

Egypt

THE EMERGENCY LAW IN EGYPT

- [english] - Region - North Africa & Middle East - Egypt -

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Description :

The emergency law is a tool in the hands of the executive power to storm many basic rights and freedom guaranteed by the Egyptian Constitution. Since the assassination of President Anwar El Sadat in October 1981 , the emergency law was renewed by a temporary resolution no. 560/1981 for one year and then has been extended many times again till 2003.

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The emergency law grants to the authority the following :

- Broad power to impose restrictions on the freedoms of assembly, move or residence; the power to arrest and detain suspects or those deemed dangerous, and the power to search individuals and places without the need to follow the provisions of the Criminal Procedure Code (by virtue of article 3 of the emergency law). Certainly, these powers constitute gross violations of the rights guaranteed by the Egyptian Constitution, which provides for personal freedom in article 41, the inviolability of private homes in article 44, freedom of movement and residence in article 54. These powers also disregard many rights and safeguards stipulated in the International Convent on Civil and Political Rights (ICCPR) such as article 9 on personal freedom, article 12 on freedom of movement and article 21 on the right of peaceful assembly.
- The right to establish exceptional courts such as the state security courts and the Supreme State Security Court of Emergency to hear cases related to crimes committed in violation of rulings made by the President of the Republic or his deputy (by virtue of article 7/1 of the Emergency Law), and the right to include members of the military in the formation of the courts (article 7/4). These powers clearly violate constitutional and international principles relevant to the separation of powers, the independence of the judiciary and the immunity of judges (articles 165-173 of the Constitution and article 14 of the ICCPR).
- Article 3 of the emergency law gives the military ruler or his deputy the power to monitor the newspapers, booklets and other publications of expressing opinion. He has the power to confiscate and stop circulating these publications. In this regard, this law clearly violates the right to privacy and to confidentiality of correspondence and telephone calls as well as the freedom of opinion, expression and research stated in article 45 and 49 of the Egyptian Constitution, and articles 17-19 of the ICCPR.
- Article 9 of the emergency law confers to the President of the Republic the right to refer to the State Security Courts of Emergency those accused of crimes that are punishable under the common law. This is a clear violation of article 40/9 of the Constitution, which states that all citizens are equal and are entitled to be tried by a competent judge and have the right to get fair and impartial trial as asserted by article 14 of the ICCPR.

If the Niyaba (office of the Public prosecutor) decides to bring a criminal case, a trial is held before an Egyptian court. Most cases are heard in permanent criminal courts. However, under the state of emergency, if the President or the Prime Minister (acting under the authority of the President) decides to do so, they can move a case to either an Emergency State Security Court or a Military Court. Most politically sensitive criminal cases end up in one of these latter types of courts.

The most recent example regards the adoption on 12 November 2001 of a presidential decree to refer 22 defendants who belong to the Muslim Brotherhood group to the military courts. Thos persons had been arrested on 7th November 2001, investigated by the State Security court on the same day and accused of being affiliated to an illegal group whose aim is to hamper the implementation of the law and the Constitution.

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They were deprived of their right to be given sufficient time to prepare the defence and they have been continuously investigated for ten hours daily, in violation of the rights enshrined in article 14 of the International Covenant on civil and political rights which states that everyone charged with a criminal offence shall have adequate time and facilities for the preparation of his defence and to communicate with a counsel of his choice.

The defendants were imprisoned 15 days pending investigation, and a presidential decree was issued on 12th November 2001 to refer them to the military judiciary. This case is the sixth one in which the Muslim Brotherhood members are referred to the military courts; between 1995 and 2000, the authorities referred 5 cases to the military courts in which 79 defendants were imprisoned and 39 defendants were acquitted.

The FIDH and the Egyptian Organisation for Human Rights (EOHR) are extremely worried about the continuation of the referral of civilians to military courts : combating terrorism and violence should be done in accordance with the Egyptian Constitution and international human rights law.