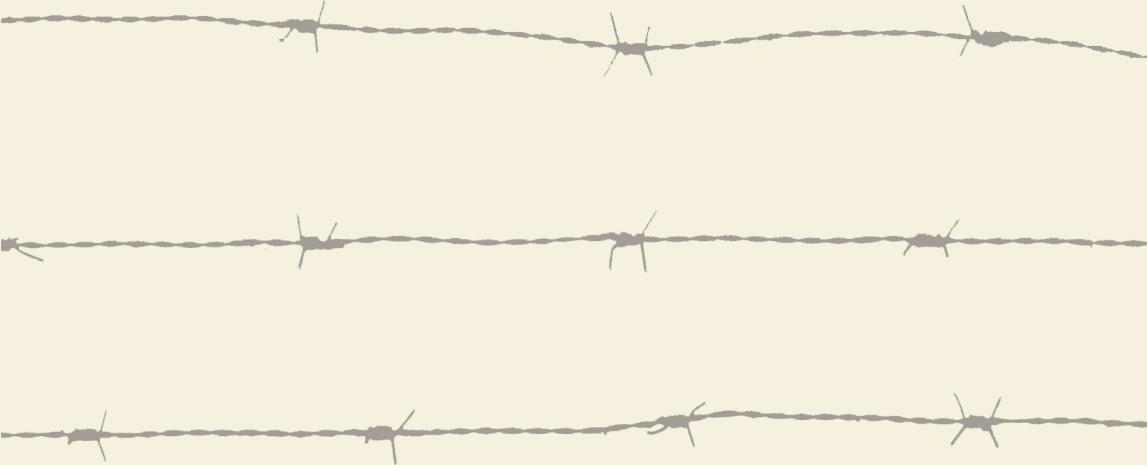
Based on the findings of this report, it is now clearer than ever that Egypt is using the death penalty as a tool of repression. The death penalty is the ultimate abuse of state power. In Egypt, it is being wielded by a regime which makes use of systemic torture, stifles the rights to free assembly and expression, and condemns those who exercise these internationally-protected rights – including children – as terrorists.

Since 2019, Egyptian authorities have moved to further shrink and limit civil society activity through the passing of draconian laws, and have waged a campaign of arrests of human rights defenders, journalists, lawyers and academics.

The international community can no longer stand silent. It must call on Egypt to restrict its use of the death penalty, comply with its international obligations, and ensure that any justice sector cooperation is contingent on Egyptian authorities: a) ending the use of the death penalty in cases involving children, and b) ending the use of mass trials and torture.

Context

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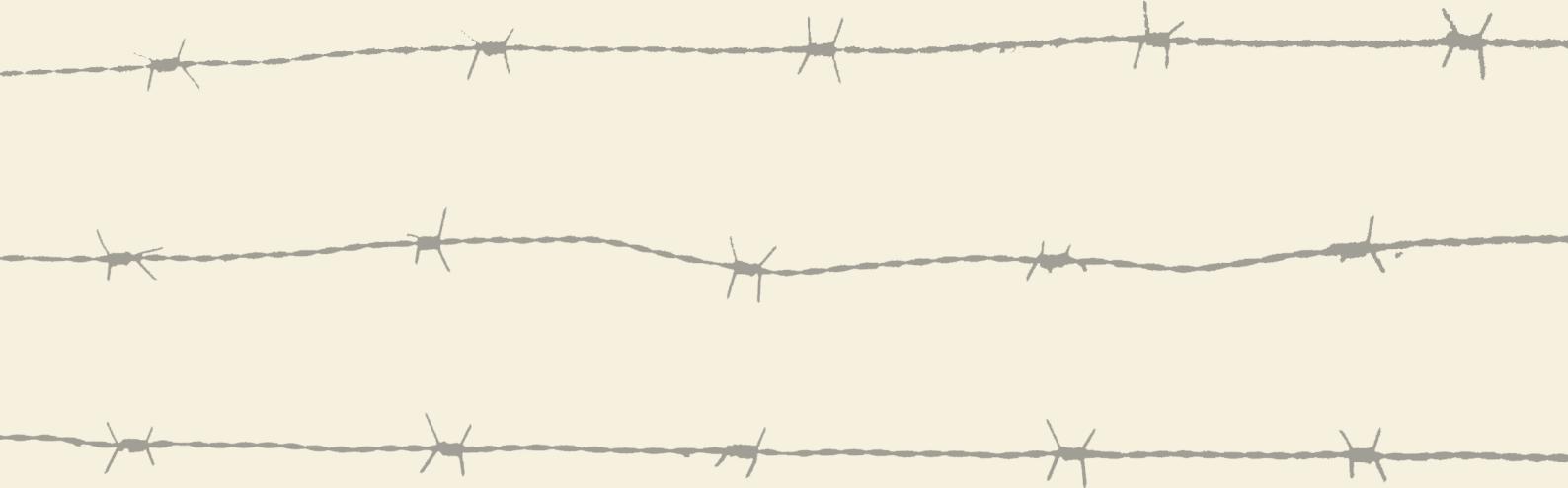


Abdelfattah al Sisi, Egypt's current president, came to power in May 2014, following years of tumultuous events in the country.^{xxii} The Egyptian Revolution, which started a decade ago on 25th January 2011, led to the overthrow of Hosni Mubarak, one of the world's longest serving leaders.^{xxiii} After Mubarak stepped down, Mohammed Morsi, head of the Muslim Brotherhood-affiliated Freedom and Justice Party, was elected and served as President for just over a year before being ousted in 2013.

After Adly Mansour's brief interim presidency, in May 2014 Abdelfattah al Sisi Field Marshall was elected president, and was re-elected in 2018.^{xxiv} Both elections were widely viewed as neither free nor fair.^{xxvxxvi}

Under the current regime, Egyptian authorities have cracked down both on those who backed Morsi, and any form of opposition to the regime. Immediately after his removal from power, members of the Egyptian police and army used excessive lethal force to break up protests and sit-ins by Morsi's supporters, killing hundreds of people staging a sit in outside east Cairo's Rabaa al-Adawiya mosque on 14th August 2013.

The Egyptian government's first major piece of legislation after the 2013 coup allowed the Interior Minister to prohibit gatherings of more than 10 people without prior approval, effectively outlawing protests.^{xxvii} Nearly ten years after the 2011 revolution, Egyptians continue to take to the streets despite worsening oppression, including the rapidly escalating use of the death penalty to silence perceived critics of the regime.



The current regime has used the criminal justice system, and the death penalty in particular, as a tool of retaliation and oppression to silence dissent. Hundreds of Morsi supporters have been sentenced to death, including the former president Morsi, who died of medical negligence while in custody on 17 June 2019.

Death sentences have been handed down in mass trials involving hundreds of defendants and lasting only days.^{xxxviii} Many of those sentenced to death are later acquitted or have their sentences commuted after wasting years of their lives in prison, while others are executed without ever receiving a fair trial. Children have been swept up in these trials in contravention of domestic law^{xxxix} and international law and sentenced to death alongside hundreds of other defendants.^{xxx}

In the last three years, the death penalty crisis has become critical. Executions are at the highest rate on record, and procedural reforms have made it easier to convict large groups of people quickly.^{xxxii} Death sentences are imposed after a series of other abuses. The use of torture, enforced disappearances and extrajudicial killings are committed by state authorities with impunity, ostensibly for counterterrorism purposes.

Meanwhile, changes to the criminal justice system have also contributed to a rapid rise in the executions of people who do not appear to be real or perceived critics of the regime, particularly in 2020 when Egypt carried out a record-breaking number of executions.

On 20th September 2019, following allegations of corruption against the military, demonstrations broke out in several governorates across Egypt demanding that the president step down.^{xxxii}

These peaceful demonstrations were met with tear gas fired by security forces, followed by the mass arbitrary arrest of protesters and passers-by.^{xxxiii} The mass arrests continued for days, and, in total, more than 4,000 Egyptians were arrested, most of whom were brought in front of the National Security Prosecution in Cairo.^{xxxiv} This includes scores of political opponents, journalists, lawyers, and human rights defenders, almost all of whom were charged with terrorism-related offences.^{xxxv}

The Egyptian authorities' repressive response to peaceful protests in 2019 comes shortly after the passing of the NGO law on 15th July 2019 by the Egyptian Parliament.^{xxxvi} The law continues to ban NGOs from receiving funding or fundraising domestically or abroad, and from carrying out certain human rights activities, such as conducting research and publishing findings without government permission.^{xxxvii} It grants the authorities the right to object to the registration of NGOs within 60 days of the date of notification, effectively requiring them to seek governmental permission for their establishment. It also gives the authorities the power to dissolve NGOs and prosecute staff based on vague allegations.

As of late 2020, Egyptian authorities have continued to target NGO workers and human rights activists, such as the arrest of three senior members of the Egyptian Initiative for Personal Rights (EIPR), human rights lawyers, journalists and academics.^{xxxviii xxxix}

Death Penalty Data Analysis – Key Trends and Issues

04

Escalation in Egypt's use of the death penalty

Since the current regime took power in 2013, and particularly since 2018, a record number of death sentences have been imposed and executions carried out.

International law to which Egypt is party requires that States limit the use of the death penalty to the most serious crimes, with a view towards abolition.^{xl} The International Covenant on Civil and Political Rights (ICCPR), which Egypt ratified in 1982,^{xli} provides that “in countries which have not abolished the death penalty, sentences may be imposed only for the most serious crimes.”^{xlii} The “most serious crimes” are intentional crimes with “lethal or extremely grave consequences.”^{xliii} Particularly relevant to mass trials in Egypt is the international law prohibition on the imposition of the death penalty where a defendant has a limited degree of involvement or of complicity in the commission of even the most serious crimes.^{xliv} Death sentences can also only be imposed in cases where the defendant received the full complement of due process and fair trial rights provided by domestic and international law.^{xlv}

Under the current regime, Egypt has patently disregarded these obligations with many, if not all, executions likely qualifying as arbitrary deprivations of life.

Globally, Egypt ranks fifth in executions.^{xlvii} From the beginning of 2018 through the end of 2020, Egypt’s criminal courts imposed at least 1,019 preliminary death sentences.^{xlviii} Egypt has executed an unprecedented number of people in the same time period. Egypt has executed at least 241 people since the beginning of 2018, and 2020 has seen the most executions per year on record in Egypt (Figure 1).

Figure 1: Executions in Egypt by year since 2011



October 2020 saw the most troubling acceleration to date, with at least 51 people executed that month alone.

Mass trials

Egypt has used mass trials to issue a quarter of its death sentences in the last three years; at least 213 people have been sentenced to death in mass trials since 2018. In the same period, 27 people were executed after being convicted in mass trials.

By trying defendants in large groups, often in the hundreds, Egypt has made punishing political dissent a simpler task for the regime, and in so doing, eviscerated procedural safeguards and due process rights of defendants. Mass trials undermine the right to individual adjudication and limit the right of access to lawyers.^{xlviii} 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, and restrict defendants' ability to access counsel. Additionally, many of the defendants are tried in absentia. International law provides that an accused is generally entitled to be present at trial, in order to present a defence.

Trying such a large number of people simultaneously also interferes with the presumption of innocence, which is already limited, as Egypt's law explicitly permits guilt by association. British Colonial-era Law No. 10 of 1914, also known as the Assembly Law, allows the state to charge any person taking part in an assembly deemed illegal for any criminal act that allegedly arose because of that assembly.^{xlix} On this basis, the Egyptian judiciary has conducted a series of mass trials in recent years, in which dozens or hundreds of defendants were tried at once, usually jointly accused of involvement in a single, ill-defined alleged crime under the Assembly Law.^l

Egypt continues to use mass trials to impose death sentences for political dissent. A quarter of preliminary death sentences imposed and a quarter of executions since 2018 arose from events related to political opposition. These arrests often follow popular efforts to exercise rights to assembly and free expression. The charges do not allege specific actions, but, rather, proximity to an event or membership in a group.

Five of the men executed in October 2020 were arrested in the aftermath of clashes between protesters and security forces on 14 August 2013.^{li} The five men were convicted and sentenced to death in 2014 and 2015 in two mass trials where hundreds were sentenced to death.^{lii}

Nine mass trials took place in relation to the events of 14 August 2013. Hundreds of defendants were tried and sentenced to death in these mass trials. Most of the defendants were convicted of "storming government installations", but because of the Protest Law, they only needed to be present at the scene of these clashes to be given a death sentence.^{liii}

Ahmed Saddouma

Ahmed Saddouma is an Egyptian national who received a confirmed death sentence for alleged offences committed when he was under the age of 18.

On 2nd March 2015, Ahmed, a 17-year-old secondary school student, was arrested from his bed in his family's home in the town of Awsim, not far from Cairo. For the next 80 days, Egyptian authorities held Ahmed in incommunicado detention and tortured him, beating him with metal objects and forcing him to sign a false confession to crimes he did not commit.

Ahmed was accused of involvement in alleged terrorist acts to which he had no connection. The most serious offence of which Ahmed was accused, the attempted assassination of Judge Fathi el-Bayoumi, did not occur until three weeks after Ahmed's arrest, at a time when he was in detention being tortured by police.

Following his forced confession, Ahmed was tried as an adult in a mass trial of 30 people in contravention of domestic and international law. During the trial, Ahmed was never allowed to meet with his lawyer and his torture allegations were not investigated. At the first trial hearing, Ahmed's lawyer made clear to the court that his client was a child who had been tortured into making a false confession. Despite this, the court never ordered an investigation into Ahmed's torture, allowed his false confession to be admitted into evidence, and refused to acknowledge his juvenility.



This trial concluded in February 2018 with confirmed death sentences for Ahmed and three of his co-defendants, even though the court was aware that Ahmed was a child when he was arrested. The written judgment relied almost entirely on Ahmed's torture-tainted confession, despite his allegations that it was false and extracted through torture.

On 10 June 2019, the Court of Cassation finally recognised Ahmed's juvenility and commuted his sentence to 15 years in prison, the maximum sentence possible under the child law.

Along with Ahmed, three other children spent 3-4 years on death row before they were acquitted or resentenced to prison terms. Those are years that they will never get back.

International pressure was key to overturning Ahmed's death sentence. In May 2019, the British government approached the Egyptian government with its concerns about Ahmed's case. A UK official attended the hearing at which Ahmed's sentence was commuted.

On 3 May 2019, the United Nations Working Group on Arbitrary Detention adopted an opinion stating that Ahmed's detention lacked a legal basis, violated principles of fair trial and due process, and constituted retaliation for the political opinions of Ahmed's father. The Working Group recommended that Ahmed be immediately released and afforded an enforceable right to compensation.

Similar international attention could save the lives of the others on death row who were convicted of alleged offences committed when they were children.

Children Caught in the System

Ahmed is typical of the children that are sentenced to death in Egypt. The use of mass trials makes them particularly vulnerable to Egypt's use of the death penalty. Egypt's Child Law provides that all children under the age of 18 who have infringed the Penal Code shall not be "sentenced to death, life imprisonment, or forced labour."^{lv} Where the child is over the age of 15 and would have otherwise been subject to a death sentence, the court must issue an alternative custodial sentence.^{lv}

These provisions conform to Egypt's obligations under the Convention on the Rights of the Child,^{lvi} the Arab Charter on Human Rights,^{lvii} the African Charter on the Rights and Welfare of the Child^{lviii} and the ICCPR.^{lix}

However, when children are tried in adult courts, they are exposed to the risk of capital punishment. Though the Child Law establishes specialised juvenile courts, it stipulates that an adult court has jurisdiction over cases where the child is above fifteen years of age, a co-defendant is an adult, and the circumstances require that they be tried jointly.^{lx} The court in such a case is still directed to consider juvenility, and, in order to abide by Egyptian and international law, should apply all substantive provisions of the Child Law, including limits on sentencing.

Prosecutors have used this law to sweep a number of 16 and 17-year-old defendants into adult court, where they are tried among hundreds of adult defendants. When prosecutors use the Assembly Law and Protest Law to orchestrate mass trials, some children are all but guaranteed to be among the defendants, where they are at risk of receiving death sentences.

In some cases, the court never learns of a defendant's potential juvenility because the sheer number of those being tried makes it unable to consider each defendant individually. In a grim display of the carelessness with which these mass trials are run, in 2016 a court sentenced a four-year-old toddler to life in prison, an incident that was later called a "mistake."^{lxii} A spokesman for the court said that it had meant to sentence a 16-year-old (who also ought not to have faced the death penalty due to his age) with a similar name.^{lxii} In other cases, courts are made aware of the juvenility of defendants and sentence them to death anyway.

One of the defendants tried for the events of 14 August 2013 was a 17-year-old. He was tried alongside 738 other defendants, on charges of "sit-in clashes", and received a confirmed death sentence in 2018.^{lxiii}

Since 2011, Egypt has given 17 people preliminary death sentences for offences relating to events that took place when the accused were children. 10 of these people remain on death row.

We are not aware of Egypt carrying out the execution of a child to date. However, the execution of a child remains a risk. Further, children sentenced to death lose years of their lives on death row. As children, they are separated from their families, are often tortured, and linger in prison. 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.^{lxiv}

In bringing children to trial in adult courts, Egypt has failed to abide by its own law and its international obligations. Furthermore, Egypt has not demonstrated any intent to stop. It has handed down six death sentences to children since the start of 2018. To ensure that no more children endure what Ahmed did, Egypt must fully abide by the provisions of the Child Law.

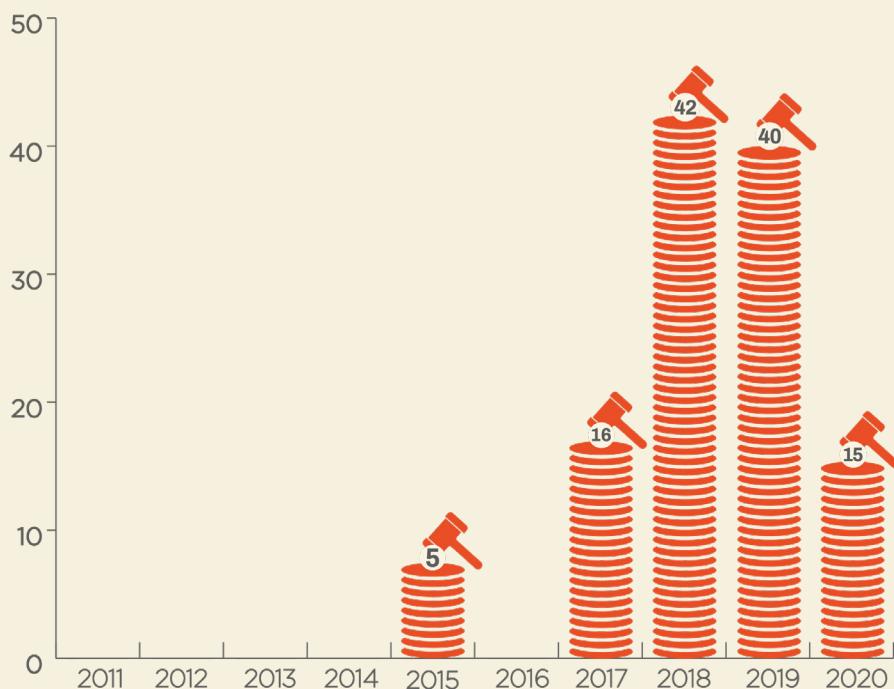
Shrinking Due Process

As with the escalating use of mass trials, the past decade has seen sweeping changes in law designed to make the conviction of the regime's perceived political opponents easier. These changes have affected everyone involved in the criminal justice system including people who have no involvement in political activity.

Egypt's 2014 Constitution permits the trial of civilians in military court when they are accused of assaults against military facilities.^{lxv} The Facilities Protection Law expanded the definition of military facilities to include public facilities like power stations, universities, roads, and bridges.^{lxvi} As such, any defendant accused of committing a crime on public property could be tried in a military court.^{lxvii}

Increasingly large numbers of civilians have been tried in military courts since this law came into force in 2014.

Figure 2: Trials in military courts between 2011 and 2020



Military trials are less likely to conform to international standards of due process and a fair trial. Military judges are subject to a military chain of command and are therefore insufficiently independent from the executive.^{lxviii} Military court sessions can be closed to the public and media, and the court may prohibit dissemination of information about the sessions. The defence has limited rights to review the case file and documents deemed "classified" cannot be copied. Finally, an appeal goes to a higher military court that suffers from the same deficiencies.^{lxix}

Amendments have also removed due process and fair trial protections in civilian courts. In June 2015, Egypt's Prosecutor General Hisham Barakat was killed when a car bomb exploded near his convoy as he drove through Cairo. Speaking at the funeral, President Sisi vowed "to enact new laws to speed terrorism trials and sentences, including executions."^{lxix} He suggested that the process of handing down sentences was taking too long, and that "the prompt hand of justice is tied by the laws, and we can't wait for that."^{lxxi} The promised amendments would "implement the law and justice in the fastest possible time."^{lxxii}

In 2017, the Egyptian Parliament amended Law no. 57 of 1959 to limit appeals in the Court of Cassation, Egypt's highest court. Prior to the amendments, the Court was able to reverse a conviction and send the case back for a second trial. This gave many defendants sentenced to death a retrial and two rounds of appeal at the Court of Cassation, acting "as a relatively strong check on flawed convictions."^{lxxiii}

As of 2017, the Court of Cassation no longer serves as this check. The Court can assess both legal and factual matters during the first appeal and issue a final judgement. Amnesty International described this change as a "nail in the coffin of fair trial standards."^{lxxiv}

Defendants now sentenced to death usually do not have the opportunity for a re-trial, where most acquittals and commutations used to occur. Instead, the Court of Cassation has begun to uphold more convictions on appeal. Since 2018, it has upheld 202 death sentences, nearly an eightfold increase from the prior four years.

Figure 3: Number of death sentences upheld by the Court of Cassation between 2013 and 2020

Year	Death Sentences Upheld
2013	1
2014	0
2015	9
2016	8
2017	58
2018	52
2019	49
2020	42

At the same time, the Egyptian parliament amended the Constitution, giving the President of the Republic more control over appointing the Court's chief judge, further undermining the Court's independence.^{lxxv lxxvi}

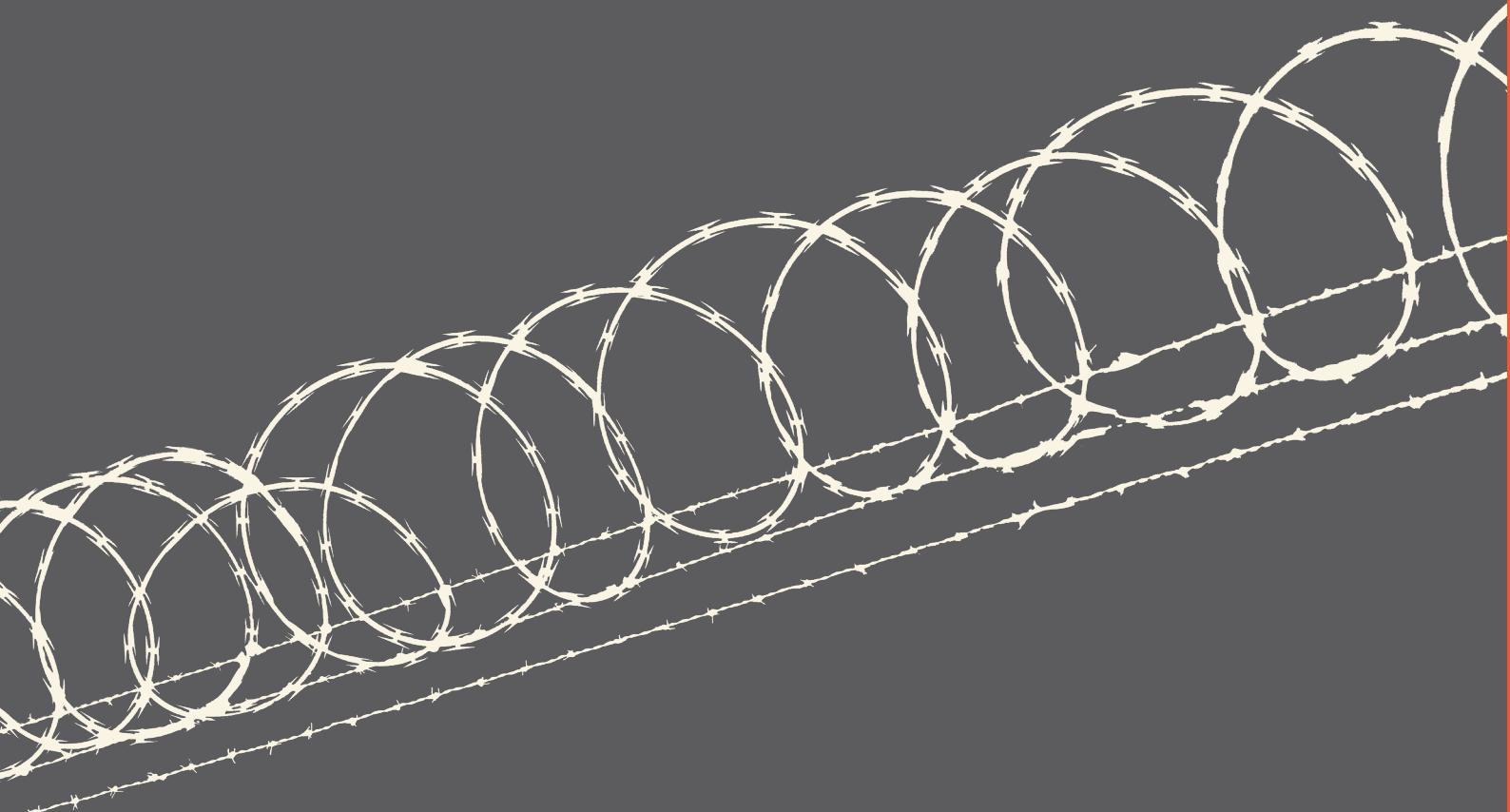
In its zeal to crack down on dissent, the Egyptian government has removed process protections for criminal defendants as well. The removal of procedural protections applies to all cases, whether political or not.

Systemic use of torture

The removal of fair trial protections and escalating death sentences and convictions is happening in the context of the systemic use of torture in the criminal justice system.

In 2017, the UN Committee Against Torture concluded a confidential inquiry into systematic torture in Egypt under article 20 of the UN Convention against Torture. The Committee found that “torture is a systematic practice in Egypt”, noting that “[t]orture appears to occur particularly frequently following arbitrary arrests and is often carried out to obtain a confession”.^{lxvii}

In 2018, a group of UN experts called on Egypt to halt all pending executions following repeated allegations of unfair trials, stating “[w]e are particularly concerned by an apparently continuing pattern of death sentences handed out on the basis of evidence obtained through torture or ill treatment, often during a period of enforced disappearance.”^{lxviii}



Father Isaiah

Father Isaiah is a Coptic Christian monk sentenced to death after an investigation and trial rife with human rights violations. Father Isaiah was executed on 9 May 2021. His family were given no notice of his execution, and were only informed after he had been killed.

Father Isaiah ran a small shop and studied for a degree in teaching English before deciding to join the Abu Maqr Monastery in 2007.

On 29 July 2018, the Bishop of the monastery was found dead in front of his living quarters. Egyptian Security forces arrested Father Isaiah, his co-defendant, and four other monks who were later released. Father Isaiah was subjected to a 48-hour interrogation, during which Security Forces beat him and deprived him of access to toilet facilities, resulting in him urinating on himself.

He was held incommunicado for 27 days. During this period, he was interrogated without a lawyer present and was forced to sign a “confession” in the presence of the Public Prosecutor.

After this interrogation, Father Isaiah was tortured further. When he resisted attempts by the Security Forces to “re-enact” the murder, Security Forces beat him, electrocuted him, and insulted his faith, until he complied.

At trial, Father Isaiah’s lawyer described how he spent days trying to locate where he had been detained but his name could not be found on any detention log. Father Isaiah was not able to speak with his lawyer until the day of his first hearing on 28 August 2018.



Father Isaiah recounted this treatment at trial, naming the official responsible, and withdrawing his “confession.” A witness confirmed Father Isaiah’s account of his initial interrogation. A memo setting out these torture allegations was presented to the Public Prosecution and the court. There has been no investigation into the circumstances of his torture and ill treatment to date.

Without any eyewitnesses or CCTV footage of the murder, the trial court relied almost exclusively on Father Isaiah’s torture confession and the coerced re-enactment to convict him and his co-defendant.

Father Isaiah and his co-defendant appealed their convictions to the Court of Cassation. On 1 July 2020, the Court of Cassation, rather than accepting the appeal and remitting the case to a lower criminal court for a retrial as would have happened prior to the 2017 changes to the criminal procedure, affirmed the death sentence against Father Isaiah and commuted his co-defendant’s sentence to life in a hearing that lasted just 15 minutes.

Instead of the full review of Father Isaiah’s case that would have occurred during a retrial, the appeal judgment shows that the Court of Cassation performed a cursory survey of the issues raised by defence counsel. The Court of Cassation also failed to initiate an investigation into Father Isaiah’s allegation of torture.

Father Isaiah’s execution, during the Islamic month of Ramadan, is a clear sign that the Egyptian government’s brutality and disregard for human rights shows no sign of abating, but rather, is accelerating at an alarming pace.

05

Conclusion



Since 2013, Egypt has used the criminal justice system, and particularly the death penalty, to suppress dissent. Egypt continues to impose hundreds of death sentences a year, and is accelerating executions at an unprecedented and alarming rate. Trials with tens or hundreds of defendants have led to unprecedented numbers of death sentences and executions. Changes to criminal procedure have removed what few protections defendants had prior to 2014. When it is impossible to consider each defendant individually, children are inevitably caught up in this machinery. The diluting of due process protections and the systemic use of torture has also impacted those who have nothing to do with real or perceived political dissent. Even when defendants are acquitted or resentenced, they spend years on death row waiting for their sentences to be reviewed and commuted or thrown out. Defendants tried after recent changes to criminal procedure are unlikely to have a review of their sentence.

Without reform, the machinery of death will only move quicker in years to come.

Recommendations

To Egypt

- Immediately institute a moratorium on executions.
- Make available relevant information, disaggregated by sex, age, nationality and race, as applicable, and other applicable criteria, with regard to Egypt's use of the death penalty.
- Conduct a full review of all death sentences recommended by Egyptian courts and:
 - Resentence anyone that may have been under 18 years of age at the time of the alleged offence under provisions of the Child Law.
 - Fully investigate any allegations of torture and set aside any death sentences that have resulted from torture-tainted trials.
- Immediately end the use of mass trials, which violate the fair trial and due process guarantees enshrined in Article 14 of the International Covenant on Civil and Political Rights.
- Immediately release all children who have received death sentences, including Ahmed Saddouma.
- Stop sentencing children to death in contravention of Egyptian and international law.
- End the use of torture and ill-treatment, including enforced disappearances, in compliance with the Convention Against Torture.
- Comply with all reporting obligations to the UN Committee Against Torture and ratify the Optional Protocol to the Convention Against Torture.

To the International Community

- Make high-level representations to the Egyptian government calling for an end to the use of mass trials and unlawful death sentences.
- Make high-level representations to the Egyptian government calling for the immediate release of all children who have received death sentences and for the Egyptian courts to stop sentencing children to death.
- Call on Egypt to conduct full, impartial investigations in line with international standards into all allegations of torture and ill-treatment, with a view to providing victims with redress, to comply with all reporting obligations to the UN Committee Against Torture and to ratify the Optional Protocol to the Convention Against Torture.

To International Partners

- Make future assistance to Egypt's criminal justice sector contingent upon Egypt first:
 - Introducing a moratorium on executions;
 - Ending the use of mass trials;
 - Releasing all children who have received death sentences and ceasing the use of the death penalty for children;
 - Complying immediately with reporting obligations to the UN Committee Against Torture and ratifying the Optional Protocol to the Convention Against Torture.

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