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# EGYPT

OBSERVATORY FOR THE PROTECTION OF HUMAN RIGHTS DEFENDERS  
ANNUAL REPORT 2010

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## Political context

In 2009, the human rights situation in Egypt was still very worrying. Law No. 162 of 1958 imposing the state of emergency has been in force since 1981 and gives the executive powers that it uses to restrict the activities of human rights defenders. Article 3 of the State of Emergency Law indeed permits the Minister of the Interior to give orders for administrative detention, a ruling that can be renewed for an unspecified period without a charge or trial, for any person suspected of “threatening public order or State security”. The State of Emergency Law also permits the President of the Republic to refer cases implicating civilians to a military court. These courts, which are made up of the military, and whose rulings may not be appealed before an independent higher court, flout the right of all persons to a fair hearing in public before an impartial, independent court. For example, on February 11, 2009, Mr. Magdi Ahmad Hussein, a journalist and Secretary General of the Labour Party, was sentenced to two years in prison and a fine of 5,000 pounds (around 637 euros) by the al-Ismailia Military Tribunal for “illegally entering” the Gaza Strip<sup>1</sup>. He had entered Palestinian territory in January 2009 in protest against the closure of the border by the Egyptian Government at the time of the Israeli army’s massive air raids on the Gaza Strip. His hearing took place in camera and his lawyers were prevented from seeing his case file<sup>2</sup>.

Furthermore, recourse to torture in Egypt remained frequent in spite of the campaigns led by Egyptian civil society to denounce this practice<sup>3</sup>. For instance, between January and April 2009, the Egyptian Organisation for Human Rights (EOHR) had knowledge of ten cases of torture and five

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1/ At the end of 2009, Mr. Magdi Ahmad Hussein was still being held in al-Morj prison, north of Cairo. Proceedings were set in motion in accordance with Presidential Decree No. 298 of 1995, which prohibits unauthorised access to Gaza through the eastern border.

2/ See Egyptian Organisation for Human Rights (EOHR) Press Release, February 4, 2009 and al-Karama Press Release, March 9, 2009.

3/ On July 26, 2009, EOHR invited the Egyptian Government to modify the articles of the Criminal Code relating to torture and ill-treatment to bring them in line with the United Nations Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, ratified by Egypt in 1986. Furthermore, the National Committee Against Torture, a coalition of civil society organisations, launched a campaign in July 2009 entitled “Towards a Nation without Torture”, which planned several activities to raise awareness of the issue.

deaths due to or as a result of acts of torture. In addition, the perpetrators of these acts are protected by very restrictive legislation. Indeed, under Article 126 of the Criminal Code, torture is only considered a criminal offence as such when it is practised by an agent of the State on an accused person with the intention of obtaining a confession<sup>4</sup>.

Finally, exercise of the right of freedom of expression continued to be severely repressed in 2009. Between January and April 2009, EOHR registered 132 cases of violation of the right of freedom of expression and opinion, including 110 appearances before a civil or military court for “violation of State security and peace” through subversive statements, defamation, contempt or insult to a police officer and four cases of the unwarranted use of force against journalists during political demonstrations, either by the police or by university security services<sup>5</sup>.

### **Legal and administrative obstacles to freedom of association**

Law No. 84 of 2002 on Associations provides a very strict framework for the creation and the activities of Egyptian non-governmental organisations. The latter are answerable to the executive authority both at the time of their creation and their dissolution. Under Article 11 of the law, the Ministry of Social Solidarity may indeed refuse to licence an association when it is likely to “threaten national unity, violate public order or morals”, or if it “calls for discrimination between citizens on the grounds of race, origin, colour, language, religion or creed”. In addition, under Article 6, although the Law on Associations provides for a system of declaration for the creation of an association, the practice imposed by the authorities, which refuse to issue a receipt when a dossier is filed for the creation of an association, makes approval compulsory. Under Article 42, the Ministry of Social Solidarity may also, without a judicial order, dissolve an association that, amongst other things, receives foreign funding without prior Government approval, in violation of Article 17.

For example, on April 27, 2009, EOHR received a letter from the Ministry of Social Solidarity threatening the association with dissolution and closure under Articles 42 and 17 of the law. This measure followed the organisation by EOHR, in partnership with the Centre for Media Freedom in the Middle East and North Africa, Morocco (CMF MENA), of a conference in Cairo on January 27 and 28, 2009 entitled “Information is a Right for All”. On July 31, 2008, EOHR had requested the authorities’

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4/ See EOHR, *Report presented to the UN Human Rights Council in the framework of the Universal Periodic Review*, August 31, 2009.

456 5/ *Idem*.

authorisation to receive funds from its partner CMF MENA to cover the costs of this conference. There was no response to the request. On May 10, 2009, EOHR received a letter from the Ministry of Social Solidarity indicating that no step had been taken to dissolve or close the organisation, and that the letter from the Ministry was simply a reminder of the legal procedure to be followed for foreign subsidy<sup>6</sup>. Furthermore, as of the end of 2009, the Ministry of Social Solidarity had still not implemented the decision to re-register the Association of Human Rights and Legal Aid (AHRLA), issued on October 26, 2008 by the Administrative Court<sup>7</sup>.

### Obstacles to freedom of peaceful assembly

Public assemblies are governed by Law No. 10 of 1914 on Assemblies, Law No. 14 of 1923 on Public Meetings and Demonstrations and Law No. 162 of 1958 on the State of Emergency. These laws limit the number of people who can take part in a public assembly to five (1914 Law) and authorise the police to ban or break up demonstrations (1923 Law). In 2009, several people were arrested after taking part in peaceful assemblies. On January 2, 2009, 309 people were arrested in several towns throughout the country as they were on their way to Cairo to take part in a demonstration to support the Palestinian people in Gaza who were victims of Israeli army air raids. On January 5, 2009, they were charged with “membership of an unauthorised group” and “possession of illegal documents” (Article 86 of the Criminal Code). The Prosecutor of the National Security Court<sup>8</sup> ordered their provisional detention during the investigation and they were finally released by a legal decision after 45 days of detention, without being charged<sup>9</sup>. Similarly, on February 6, 2009, Mr. **Philip Rizk**, author of the blog *Tabula Gaza*, which describes the life of Palestinians in Gaza, was arrested in Cairo together with fourteen other activists, when they were returning from a demonstration to support the Palestinian people. Members of the State security intelligence services held him secretly for five days and questioned him about his relationship with Hamas and Israel. He was released without being charged on February 11, 2009<sup>10</sup>. In addition, on May 4, 2009, the forces of law and order violently dispersed a sit-in organised in front of the Egyptian State Council and arrested around ten

6 / Article 17 of the Law on Associations does not specify whether the authorities' silence is equivalent to acceptance or rejection of the request. See EOHR Statement, May 11, 2009.

7 / AHRLA had been closed in September 2007 by order of the Ministry on the basis of allegations of financial offences.

8 / The National Security Court is a court of exception that has jurisdiction for all offences relating to “terrorist” acts or threats to State security.

9 / See EOHR Press Release, January 6, 2009.

10 / See EOHR Press Release, February 9, 2009 and Arabic Network for Human Rights Information (ANHRI) Statement, February 11, 2009.

demonstrators, including journalists and members of the “Chabab April 6” movement<sup>11</sup>. They were protesting against the export of gas to Israel because of the serious human rights violations committed in that country and the non-application of a ruling issued on November 18, 2008 by the Court of Administrative Justice ordering a halt to the export of Egyptian natural gas to a certain number of countries<sup>12</sup>. All the demonstrators were released without being charged a few hours after their arrest.

Furthermore, at the end of 2009, two defenders of the economic and social rights of the Sinai Bedouins, Mr. **Musaad abu-Fagr**, whose real name is Mus’ad Suleiman Hassan Hussein, a novelist and founder of the “Wedna N’ish” (We want to live) movement for the Sinai Bedouins, and Mr. **Yehia abu-Nusseira**, a member of the same movement, were still being held in Borg al-Arab prison near Alexandria, in spite of several legal decisions and a decree issued on June 16, 2009 by the Cairo Court of Administrative Justice ordering their release or the suspension of the detention decision<sup>13</sup>. Arrested on December 26, 2007, they were accused of “incitation to demonstrate” and “rebellion against the authorities”, following demonstrations organised in al-Arish, in the north of Sinai, to call for economic and social rights for the Sinai Bedouins<sup>14</sup>.

### **New obstacles to human rights defenders’ freedom of movement**

In 2009, several defenders were again subjected to obstacles to their freedom of movement because of their human rights activities. For instance, on June 30, 2009, Mr. **Wael Abbas**, a blogger on the site *Misr Digital*, was arrested by customs services at Cairo international airport and held without reason for ten hours when he returned from the Tällberg Forum 2009, organised from June 24 to 29, 2009 in Sweden on the theme “How on earth can we live together, within the planetary boundaries”<sup>15</sup>. Mr. Abbas’ belongings were searched thoroughly and his computer was confiscated. There has been no outcome to the complaint filed by Mr. Abbas to protest

11 / A movement created following workers’ strikes and social protests in Mahalla in the Delta region in April 2008.

12 / See EOHR Press Release, May 4, 2009.

13 / On February 12, 2008, the Ismailia Appeal Court acquitted Mr. Musaad abu-Fagr and Mr. Yehia abu-Nusseira, confirming the verdict handed down in their favour by the al-Arish Court. However, they were kept in prison by decision of the Minister of the Interior in accordance with the powers granted to him under Article 3 of the State of Emergency Law. See Egyptian Organisation for Anti-Discrimination and Defence of Children’s Rights (EGHR) Press Release, June 2, 2009.

14 / The inhabitants of Sinai, amongst other claims, call for the right to building permits, entitlement to the land they cultivate and the release of the Bedouins arrested after the bombings in Taba, Sharm el-Sheikh and Dahab, committed between 2004 and 2006.

15 / During this conference participants sought to address the causes of the global crisis and to take initiatives to find ways out of it.

against this arrest. In addition, on September 29, 2009, the police at Cairo international airport seized Mr. Abbas' passport as he was to go to London to attend a conference on the media organised on September 30 by the Media Diversity Institute. His passport was returned to him just before his plane took off. Similarly, on September 11, 2009, Mr. **Kamal Abbas**, General Coordinator of the Centre for Trade Unions and Workers Services (CTUWS), was arrested by security agents at Cairo international airport when he was on his way to Pittsburgh in the United States to attend the 26th Congress of the American Labour Federation, due to take place from September 14 to 17, 2009. His passport was confiscated for two hours and was returned to him just before his plane took off. Furthermore, on September 29, 2009, Mr. **Per Bjorklund**, a freelance journalist who covers social demonstrations and denounces human rights violations in Egypt, was arrested by the immigration services at Cairo international airport. He was informed that for reasons of "internal security", he could no longer come to Egypt, a country where he has lived for the last three years. On October 1, 2009, Mr. Bjorklund was deported to Prague, where his flight had come from.

### **Ongoing harassment of journalists who denounce human rights violations**

In 2009, journalists who denounce human rights violations continued to be subjected to acts of harassment. For example, on December 16, 2009, the al-Rahmaniyah Appeal Court sentenced journalist **Kamal Murad** at appeal for "insulting a police officer" to a fine of 200 Egyptian pounds (around 28 euros). Mr. Murad had been arrested on June 17, 2008 while he was interviewing peasant farmers in Exbat Mohram and photographing police officers who were beating the peasants to force them to sign leases with a local businessman in Rahmánya, in the Buhaira region in the Delta. On July 8, 2008, the Rahmánya police had started judicial proceedings against him for "assuming a false identity", "assaulting the police", "inciting to violence" and "defamation". He risked a prison sentence of between six months to three years. In addition, on May 26, 2009, the blogger **Tamer Mabrouk** was sentenced at appeal by the al-Zohor Court in Port-Said, east of Cairo, to a fine of 45,000 Egyptian pounds (around 5,760 euros) for "defamation" and "insult" for having accused the Trust Chemical Company of pollution in one of his articles. In June 2008, Mr. Tamer Mabrouk had published an article on his blog *elhakika* that accused the Trust Chemical Company of being the cause of water pollution in the region<sup>16</sup>.

## Urgent Interventions issued by The Observatory in 2009

| <b>Names</b>                                             | <b>Violations / Follow-up</b>                          | <b>Reference</b>                   | <b>Date of Issuance</b> |
|----------------------------------------------------------|--------------------------------------------------------|------------------------------------|-------------------------|
| Egyptian Organisation for Human Rights (EOHR)            | Obstacles to freedom of association                    | Joint Press Release                | April 30, 2009          |
| <b>Mr. Wael Abbas</b>                                    | Arbitrary arrest / Confiscation of material            | Urgent Appeal EGY 001/0709/OBS 094 | July 1, 2009            |
| Human rights organisations                               | Obstacles to freedom of association                    | Press Release                      | September 24, 2009      |
| <b>Messrs. Per Bjorklund, Wael Abbas and Kamal Abbas</b> | Obstacles to freedom of movement / Risk of deportation | Urgent Appeal EGY 002/0909/OBS 142 | September 30, 2009      |