



BAR HUMAN RIGHTS
COMMITTEE OF
ENGLAND AND WALES

London, 26 September 2013

STATEMENT

BHRC concern at mass capital verdicts in Egypt following failures to adhere to basic requirements of procedural fairness

The Bar Human Rights Committee (BHRC) expresses its concern at the convictions and sentencing of 720 defendants to death by an Egyptian court today. This is the second mass capital verdict from the Minya Criminal Court in a period of weeks. The size of the collective death sentences is unprecedented. BHRC considers the sentences to conclude a fundamentally flawed trial process which is in breach of international law.

Charges were brought against 529 defendants relating to their alleged involvement in an attack upon a police station in Minya in which a police officer was killed. That incident itself followed the aftermath of a violent dispersal in Raba'a Al-Adawiya in August 2013. On the same day, a further 683 people were alleged to have killed another officer in a nearby town. Today, all 683 accused were convicted and sentenced to death. Shortly afterwards, the same judge, Saeed Youssef, upheld the death sentences of a further 27 men who had been amongst the group of the 529 defendants who last month were sentenced to death. The remainder of the 529 defendants had their sentences commuted to 25-year jail terms. In respect of the former mass verdict, approximately only 70 out of the 147 in arrested and detained in prison were brought to court. The specific charges included murder, attempted murder, seizing weapons and membership of a banned organisation (Muslim Brotherhood). Much confusion remains over exactly which charges have been brought against which defendants, and which evidence has been used to convict each of them.

Both mass verdicts follow trials that have bypassed the most basic requirements of fairness. The majority of the defendants were tried in absentia and no specific evidence was put forward by the prosecution in respect of individual defendants. Defence lawyers were not allowed to call witnesses, present their own cases or cross examine on the prosecution case. The trial of the 529 defendants was concluded in only two short sessions. The first session came to an abrupt end following attempts on behalf of one of the defence lawyers to seek a recusal during the opening session. At the second session, judgment was given immediately without reasons given for the convictions; the Court merely listing the names of the accused and the charges against them. No consideration was provided as to the evidence against each individual defendant, nor any reference to the standard of proof. The defence lawyers

boycotted the trial of the 683 defendants in protest at the lack of fair standards in the former trial. Today's verdicts in respect of the 683 defendants appear to have been reached after only one session (or in any event without a full and proper trial). The speed of both trials and decision-making is a matter of concern, particularly given the volumes of evidence that defence lawyers wanted to present to the Court. In particular, defence lawyers claim that there is evidence which proves that a large percentage of the convicted were not even present at the scene of the Minya events last August. The failures to adhere to the requirements of basic procedural fairness are extreme.

Furthermore, even though a majority of the first death sentences were overturned, there remains concern that the Judge did not adequately consider the evidence and actual convictions of the 529 defendants.

The Minya Criminal Court has referred today's 683 cases to the Grand Mufti who will provide his opinion on whether the death sentences should take place. In a further unexplained twist, the Prosecutor already appears to have appealed the decision in respect of the 529 defendants, having been recommended by the Judge to do so.

In a frank and disturbing statement reported by the Associated Press last month, an Egyptian official is attributed as having said, anonymously: "We are in exceptional circumstances. We don't have time to summon each and every defendant, prove their presence and confirm who are their lawyers."

International law is clear that 'super due-process' must be applied in capital cases. States must ensure that all of the minimum guarantees and safeguards for a fair trial imposed by the ICCPR are provided for defendants facing the death penalty. The UN Special Rapporteur on extrajudicial, summary, or arbitrary executions has stated that fair trial guarantees in death penalty cases "must be implemented in all cases without exception or discrimination", and that "proceedings leading to the imposition of capital punishment must conform to the highest standards of independence, competence, objectivity and impartiality of judges and juries, in accordance with the pertinent international legal instruments."

It is apparent in these mass cases that not only has there been a complete failure to apply super due-process, but additionally basic vestiges of fairness have been denied to these defendants.

BHRC is opposed to the death penalty in any event. However the circumstances of these mass capital verdicts are particularly disturbing given both the serious failures in due process and the unprecedented numbers who have been sentenced to death. BHRC calls immediately for these verdicts to be set aside and for the Egyptian authorities to ensure that the rule of law is upheld and that due process is afforded to everyone, in accordance with international fair trial standards.

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NOTES FOR EDITORS

1. The Bar Human Rights Committee of England and Wales (“BHRC”) is the international human rights arm of the Bar of England and Wales. It is an independent body concerned with protecting the rights of advocates, judges and human rights defenders around the world. The Committee is concerned with defending the rule of law and internationally recognised legal standards relating to human rights and the right to a fair trial. The remit of BHRC extends to all countries of the world, apart from its own jurisdiction of England & Wales. This reflects the Committee's need to maintain its role as an independent but legally qualified observer, critic and advisor, with internationally accepted rule of law principles at the heart of its agenda.

BHRC website

<http://www.barhumanrights.org.uk/>