

In March and April 2017, Human Rights Watch sent letters to six Egyptian institutions, including the presidency and defense ministry, expressing serious concerns about death sentences handed down in military courts and calling on President Abdel Fattah al-Sisi and Defense Minister Sedki Sobhi specifically not to approve the death sentences in Case 174 of 2015, in which eight men were sentenced to death. Human Rights Watch called on Egyptian authorities to place a moratorium on the use of the death penalty in all regular and military courts in view of the sharp rise in the number of death sentences, turbulent political upheaval, and failure to pass a comprehensive transitional justice law since the military removed Egypt's first freely elected president in July 2013.

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350 Fifth Avenue, 34th Floor
New York, NY 10118-3299
Tel: 212-290-4700
Fax: 212-736-1300

MIDDLE EAST AND NORTH AFRICA DIVISION

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Lama Fakih, *Deputy Director*
Eric Goldstein, *Deputy Director*
Joe Stork, *Deputy Director*
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Letter I: To President Abdel Fattah al-Sisi

April 7, 2017

President Abdel Fattah al-Sisi
Arab Republic of Egypt

Re: Death Penalty Moratorium

Your Excellency,

I write to you regarding an issue of the utmost seriousness: the use of the death penalty in Egypt. In your role as president of the republic, you have the authority to ratify, commute, or pardon all death sentences handed down by civilian and military courts.

This form of punishment is unique in its cruelty and finality, and it is inevitably and universally plagued with arbitrariness, prejudice, and error. In the light of events that have occurred in Egypt since 2013, we are seriously concerned that the death penalty may be applied unfairly and wrongly in the near future.

We request that you use your authority to place a moratorium on the use of the death penalty in all courts by not ratifying any future death sentences handed down by civilian or military judges. We also ask you to review two specific cases already decided in military courts of first instance, detailed below, in which the defendants face the risk of execution if their appeals are rejected and you ratify their death sentences. We urge you not to do so.

Human Rights Watch is an international human rights organization dedicated to investigating and exposing human rights abuses in more than 90 countries. We urge governments to curtail human rights violations and implement policies that protect human rights. Human Rights Watch has conducted investigations and published reports on the human rights situation in Egypt since 1991.

Human Rights Watch opposes the death penalty under all circumstances and in all countries because of its inherent cruelty and irreversibility. In 2013, the United Nations General Assembly again called on all countries

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to establish a moratorium on the use of the death penalty, progressively restrict the practice, and confine its use to the most serious offenses, with the view toward its eventual abolition.

Egypt is party to a number of international treaties, including the International Covenant on Civil and Political Rights (ICCPR), the African Charter on Human and Peoples' Rights, and the Arab Charter on Human Rights, which require states to restrict the use of the death penalty to the most serious crimes and then only following trials that meet international fair trial standards. The African Commission on Human and Peoples' Rights, which interprets the African charter, in 2015 called on states to abolish the death penalty or to impose a moratorium on its use and never to carry out judicial executions when trials are not demonstrably fair. The UN Human Rights Committee, the body of experts that oversees state compliance with the ICCPR, has said that "in cases of trials leading to the imposition of the death penalty scrupulous respect of the guarantees of fair trial is particularly important."

Only 58 countries still carry out death sentences, while 140 have abolished it in law or practice. In Egypt, legal experts believe that there are more than 105 offenses listed in the penal code and other laws that are punishable by death. Egypt was one of only five African countries that carried out judicial executions in 2015 and ranked eighth worldwide in the number of death sentences carried out that year. Egyptian authorities do not provide statistics regarding executions, but since July 2013 the number of death sentences and executions has risen sharply. According to Amnesty International, Egypt carried out at least 22 executions in 2015, seven of them in political cases, and at least 15 executions in 2014. This is a clear break from Egypt's recent history. In 2010, the last full year of former President Hosni Mubarak's time in power, he approved four death sentences. In 2011, when Egypt was governed by a military council, authorities carried out only one execution. According to available information, between 2012 and 2013, former Presidents Mohamed Morsy and Adly Mansour approved no death sentences.

Since July 2013, Egyptian criminal courts have sentenced hundreds of people to death. Egypt's highest appellate court, the Cassation Court, has taken an extremely skeptical view of such verdicts, upholding death sentences in only two cases and overturning hundreds of others. In many cases, Cassation Court judges have annulled lower court decisions because they did not meet basic fair trial standards.

Since October 2014, civilian prosecutors have, in violation of international human rights standards, referred more than 8,000 civilians to military courts that lack basic fair trial guarantees, including the defendants' right to be informed of the charges against them, to access a lawyer, to have a lawyer present during interrogations, and to be brought promptly before a judge. Judges in the military justice system are military officers subject to a chain of command and therefore do not enjoy the independence to ignore instructions by superiors.

Since July 2013, military courts of first instance have sentenced at least 60 defendants to death in at least 10 cases. While military courts have handed down fewer death sentences than regular courts since 2013, six people have been executed following military trials and only two following regular trials. Military court proceedings also typically move far faster than regular court proceedings.

The African Principles and Guidelines on the Right to a Fair Trial and Legal Assistance, adopted in 2003, prohibit military trial of civilians under all circumstances. The African Commission for Human and Peoples' Rights has determined that military courts should not have the power to impose the death penalty.

We would like to bring to your attention two cases of civilians sentenced to death following military trials, as they involve defendants whose death sentences are now being appealed. In case 174 of 2015, known as the "Advanced Operations Cell," and case 22 of 2015, known as the "Kafr al-Sheikh Stadium Explosion," Human Rights Watch has documented grievous due process violations before and during the trials, including a refusal by judges and prosecutors to investigate the defendants' claims that they were forcibly disappeared, denied access to lawyers, and tortured to elicit confessions. Military officers presiding as judges handed down death sentences to eight defendants in the "Advanced Operations Cell," six of whom are in custody, and to seven defendants in the "Kafr al-Sheikh Stadium Explosion" case, four of whom are in custody. The defendants in custody in both cases have filed appeals before the Supreme Military Court of Appeals but face the imminent risk of execution if their appeals are rejected.

These two cases bear similarities to an earlier case known as the "Arab Sharkas Cell." In that case, a military court sentenced six men to death after a brief trial during which they were denied basic due process protections. Prosecutors had charged the men with involvement in a gunfight in the town of Arab Sharkas in March 2014 that resulted in the death of two army officers. Human Rights Watch documented that at least three of the six men could not have participated in any of the attacks for which they were sentenced to death because authorities had arrested them months earlier and were holding them in detention at the time. All six alleged that their confessions had been obtained under torture. The father of one defendant told Human Rights Watch that he saw his son with a broken left thigh and knee that he alleged were the results of torture. Yet the six men were executed in May 2015.

The absence of fair trial guarantees in Egypt in general, including in cases resulting in death sentences, is especially concerning. Since July 2013, Egypt has undergone a period of political turbulence and polarization almost unrivaled in its modern history. Police have arrested tens of thousands of people and killed hundreds of demonstrators; courts have handed down hundreds of death sentences and ordered thousands of people held beyond the legal limit for preventive detention; and the government has failed to pass any law on

transitional justice, depriving the country of mechanisms that could, with democratic approval and in line with international law, help resolve controversial issues of political violence. In a report published in October 2016, the International Commission of Jurists documented the increasing politicization of the Egyptian judiciary and major flaws that have undermined the independence of judges and prosecutors, such as initiating and continuing prosecutions on unfounded charges and failing to establish individual findings of guilt. Following the Arab Sharkas executions in May 2015, two members of the semi-official National Council for Human Rights stated that the circumstances of Egypt's transition demanded a moratorium on the death penalty.

We fear that the defendants sentenced in the two cases mentioned above will face execution after being convicted in manifestly unfair military trials that violate the ICCPR and the African Charter on Human and Peoples' Rights.

Your excellency, the military code of justice requires that all death sentences handed down by military courts be ratified by you. The criminal procedure law also gives you the authority to pardon or commute death sentences handed down by civilian courts. Therefore, you have an obligation to uphold the human rights provisions of treaties to which Egypt is party. We hope you will not ratify the death sentences handed down in the cases mentioned above and that you will use your power to help protect the sanctity of life and ensure that Egypt adheres to the key principles of due process and fair trials.

Sincerely,

[Signature]

Sarah Leah Whitson
Executive Director
Middle East and North Africa
Human Rights Watch

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New York, NY 10118-3299
Tel: 212-290-4700
Fax: 212-736-1300

Letter II: To Defense Minister Sedky Sobhi

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Frances Sinha, *Human Resources Director*

April 7, 2017

Lieutenant General Sedky Sobhi
Defense Minister, Arab Republic of Egypt

Re: Death Penalty Moratorium

I write to you regarding an issue of the utmost seriousness: the use of the death penalty in Egypt. In your role as defense minister, you have the authority to approve, commute, or cancel all death sentences handed down by military courts and to send the approved sentences to the president for final ratification.

This form of punishment is unique in its cruelty and finality, and it is inevitably and universally plagued with arbitrariness, prejudice, and error. In the light of events that have occurred in Egypt since 2013, we are seriously concerned that the death penalty may be applied unfairly and wrongly in the near future.

We request that you place a moratorium on the use of the death penalty in military courts by not ratifying any future death sentences handed down in the military judiciary. We also ask you to review two specific cases already decided in military courts of first instance, detailed below, and to reverse your approval of the death sentences handed down in those cases, in which the defendants face the risk of execution if their appeals are rejected.

Human Rights Watch is an international human rights organization dedicated to investigating and exposing human rights abuses in more than 90 countries. We urge governments to curtail human rights violations and implement policies that protect human rights. Human Rights Watch has conducted investigations and published reports on the human rights situation in Egypt since 1991.

Human Rights Watch opposes the death penalty under all circumstances and in all countries because of its inherent cruelty and irreversibility. In

2013, the United Nations General Assembly again called on all countries to establish a moratorium on the use of the death penalty, progressively restrict the practice, and confine its use to the most serious offenses, with the view toward its eventual abolition.

Egypt is party to a number of international treaties, including the International Covenant on Civil and Political Rights (ICCPR), the African Charter on Human and Peoples' Rights, and the Arab Charter on Human Rights, which require states to restrict the use of the death penalty to the most serious crimes and then only following trials that meet international fair trial standards. The African Commission on Human and Peoples' Rights, which interprets the African charter, in 2015 called on states to abolish the death penalty or to impose a moratorium on its use and never to carry out judicial executions when trials are not demonstrably fair. The UN Human Rights Committee, the body of experts that oversees state compliance with the ICCPR, has said that "in cases of trials leading to the imposition of the death penalty scrupulous respect of the guarantees of fair trial is particularly important."

Only 58 countries still carry out death sentences, while 140 have abolished it in law or practice. In Egypt, legal experts believe that there are more than 105 offenses listed in the penal code and other laws that are punishable by death. Egypt was one of only five African countries that carried out judicial executions in 2015 and ranked eighth worldwide in the number of death sentences carried out that year. Egyptian authorities do not provide statistics regarding executions, but since July 2013 the number of death sentences and executions has risen sharply. According to Amnesty International, Egypt carried out at least 22 executions in 2015, seven of them in political cases, and at least 15 executions in 2014. This is a clear break from Egypt's recent history. In 2010, the last full year of former President Hosni Mubarak's time in power, he approved four death sentences. In 2011, when Egypt was governed by a military council, authorities carried out only one execution. According to available information, between 2012 and 2013, former Presidents Mohamed Morsy and Adly Mansour approved no death sentences.

Since July 2013, Egyptian criminal courts have sentenced hundreds of people to death. Egypt's highest appellate court, the Cassation Court, has taken an extremely skeptical view of such verdicts, upholding death sentences in only two cases and overturning hundreds of others. In many cases, Cassation Court judges have annulled lower court decisions because they did not meet basic fair trial standards.

Since October 2014, civilian prosecutors have, in violation of international human rights standards, referred more than 8,000 civilians to military courts that lack basic fair trial guarantees, including the defendants' right to be informed of the charges against them, to access a lawyer, to have a lawyer present during interrogations, and to be brought promptly before a judge. Judges in the military justice system are military officers subject to a chain of command and therefore do not enjoy the independence to ignore instructions by superiors.

Since July 2013, military courts of first instance have sentenced at least 60 defendants to death in at least 10 cases. While military courts have handed down fewer death sentences than regular courts since 2013, six people have been executed following military trials and only two following regular trials. Military court proceedings also typically move far faster than regular court proceedings.

The African Principles and Guidelines on the Right to a Fair Trial and Legal Assistance, adopted in 2003, prohibit military trial of civilians under all circumstances. The African Commission for Human and Peoples' Rights has determined that military courts should not have the power to impose the death penalty.

We would like to bring to your attention two cases of civilians sentenced to death following military trials, as they involve defendants whose death sentences are now being appealed. In case 174 of 2015, known as the "Advanced Operations Cell," and case 22 of 2015, known as the "Kafr al-Sheikh Stadium Explosion," Human Rights Watch has documented grievous due process violations before and during the trials, including a refusal by judges and prosecutors to investigate the defendants' claims that they were forcibly disappeared, denied access to lawyers, and tortured to elicit confessions. Military officers presiding as judges handed down death sentences to eight defendants in the "Advanced Operations Cell," six of whom are in custody, and to seven defendants in the "Kafr al-Sheikh Stadium Explosion" case, four of whom are in custody. The defendants in custody in both cases have filed appeals before the Supreme Military Court of Appeals but face the imminent risk of execution if their appeals are rejected.

These two cases bear similarities to an earlier case known as the "Arab Sharkas Cell." In that case, a military court sentenced six men to death after a brief trial during which they were denied basic due process protections. Prosecutors had charged the men with involvement in a gunfight in the town of Arab Sharkas in March 2014 that resulted in the death of two army officers. Human Rights Watch documented that at least three of the six men could not have participated in any of the attacks for which they were sentenced to death because authorities had arrested them months earlier and were holding them in detention at the time. All six alleged that their confessions had been obtained under torture. The father of one defendant told Human Rights Watch that he saw his son with a broken left thigh and knee that he alleged were the results of torture. Yet the six men were executed in May 2015. Following the Arab Sharkas executions in May 2015, two members of the semi-official National Council for Human Rights stated that the circumstances of Egypt's transition demanded a moratorium on the death penalty.

We fear that the defendants sentenced in the two cases mentioned above will face execution after being convicted in manifestly unfair military trials that violate the ICCPR and the African Charter on Human and Peoples' Rights.

Your excellency, as the official with responsibility for ratifying or commuting death sentences handed down by military courts, you have an obligation to uphold the human rights provisions of treaties to which Egypt is party. We hope you will reverse your approval of the death sentences handed down in the cases mentioned above and that you will use your power to help protect the sanctity of life and ensure that Egypt adheres to the key principles of due process and fair trials.

Sincerely,

[Signature]

Sarah Leah Whitson
Executive Director
Middle East and North Africa
Human Rights Watch

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350 Fifth Avenue, 34th Floor
New York, NY 10118-3299
Tel: 212-290-4700
Fax: 212-736-1300

Letter III: To Grand Imam of al-Azhar

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James Ross, *Legal and Policy Director*
Joe Saunders, *Deputy Program Director*
Frances Sinha, *Human Resources Director*

March 21, 2017

Ahmed al-Tayeb
Grand Imam of Al Azhar

Re: Death Penalty Moratorium

Dear Sir,

I write to you regarding an issue of the utmost seriousness: the use of the death penalty in Egypt. In your role as Grand Imam of Al Azhar, you possess a special authority on religious affairs and Islamic jurisprudence. Your interpretation of Islam, including on matters of crime and punishment, holds great sway in Egypt.

The death penalty is a form of punishment that is unique in its cruelty and finality, and it is inevitably and universally plagued with arbitrariness, prejudice, and error. In the light of events that have occurred in Egypt since 2013, we are seriously concerned that the death penalty may be applied unfairly and wrongly in the near future.

We request that you lend your support to Egyptian and international efforts to place a moratorium on the use of the death penalty in Egypt. We also ask you to call on Egyptian authorities not to carry out the death penalty in two specific cases detailed below, in which defendants face the risk of execution after unfair trials in military courts.

Human Rights Watch is an international human rights organization dedicated to investigating and exposing human rights abuses in more than 90 countries. We urge governments to curtail human rights violations and implement policies that protect human rights. Human Rights Watch has conducted investigations and published reports on the human rights situation in Egypt since 1991.

Human Rights Watch opposes the death penalty under all circumstances and in all countries because of its inherent cruelty and irreversibility. In 2013, the United Nations General Assembly again called on all countries

to establish a moratorium on the use of the death penalty, progressively restrict the practice, and confine its use to the most serious offenses, with the view toward its eventual abolition.

Egypt is party to a number of international treaties, including the International Covenant on Civil and Political Rights (ICCPR), the African Charter on Human and Peoples' Rights, and the Arab Charter on Human Rights, which require states to restrict the use of the death penalty to the most serious crimes, and then only following trials that meet international fair trial standards. The African Commission on Human and Peoples' Rights, which interprets the African charter, commenting in 2015 on article 4 on the right to life, called on states to abolish the death penalty or to impose a moratorium on its use, and to never carry out judicial executions when trials are not demonstrably fair. The United Nations Human Rights Committee, the body of experts that oversees state compliance with the ICCPR, has said that "in cases of trials leading to the imposition of the death penalty scrupulous respect of the guarantees of fair trial is particularly important."

Only 58 countries still carry out death sentences, while 140 have abolished it in law or practice. In Egypt, legal experts believe that there are more than 105 offenses listed in the penal code and other laws that are punishable by death. Egypt was one of only five African countries that carried out judicial executions in 2015 and ranked eighth worldwide in the number of death sentences carried out that year. Egyptian authorities do not provide statistics regarding executions, but since July 2013 the number of death sentences and executions has risen sharply. According to Amnesty International, Egypt carried out at least 22 executions in 2015, seven of them in political cases, and at least 15 executions in 2014. This is a clear break from Egypt's recent history. In 2010, the last full year of former President Hosni Mubarak's time in power, he approved four death sentences. In 2011, when Egypt was governed by a military council, authorities carried out only one execution. According to available information, between 2012 and 2013, former Presidents Mohamed Morsy and Adly Mansour approved no death sentences.

Since July 2013, and as of March 2017, Egyptian criminal courts have sent around 1,800 initial death sentences stemming from cases of political violence for review by the Grand Mufti, whose non-binding opinion is required in all death sentences. Following the mufti's review, judges subsequently confirmed 793 of these sentences. The majority remain on appeal or have been overturned and scheduled for retrial. Egypt's highest appellate court, the Cassation Court, has taken an extremely skeptical view of such verdicts, upholding death sentences in only two cases and overturning hundreds of others. In many cases, Cassation Court judges annulled the lower court decisions because they did not meet basic fair trial standards. In several cases reviewed by Human Rights Watch, the lower court judges had quickly sentenced hundreds of defendants to death following speedy mass trials in which the accused were denied any meaningful access to lawyers. Human Rights

Watch has found that in those and other mass trials, the charges were mainly based on unsubstantiated allegations by officers of the Interior Ministry's National Security Agency.

Furthermore, since October 2014, civilian prosecutors have, in violation of international human rights standards, referred more than 8,000 civilians to military courts that lack basic fair trial guarantees, and to date at least 60 of these defendants have been sentenced to death. The African Principles and Guidelines on the Right to a Fair Trial and Legal Assistance, adopted in 2003, prohibit military trial of civilians under all circumstances. The African Commission for Human and Peoples' Rights has determined that military courts should not have the power to impose the death penalty.

We would like to bring two of these cases to your attention, as they involve defendants whose initial death sentences are now being appealed. In case 174 of 2015, known as the "Advanced Operations Cell," and case 22 of 2015, known as the "Kafr al-Sheikh Stadium Explosion," Human Rights Watch has documented grievous due process violations before and during the trials, including a refusal by judges and prosecutors to investigate the defendants' claims that they were forcibly disappeared, denied access to lawyers, and tortured to elicit confessions. Military officers presiding as judges handed down death sentences to eight defendants in the "Advanced Operations Cell," six of whom are in custody, and seven defendants in the "Kafr al-Sheikh Stadium Explosion" case, four of whom are in custody. The defendants in custody in both cases have filed appeals before the Supreme Military Court of Appeals but face the imminent risk of execution if their appeal is rejected.

These two cases bear similarities to an earlier case known as the "Arab Sharkas Cell." In that case, a military court sentenced six men to death after a brief trial during which they were denied basic due process protections. Prosecutors had charged the men with involvement in a gunfight in the town of Arab Sharkas in March 2014 that resulted in the death of two army officers. Human Rights Watch documented that at least three of the six men could not have participated in any of the attacks for which they were sentenced to death because authorities had arrested them months earlier and were still holding them in detention. All six alleged that their confessions had been obtained under torture. The father of one defendant told Human Rights Watch that he saw his son with a broken left thigh and knee that he alleged were the results of torture. Yet the six men were executed in May 2015.

The absence of fair trial guarantees in Egypt in general, including in cases resulting in death sentences, is especially concerning. Since July 2013, Egypt has undergone a period of political turbulence and polarization almost unrivaled in its modern history. Police have arrested tens of thousands of people and killed hundreds of demonstrators; courts have handed down hundreds of death sentences; and the government has approved abusive new laws and restricted basic rights while failing to pass any law on transitional justice,

depriving the country of mechanisms that could, with democratic approval and in line with international law, help resolve controversial issues of political violence. In a report published in October 2016, the International Commission of Jurists documented the increasing politicization of the Egyptian judiciary and major flaws that have undermined the independence of judges and prosecutors, such as initiating and continuing prosecutions on unfounded charges and failing to establish individual findings of guilt.

Following the Arab Sharkas executions in May 2015, two members of the semi-official National Council for Human Rights (NCHR) stated that the circumstances of Egypt's transition demanded a moratorium on the death penalty, and the NCHR has officially called for curtailing the use of death penalty. An independent Egyptian activist group, No to the Death Penalty, that includes distinguished Egyptian professors and intellectuals, such as Dr. Khaled Fahmy, Dr. Reem Saad and others, has called for a five-year moratorium. We hope that you will join or endorse these efforts.

If no action is taken, we fear that history will repeat itself in the two cases mentioned above, and that these and other defendants will face execution after being convicted in manifestly unfair military trials that violate the ICCPR and the African Charter on Human and Peoples' Rights.

Your excellency, as the Grand Imam of Al Azhar with special authority on Islamic jurisprudence, you can help ensure that Egypt upholds the human rights provisions of treaties to which it is party. Egyptian presidents have a history of commuting most death sentences and pardoning others. We hope that you, as the highest Islamic authority in the country and a religious figure respected across the Islamic world, will lend your authority and erudition to help protect the sanctity of life, ensure that Egypt adheres to the key principles of due process and fair trials, and bring an end to the use of the death penalty.

Sincerely,

[Signature]

Sarah Leah Whitson
Executive Director
Middle East and North Africa
Human Rights Watch

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Letter IV: To Egyptian Grand Mufti

March 21, 2017

Shawki Allam
Grand Mufti
Arab Republic of Egypt

Re: Death Penalty Moratorium

Your Excellency,

I write to you regarding an issue of the utmost seriousness: the use of the death penalty in Egypt. In your role as Grand Mufti, you offer opinions on all death sentences handed down by criminal courts in Egypt. Though your opinion is not binding, judges are legally required to seek it, and your authority on Islamic law carries special weight.

The death penalty is a form of punishment that is unique in its cruelty and finality, and it is inevitably and universally plagued with arbitrariness, prejudice, and error. In light of the events that have occurred in Egypt since 2013, we are seriously concerned that the death penalty may be applied unfairly and wrongly in the near future.

We ask your excellency, in your legally required capacity to review all death sentences, not to approve any future death sentences referred to you. We also ask you to call on Egyptian authorities not to carry out the death penalty in two specific cases detailed below, in which defendants face the risk of execution after unfair trials in military courts.

Human Rights Watch is an international human rights organization dedicated to investigating and exposing human rights abuses in more than 90 countries. We urge governments to curtail human rights violations and implement policies that protect human rights. Human Rights Watch has conducted investigations and published reports on the human rights situation in Egypt since 1991.

Human Rights Watch opposes the death penalty under all circumstances and in all countries because of its inherent cruelty and irreversibility. In 2013, the United Nations General Assembly again called on all countries

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to establish a moratorium on the use of the death penalty, progressively restrict the practice, and confine its use to the most serious offenses, with the view toward its eventual abolition.

Egypt is party to a number of international treaties, including the International Covenant on Civil and Political Rights (ICCPR), the African Charter on Human and Peoples' Rights, and the Arab Charter on Human Rights, which require states to restrict the use of the death penalty to the most serious crimes, and then only following trials that meet international fair trial standards. The African Commission on Human and Peoples' Rights, which interprets the African charter, commenting in 2015 on Article 4 on the right to life, called on states to abolish the death penalty or to impose a moratorium on its use, and to never carry out judicial executions when trials are not demonstrably fair. The United Nations Human Rights Committee, the body of experts that oversees state compliance with the ICCPR, has said that "in cases of trials leading to the imposition of the death penalty scrupulous respect of the guarantees of fair trial is particularly important."

Only 58 countries still carry out death sentences, while 140 have abolished it in law or practice. In Egypt, legal experts believe that there are more than 105 offenses listed in the penal code and other laws that are punishable by death. Egypt was one of only five African countries that carried out judicial executions in 2015 and ranked eighth worldwide in the number of death sentences carried out that year. Egyptian authorities do not provide statistics regarding executions, but since July 2013 the number of death sentences and executions has risen sharply. According to Amnesty International, Egypt carried out at least 22 executions in 2015, seven of them in political cases, and at least 15 executions in 2014. This is a clear break from Egypt's recent history. In 2010, the last full year of former President Hosni Mubarak's time in power, he approved four death sentences. In 2011, when Egypt was governed by a military council, authorities carried out only one execution. According to available information, between 2012 and 2013, former Presidents Mohamed Morsy and Adly Mansour approved no death sentences.

Since July 2013, and as of March 2017, Egyptian criminal courts have sent around 1,800 initial death sentences stemming from cases of political violence for review by the Grand Mufti, whose non-binding opinion is required in all death sentences. Following the mufti's review, judges subsequently confirmed 793 of these sentences. The majority remain on appeal or have been overturned and scheduled for retrial. Egypt's highest appellate court, the Cassation Court, has taken an extremely skeptical view of such verdicts, upholding death sentences in only two cases and overturning hundreds of others. In many cases, Cassation Court judges annulled the lower court decisions because they did not meet basic fair trial standards. In several cases reviewed by Human Rights Watch, the lower court judges had quickly sentenced hundreds of defendants to death following speedy mass trials in which the accused were denied any meaningful access to lawyers. Human Rights

Watch has found that in those and other mass trials, the charges were mainly based on unsubstantiated allegations by officers of the Interior Ministry's National Security Agency.

Furthermore, since October 2014, regular prosecutors have, in violation of international human rights standards, referred more than 8,000 civilians to military courts that lack basic fair trial guarantees, and to date at least 60 of these defendants have been sentenced to death. The African Principles and Guidelines on the Right to a Fair Trial and Legal Assistance, adopted in 2003, prohibits military trial of civilians under all circumstances. The African Commission for Human and Peoples' Rights has determined that military courts should not have the power to impose the death penalty.

We would like to bring two of these cases to your attention, as they involve defendants whose initial death sentences are now being appealed. In case 174 of 2015, known as the "Advanced Operations Cell," and case 22 of 2015, known as the "Kafr al-Sheikh Stadium Explosion," Human Rights Watch has documented grievous due process violations before and during the trials, including a refusal by judges and prosecutors to investigate the defendants' claims that they were forcibly disappeared, denied access to lawyers, and tortured to elicit confessions. Military officers presiding as judges handed down death sentences to eight defendants in the "Advanced Operations Cell," six of whom are in custody, and seven defendants in the "Kafr al-Sheikh Stadium Explosion" case, four of whom are in custody. The defendants in custody in both cases have filed appeals before the Supreme Military Court of Appeals but face the imminent risk of execution if their appeal is rejected.

These two cases bear similarities to an earlier case known as the "Arab Sharkas Cell." In that case, a military court sentenced six men to death after a brief trial during which they were denied basic due process protections. Prosecutors had charged the men with involvement in a gunfight in the town of Arab Sharkas in March 2014 that resulted in the death of two army officers. Human Rights Watch documented that at least three of the six men could not have participated in any of the attacks for which they were sentenced to death because authorities had arrested them months earlier and were still holding them in detention. All six alleged that their confessions had been obtained under torture. The father of one defendant told Human Rights Watch that he saw his son with a broken left thigh and knee that he alleged were the results of torture. Yet the six men were executed in May 2015.

The absence of fair trial guarantees in Egypt in general, including in cases resulting in death sentences, is especially concerning. Since July 2013, Egypt has undergone a period of political turbulence and polarization almost unrivaled in its modern history. Police have arrested tens of thousands of people and killed hundreds of demonstrators; courts have handed down hundreds of death sentences; and the government has approved abusive new laws and restricted basic rights while failing to pass any law on transitional justice,

depriving the country of mechanisms that could, with democratic approval and in line with international law, help resolve controversial issues of political violence. In a report published in October 2016, the International Commission of Jurists documented the increasing politicization of the Egyptian judiciary and major flaws that have undermined the independence of judges and prosecutors, such as initiating and continuing prosecutions on unfounded charges and failing to establish individual findings of guilt. Following the Arab Sharkas executions in May 2015, two members of the semi-official National Council for Human Rights stated that the circumstances of Egypt's transition demanded a moratorium on the death penalty.

We fear that history will repeat itself in the two cases mentioned above, and that these and other defendants will face execution after being convicted in manifestly unfair military trials that violate the ICCPR and the African Charter on Human and Peoples' Rights.

Your excellency, as Grand Mufti with legal responsibility to offer opinions on all death sentences handed down by criminal courts in Egypt, you have an obligation to uphold the human rights provisions of treaties to which Egypt is party. We hope that you will use your authority to help protect the sanctity of life, ensure that Egypt adheres to the key principles of due process and fair trials, and bring an end to the use of the death penalty.

Sincerely,

[Signature]

Sarah Leah Whitson
Executive Director
Middle East and North Africa
Human Rights Watch

HUMAN RIGHTS WATCH

350 Fifth Avenue, 34th Floor
New York, NY 10118-3299
Tel: 212-290-4700
Fax: 212-736-1300

Letter V: To the National Council for Human Rights

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March 21, 2017

Mohamed Fayek

President of the National Council for Human Rights

Cc: Abd al-Ghaffar Shukr, Nasser Amin, Ragia Omran, Hafez Abu Se`da,
George Ishak, and other distinguished members of the
council

Re: Death Penalty Moratorium

Dear Mr. Fayek and distinguished council members,

I write to you regarding an issue of the utmost seriousness: the use of the death penalty in Egypt. The National Council for Human Rights (NCHR) has stood against abuses in Egypt for many years, particularly during difficult recent circumstances. Your principled voice remains crucial in the debate over human rights, and you have in the past taken stands against the death penalty.

The death penalty is a form of punishment that is unique in its cruelty and finality, and it is inevitably and universally plagued with arbitrariness, prejudice, and error. In light of the events that have occurred in Egypt since 2013, we are seriously concerned that the death penalty may be applied unfairly and wrongly in the near future.

We request that you lend your support to Egyptian and international efforts to place a moratorium on the use of the death penalty in Egypt. We also ask you to call on Egyptian authorities not to carry out the death penalty in two specific cases detailed below, in which defendants face the risk of execution after unfair trials in military courts.

Human Rights Watch opposes the death penalty under all circumstances and in all countries because of its inherent cruelty and irreversibility. In 2013, the United Nations General Assembly again called on all countries to establish a moratorium on the use of the death penalty, progressively

restrict the practice, and confine its use to the most serious offenses, with the view toward its eventual abolition.

Egypt is party to a number of international treaties, including the International Covenant on Civil and Political Rights (ICCPR), the African Charter on Human and Peoples' Rights, and the Arab Charter on Human Rights, which require states to restrict the use of the death penalty to the most serious crimes, and then only following trials that meet international fair trial standards. The African Commission on Human and Peoples' Rights, which interprets the African charter, commenting in 2015 on article 4 on the right to life, called on states to abolish the death penalty or to impose a moratorium on its use, and to never carry out judicial executions when trials are not demonstrably fair. The United Nations Human Rights Committee, the body of experts that oversees state compliance with the ICCPR, has said that "in cases of trials leading to the imposition of the death penalty scrupulous respect of the guarantees of fair trial is particularly important."

Only 58 countries still carry out death sentences, while 140 have abolished it in law or practice. In Egypt, legal experts believe that there are more than 105 offenses listed in the penal code and other laws that are punishable by death. Egypt was one of only five African countries that carried out judicial executions in 2015 and ranked eighth worldwide in the number of death sentences carried out that year. Egyptian authorities do not provide statistics regarding executions, but since July 2013 the number of death sentences and executions has risen sharply. According to Amnesty International, Egypt carried out at least 22 executions in 2015, seven of them in political cases, and at least 15 executions in 2014. This is a clear break from Egypt's recent history. In 2010, the last full year of former President Hosni Mubarak's time in power, he approved four death sentences. In 2011, when Egypt was governed by a military council, authorities carried out only one execution. According to available information, between 2012 and 2013, former Presidents Mohamed Morsy and Adly Mansour approved no death sentences.

Since July 2013, and as of March 2017, Egyptian criminal courts have sent around 1,800 initial death sentences stemming from cases of political violence for review by the Grand Mufti, whose non-binding opinion is required in all death sentences. Following the mufti's review, judges subsequently confirmed 793 of these sentences. The majority remain on appeal or have been overturned and scheduled for retrial. Egypt's highest appellate court, the Cassation Court, has taken an extremely skeptical view of such verdicts, upholding death sentences in only two cases and overturning hundreds of others. In many cases, Cassation Court judges annulled the lower court decisions because they did not meet basic fair trial standards. In several cases reviewed by Human Rights Watch, the lower court judges had quickly sentenced hundreds of defendants to death following speedy mass trials in which the accused were denied any meaningful access to lawyers. Human Rights

Watch has found that in those and other mass trials, the charges were mainly based on unsubstantiated allegations by officers of the Interior Ministry's National Security Agency.

Furthermore, since October 2014 regular prosecutors have, in violation of international human rights standards, referred more than 8,000 civilians to military courts that lack basic fair trial guarantees, and to date at least 60 of these defendants have been sentenced to death. The African Principles and Guidelines on the Right to a Fair Trial and Legal Assistance, adopted in 2003, prohibits military trial of civilians under all circumstances. The African Commission for Human and Peoples' Rights has determined that military courts should not have the power to impose the death penalty.

We would like to bring two of these cases to your attention, as they involve defendants whose initial death sentences are now being appealed. In case 174 of 2015, known as the "Advanced Operations Cell," and case 22 of 2015, known as the "Kafr al-Sheikh Stadium Explosion," Human Rights Watch has documented grievous due process violations before and during the trials, including a refusal by judges and prosecutors to investigate the defendants' claims that they were forcibly disappeared, denied access to lawyers, and tortured to elicit confessions. Military officers presiding as judges handed down death sentences to eight defendants in the "Advanced Operations Cell," six of whom are in custody, and seven defendants in the "Kafr al-Sheikh Stadium Explosion" case, four of whom are in custody. The defendants in custody in both cases have filed appeals before the Supreme Military Court of Appeals but face the imminent risk of execution if their appeal is rejected.

These two cases bear similarities to an earlier case known as the "Arab Sharkas Cell." In that case, a military court sentenced six men to death after a brief trial during which they were denied basic due process protections. Prosecutors had charged the men with involvement in a gunfight in the town of Arab Sharkas in March 2014 that resulted in the death of two army officers. Human Rights Watch documented that at least three of the six men could not have participated in any of the attacks for which they were sentenced to death because authorities had arrested them months earlier and were still holding them in detention. All six alleged that their confessions had been obtained under torture. The father of one defendant told Human Rights Watch that he saw his son with a broken left thigh and knee that he alleged were the results of torture. Yet the six men were executed in May 2015.

The absence of fair trial guarantees in Egypt in general, including in cases resulting in death sentences, is especially concerning. Since July 2013, Egypt has undergone a period of political turbulence and polarization almost unrivaled in its modern history. Police have arrested tens of thousands of people and killed hundreds of demonstrators; courts have handed down hundreds of death sentences; and the government has approved abusive new laws and restricted basic rights while failing to pass any law on transitional justice,

depriving the country of mechanisms that could, with democratic approval and in line with international law, help decide controversial issues of political violence. In a report published in October 2016, the International Commission of Jurists documented the increasing politicization of the Egyptian judiciary and major flaws that have undermined the independence of judges and prosecutors, such as initiating and continuing prosecutions on unfounded charges and failing to establish individual findings of guilt.

Following the Arab Sharkas executions in May 2015, two members of the NCHR, Abd al-Ghaffar Shukr and Ragia Omran, stated that the circumstances of Egypt's transition demanded a moratorium on the death penalty. An independent Egyptian activist group, No to the Death Penalty, that includes distinguished Egyptian professors and intellectuals such as Dr. Khaled Fahmy, Dr. Reem Saad and others, has called for a five-year moratorium.

While there may be little chance that Egypt will abolish death penalty in the foreseeable future, we hope that the NCHR will join or endorse these efforts and speak out publicly about the two cases mentioned. We fear that if no action is taken, history will repeat itself in the two cases mentioned above, and that these and other defendants will face execution after being convicted in manifestly unfair military trials that violate the ICCPR and the African Charter on Human and Peoples' Rights.

Sincerely,

[Signature]

Sarah Leah Whitson
Executive Director
Middle East and North Africa
Human Rights Watch

HUMAN RIGHTS WATCH

350 Fifth Avenue, 34th Floor
New York, NY 10118-3299
Tel: 212-290-4700
Fax: 212-736-1300

Letter VI: To Prosecutor General Nabil Sadeq

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March 21, 2017

Nabil Sadeq
Prosecutor General
Arab Republic of Egypt

Re: Death Penalty Moratorium

Your Excellency,

I write to you regarding an issue of the utmost seriousness: the use of the death penalty in Egypt. In your role as Prosecutor General, you have authority over the public prosecution and the power to issue directives to prosecutors regarding the sentences they seek in court.

The death penalty is a form of punishment that is unique in its cruelty and finality, and it is inevitably and universally plagued with arbitrariness, prejudice, and error. In light of the events that have occurred in Egypt since 2013, we are seriously concerned that the death penalty may be applied unfairly and wrongly in the near future.

We request that you place a moratorium on the use of the death penalty by your office and do not seek it in future cases. We also ask that you stop the practice of referring civilians to military courts because of the absence of basic fair trial guarantees. Military courts have sentenced at least 60 defendants to death since July 2013.

Human Rights Watch is an international human rights organization dedicated to investigating and exposing human rights abuses in more than 90 countries. We urge governments to curtail human rights violations and implement policies that protect human rights. Human Rights Watch has conducted investigations and published reports on the human rights situation in Egypt since 1991.

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judges had quickly sentenced hundreds of defendants to death following speedy mass trials in which the accused were denied any meaningful access to lawyers. Human Rights Watch has found that in those and other mass trials, the charges were mainly based on unsubstantiated allegations by officers of the Interior Ministry's National Security Agency.

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handed down hundreds of death sentences; and the government has approved abusive new laws and restricted basic rights while failing to pass any law on transitional justice, depriving the country of mechanisms that could, with democratic approval and in line with international law, help resolve controversial issues of political violence. In a report published in October 2016, the International Commission of Jurists documented the increasing politicization of the Egyptian judiciary and major flaws that have undermined the independence of judges and prosecutors, such as initiating and continuing prosecutions on unfounded charges and failing to establish individual findings of guilt.

Following the Arab Sharkas executions in May 2015, two members of the semi-official National Council for Human Rights (NCHR) stated that the circumstances of Egypt's transition demanded a moratorium on the death penalty, and the NCHR has officially called for curtailing the use of death penalty. An independent Egyptian activist group, No to the Death Penalty, that includes distinguished Egyptian professors and intellectuals, such as Dr. Khaled Fahmy, Dr. Reem Saad and others, has called for a five-year moratorium. We hope that you will join or endorse these efforts.

If no action is taken, we fear that history will repeat itself in the two cases mentioned above, and that these and other defendants will face execution after being convicted in manifestly unfair military trials that violate the ICCPR and the African Charter on Human and Peoples' Rights.

Your excellency, as the official with responsibility for prosecuting crimes and authority to direct prosecutors to seek certain sentences, you have an obligation to uphold human rights provisions of treaties to which Egypt is party. We hope that you will use your power to help protect the sanctity of life and ensure that Egypt adheres to the key principles of due process and fair trials.

Sincerely,

[Signature]

Sarah Leah Whitson
Executive Director
Middle East and North Africa
Human Rights Watch