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Fédération internationale des ligues des droits de l'Homme  
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الفدرالية الدولية لحقوق الانسان

## **Egypt: Protection of the Rights of All Migrant Workers and Members of Their Families**

### **NGO Alternative Report to the UN Committee on the Protection of the Rights of All Migrant Workers and Members of their Families**

**April 2007**

This paper highlights some areas of concern with regard to the Egyptian government's implementation of the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (ICRMW). These areas of concern are: mandatory HIV testing and discrimination against migrant workers living with HIV/AIDS; the rights of migrant domestic workers; racist attitudes and racially-motivated identity checks and detentions; conditions of detention, torture and ill-treatment; the status of Sudanese migrants in Egypt; investigations into the killings of 30 December 2005; the rights of Egyptian workers abroad; and restrictions on the activities of NGOs, including those working on migrants' rights.

## **I. Mandatory HIV Testing and Discrimination against Migrant Workers Living with HIV/AIDS**

Foreigners seeking permission to work in Egypt are forced to take an HIV/AIDS test, and those living with the virus are systematically denied employment solely on the basis of their HIV status. Decree number 700 of the year 2006 on the Rules and Implementing Measures Surrounding Work Permits for Foreigners, issued by the Ministry of Manpower and Immigration, stipulates that employers wishing to obtain a work permit for a prospective foreign employee must present to the local Directorate of Manpower and Immigration “a certificate proving that the foreigner is not carrying the immunodeficiency syndrome (AIDS)”.<sup>1</sup>

The certificate must be presented the first time the permit is applied for, and is to be renewed thereafter each time the foreigner leaves the country. The same article in the Decree goes on to state that “Exempted from this requirement are foreigners married to Egyptians and their children, and foreigners residing in the country who have not left it during the previous ten years.”<sup>2</sup>

The Egyptian government's policy on mandatory HIV/AIDS testing for foreign workers is in clear violation of the internationally recognized right to work for those living with HIV/AIDS, as outlined by the International Guidelines on HIV/AIDS and Human Rights, which were developed jointly by UNAIDS and the Office of the High Commissioner for Human Rights and acknowledged in a number of UN resolutions:

*[The right to work] is violated when an applicant or employee is required to undergo mandatory testing for HIV and is refused employment or dismissed or refused access to employee benefits on the grounds of a positive result[...]The applicant or employee should not be required to disclose his or her HIV status to the employer nor in connection with his or her access to workers' compensation, pension benefits and health insurance schemes. States' obligations to prevent all forms of discrimination in the workplace, including on the grounds of HIV, should extend to the private sector.*<sup>3</sup>

Risks of transmitting HIV among workers may not be used as grounds for mandatory HIV testing and denial of the right to work. The

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<sup>1</sup> Ministry of Manpower and Immigration, Decree no. 700 of the year 2006 on the Rules and Implementing Measures Surrounding Work Permits for Foreigners, Article 3 (7), Official Gazette issue no. 281, 12 December 2006.

<sup>2</sup> Ibid.

<sup>3</sup> International Guidelines on HIV/AIDS and Human Rights, 2006 Consolidated Version, UN Doc. HR/Pub/06/9, para. 149.

International Labor Organization (ILO) and the World Health Organization (WHO) have jointly stated that “In the vast majority of occupations and occupational settings, work does not involve a risk of acquiring or transmitting HIV between workers, from worker to client, or from client to worker.”<sup>4</sup> The State has a responsibility to take measures to minimize the risk of transmission where such a risk exists, such as in healthcare settings, including through training and awareness-raising.<sup>5</sup> In addition, Article 7 of the ICRMW provides that all rights in the Convention apply for migrant workers and their families, “without distinction of any kind...”<sup>6</sup>

Similarly, the joint statement of UNAIDS and the International Organization for Migration on HIV/AIDS-related travel restrictions states:

*The customary nature of the principles of non-discrimination and of equality before the law prohibits States from implementing measures that are in effect discriminatory. International human rights law places on States and other actors the burden of establishing that the compelling reasons supporting any such distinctions as prescribed by law, are necessary, demonstrably contribute to a legitimate aim, are proportional (the least restrictive means possible) and are strictly construed.*<sup>7</sup>

In addition to the lack of public health justifications for mandatory HIV testing and the denial of employment for people living with HIV, the fact that the Ministry’s Decree exempts foreign spouses of Egyptians and long-term residents from these requirements and restrictions renders baseless any attempt by the State to invoke public health as a justification for such arbitrary policies. It is a violation of Article 43 of the ICRMW concerning the equal treatment of migrant workers with nationals of the State of employment. Moreover, these exemptions contribute to the widespread misconception that Egypt's exposure to the virus can only be via foreigners entering the country, thereby

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<sup>4</sup> Consultation on AIDS and the Workplace (World Health Organization, in association with the International Labor Organization), Geneva, 1988, sect. II, “Introduction”.

<sup>5</sup> International Guidelines on HIV/AIDS and Human Rights, op. cit., fn. 3, para. 150.

<sup>6</sup> International Convention on Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, Adopted by General Assembly resolution 45/158 of 18 December 1990, Available at:

<http://www.ohchr.org/english/bodies/cmw/cmw.htm>

<sup>7</sup> UNAIDS/IOM statement on HIV/AIDS-related travel restrictions, June 2004, p. 9. See also Goodwin-Gill, Guy, “AIDS and HIV, Migrants and Refugees: International Legal and Human Rights Dimensions”, in Haour-Knipe M and Rector R (eds) Crossing Borders: Migration, Ethnicity and AIDS. London: Taylor and Francis, 1996, p.50-69.

undermining HIV prevention efforts and further stigmatizing migrants and people living with HIV.

**Recommendation:** Egypt should abolish the policy of mandatory HIV testing for all migrant workers and the denial of work permits for migrant workers living with HIV/AIDS.

## **II. The Rights of Migrant Domestic Workers**

Article 4(b) of the Labor Code (number 12 of the year 2003) explicitly stipulates that the provisions of the law do not apply to “domestic service workers and their equivalents”.<sup>8</sup> This exclusionary clause removes domestic workers, including migrant domestic workers, outside the scope of any legal protection. In addition to their inability to enjoy any rights or benefits, this legal uncertainty renders all domestic workers extremely vulnerable to abuse and leaves them without any remedy against such abuse.

Excluding domestic workers from the protection of the law has an immediate impact on the power relations between them and their employers, especially in the absence of any written contracts regulating the work relationship and the rights and responsibilities of the two parties. Migrant workers employed as domestic workers are faced with additional layers of vulnerability and discrimination. Recent interviews with some of these workers conducted in the framework of an academic research have revealed how they are subjected to prevalent patterns of human rights violations and how they - in particular those who live with their employers - lack any control over their lives<sup>9</sup>. Workers, especially women, reported verbal, psychological and physical abuse. In other cases, workers reported having their passports confiscated by their employers in order to control their movement and prevent them from reporting any abuses to the police since it requires a valid identity with a residency stamp. Some migrant domestic workers spoke of slavery-like living conditions, including forced labor without rest or vacations and deprivation of liberty. According to the ICRMW, these are violations of Article 39 on the right to freedom of movement, Article 11 on the right not to be held in slavery or servitude and forced labor, and Article 10 on the prohibition of torture or cruel, inhuman or degrading treatment or punishment. Additionally, it is a violation of Article 21, which makes unlawful the act of confiscating or attempting to destroy the identity documents of a migrant worker. One female migrant worker said:

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<sup>8</sup> Labor Code, Law no. 12 of the year 2003, Article 4 (b), Official Gazette issue no. 14, 7 April 2003.

<sup>9</sup> A Ahmed, “Domestic Workers in Contemporary Egypt”, unpublished paper based on ongoing PhD research entitled “Locals and Aliens: Maids in Contemporary Egypt”, March 2007.

*"I am not allowed to sit on the chairs, only on the floor[...]not even allowed to leave the kitchen. When they finish their meals they give me the plates to eat their leftovers[...]When [the madam] wants to go out, she orders me to wait for her outside, in front of the flat's door until she comes back."*<sup>10</sup>

Even in the cases where the employer of a migrant domestic worker is willing to regulate the employment of the worker by obtaining an official work permit, the law makes it extremely difficult and allows it only in exceptional cases. Article 12 of Decree number 700 of the year 2006 on the Rules and Implementing Measures Surrounding Work Permits for Foreigners, issued by the Ministry of Manpower and Immigration, stipulates that work permits may not be issued for foreign domestic workers except after obtaining the personal approval of the Minister and only "in cases necessitated by humanitarian, social or practical circumstances."<sup>11</sup>

**Recommendations:** Egypt should amend the Labor Code in order to extend legal protection to domestic workers. Complaints of psychological or physical violence should be impartially and promptly investigated and their perpetrators prosecuted and punished. The fact for "anyone, other than a public official duly authorized by law, to confiscate, destroy or attempt to destroy identity documents, documents authorizing entry to or stay, residence or establishment in the national territory or work permits" (art.21) should be expressly prohibited under domestic law.

### **III. Racist attitudes and Racially-Motivated Identity Checks and Detentions**

Migrant workers, especially black Africans, report regular verbal harassment and physical attacks both in the streets by members of the public and by law-enforcement officials in Egypt. According to an independent report Egyptians "shout names such as "oonga boonga" or *samara* (meaning "black") at Sudanese and other African migrants. Stories of attacks by both the police and street thugs circulate widely. One doctor has reported seeing an average of one violent attack on African refugees per month."<sup>12</sup>

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<sup>10</sup> Ibid.

<sup>11</sup> Ministry of Manpower and Immigration, Decree no. 700 of the year 2006, op. cit, Article 12.

<sup>12</sup> Azzam, Fateh (Ed.), "A Tragedy of Failures and False Expectations: Report on the Events Surrounding the Three-month Sit-in and Forced Removal of Sudanese Refugees in Cairo, September–December 2005", the Forced Migration and Refugee Studies Program, the American University in Cairo, June 2006, available at: [http://www.aucegypt.edu/fmrs/documents/Report\\_Edited\\_v.pdf](http://www.aucegypt.edu/fmrs/documents/Report_Edited_v.pdf), p 15.

An African male reported that “A group of Egyptians beat me and broke my leg and stole my money when I was on my way home from work.”<sup>13</sup>

Articles expressing xenophobic views in general or racist views towards black Africans in particular often appear in the Egyptian press, including the state-owned press. Migrants are often portrayed as communities with low morals who spread disease. In an article entitled “AIDS...is coming!” which appeared in the state-owned weekly magazine *Al-Musawwar* on 2 March 2007 the writer expressed alarm at the fact that 90% of foreigners living with HIV in Egypt are Africans, and called on the ministers of health and tourism to identify tourists living with HIV and “especially those Africans who are not tourists and who are now spread throughout Egypt...This, in my view, is a matter of national security.”<sup>14</sup>

These discriminatory attitudes are fueled by a failure of the government to raise awareness, provide information and dispel myths about migrant workers in Egypt and to clarify the positive economic role they play in Egypt. The impact of these images on sustaining and increasing discrimination and hostility towards migrants must not be underestimated. According to the UN Special Rapporteur on the human rights of migrants:

*The media is another factor that can contribute to exacerbating discriminatory practices against migrants. Media representation of migrants tends all too often to be stereotypical. Language and labeling can be subtle channels to convey subliminal discriminatory messages, which impact on collective imagery. Once a negative discourse misrepresenting migrants is established, it tends to prevail.*<sup>15</sup>

In 2006 the Egyptian Parliament approved an amendment to the Penal Code which criminalized the incitement of discrimination against groups of people on several grounds, including race and origin.<sup>16</sup> While undoubtedly a positive step, no prosecution based on this amendment has been reported since its adoption last year.

These racist attitudes moreover feed into abuses committed by security forces against migrant workers. Black migrants often report being stopped for arbitrary identity checks solely on the basis of their

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<sup>13</sup> Ibid.

<sup>14</sup> Abdel-‘Aazim, Soleiman, “*Al-AIDS Gayy! [AIDS is coming!]*”, *Al-Musawwar*, 2 March 2007, p. 15.

<sup>15</sup> Report of the Special Rapporteur on the human rights of migrants, Jorge Bustamante, UN Doc. E/CN.4/2006/73, para. 68.

<sup>16</sup> Law 147 of the year 2006 Amending Some Provisions of the Penal Code, Article 3, Official Gazette issue no. 28, 15 July 2006.

skin color. Round-ups of anyone who 'looks' African are often reported and unmistakably racially-motivated. One such round-up was detailed in the 2004 report of the Special Rapporteur on the human rights of migrants who described an incident of racially motivated arrests of hundreds of foreigners that took place in Cairo:

*During the raids, which reportedly took place on 28 and 29 January, plain-clothes policemen and security forces allegedly entered homes, without showing either identification or warrants, and arrested foreigners, predominantly people of sub-Saharan African origin. Other foreigners were arrested while walking down the street, and were prevented from returning home to collect identity papers. Still others were beaten during the arrests and sustained injuries as a result. It was reported that police wagons and minibuses patrolled the streets of the al-Maadi district of Cairo throughout the day on 28 January, looking for "Blacks". Reportedly, 28 January was referred to as "Black Day" and the intake sheet on which police took names at al-Maadi station was reportedly headed, in Arabic, "Operation Track Down Blacks". Detainees were reportedly held at al-Maadi and Bassatin police stations in inhumane and crowded conditions. Allegedly, as many as 80 people were crammed into cells measuring three by four meters and were forced to stand overnight.<sup>17</sup>*

This is clearly a violation of Article 14 of the ICRMW, on the right to protection of the law against arbitrary or unlawful interference in regards to the privacy, family, home, correspondence, communication, honor or reputation of migrant workers. It is additionally a violation of Article 10 on the prevention of torture or cruel, inhuman or degrading treatment or punishment, Article 16 regarding the right to protection by the State against violence, physical threats and intimidation, as well as the right to have identity checks carried out in accordance with procedures established by the law.

Interestingly, the Egyptian government's reply to the Special Rapporteur's communication on the incident conceded that the sole criterion for this campaign of mass arrests was the arrestees' black skin:

*Numerous complaints had been received from Egyptians and foreign nationals residing in Egypt about accidents in which nationals of African countries approached and threatened them*

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<sup>17</sup> Report of the Special Rapporteur on the human rights of migrant workers, Gabriela Rodríguez Pizarro, Addendum: Communications sent to Governments and replies received, UN Doc. E/CN.4/2004/76/Add.1, para. 60.

*with knives with the intention of stealing their personal belongings or coercing them into “engaging in depravity or debauchery”. Between 28 and 29 January 2003, 183 African nationals suspected of having committed the above offences were placed under arrest.<sup>18</sup>*

The need to provide adequate training for Egyptian law-enforcement officials on racial discrimination and other human rights issues was highlighted by the UN Committee on the Elimination of Racial Discrimination after considering Egypt’s periodic report in 2001:

*The Committee recommends that the State party continue its efforts to train all personnel working in the field of criminal justice and law enforcement officials in the spirit of respect for human rights and non-discrimination on ethnic or racial grounds.<sup>19</sup>*

**Recommendations:** The government should intensify and accelerate efforts to combat racist and xenophobic views towards migrant workers, especially those of Black African origin, and to promote awareness of their positive contribution to society. The government should train all personnel working in the field of criminal justice and law enforcement officials in the spirit of respect for human rights and non-discrimination on ethnic or racial grounds.

#### **IV. Conditions of detention, torture and ill-treatment**

Migrants detained for identity checks or in racially-motivated round-ups are often kept in police stations while the police check their residency status. As highlighted in the previous section, law-enforcement officers often verbally and physically abuse those migrants while in detention. More generally human rights NGOs, UN treaty bodies and special procedures converge to consider that torture and ill-treatment are widespread practiced systematically in all places of detention in all parts of the country.

In 2002 and after considering Egypt’s periodic report on its implementation of the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment, the UN Committee against Torture expressed its concern about:

*the many consistent reports received concerning the persistence of the phenomenon of torture and ill-treatment of detainees by*

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<sup>18</sup> Ibid., para. 62.

<sup>19</sup> Concluding observations of the Committee on the Elimination of Racial Discrimination: Egypt. 15/08/2001, UN Doc. A/56/18, para. 289.

*law enforcement officials, and the absence of measures to ensure effective protection and prompt and impartial investigations. Many of these reports relate to numerous cases of deaths in custody.*<sup>20</sup>

The same year, the UN Human Rights Committee reviewed Egypt's implementation of the International Covenant on Civil and Political Rights and issued the following observation:

*The Committee notes with concern the persistence of torture and cruel, inhuman or degrading treatment at the hands of law-enforcement personnel, in particular the security services, whose recourse to such practices appears to display a systematic pattern. It is equally concerned at the general lack of investigations into such practices, punishment of those responsible, and reparation for the victims. It is also concerned at the absence of any independent body to investigate such complaints.*<sup>21</sup>

While torture and ill-treatment are a serious risk for anyone in detention, migrant workers are at a heightened risk due to their additional marginalization and vulnerability. This point is addressed in Article 10 of the ICRMW which states, "No migrant worker or member of his or her family shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment."<sup>22</sup>

The impunity enjoyed by security forces for human rights abuses has been sustained due to the prolonged state of emergency, imposed in Egypt continuously since 1981, which was duly highlighted in the list of issues addressed to the Egyptian government by the Committee on Migrant Workers. The government's submission indicates that it plans to lift the state of emergency and replace it with an independent counter-terrorism law. Egyptian and international human rights groups have expressed serious concerns that the new law will contain the same powers enjoyed by security agencies under the state of emergency. In March 2007, the government introduced an amendment to the Constitution that gave the government the right to issue a counter-terrorism law that allows security forces to arrest, detain and

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<sup>20</sup> Conclusions and Recommendations of the Committee against Torture: Egypt, 23/12/2002, UN Doc. CAT/C/CR/29/4, para. 5 (b).

<sup>21</sup> Concluding observations of the Human Rights Committee: Egypt, 28/11/2002, UN Doc. CCPR/CO/76/EGY, para. 13.

<sup>22</sup> International Convention on Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, Adopted by General Assembly resolution 45/158 of 18 December 1990, Available at: <http://www.ohchr.org/english/bodies/cmw/cmw.htm>

search suspects without a judicial warrant among other excessive powers. Such a law will have a detrimental effect on all individuals within Egypt's jurisdiction, including migrant workers.<sup>23</sup>

**Recommendations:** The government should take immediate measures to investigate all complaints of torture or ill-treatment of migrant workers while in detention, and to prosecute and punish the perpetrators. The government should ensure that human rights protection for all people, including migrant workers, is not undermined by efforts to preserve national security.

## **V. The Status of Sudanese Migrants in Egypt**

According to the UNHCR Regional Office in Cairo, which operates the only mechanism for refugee status determination (RSD) in Egypt, only 13,237 Sudanese were recognized refugees in Egypt by the end of 2005.<sup>24</sup> This figure represents a very small minority of the number of Sudanese residents in Egypt, estimated in the government's submission as falling between two and five million.

While the government's submission correctly indicate that the presence of Sudanese migrants in Egypt "does not fall into the category of asylum-seeking as understood in the legal and international sense," it is inaccurate to claim that Sudanese residents "enjoy the freedoms laid down in the treaties agreed between the two countries." Despite the ratification of the 'Four Freedoms' Agreement between the governments of Egypt and Sudan and its entry into force in September 2004, reports consistently indicate that the Egyptian government has yet to start implementing the agreement's provisions.<sup>25</sup>

Sudanese citizens seeking entry into Egypt for example are still required to obtain a visa. Similarly, Sudanese workers are still subject to the same strict criteria applied to all other foreigners seeking a work permit, including proof of specialized skills that do not put them in competition with Egyptian workers.<sup>26</sup>

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<sup>23</sup> See Amnesty International, "[Egypt: Referendum must not be used to legitimize erosion of human rights](#)", 22 March 2007, MDE 12/009/2007, available at <http://web.amnesty.org/library/Index/ENGMDE120092007?open&of=ENG-EGY>.

<sup>24</sup> Azzam, op. cit., p 11.

<sup>25</sup> See for example Roman, Howaida, *Transit Migration in Egypt*, Euro-Mediterranean Consortium for Applied Research on International Migration, 2006, available at [http://www.iue.it/RSCAS/e-texts/CARIM-RR06\\_01.pdf](http://www.iue.it/RSCAS/e-texts/CARIM-RR06_01.pdf).

<sup>26</sup> Article 20 of Decree no. 700 of the year 2006, issued by the Ministry of Manpower and Immigration, exempts some categories from the principle of non-competition with Egyptian workers, including Palestinian residents in Egypt. The same exemption does not apply to Sudanese residents.

**Recommendations:** The government should clarify the legal status of Sudanese migrants in Egypt, including by undertaking legislative and administrative measures aimed at the effective implementation of the 'Four Freedoms' Agreement. The government should promote awareness among employers and the public at large of the status enjoyed by Sudanese migrants in Egypt under the 'Four Freedoms' Agreement.

## **VI. Investigations into the Killings of 30 December 2005**

On 30 December 2005, the Egyptian Security Forces evacuated by force about 1,500 Sudanese migrants and refugees who were settled in Mustafa Mahmud Square in front of UNHCR Headquarters. Since 29 September 2005, they had requested to be relocated to third countries among other demands related to their living conditions in Egypt and UNHCR policies towards Sudanese asylum-seekers. Early in the morning, reportedly some 2,000 police officers surrounded the improvised encampment, fired water cannons into the crowd and beat individuals with clubs in order to end the sit-in. Reportedly at least 27 individuals died and many others were injured following the Egyptian Security Forces' attack.

The decision by the Public Prosecutor to close the investigation into the killings of 30 December 2005 in Mustafa Mahmud Square, Mohandissin, Cairo, reveals a serious failure on the part of the government to prosecute and punish the perpetrators of these brutal killings. While the government continues to deny any use of violence, an independent investigation of the incidents based on interviews with the survivors of the attacks and other eyewitnesses offers a starkly different conclusion:

*Egyptian security used excessive and disproportionate force in removing the protesters, leaving no alternatives or avenues for escape. No allowances were made for the safety of the park's occupants, especially vulnerable groups such as children, the elderly, and the sick. Security forces entered the park from all directions at once, leaving nowhere for people to flee. They used indiscriminate violence, and there was no immediate medical attention available to injured protesters. Inadequate training in crowd control methods does not adequately explain the high number of casualties and injuries that resulted. This is clearly a matter for Egyptian and international human rights organizations to pursue.<sup>27</sup>*

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<sup>27</sup> Azzam, op. cit., supra fn. 12, p55.

Remarkably, the government's submissions concede that the investigation conducted by the Public Prosecutor's Office failed to interview any of the victims or survivors of the attacks and was limited to the police and other eyewitnesses. Moreover, while the Public Prosecutor's Office decided to suspend investigations without any indictments due to the "inability to identify the perpetrators", the Interior Ministry has to date not conducted any internal investigation aimed at identifying and disciplining the security officers who gave the orders to attack the peaceful demonstrators with such excessive force. Egyptian and international human rights organizations have consistently criticized the impunity enjoyed by security forces for serious human rights violations.<sup>28</sup> Similarly, UN treaty bodies and special procedures have in the past expressed their concern at the lack of impartial investigations into allegations of abuse committed by law enforcement officials.<sup>29</sup> This incident constitutes a violation of article 9 on the right to life, article 10 on freedom from torture and other inhuman, degrading or cruel treatment and article 13 on freedom of opinion and expression.

**Recommendation:** the government should reopen the investigations into the killings of 30 December 2005 and ensure that they are comprehensive and impartial. The results of the new investigation should be made public and law-enforcement officers who planned, ordered or executed these killings must be prosecuted and punished.

## **VII. The Rights of Egyptian Workers Abroad**

According to the government's submissions to the Committee on Migrant Workers, more than 95% of Egyptian migrant workers live in Arab countries. The six member states of the Gulf Cooperation Council (GCC) are the predominant destination countries of Egyptian migration within the Middle East and North Africa region due to the increased government and private spending in these countries following the increase in oil prices in the 1970s.<sup>30</sup> Saudi Arabia alone is host to one-third of Egyptian permanent and temporary migrants.<sup>31</sup> Most of those workers are employed under the 'sponsorship' or Kafael system. The "Travel Guidelines" website affiliated to the Ministry of Foreign Affairs advises travelers to Arab Gulf countries to seek the permission of the

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<sup>28</sup> See for example Amnesty International's report "Egypt: No Protection—Systematic torture continues", 2002, MDE 12/031/2002.

<sup>29</sup> See for example Conclusions and Recommendations of the Committee against Torture: Egypt, op. cit., para. 5 (b).

<sup>30</sup> Nassar, Heba, "Migration, Transfers and Development in Egypt", Euro-Mediterranean Consortium for Applied Research on International Migration, 2005, available at [http://www.iue.it/RSCAS/e-texts/CARIM-RR05\\_01\\_Nassar.pdf](http://www.iue.it/RSCAS/e-texts/CARIM-RR05_01_Nassar.pdf), p4.

<sup>31</sup> Ibid.

Kafeel prior to taking any steps with regards to travel, holidays, residency renewal or bringing the worker's family into the host country.<sup>32</sup> The fact that under the sponsorship system migrant workers must submit to the total control of employers renders workers extremely vulnerable to abuse of their rights, particularly the right to freedom of movement as stated in Article 39, and the right to liberty and security of person as stated in Article 16(1) of the ICRMW.

While Egyptian domestic laws described in the government's submissions impose an obligation upon the government to protect Egyptians abroad, numerous cases reported by independent human rights organizations reveal a pattern of failure on the part of the Egyptian authorities to protect the rights of Egyptian migrant workers in GCC countries.<sup>33</sup> Complaints submitted by Egyptians to their government are often transmitted to host country authorities with no further comment, recommendation or requests, and Egyptian embassies and consulates in those countries fail to follow up on them in any serious manner.

Moreover, most GCC countries force Egyptian migrant workers seeking employment there to undertake a test for Hepatitis C. Those with positive test results are automatically denied employment and, where they have already entered or resided in the host country, expelled. This violates Article 7 of the ICRMW on the prohibition of discrimination. This is a major impediment facing Egyptian workers given that Egypt has the highest reported prevalence of Hepatitis C in the world, with 15-20 % of the population carrying the virus.<sup>34</sup> While appreciating that none of the GCC countries is a party to the Convention, the Egyptian government has a legal obligation to use diplomatic means to protect Egyptian workers in host countries from this arbitrary policy which has no public health justification. Instead, the MFA's Travel Guidelines website simply advises Egyptians wishing

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<sup>32</sup> Ministry of Foreign Affairs, Travel Guidelines, Arab Gulf Countries:

<http://www.mfa.gov.eg/Missions/travel/guide/consulate/ar-EG/guidances2/places/mediteriniensea.htm>.

<sup>33</sup> See for example the Egyptian Organization for Human Rights , 'Egyptians abroad: Lost rights at home and abroad' (2006), available at <http://www.eohr.org/report/2006/re0830.shtml> and the Egyptian Organization for Human Rights' 2003 annual report, chapter 11: the rights of Egyptians abroad, available at <http://www.eohr.org/annual/2003/report2003-7.shtml>.

<sup>34</sup> See ZM Nooman, A El-Gohary, AH Hassan, "Antibodies to hepatitis C virus in blood donors in Suez, Egypt" [Abstract], Egyptian Society of Hepatology, 9<sup>th</sup> Annual Meeting, April 24-26, 1991, Cairo; AA Saeed, AM El-Admawi, A El-Rasheed et al, "Hepatitis C virus infections in Egyptian volunteer blood donors in Riyadh" [letter] Lancet 1991; 338: 495-60 ; MA Kamel, YA Ghaffar, MA Wasef et al, "High HCV prevalence in Egyptian blood donors" [letter], Lancet 1992, 340:427; A El-Gohary, A Hassan, A Serwah et al, "Anti HCV and HCV-RNA in Egyptian Healthy Volunteer blood donors" Arab. J. Lab. Med. 1995;21(1): 1-8; C Frank, MK Mohamed, GT Strickland et al, "The role of parental antischistosomal therapy in the spread of Hepatitis C in Egypt" Lancet 2000; 355:887-891.

to work in an Arab Gulf Country to identify and satisfy the requirements related to Hepatitis C and HIV/AIDS.<sup>35</sup>

Finally, the Egyptian government deprives millions of Egyptian living abroad of their right to participate in public life by denying them the right to vote, in violation of domestic law. Law number 111 of the year 1983 on Emigration and the Welfare of Egyptians Abroad states that the constitutional and legal rights enjoyed by Egyptians emigrants shall not be affected by their residency abroad.<sup>36</sup> Moreover, Article 12 of the Law on the Practice of Political Rights stipulates that the electoral districts of Egyptians residing abroad and registered with Egyptian consulates shall be the same districts they inhabited in Egypt prior to their emigration.<sup>37</sup> The total number of Egyptians living abroad was estimated at 2.7 million in 2000.<sup>38</sup> This number represents about 4% of the population of Egypt who are denied their right to participate in the public affairs of their country of origin. This is a direct violation of Article 41 of the ICRMW.

**Recommendations:** Egypt should take immediate measures to protect Egyptian migrant workers, especially those working under a 'sponsorship' system. Egypt should also take efforts to ensure that Egyptian workers abroad are not expelled, deported or denied employment on discriminatory grounds. The government should immediately introduce the legislative and procedural reforms necessary for Egyptians living abroad to enjoy their right to participate in public affairs.

### **VIII. Restrictions on the Activities of NGOs**

Although Egypt's Constitution guarantees the right to freedom of association, Egyptian NGOs operate in an extremely restrictive legal and policy environment. NGOs Law (number 84 of the year 2002) enables the government to interfere with the registration, governance and operation of NGOs in several ways. The law allows for associations to be dissolved by an administrative order of the Ministry of Social Solidarity and restricts the right of NGOs to seek and receive foreign funding to support their activities. Prison penalties are imposed on NGO members and activists for offences related to their activities. In

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<sup>35</sup> Ministry of Foreign Affairs, op. cit.

<sup>36</sup> Law no. 111 of the year 1983 on Emigration and the Welfare of Egyptians Abroad, Article 1, Official Gazette issue no. 32, 11 August 1983.

<sup>37</sup> Law no. 73 of the year 1956 on the Practice of Political Rights, Article 12, Official Gazette issue no. 18, 4 March 1956.

<sup>38</sup> Nassar, op. cit., p2.

short, the law "entrenches a system in which NGOs are treated as the children of a paternalistic government."<sup>39</sup>

The Special Representative of the UN Secretary General on Human Rights defenders has repeatedly expressed her concern to the Egyptian government regarding the hostile legal environment in which defenders operate in Egypt. In 2006 the Special Representative reported that:

*Law 84 of 2002 still severely compromises the right to freedom of association by giving the government unwarranted control over the governance and operations of NGOs. The law which took effect in June 2003 provides for criminal penalties for so-called "unauthorized" activities, including "engaging in political or union activities, reserved for political parties and syndicates" (Article 11). In addition, it provides for up to six months in prison for receiving donations on behalf of an NGO without prior ministry approval. Persons carrying out NGO activities prior to the organization's formal registration are also liable to a three-month prison term.*<sup>40</sup>

Restrictive NGOs regulations have an indiscriminate impact on all sectors of civil society, especially organizations working for the promotion and protection of human rights, including the rights of migrant workers and their families. UN treaty bodies have consistently criticized the Egyptian government's restrictions on NGO activities for creating an atmosphere not conducive to the promotion or protection of any groups of rights or rights-holders. In 2001 for example the UN Committee on the Elimination of Racial Discrimination recommended that Egypt "resolve the difficulties relating to the registration of some non-governmental organizations dealing with the promotion and protection of human rights which are working in particular to combat racial discrimination."<sup>41</sup>

Similarly, the UN Committee against Torture in 2001 voiced its concern regarding Egypt's "legal and practical restrictions on the activities of non-governmental organizations engaged in human rights work."<sup>42</sup>

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<sup>39</sup> Human Rights Watch, "Egypt: Margins of Repression—State Limits on Non Governmental Organization Activism", July 2005, Volume 17, No.8, available at <http://hrw.org/reports/2005/egypt0705/index.htm>.

<sup>40</sup> Report submitted by the Special Representative of the Secretary-General on human rights defenders, Hina Jilani- Addendum: Compilation of developments in the area of human rights defenders, UN Doc. E/CN.4/2006/95/Add.5, para. 517.

<sup>41</sup> Concluding observations of the Committee on the Elimination of Racial Discrimination: Egypt, op. cit., para. 290.

<sup>42</sup> Conclusions and Recommendations of the Committee against Torture: Egypt, op. cit., para. 5 (i).

The same concern was echoed by the UN Human Rights Committee, which said it was

*concerned at the restrictions placed by Egyptian legislation and practice on the foundation of non-governmental organizations and the activities of such organizations such as efforts to secure foreign funding, which require prior approval from the authorities on pain of criminal penalties.*<sup>43</sup>

The Human Rights Committee recommended that the Egyptian government "review its legislation and practice in order to enable non-governmental organizations to discharge their functions without impediments...such as prior authorization, funding controls and administrative dissolution."<sup>44</sup>

**Recommendation:** The government should introduce legislative and regulatory reforms to ensure that the right to freedom of association is fully guaranteed and that NGOs are allowed to perform their functions without restrictions, especially those working for the promotion and protection of the rights of migrant workers.

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<sup>43</sup> Concluding observations of the Human Rights Committee: Egypt, op. cit., supra fn. 19, para. 21.

<sup>44</sup> Ibid.