# STATEMENT

**UPR Pre-session on Egypt 11.30am, 9 October, Geneva**

**Delivered by: Reprieve and the Egyptian Commission for Rights and Freedoms**

**ABOUT THE ORGANISATIONS**

This statement is delivered on behalf of Reprieve and the Egyptian Commission for Rights and Freedoms (ECRF). Reprieve is an international legal charity which assists people facing the death penalty and those victimised by states’ abusive counter-terror policies. ECRF, which provides legal assistance to and advocates on behalf of individuals who have been subjected to enforced disappearances and torture, is one of the few human rights organisations still operating inside Egypt.

Reprieve made an individual submission to the Universal Periodic Review of Egypt focused on the use of the death penalty against children in Egypt, as well as a joint submission with the ECRF on the death penalty in Egypt. To Reprieve and ECRF’s knowledge, no national consultation took place in preparation of these submissions. Reprieve welcomes any opportunity to discuss our concerns with the Government of Egypt.

# STRUCTURE OF THIS STATEMENT

This statement focuses on the use of the death penalty in Egypt and the country’s violations of its international human rights obligations in relation to the death penalty. Egypt is a signatory to the International Covenant on Civil and Political Rights (ICCPR), which guarantees the right to life and provides that the death penalty can only be imposed in relation to “the most serious crimes”, defined as intentional homicide, and in very restricted circumstances where the highest standards of due process are upheld (Article 6.2). Under the ICCPR, the use of the death penalty against children is prohibited (Article 6(5)). Implementation of death sentences imposed in breach of the ICCPR will amount to an arbitrary deprivation of life.

This statement addresses the following issues:

1. The use of the death penalty in Egypt
2. The violation of the absolute prohibition of the death penalty for children
3. The imposition of the death penalty for offences that do not amount to the “most serious crimes”
4. Breaches of fair trials rights in capital cases
5. Torture and ill-treatment and limited access to redress including in cases involving children

# THE USE OF THE DEATH PENALTY IN EGYPT

Egypt’s use of the death penalty has spiralled out of control. Since coming to power of the current President Abdelfattah el-Sisi in 2013, more than 144 executions have been carried out and courts have issued preliminary death sentences against more than 2,400 people. At least ten of these were children.

In response to this crisis, Reprieve has created the Egypt Death Penalty Index–- an open-source website that aims to track every single death sentence recommended by Egyptian courts since the January 25th 2011 revolution.

During Egypt’s previous review period (05 November 2014 - 23 September 2018), the Egypt Death Penalty Index records:

* **104** executions
* **504** death sentence confirmations1 from mass trials and **1,003** from civilian courts
* **147** preliminary death sentences handed down against civilians in military courts and **109**

death sentence confirmations

* **3 children** were sentenced to death
* Use of **mass capital trials** has considerably increased

# VIOLATION OF THE PROHIBITION ON THE DEATH PENALTY FOR CHILDREN

Egypt has failed to fully implement a number of recommendations it accepted regarding children’s rights from Belgium, Algeria and Armenia (2014). In 2008, Egypt strengthened its Child Law and expanded due process and fair trial rights for children but in practice these rights are not being upheld.

Egypt’s Child Law contains a lacuna, which allows children to be tried in the adult criminal justice system when they are accused of having committed an offence with an adult co-defendant, putting them at risk of mass trials alongside adults and the death penalty.

Over the last two review periods, Egyptian courts have handed down preliminary death sentences to at least **11** individuals who were under the age of 18 at the time of the alleged offence.

In some cases, the Egyptian authorities have, in breach of international human rights law, ignored evidence that the defendant was a child at the time of the alleged offence or have disputed this evidence.

Under international law, the use of the death penalty against children is absolutely prohibited.

*Advance Written Questions*

* Explain what steps are being taken to ensure people are not being sentenced to death in relation to alleged offences which happened when they were children.
* When does Egypt plan to submit its state report to the Committee on the Rights of the Child, which was due on 2 March 2016?

*Recommendations:*

* Amend the Child Law to close the loophole in Article 122 which allows those who were children at the time of the alleged offence from being tried on capital offences alongside adults;
* Consider the immediate release of all children and young people who have received death sentences for alleged offences committed when they were children as a remedy for the violation of their human rights;
* Identify all juveniles tried in adult courts, overturn those verdicts and refer all such defendants to juvenile courts;

1 A death sentence that has been confirmed by a panel of three judges after consulting the Grand Mufti’s opinion.

* Comply with all reporting obligations to the UN Committee on the Rights of the Child, beginning with the outstanding state party report.

# IMPOSITION OF THE DEATH PENALTY FOR OFFENCES NOT AMOUNTING TO THE “MOST SERIOUS CRIMES”

Egypt has failed to implement an accepted recommendation to ‘respect minimum standards related to the death penalty’ (Belgium, 2010). One of the key minimum standards related to the death penalty is that the death penalty can only be imposed in relation to “the most serious crimes”, defined as crimes involving intentional killing.

Egypt continues to apply the death penalty to drug offences and non-lethal charges related to membership in alleged terrorist organisations. Defendants in mass trials are being sentenced to death for ill-defined terrorism offences which criminalise and impose the death penalty for activities which in some cases relate to the exercise of fundamental rights.

# BREACH OF DUE PROCESS AND FAIR TRIAL RIGHTS

Egypt has failed to implement the accepted recommendations from Mexico, Canada, Philippines and Belgium (2014) to take steps to ensure fair trial rights, especially in capital trials. Concerns about due process violations are heightened in the context of mass trials, defined by Reprieve as trials in which 15 or more defendants are tried simultaneously. Egypt’s draconian laws, in particular, the “Assembly Law” allow the state to hold unlimited numbers of defendants jointly liable for criminal acts committed by one co-defendant.

The use of mass trials has allowed for a drastic increase in the application of the death penalty in Egypt. Mass trials are conducted without respect for international law, including the right to be tried without undue delay, to have access to legal counsel, to have adequate time and facilities to prepare a defence, to call and examine witnesses, and to be free from self-incrimination. Further, Law 11 of 2017 limited access to appeals for those sentenced to death.

The imposition of the death penalty where due process protections are not upheld will amount to an arbitrary deprivation of the right to life.

# TORTURE, ILL-TREATMENT AND LIMITED ACCESS TO REDRESS INCULDING IN CASES INVOLVING CHILDREN

Egypt has failed to implement numerous accepted recommendations relating to torture and ill- treatment.

Defendants are often subject to arbitrary arrest and detention. Torture for the purpose of extracting confessions—a common practice in the lead-up to mass trials— remains widespread. Security forces have subjected hundreds of people to enforced disappearance, many of whom are later sentenced in mass trials. Thousands of children have been unlawfully arrested since July 2013, and have often been tried in mass proceedings in adult courts. Egyptian authorities continue to subject children to torture and ill-treatment and have failed to conduct investigations into allegations of torture and ill- treatment. Courts have failed to exclude confessions obtained as a result of torture and have relied

on torture confessions in order to convict and sentence to death defendants including children. International law places an absolute prohibition on the use of torture and other ill-treatment. Executions carried out following torture-tainted proceedings constitute a violation of the right to life.

*Advance Written Questions*

* Explain how the fair trial and due process rights of defendants are upheld in all capital proceedings.
* What steps have been taken to ensure that all allegations of torture and ill-treatment are automatically investigated and that torture confessions are not being admitted and relied on in death penalty cases?
* What steps are being taken to ensure that children and young people are not being tortured and subjected to ill-treatment?

*Recommendations*

* Implement a moratorium on executions;
* Abolish the death penalty for offences which are not intentional homicide;
* Immediately end the use of mass trials, which run contrary to the fair trial and due process guarantees enshrined in Article 14 of the International Covenant on Civil and Political Rights (ICCPR);
* Conduct a full review of all death sentences recommended by Egyptian courts and commute or overturn all sentences resulting from trials that did not uphold all Article 14 ICCPR fair trial rights;
* Repeal provisions, under Law 11/20172, limiting appeals stages in capital trials;
* Stay all proceedings where defendants have alleged torture and ill-treatment, pending a full, impartial and independent investigation complying with minimum standards; and
* Ratify the Optional Protocol to the Convention Against Torture.

2 Law 11/2017 amended Article 39 of The Law of Appeal Cases and Procedures before the Court of Cassation (57/1959)