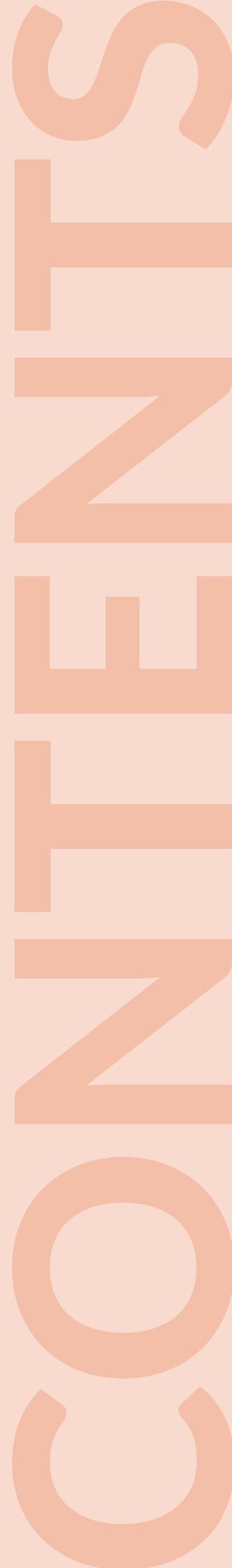




REPRIEVE

**MASS INJUSTICE:
STATISTICAL FINDINGS
ON THE DEATH
PENALTY IN EGYPT**

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Executive Summary

This report, *Mass Injustice*, presents the *Egypt Death Penalty Index* (“the *Index*”), a first-of-its-kind website and statistical database on Egypt’s application of the death penalty. The report provides background information on Egypt’s growing unlawful application of the death penalty, and explains how the *Index* was compiled. It then details the research’s methodology and key findings, including:

During the tenure of now-President Abdelfattah el-Sisi, Egypt’s use of the death penalty has climbed sharply. In most cases, resulting death sentences are unlawful, being in violation of international law governing the use of capital punishment.

In the first five years after el-Sisi came to power (July 2013 – September 2018), Egyptian courts handed down at least 2,443 preliminary death sentences.

During the same period, Egypt executed at least 144 people.

Between 3 July 2013 and 23 September 2018, Egyptian courts handed down at least 1,884 preliminary death sentences in inherently unfair mass trials of 15 defendants or more.

Since Egypt’s January 2011 revolution, courts have handed preliminary death sentences to at least 11 juveniles, ten during el-Sisi’s tenure alone. At least one of these juveniles, Ahmed Saddouma, remains under a sentence of death.

86%

As of September 2018, at least 77 individuals awaited imminent execution in Egypt, having exhausted all legal remedies. Of these individuals, 86% were convicted during el-Sisi’s tenure. At least six of them have since been executed.

While the individuals sentenced to death since Egypt’s 25 January 2011 revolution have been overwhelmingly male, women sentenced to death were executed during this period at more than double the rate of men.

Despite this intensification in Egypt’s use of capital punishment, European states, the EU and the US have continued to cooperate closely with the Egyptian criminal justice and defence sectors. Concurrently, world governments have failed to issue serious condemnation of Egypt’s unlawful application of the death penalty.

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Glossary Of Terms

Abdelfattah el-Sisi: The current president of Egypt. Former President Mohammed Morsi appointed el-Sisi as Field Marshal, the highest-ranking member of the Egyptian military, on 12 August 2012. On 3 July 2013, President Morsi was ousted from office. El-Sisi remained Field Marshal until he officially took office as president on 8 June 2014, though it is widely accepted that he was the country's de facto leader from the time of Morsi's removal from office in July 2013. El-Sisi was elected as president in May 2014 and was re-elected as president in 2018. Both elections were widely viewed as neither free nor fair.¹

Adly Mansour: Head of the Egyptian Supreme Constitutional Court until June 2016 and Egypt's interim president from 4 July 2013 to 7 June 2014. Mansour was appointed interim president by then-Field Marshal Abdelfattah el-Sisi following the ouster of President Mohammed Morsi on 3 July 2013. Mansour stepped down when el-Sisi officially took office as president on 8 June 2014. However, it is widely accepted that throughout Mansour's tenure as interim president, el-Sisi was Egypt's de facto leader.²

Assembly Law: Egyptian Law 10/1914, also known as the "Assembly Law", enshrines the concept of joint enterprise, allowing the state to hold unlimited numbers of defendants jointly liable for criminal acts committed by one co-defendant. This law underpins the mass trial process in Egypt.

Criminal court: Refers to the court system in Egypt where felony offences are tried before a panel of three judges. These courts are distinct from the misdemeanour courts, which only hear trials for charges of 'petty crimes'.

Criminal trial: Refers to any trial where the facts and circumstances are not perceived to be connected to the political and societal changes that have arisen in Egypt since the January 2011 revolution. For more information, see page 8.

Confirmed death sentence: A death sentence that has been confirmed by a panel of three judges after consulting the Grand Mufti's opinion. For more information, see page 8.

Court of Cassation: Similar to a Supreme Court in other jurisdictions, the Court of Cassation is the highest court in Egypt's common court system. This court has final say over all death sentences in the country.

Felony offence: Refers to the category of offences

which are punishable by a sentence that ranges from more than three years in prison up to the death penalty. These offences are all listed in Egyptian law, either in the Penal Code or other criminal legislation.

Governorate: One of 27 administrative divisions into which Egypt is divided, akin to a province.

Grand Mufti of Egypt: Egypt's highest religious authority. The Grand Mufti's religious opinions (fatwas), issued on various matters, are non-binding but influential. The Grand Mufti issues an opinion on each preliminary death sentence handed down in Egypt, which judges take into consideration before confirming sentences. Jurist Sheikh Shawki Allam currently holds the office of Grand Mufti. For more information, see page 8.

Hosni Mubarak: The military ruler who led Egypt for nearly 30 years. On 11 February 2011, the popular revolution that began the previous month led to his deposal.

Human rights sources: 'Human rights sources' refers to information published by Egyptian and international NGOs, activists, human rights defenders and campaigns, used as a complementary source of information to expand on information gleaned from official documentation and court sources. For more information see page 8.

In absentia conviction: A conviction of a defendant who was not present at trial. For more information, see page 20.

Legal sources: "Legal sources" refers to media reports that quote directly from court archives, as well as court reporters, lawyers, law firms and judicial journalists contacted by Reprieve and its partners. Entries in the Egypt Death Penalty Index were verified by cross-referencing with "legal sources", "human rights sources" and "official documentation". For more information, see page 8.

Mass trial: There is no single internationally-accepted definition for a mass trial, but for the purposes of the Egypt Death Penalty Index, a mass trial is defined as one in which 15 or more individuals are tried simultaneously. Such trials inherently entail violations of all defendants' internationally protected due process and fair trial rights. For more information, see page 6.

Military courts: Courts established under Egyptian Law No. 25 of 1966 to try military offences; however, they have been used in Egypt to try civilians for felony offences, in contravention of international standards.

Mohammed Morsi: The President of Egypt from 30 June 2012 to 3 July 2013, representing the Muslim Brotherhood-affiliated Freedom and Justice Party. He was ousted from office on 3 July 2013.

Mubarak period: The period from 14 October 1981 – 24 January 2011, when Hosni Mubarak was the President of Egypt.

Official documentation: “Official documentation” refers to original court documents, including written judgments, submissions made to the court by prosecutors and written police reports. Entries in the Egypt Death Penalty Index were verified by cross-referencing with “official documentation”, “human rights sources” and “legal sources”. For more information, see page 8.

Pre-Sisi period: 25 January 2011 – 2 July 2013. This period encompasses the length of Egypt’s 2011 revolution (25 January 2011 to 10 February 2011), the period of military rule by the Supreme Council of the Armed Forces (SCAF) (10 February 2011 to 29 June 2012), and the period of President Mohammed Morsi’s rule of Egypt (30 June 2012 to 2 July 2013).

Preliminary death sentence: a death sentence that has been recommended by a panel of judges but not yet confirmed. Also known as a “recommended death sentence” or “death sentence referral”. Preliminary death sentences are referred to the Grand Mufti for his opinion, which is not binding. For more information, see page 8.

Political trial: Refers to trials where the facts and circumstances are perceived to be connected to the political and societal changes that have arisen in Egypt since the January 2011 revolution. For more information, see page 8.

Sisi period: 3 July 2013 – Present. This period includes the interim presidency of Adly Mansour (3 July 2013 to 7 June 2014), who was appointed to the position by now-President el-Sisi on 3 July 2013 following the ouster of President Mohammed Morsi.

1. Introduction

Mass trials and the death penalty in Egypt

Egypt's use of the death penalty has spiralled out of control. In the nearly six years since now-President Abdelfattah el-Sisi took power on 3 July 2013, Egyptian courts have recommended thousands of death sentences, many in mass trials of dozens or even hundreds of defendants. Children have not been spared, despite domestic and international legal safeguards that should protect them from receiving death sentences. This is a human rights crisis of huge proportions – with thousands of lives in Egypt hanging in the balance.

Since taking power, el-Sisi has launched a broad and violent offensive on the fundamental rights and freedoms of people in Egypt. Though previous incarnations of the Egyptian state - including the regimes of deposed presidents Hosni Mubarak and Mohammed Morsi - were responsible for widespread violations of international human rights law, conditions under the Sisi regime have deteriorated markedly.

Stolen Youth, a report published by Reprive in 2018, described how the Sisi government has moved to quash dissent on all fronts, committing a catalogue of human rights violations in the process.³ A prominent element of this crackdown has been the use of mass trials and mass death sentences as political weapons to silence opposition to the government.

In the more than five years since el-Sisi came to power, Egyptian courts have carried out dozens of mass trials. For the purposes of this report, a mass trial is defined as one in which a court tried 15 or more defendants simultaneously. Between 3 July 2013 and 23 September 2018, Egypt carried out at least 45 such mass trials in which at least one death sentence was handed down.

Draconian laws, either drafted or reintroduced for use by the Sisi government, form the framework of Egypt's mass trial system. In particular, Law 10/1914, also known as the "Assembly Law", enshrines the concept of joint enterprise, allowing the state to hold unlimited numbers of defendants jointly liable for criminal acts committed by one co-defendant.⁴

The Sisi government's mass trial programme, underpinned by the Assembly Law, has allowed for a drastic increase in Egypt's application of the death penalty. Between the 2011 revolution that unseated Mubarak and 3 July 2013, Egyptian courts recommended at least 152 preliminary death

sentences and the government carried out one execution. By comparison, between 3 July 2013 and 23 September 2018 – the date when Reprive stopped collating data for this report – Egyptian courts recommended at least 2,443 preliminary death sentences, and at least 144 executions were carried out by the state. In at least five separate trials during this period, courts recommended death sentences for 75 or more defendants at once.⁵

These mass trials and death sentences depend on a chain of human rights abuses that extends from the time of detention through sentencing. Defendants are often subject to arbitrary arrest, with little or no legitimate justification. Egyptian security forces have arrested tens of thousands of people in the last five years, and the United Nations now describes arbitrary detention in Egypt as a "chronic problem."⁶ Torture for the purpose of extracting confessions—a common practice in the lead-up to mass trials—is so widespread that this practice has been described as a "torture assembly line."⁷ Security forces have subjected hundreds of people to enforced disappearance, many of whom are later sentenced in mass trials.⁸ Thousands of children have been unlawfully arrested since July 2013, and are often tried in mass proceedings alongside adult defendants.⁹

Egypt's mass trial complex does not provide for trials that meet international minimum standards for the protection of due process and fair trial rights. Such trials have been conducted without respect for international law, which is binding on Egypt,¹⁰ including, but not limited to, the right to be tried without undue delay, to have access to legal counsel, to be granted adequate time and facilities in the preparation of an individual defence, to call or examine witnesses, and to be free from self-incrimination.¹¹

Defendants in mass trials are also routinely charged with—and sentenced to death for—trumped up terrorism offences related to the exercise of fundamental rights, especially the right to freedom of assembly. Attendees at peaceful protests and demonstrations are frequently accused of involvement in terrorism and tried in mass proceedings, often alongside dozens or hundreds of other protesters. In some cases, defendants receive death sentences for alleged lethal offences they did not commit; in others, people are sentenced to death on nebulous, non-lethal charges related to "membership" in alleged terrorist organisations. This is indicative of the extent to which the Sisi regime has exploited its widely condemned legislative framework¹² in a way that stretches far beyond what is considered permissible according to accepted international minimum standards on the death penalty and counterterrorism.¹³

“ Owing to these myriad violations, it is our conclusion that the majority of death sentences in Egypt in the last eight years have been handed down unlawfully. International law states clearly that all trials leading to death sentences must comply with specific due process and fair trial rights, and only full provision of these rights distinguishes capital punishment from arbitrary execution.¹⁴ ”

These violations have led the United Nations to repeatedly condemn Egypt’s mass trials and its use of the death penalty. The former UN Secretary General expressed concern over “preliminary mass death sentences (...) that clearly appear not to meet basic fair trial standards.”¹⁵ The past three UN High Commissioners for Human Rights have respectively referred to the use of mass trials and the death penalty as being “rife with procedural irregularities”, and “obscene”. They have termed any resulting executions “a gross and irreversible miscarriage of justice,” and called for a moratorium on the death penalty in Egypt.¹⁶ UN Special Procedures mandates,¹⁷ including the Special Rapporteurs on torture, summary executions and the independence of judges and lawyers, have also condemned Egypt’s use of the death penalty, expressing shock at the “repeated and deliberate use of mass death sentences,” in which “the courts have become instrumental in the arbitrary and politically motivated prosecutions by the State,”¹⁸ and describing mass trials and death sentences as a “mockery of justice” and a “clear violation of international law.”¹⁹

“ many defendants become lost in the system and their cases go unreported to international human rights mechanisms ”

The Egypt Death Penalty Index

The Sisi regime’s drastic expansion of its use of the death penalty has overwhelmed human rights activists, media outlets, the international community and policy-makers. While international media and human rights groups have reported on eye-catching stories of dozens or hundreds of people sentenced to death at once—for example, 529 in Mattay, 683 in Minya, 75 in Cairo—there has been less focus on the individual defendants who make up this massive phenomenon. Human rights defenders and lawyers, both in Egypt and abroad, have done crucial work on death penalty cases, but the scope of this problem is so vast that many defendants become lost in the system and their cases go unreported to international human rights mechanisms, state governments and media outlets.



In response to this crisis, Reprieve and its partner, the Daftar Ahwal Data Research Center (“Daftar Ahwal”), created the Egypt Death Penalty Index (the “Index”), a mapping project that aims to track every death sentence recommended by Egyptian courts since Egypt’s 25 January 2011 revolution.

The Index, hosted at www.egyptdeathpenaltyindex.com and launched contemporaneously with this report, is a free, centralised database for anyone wishing to learn more about Egypt’s application of the death penalty as a whole, or about individual death penalty trials or defendants, where Reprieve and Daftar Ahwal are at liberty to publish that information. The site includes statistical analysis of trends in Egypt’s application of the death penalty, including illustrative infographics, as well as an option to download the full dataset in its raw form. The Index also offers an option for users to submit any missing information they may possess related to the death penalty in Egypt to site moderators, for verification and possible addition to the site provided that such data can lawfully be publicised.

The data currently available on the Index covers the time period between 25 January 2011 and 23 September 2018, which is when Reprieve and Daftar Ahwal stopped gathering data for the project. Going forward, the hope is that this website will act as a running, real time approximation of capital punishment in Egypt, and will serve as a valuable resource to defendants and their families, human rights defenders, the legal community, the media, and international actors seeking to limit the scope of Egypt’s application of the death penalty.

2. Methodology

Reprive has sought to track death sentences handed down in the Middle East and North Africa region since 2013, including in Egypt.

Reprive compiles information from publicly available sources, lawyers and organisations in Egypt, and other governmental and non-governmental agencies and organisations.²⁰

In 2016, Reprive continued and expanded this effort, maintaining a running database of every death sentence recommended by an Egyptian court that we could identify. This resource was built through weekly review of English and Arabic sources, including official government sources from Egypt, newspapers and other media sources from Egypt and around the Arab world, and reporting by Egypt-based human rights monitors. This database recorded trials leading to death sentences, as well as the individual defendants in those trials. It identified and tracked specific variables, including the number of defendants currently under a sentence of death and the presence of juvenile defendants in a given trial.

In 2017, Reprive partnered with Daftar Ahwal, an independent Egyptian research center dedicated to “producing open databases and analysing Big Data around political incidents and data-driven social research in Egypt without any policy position or advocacy.”²¹ Daftar Ahwal is responsible for the well-known Wikithawra website, a statistical database tracking information related to Egypt’s 2011 revolution.²²

In cooperation with Daftar Ahwal, Reprive overhauled its death penalty database. Large portions of media-dependent data were substantiated with further primary information from official court documents. The database’s structure was also enhanced, such that defendants are now tracked along more than 50 different statistical categories.

In making use of these statistics, it is important to keep in mind that even a tracking effort as comprehensive as the Index cannot hope to accurately capture every capital trial in Egypt. Egypt’s death penalty phenomenon is as opaque as it is vast, characterised by mass trials in which the ages and names of some defendants may never be known. Reprive considers the figures outlined in this report to be minimum estimates; they represent all of the death penalty information that could be confirmed.

We also note that because it is usually difficult or impossible for Reprive to have direct access to defendants facing capital trials, or to their family members, we have sought legal advice regarding what data we could publish about the individuals’ cases. There may be some data that we cannot disclose in the Index, despite it being publicly available. The reason for this is that Europe’s General Data Protection Regulation (GDPR) contains stronger safeguards with respect to data privacy than other jurisdictions.

Key Concepts

To understand the methodology by which the data in the Index was collected and verified, as well as the statistics that follow, it is necessary to define a number of key concepts.

Felony offences, courts and the death penalty in Egypt

All offences in Egypt punishable by law are defined in provisions of Egyptian law. There are two categories of offences under Egyptian law: misdemeanour and felony offences. The category of offence determines which court the case will be heard in.

All offences which carry the death penalty are felony offences and are codified primarily in Egypt’s Penal Code, which includes - vaguely defined terrorism and state security offences.^{23,24} Felony offences are heard before the criminal courts.

In addition to the criminal courts, Egyptian authorities have historically tried civilians for felony offences, including offences which carry the death penalty, in military courts. Egypt’s 2014 constitution allows military courts to try civilians for crimes against military facilities, personnel, and equipment.²⁵ Law 136/2014, which President el-Sisi issued by decree, also allows civilians to be referred to military

tribunals for “crimes perpetrated against public facilities, utilities, and properties.”²⁶ Military courts fall under the purview of the Ministry of Defence and are comprised of serving military officers who are appointed as judges. International law prohibits the use of military courts to try civilians.²⁷

Distinction between “preliminary” and “confirmed” death sentences

The Index tracks individuals who met one of two outcomes at trial before a civilian or military court in Egypt: either a “preliminary death sentence” (sometimes also called a “recommended death sentence” or a “death sentence referral”) or a “confirmed death sentence.” The distinction between these is central to understanding the way in which death sentences progress through the judicial system in Egypt.

Under Article 381 of Egypt’s Code of Criminal Procedure, there are two requirements on a three-judge criminal court panel before it may confirm a death sentence and formally issue its verdict. The first is that the panel reaches a preliminary, unanimous decision on the death sentence. The second requirement is that the panel of judges must refer this preliminary death sentence to the Grand Mufti - Egypt’s highest religious authority, which is currently held by jurist Sheikh Shawki Allam.²⁸ The Grand Mufti issues an opinion on the preliminary death sentence, which the panel of judges then takes into consideration before deciding whether to confirm the death sentence. Judges are not required to change their preliminary death sentence on the Grand Mufti’s advice, but they do consult his opinion. Courts do not make the Mufti’s opinions public. Once the panel of judges confirms a death sentence, it can then be subject to appeal.

The Index tracks both preliminary death sentences referred to the Grand Mufti as well as the smaller number of death sentences that are confirmed by courts following the Grand Mufti’s consideration. These preliminary death sentences form an important aspect of the death penalty landscape in Egypt. While some preliminary death sentences are not confirmed, approximately 59% of preliminary sentences during the Sisi period were.

“Political” and “criminal” capital trials

The Index separates death penalty trials into two categories: political trials and criminal trials. This is a common distinction among contemporary observers of the death penalty in Egypt, but it is not a distinction in law. Capital trials in the Index are listed as ‘political’ where the alleged facts of the case and the perceived motivation for the commission of the offence were in some way connected to the political and societal changes that have arisen in Egypt since

the January 2011 revolution. Charges often stem from broadly defined provisions for terrorism and state security offences, which have enabled the broad criminalisation of the exercise of fundamental rights and freedoms, in contravention of international standards.²⁹ Offences which resulted in death sentences under the political category were:

- Assassination
- Terrorist acts
- Terrorist acts against Egypt’s Coptic Christian minority
- Membership in a terrorist entity
- Espionage
- Storming/destroying government installations or buildings
- Violent clashes in the context of sit-ins or demonstrations.
- Clashes between groups of civilians

By contrast, death penalty trials were listed in the Index as ‘criminal’ where the facts of the case and the perceived motivation for the commission of the offence were not deemed to be connected to political events in Egypt. Offences that resulted in death sentences under the criminal category include premeditated murder, rape and drugs trafficking.

Users will note that the Index includes more information about political trials than criminal trials. There are several reasons for this. Firstly, there is simply more information available about political trials because these trials receive considerably greater media coverage, both in Egypt and abroad, and because the larger average number of defendants in political trials affords human rights defenders more opportunities to access original court documents from those cases.

Additionally, there is some available information about criminal trials that has not yet been included in the Index. For example, while each death sentence resulting from a political trial is categorised in the Index according to one of the offences enumerated in the bullet pointed list above, the 1,077 death sentences resulting from criminal trials are all listed under the same generic offence category: “criminal incident.” Through analysis of media reports, it is possible to document the specific offences that led to many of these death sentences in criminal trials—as above, murder, rape and drugs trafficking charges often led to death sentences. This is something Reprieve and Daftar Ahwal are currently working on, but because considerably more corroborating information was available on political trials in the form of court documents, priority was given to analysis of those trials. Upon the completion of a full listing of offences leading to death sentences in criminal trials, this information will be added to the Index, wherever it is legally possible for us to do so.

Step 1: Inclusion Criteria

In assembling the Index, a set of criteria for including individuals in the database was compiled. These criteria are preliminary death sentence referrals, time period and geographical location.

Preliminary death sentence referrals

The Index only tracks individuals whose sentences were at least referred to the Grand Mufti following a preliminary death sentence. Individuals progressed to various outcomes following their referrals, including confirmed death sentences, prison terms and acquittals, but all individuals included in the Index were at the least referred for a preliminary death sentence by an Egyptian court.

Time period

The Index aimed to include only those individuals who received a preliminary or confirmed death sentence between 25 January 2011 and 23 September 2018 (the day Reprieve and Daftar Ahwal stopped gathering data for this project). The date listed for each death sentence is the date of the verdict in that individual's first trial. In some cases, some details about a death sentence could be confirmed, but the date of the verdict could not. In such cases in the Index, the date is marked unknown.

Wherever possible, statistical analysis of the data is separated into two periods: the pre-Sisi period (25 January 2011 to 2 July 2013) and the Sisi period (3 July 2013 to 23 September 2018).

Geographical location

All preliminary and confirmed death sentences must have been issued by Egyptian courts, regardless of the location of the alleged offence. These statistics are broken down by the individual Egyptian governorate in which each sentence was recommended or confirmed.

Step 2: Data Verification and Expansion

After determining the inclusion criteria, a list of every known individual who received at least a preliminary death sentence during the specified time period was compiled. Individuals were identified through three different types of sources: official documentation, legal sources, and human rights sources.

Wherever possible, entries in the Index were verified by a process of triangulation, whereby data was validated using cross-verification from as many of these three source categories as were available. This proved possible in many political trials, as the court judgments are more readily available and media coverage is extensive, but more difficult in criminal trials.

Approximately 60% of the entries in the Index (1,949 of a total 3,257) were identified and verified through official documentation, which includes written judgments, submissions made to the court by prosecutors and written police reports, in addition to legal sources and/or human rights sources.

Where official documentation was unavailable, the remaining 40% of entries (1,308 of a total 3,257) were drawn from legal sources as the main source of information. These included media reports that quote directly from court archives, as well as court reporters, lawyers and law firms contacted by Reprieve and its partners.

The Index also includes information from human rights sources in the form of information published by Egyptian and international NGOs, activists, human rights defenders and campaigns, though these were used mostly as a complementary source of information to expand on information gleaned from official documentation and legal sources.

At a glance: sources of information

Table 1 demonstrates the sources of information that were used to identify all preliminary and confirmed death sentences and the most prevalent form of verification used to confirm the information.

Table 2 shows the breakdown of official documents used to verify each individual in both criminal and political trials. These figures demonstrate that death sentences from political trials were verified using official documents at a much higher rate than death sentences from criminal trials.

Table 1

Sources of information used to verify death sentences (25 Jan 2011 – 23 Sep 2018)

Information source	Category of trial			
	Political	Criminal	Total	%
Official Documents + Legal Sources through Media Reports + Human Rights Sources	621	0	621	19.0
Official Documents + Legal Sources through Media Reports	1317	11	1328	39.0
Legal Sources through Media Reports + Human Rights Sources	26	0	26	1.0
Legal Sources through Media Reports	216	1066	1282	41.0
TOTAL	2180	1077	3257	100.0

Table 2

Types of official documents used to verify death sentences (25 Jan 2011 – 23 Sep 2018)

Information source	Category of trial			
	Political	Criminal	Total	%
Court judgment	1787	0	1787	55.0
Public Prosecution charging document	133	11	144	4.0
Public Prosecution submissions	14	0	14	0.43
Written reports from court hearings	2	0	2	0.07
Media summary of charging documents	82	0	82	2.5
Not available	162	1066	1228	38.0
TOTAL	2180	1077	3257	100.0

Step 3: Building Metadata Structures

Once the information was collected and verified, to the extent possible, for 3,257 individuals, the final step was to build a metadata structure to allow for the extraction of trends from the overall dataset. Analysis of metadata—a term which refers to data that provides information about other data—allows the user to build a much more nuanced picture of Egypt’s death penalty phenomenon.

This structure was built into a confidential and protected Excel spreadsheet in which each row corresponded to an individual who received a preliminary or confirmed death sentence (3,257 rows). Columns were created to become a series of filterable metadata fields (nearly 50 total). Table 3 shows each metadata field.

This structure allows for the use of sequential metadata fields to glean an ever more nuanced picture of the death penalty in Egypt. For example, a user of the Index can see exactly how many preliminary death sentences were recommended by Egyptian courts between 25 January 2011 and 23 September 2018 (2,595). The user can then further narrow that to reveal how many of those sentences were recommended to defendants in absentia (742). By filtering through additional metadata categories, one can then reveal that of those 742 individuals, 273 were referred for a death sentence in 2014, of whom five were convicted in a military court. These filters can be combined in thousands of different ways to reveal the scope of Egypt’s application of the death penalty.

Table 3
Metadata fields in spreadsheet

1. Name	25. Type of arrest
2. Nationality	26. Date of referral to court
3. Date of birth	27. Type of court (military vs civilian)
4. Age range	28. Court circuit
5. Gender	29. Most recent decision at court
6. Governorate of residency	30. Judgment before first court
7. Occupation	31. Defendant status at trial (present/in absentia)
8. Category of trial (political vs criminal)	32. Judgment date (first criminal court)
9. Status of conviction	33. Judicial year of first judgment (first criminal court)
10. Date of execution	34. Years between date of incident and date of first judgment (first criminal court)
11. Offence(s)	35. Year of first judgment (first criminal court)
12. Date of offence	36. Period of first judgment (first criminal court)
13. Year of offence	37. Governorate of first judgment (first criminal court)
14. Period of offence	38. Verdict (first criminal court)
15. Governorate of alleged offence	39. Preliminary death sentence date (first criminal court)
16. Geographical region of offence	40. Judgment date (first appeal at Court of Cassation)
17. District of offence	41. Verdict (first appeal at Court of Cassation)
18. Media name of offence	42. Judgment date (second criminal court)
19. Indexed named of incident	43. Verdict (second criminal court)
20. Police report number	44. Preliminary death sentence date (second criminal court)
21. Investigation number	45. Judgment date (second appeal at Court of Cassation)
22. Criminal court number	46. Verdict (second appeal at Court of Cassation)
23. Appeal number	47. Sources of information
24. Arrest date	48. Most current official document

Challenges

There were a number of difficulties in gathering and verifying the data in the Index. The three most significant challenges were geographical issues, security concerns and missing information.

Geography

Egypt is a large country, and many death sentences originated in remote districts, far from the capital. This creates a challenge for Cairo-based human rights professionals, as it is not feasible to travel to every governorate where a death sentence was recommended or confirmed. Geography also poses an obstacle to gathering accurate information about trial proceedings; it is difficult for Cairo-based lawyers and human rights defenders to travel repeatedly to remote parts of the country to attend trials, especially given that it is not uncommon for trials in Egypt to be adjourned dozens of times.

Security risks

Ongoing security risks to human rights defenders also posed a challenge, as rights activists have been targeted, arbitrarily detained and imprisoned under the Sisi government.³⁰ This issue was compounded by geographical challenges, as security concerns can make it unsafe for human rights defenders to travel long distances across the country doing human rights work.

Missing information

Missing or inaccurate information was another challenge. Media reporting on death penalty trials was sometimes inaccurate, misused legal terminology, provided misleading or contradictory information, or did not consistently cover a case from beginning to end. This was particularly problematic in criminal trials, where data is often scarce or unavailable. Official court documentation from Egyptian trials is also often inconsistent, and some court judgments obtained by Reprieve and its partners were missing key information.

All of these issues were taken into consideration in the course of collecting and verifying information for the Index. To mitigate geographical issues, Reprieve sought out original court documents from trials around the country, often shared electronically by partner organisations or lawyers already in possession

of these documents. In some cases, Reprieve investigators travelled to courthouses to obtain original court documents, taking all possible security precautions.

Issues related to missing information were addressed wherever possible by cross-verifying data with multiple sources. However, because the functioning of Egypt's judiciary is extremely opaque,³¹ especially given the increasing use of enormous mass trials, there are some death sentences about which little to no information was available; the Index reflects where this is the case: as users navigate the Index they will see that some pieces of information (date of sentence, offence, etc.) are marked "unknown." Users will also notice that some statistical fields are marked '0'. This does not mean that there are definitively zero individuals in that particular statistical category, but rather it was not possible to confirm the existence of any such individuals using the available data.

3. Findings from the index

The Index tracks preliminary and confirmed death sentences in Egypt from 25 January 2011 to 23 September 2018. The date provided for each individual death sentence or trial is the “date of first verdict”, which refers to the date when the trial which resulted in that particular death sentence concluded in the first instance. Wherever possible, the statistics have been broken down further to demonstrate how Egypt applied the death penalty before el-Sisi took power (25 January 2011 to 2 July 2013) and after (3 July 2013 to 23 September 2018).

Preliminary Death Sentences

Table 4 shows that the Index identified 3,257 individuals who were referred for preliminary death sentences. The majority of preliminary death sentences (2,443) were handed down during the tenure of now-President el-Sisi.

Reprieve identified 662 preliminary death sentences for which dates could not be confirmed. It is likely that some of these sentences were handed down during the Mubarak period, as there is less information available about cases dating to that time period. However, because it is possible that some of these sentences were handed down after 25 January 2011, they are included in the Index and marked “date unknown.”

Confirmed Death Sentences

Table 5 shows that the Index identified 1,755 confirmed death sentences; of these, 1,451 were confirmed during the Sisi period. There were an additional 163 confirmed death sentences for which dates could not be identified.

There are various reasons why a panel of judges may choose not to confirm death sentences they had earlier recommended, even if the Grand Mufti approves of them. For example, in February 2014 a judge in Egypt’s Minya Governorate recommended death sentences for 529 individuals, but later reduced that number to 37.³² It is not known whether the Grand Mufti objected to 529 death sentences being handed down simultaneously, but it is possible that the judge decided to reduce the affirmed death sentences to 37 due to international outcry over the original number.

Table 4
Preliminary death sentences by period of first verdict

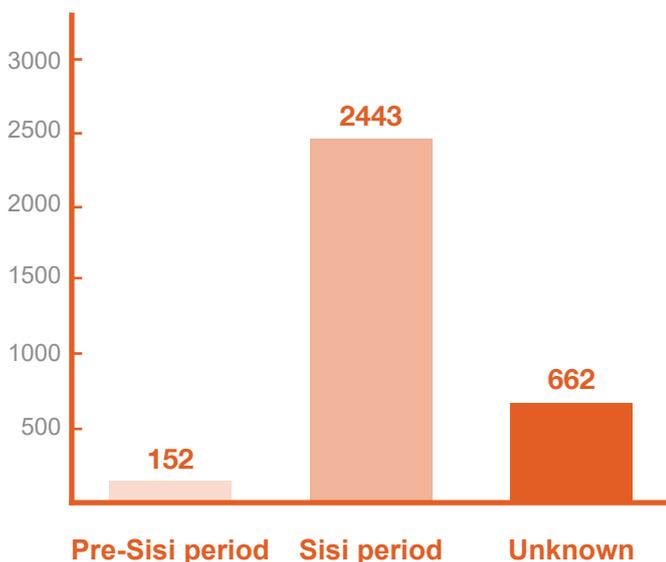
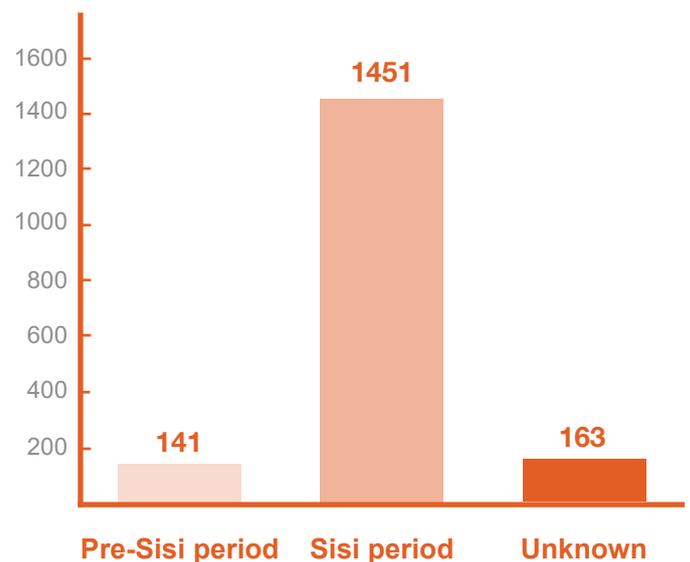


Table 5
Confirmed death sentences by period of first verdict



Executions

Tables 6 and 7 show that between 25 January 2011 and 23 September 2018, Egypt carried out 145 executions. Of those, 144 were implemented during the Sisi period.

Table 6
Executions by period

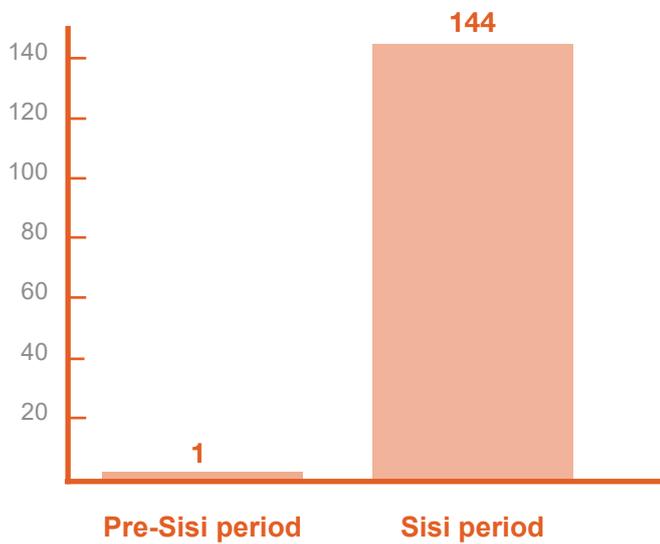
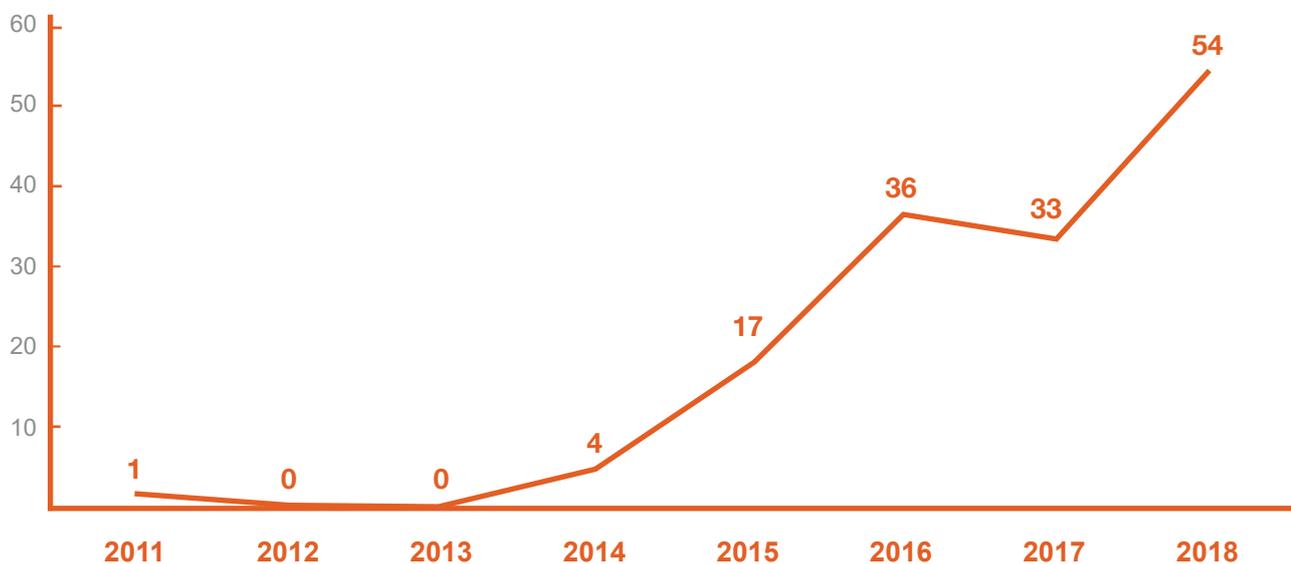


Table 7
Executions by year



Death Sentences in Mass Trials

Reprivee defines a mass trial as one in which 15 or more defendants were tried simultaneously. The Index only tracks mass trials that resulted in death sentences, and does not include information on mass trials that have not yet reached a verdict or mass trials that did not lead to death sentences.

Tables 8 and 9 indicate that between 25 January 2011 and 23 September 2018, 45 separate mass trials resulted in at least one preliminary death sentence. Of these trials, at least 33 (73%) occurred during the Sisi period.

Table 10 shows that mass trials led to 1,884 preliminary death sentences in the Sisi period, meaning that 77% of the total 2,443 preliminary death sentences in the Sisi period resulted from mass trials. Mass trials also led to at least 860 confirmed death sentences in the Sisi period, meaning that 59% of the total 1,451 confirmed death sentences in the Sisi period resulted from mass trials.

Table 8
Mass trials leading to preliminary death sentences by period

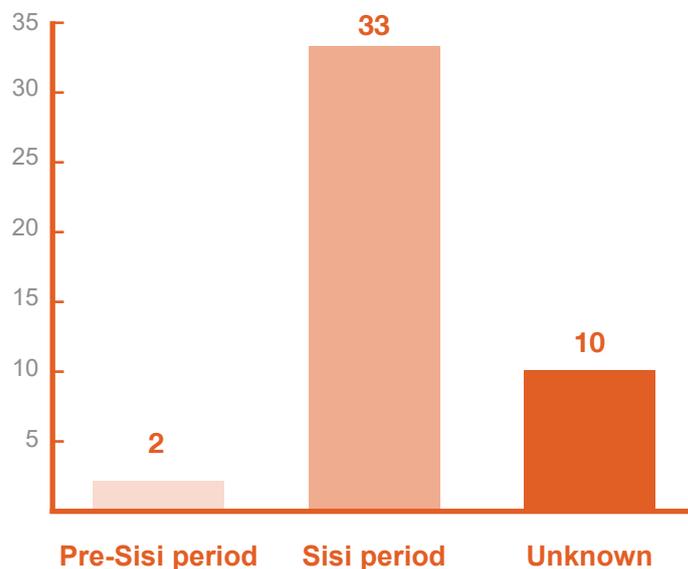
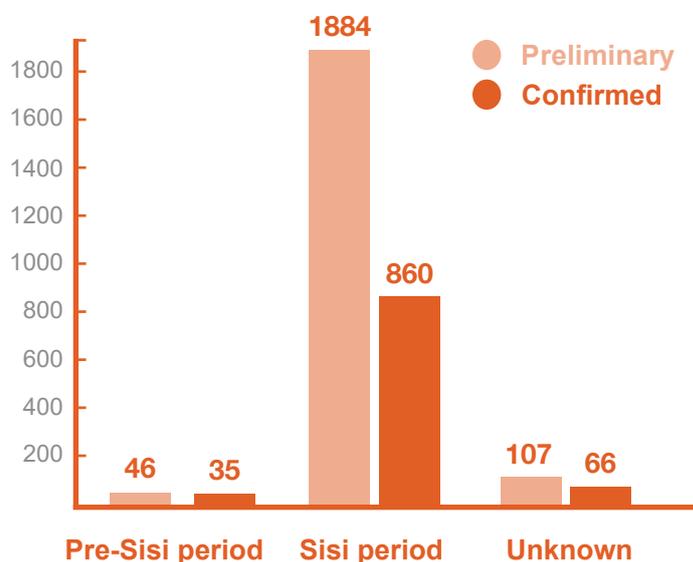


Table 9
Mass trials leading to preliminary death sentences by year



Table 10
Preliminary and confirmed death sentences in mass trials by period of first verdict



Death Sentences in Criminal and Political Trials

Tables 11 and 12 show the number of death sentences handed down in criminal and political trials, respectively. Political trials accounted for 2,008 of the 2,443 preliminary death sentences in the Sisi period—a rate of 82% (as compared to the number of death sentences arising from criminal trials). This is largely a reflection of the huge numbers of death sentences originating in mass trials. Mass trials in Egypt nearly exclusively fall within the political category of trials, and often involve courts trying dozens or hundreds of defendants simultaneously for one alleged offence. These numbers also reflect the fact that information about political cases is more readily available than information about criminal cases, which is why there are fewer unknown dates for political cases.

Death sentences for criminal trials were also more likely to be confirmed than those for political trials. Of a total 1,077 preliminary death sentences in criminal trials identified by the Index, 670 were confirmed — a rate of 62%. Of 2,180 preliminary death sentences in political trials, 1,085 were confirmed, or 50%. For death sentences handed down during the Sisi period, this gap was even wider—97% of sentences from criminal trials (420 of 435) were confirmed during this period, compared with 51% of sentences from political trials (1,031 of 2,008).

Table 11
Preliminary death sentences
by period of verdict and category of trial

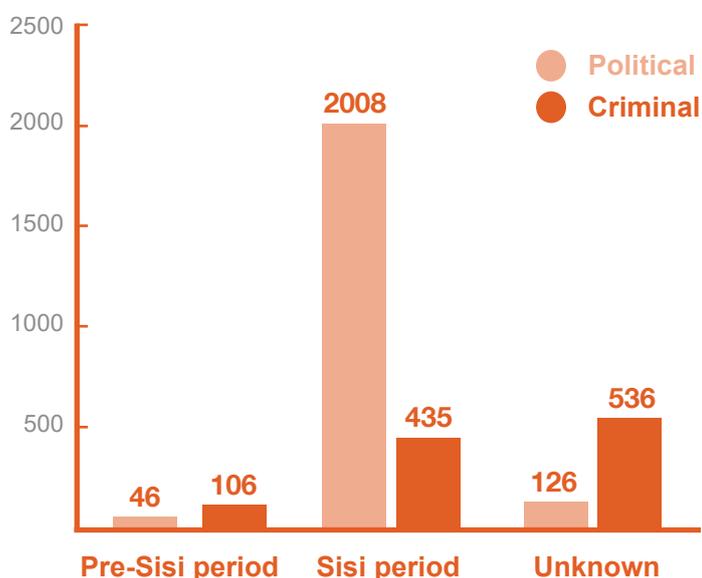
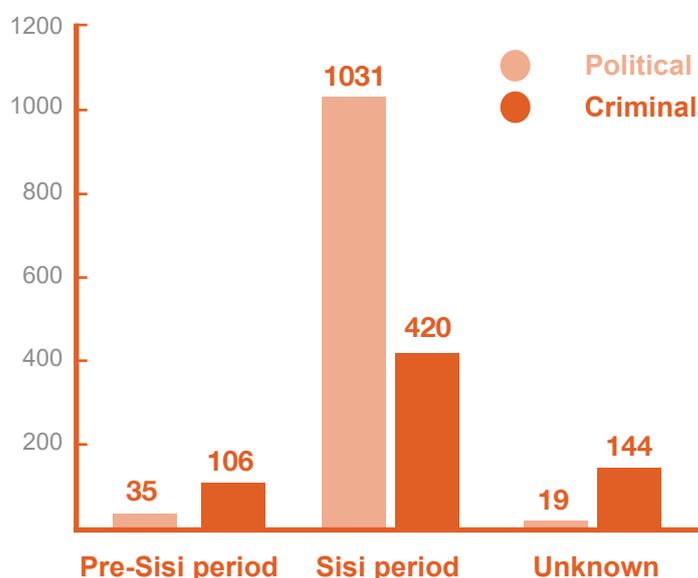


Table 12
Confirmed death sentences
by period of verdict and category of trial



Procedural Stages of Capital Trials in Egypt

The Index tracks capital trials by their procedural status. There are several procedural stages in a capital trial in Egypt that must be completed before a death sentence becomes final and eligible for execution. Until April 2017, this process included multiple appeal stages. The first procedural stage was for a panel of three judges presiding over a trial to reach a unanimous preliminary decision on a death sentence. The judges were then required to refer that decision to the Grand Mufti for his opinion on the sentence. After receiving the Grand Mufti's opinion, the judges then decided whether to confirm the death sentence in the first instance.

Any individual who received a confirmed death sentence had the right to appeal that sentence to the Court of Cassation. At the conclusion of the Court of Cassation appeal, the judges there could either order a retrial before a lower court (and a new panel of judges), or uphold the death sentence, marking the conclusion of legal appeals. The Court of Cassation could also vacate the death sentence.

If a retrial was ordered before a lower court, the new panel of judges there would go through the same process as the first panel: hear the case, come to a unanimous decision on any preliminary death sentences, refer those sentences to the Grand Mufti, then decide whether to confirm the death sentences after receiving the Grand Mufti's opinion. If a sentence was confirmed, the defendant then had a right to appeal her or his sentence to the Court of Cassation a second time. At the conclusion of this second appeal, the Court of Cassation judges would proceed to a final decision on the case.

However, in April 2017, amendments to Egyptian law halved appeals stages, and defendants are now only entitled to one appeal before the Court of Cassation, removing the option of a retrial before a lower court.³³ The law now states that following a conviction before a criminal court, defendants may appeal only once to the Court of Cassation, which should issue a final ruling on their case. In practice, the Court of Cassation appears to still refer capital trials back to lower criminal courts, but the law no longer officially affords defendants the right to multiple stages of appeal.

Current Procedural Status of Political Trials

Table 13 demonstrates the procedural status of each individual referred for a preliminary death sentence in political trials between 25 January 2011 and 23 September 2018, as of 23 September 2018. Sufficient information was not available to draw similar conclusions about criminal cases. The table demonstrates that:

- There were 77 individuals facing imminent execution as a result of death sentences handed down in political trials in Egypt. These individuals had exhausted all legal appeals and faced execution at any time. Since 23 September 2018, at least six of these people have since been executed.
- Of the 77 individuals, 66 (86%) were sentenced to death during the Sisi period.
- 26 individuals received preliminary death sentences in political trials but had not yet received a confirmed sentence; all such preliminary referrals occurred during the Sisi period.
- 16 more individuals received preliminary death sentences in absentia and had not yet received a confirmed sentence; at least nine of these preliminary referrals occurred during the Sisi period, while the other seven occurred at an unknown date.
- 149 individuals received a confirmed death sentence in political trials and were waiting for the Court of Cassation to accept their appeal. Of these individuals, 144 (97%) were sentenced during the Sisi period.
- 426 people received a confirmed death sentence in political trials in absentia. Of them, 416 (98%) were sentenced to death during the Sisi period.
- An additional 57 individuals were sentenced to death in political trials and had their appeals accepted by the Court of Cassation; their appeal trials were either underway or set to begin. All 57 of these people were sentenced to death during the Sisi period.
- 501 individuals received preliminary death sentences in political trials, but the court then commuted their sentences to prison terms. This may have occurred at the first criminal court trial or following the Court of Cassation overturning a death sentence. Of these cases, 489 (98%) occurred during the Sisi period.

- 887 individuals were acquitted after receiving preliminary death sentences in political trials. In some cases, this happened at the beginning of the trial process—they were referred to the Grand Mufti for a preliminary death sentence but ultimately acquitted by the court. In other cases, these individuals received a confirmed death sentence from a criminal court but were acquitted on appeal by the Court of Cassation. 780 of these 887 cases (88%) occurred during the Sisi period.
- Nine individuals who received a preliminary or confirmed death sentence in political trials died in prison. Eight of these people were sentenced during the Sisi period.
- 32 individuals were executed in political trials. At least 13 of these individuals (41%) received a death sentence during the Sisi period.

Table 13
Procedural status of political trials by period of first verdict

Procedural status as of 23 September 2018	Period of first verdict			Total
	Pre-Sisi period	Sisi period	Unknown	
Imminent execution	11	66	0	77
Referral to Grand Mufti (preliminary death sentence)	0	26	0	26
Referral to Grand Mufti (preliminary death sentence) in absentia	0	9	7	16
Confirmed death sentence before criminal court	5	144	0	149
Confirmed death sentence before criminal court in absentia	10	416	0	426
Appeal accepted; awaiting retrial verdict	0	57	0	57
Prison sentence following confirmed or preliminary death sentence	12	489	0	501
Acquittal following confirmed or preliminary death sentence	7	780	100	887
Deceased	1	8	0	9
Executed	0	13	19	32
TOTAL	46	2008	126	2180

Death Sentences by Offence in Political Trials

Tables 14 and 15 indicate the offences that led to death sentences in political trials. The majority of preliminary and confirmed death sentences in political cases were related to charges of “storming government installations”, which is a reference to alleged attacks on police stations and other government buildings, sometimes involving arson. On several occasions, these charges have been used to refer hundreds of people for preliminary death sentences simultaneously.³⁴

Other offences leading to large numbers of death sentences in political trials included acts of terrorism and clashes in the context of protest sit-ins. Preliminary death sentences for alleged terrorist acts were especially likely to progress to confirmed death sentences. Sit-in clashes have also been a matter of intense public focus in Egypt recently, as a September 2018 mass trial of 739 defendants on charges related to a 2013 protest sit-in at Cairo’s Rabaa El-Adaweya Square led to 75 confirmed death sentences.³⁵

Table 14
Preliminary death sentences by offence and period of first verdict (political trials)

Offence	Period of first verdict			Total
	Pre-Sisi period	Sisi period	Unknown	
Assassination	0	77	0	77
Terrorist acts	25	206	19	250
Terrorism toward religious minorities	0	43	0	43
Membership in a terrorist organisation	0	65	7	72
Espionage	0	27	0	27
Storming government installations	0	1475	100	1575
Sit-in clashes	0	75	0	75
Civilian clashes	21	40	0	61
TOTAL	46	2008	126	2180

Table 15

Confirmed death sentences by offence and period of first verdict (political trials)

Offence	Period of first verdict			Total
	Pre-Sisi period	Sisi period	Unknown	
Assassination	0	74	0	74
Terrorist acts	14	183	19	216
Terrorism toward religious minorities	0	5	0	5
Membership in a terrorist organisation	0	61	0	61
Espionage	0	26	0	26
Storming government installations	0	572	0	572
Sit-in clashes	0	75	0	75
Civilian clashes	21	35	0	56
TOTAL	35	1031	19	1085

Death Sentences In Absentia

Tables 16-20 show how many defendants were sentenced to death in absentia compared with individuals who were present at trial. Of all 3,257 preliminary death sentences identified by the Index, 786 (24%) were handed down to defendants tried in absentia. Of a total 2,180 preliminary death sentences resulting from political trials, 654 (30%) were handed down in absentia. In criminal trials, 12% of death sentences were handed down in absentia (132 of a total 1,077). This discrepancy is largely a result of the use of mass trials in political cases; charging documents in these cases often list hundreds of defendants, many of whom have not yet been apprehended and are sentenced in absentia.

One notable trend is the rate at which death sentences were confirmed for defendants tried in absentia compared to defendants present at trial. In political trials, 589 of 654 preliminary death sentences handed to defendants tried in absentia went on to be confirmed (90%), whereas only 493 of 1,516 preliminary death sentences for defendants tried while present were confirmed (33%).

In criminal cases, this division was less stark but still significant, with an 83% confirmation rate for defendants tried in absentia (110 of a total 132 preliminary sentences) and a 59% confirmation rate for defendants tried while present (560 of 945 preliminary sentences). Defendants who are in police custody stand a reasonable chance of seeing a preliminary death sentence overturned and commuted to a prison term; defendants tried in absentia are more likely to remain under a sentence of death.

Table 16
Preliminary death sentences by defendant status and category of trial
(25 January 2011 – 23 September 2018)

Defendant status	Category of trial		
	Political	Criminal	Total
Present	1516	945	2461
In Absentia	654	132	786
Died before referral to court	1	0	1
Died during trial	9	0	9
TOTAL	2180	1077	3257

Table 17
Preliminary death sentences by defendant status and period of first verdict
(political trials)

Defendant status	Period of first verdict			Total
	pre-Sisi period	Sisi period	Unknown	
Present	32	1365	119	1516
In Absentia	13	634	7	654
Died before referral to court	0	1	0	1
Died during trial	1	8	0	9
TOTAL	46	2008	126	2180

Table 18

Confirmed death sentences by defendant status and period of first verdict
(political trials)

Defendant status	Period of first verdict			Total
	pre-Sisi period	Sisi period	Unknown	
Present	25	449	19	493
In Absentia	10	579	0	589
Died before referral to court	0	1	0	1
Died during trial	0	2	0	2
TOTAL	35	1031	19	1085

Table 19

Preliminary death sentences by defendant status and period of first verdict
(criminal trials)

Defendant status	Period of first verdict			Total
	pre-Sisi period	Sisi period	Unknown	
Present	79	367	499	945
In Absentia	27	68	37	132
Died before referral to court	0	0	0	0
Died during trial	0	0	0	0
TOTAL	106	435	536	1077

Table 20

Confirmed death sentences by defendant status and period of first verdict
(criminal trials)

Defendant status	Period of first verdict			Total
	pre-Sisi period	Sisi period	Unknown	
Present	79	353	128	560
In Absentia	27	67	16	110
Died before referral to court	0	0	0	0
Died during trial	0	0	0	0
TOTAL	106	420	144	670

Death Sentences for Juveniles

Tables 21-23 demonstrate the number of death sentences handed to individuals who were under 18 at the time of their alleged offence—a serious violation of both Egyptian and international law.³⁶

The Index identified 12 preliminary death sentences handed to juveniles, ten of which occurred during the Sisi period. In 2014, seven juveniles were referred for preliminary death sentences in the course of just two mass trials. One trial, in February 2014, resulted in 529 preliminary death sentences, including for Egyptian juvenile Hatem Zaghloul, whose case was discussed in a Reprieve report published in 2018.³⁷ Two other juvenile defendants received preliminary death sentences in the same trial. Another trial, in April 2014, led to 683 preliminary death sentences, reportedly including five juvenile defendants.³⁸

Of 12 preliminary death sentences handed to juveniles, five were confirmed. Hatem Zaghloul was one of these people; his death sentence was eventually commuted to a ten-year prison term in 2018. At least one juvenile—Egyptian national Ahmed Saddouma — remains under a sentence of death.

It is noteworthy that four of these 12 juveniles received preliminary death sentences in small criminal trials, all during the Sisi period. This demonstrates that Egypt's application of the death penalty against children is not limited to enormous political mass trials, but is in fact a pervasive issue across the Egyptian judicial system.

Table 21
Preliminary death sentences for juveniles

Period of first verdict	Preliminary death sentences for juveniles
pre-Sisi period	1
Sisi period	10
Unknown	1
TOTAL	12

Table 22
Preliminary death sentences for juveniles by year of first verdict

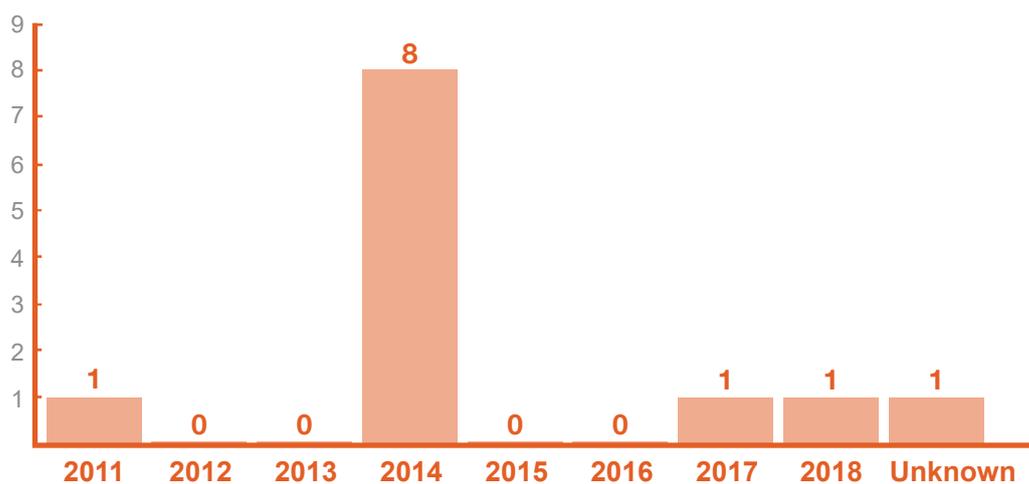
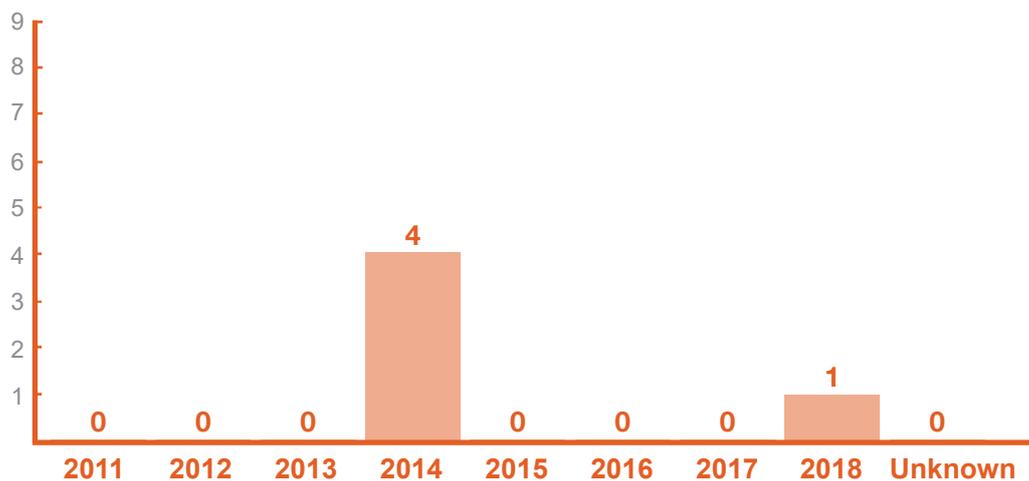


Table 23
Confirmed death sentences for juveniles by year of first verdict



Death Sentences in Military and Civilian Courts

Tables 24 and 25 pertain to death sentences handed down in civilian and military courts. Though military courts date back many years in Egypt, the Sisi government has tried record numbers of civilians in these tribunals.⁴⁰ In some instances, civilians have received death sentences in military trials. The Index tracks how many individuals have received death sentences in each type of court.

This data demonstrates that while the vast majority of both preliminary and confirmed death sentences have been issued by civilian courts, preliminary death sentences issued in military courts were more likely to progress to confirmed death sentences; military courts confirmed 152 of 190 preliminary death sentences, an 80% confirmation rate. The confirmation rate for civilian courts was 52% (1,603 of a total 3,067 preliminary death sentences).

Table 24
Preliminary death sentences in military and civilian courts by period of first verdict

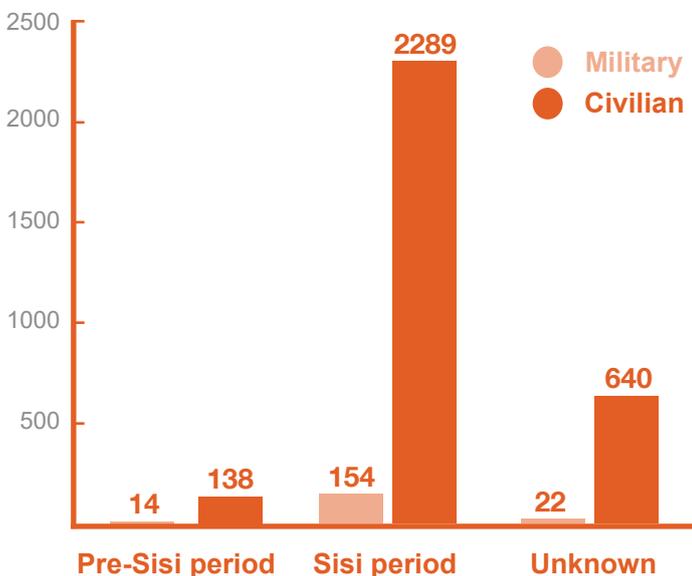
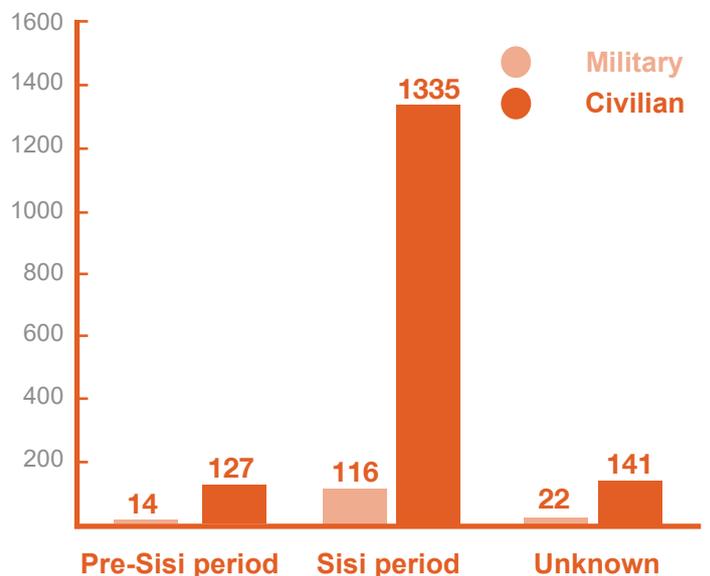


Table 25
Confirmed death sentences in military and civilian courts by period of first verdict



Geographical Location of Death Sentences

Tables 26 and 27 contain information on the Egyptian governorate in which each death sentence was handed down. 38% of all preliminary death sentences (1,234 of a total 3,257) originated in the Minya governorate. Almost all of those referrals (98%) resulted from just two mass trials in Minya in 2014, in which 529 and 683 people received preliminary death sentences, respectively.³⁹ The governorates in the capital, Cairo and Giza, together accounted for the second highest number of preliminary death sentences (30%, or 982 of a total 3,257).

These numbers also demonstrate that the rate at which preliminary death sentences were confirmed differed widely by governorate. In Cairo and Giza, the confirmation rate was high, at 86% (847 of 982 preliminary death sentences). In Minya it was much lower, at 19% (234 of 1,234 preliminary death sentences). Other governorates fell somewhere in between, like Kafr El-Sheikh (50%, or 28 of 56 preliminary death sentences). Two governorates, Port Said and Aswan, had 100% confirmation rates.

Table 26

Preliminary death sentences by governorate and period of first verdict (political and criminal trials)

Governorate of first verdict	Period of first verdict			Total
	pre-Sisi period	Sisi period	Unknown	
Cairo	48	796	63	907
Giza	0	52	23	75
Alexandria	5	71	15	91
El-Qalyubiyah	7	6	19	32
El-Daqahliyah	3	36	13	52
El-Sharqiyah	15	81	65	161
El-Gharbiyah	0	13	42	55
El-Monoufiyah	1	9	34	44
El-Buheirah	0	14	33	47
Kafr El-Sheikh	6	10	40	56
Damietta	0	2	15	17
Port Said	0	1	7	8
Ismailiyah	11	31	27	69
Suez	0	0	2	2
El-Fayyoun	3	4	4	11
Beni Sueif	6	2	15	23
Minya	0	1125	109	1234
Asyut	3	47	17	67
Sohag	15	26	21	62
Qena	5	43	47	95
Luxor	2	0	5	7
Aswan	0	5	0	5
North Sinai	15	0	1	16
South Sinai	0	3	2	5
Marsa Matrouh	0	0	3	3
Red Sea	0	13	7	20
El-Wadi El-Gedid	0	0	0	0
Unknown	7	53	33	93
TOTAL	152	2443	662	3257

Table 27

Confirmed death sentences by governorate and period of first verdict (political and criminal trials)

Governorate of first verdict	Period of first verdict			Total
	pre-Sisi period	Sisi period	Unknown	
Cairo	37	758	0	795
Giza	0	51	1	52
Alexandria	5	70	4	79
El-Qalyubiyah	7	6	2	15
El-Daqahliyah	3	29	3	35
El-Sharqiyah	15	79	11	105
El-Gharbiyah	0	8	9	17
El-Monoufiyah	1	9	0	10
El-Buheirah	0	11	11	22
Kafr El-Sheikh	6	9	13	28
Damietta	0	2	7	9
Port Said	0	1	7	8
Ismailiyah	11	31	22	64
Suez	0	0	2	2
El-Fayyoub	3	4	1	8
Beni Sueif	6	2	13	21
Minya	0	231	3	234
Asyut	3	45	1	49
Sohag	15	26	3	44
Qena	5	41	12	58
Luxor	2	0	0	2
Aswan	0	5	0	5
North Sinai	15	0	1	16
South Sinai	0	3	1	4
Marsa Matrouh	0	0	0	0
Red Sea	0	13	3	16
El-Wadi El-Gedid	0	0	0	0
Unknown	7	17	33	57
TOTAL	141	1451	163	1755

Death Sentences and Executions by Gender of Defendant

Tables 28-30 demonstrate how Egypt applied the death penalty differently against male and female defendants. The defendants identified by the Index were overwhelmingly male (97%, or 3,173 of a total 3,257 preliminary death sentences). This was especially true in political cases, where men accounted for more than 99% of all defendants (2,170 of a total 2,180 preliminary death sentences). However, there are notable trends emerging from the Index's information on female defendants sentenced to death in Egypt.

The Index identified 84 women who received preliminary death sentences. Of these 84, at least 39 were sentenced during the Sisi period. Of these 39, 32 received confirmed death sentences. This 82% confirmation rate was much higher than the confirmation rate for male defendants sentenced during the Sisi period (59%, or 1,419 of a total 2,404 preliminary death sentences).

The execution rate for women during the Sisi period was also much higher than the rate for men. 32 women received confirmed death sentences during the Sisi period, and 34% of them (11 individuals) were executed. This rate was more than triple the execution rate for men during the Sisi period (9%, or 134 of a total 1,419 confirmed death sentences).

The reason for this disparity is not entirely clear, though it is likely related to the rate at which men and women were sentenced to death in criminal and political trials. Overall, death sentences arising out of criminal trials were more likely to lead to executions than those resulting from political trials. The Index identified 670 confirmed death sentences in criminal trials, 113 of which progressed to executions, a rate of 17%. The Index also identified 1,085 confirmed death sentences in political trials, 32 of which progressed to executions, a rate of just 3%.

The data also shows that women were more likely to receive confirmed death sentences in criminal trials, while men were more likely to receive confirmed death sentences in political trials; 92% of confirmed death sentences for women were in criminal trials (47 of a total 51 confirmed death sentences), whereas criminal trials comprised only 37% of death sentences for men (623 of a total 1,704 confirmed death sentences). This may explain why women were executed at a higher rate.

Table 28

Preliminary death sentences by period of first verdict, gender of defendant and type of trial

Period of first verdict	Female; Criminal	Female; Political	Male; Criminal	Male; Political	Total
pre-Sisi period	7	0	99	46	152
Sisi period	31	8	404	2000	2443
Unknown	36	2	500	124	667
TOTAL	74	10	1003	2170	3257

Table 29

Confirmed death sentences by period of first verdict, gender of defendant and category of trial

Period of first verdict	Female; Criminal	Female; Political	Male; Criminal	Male; Political	Total
pre-Sisi period	7	0	99	35	141
Sisi period	28	4	392	1027	1451
Unknown	12	0	132	19	163
TOTAL	47	4	623	1081	1755

Table 30

Executions by period of execution, gender of defendant and category of trial

Period of first verdict	Female; Criminal	Female; Political	Male; Criminal	Male; Political	Total
pre-Sisi period	0	0	1	0	1
Sisi period	11	0	101	32	144
Unknown	0	0	0	0	0
TOTAL	11	0	102	32	145

4. Focus on juveniles

Of particular concern is Egypt's application of the death penalty against juveniles. The Index identified 12 instances in which Egyptian courts handed preliminary death sentences to individuals who were less than 18 years of age at the time of their alleged offence, which constitutes a violation of international and domestic law on child rights.⁴¹ Both Egypt's Child Law and the UN Convention on the Rights of the Child (CRC),⁴² to which Egypt acceded in 1990, prohibit capital punishment for individuals under the age of 18.⁴³

However, a loophole in the Child Law places juveniles in Egypt at risk of receiving a death sentence. The Child Law establishes a system of juvenile courts tasked with "exclusively [dealing] with issues concerning the child when accused of a crime,"⁴⁴ through which juveniles facing criminal misdemeanour or felony charges should progress. But Article 122 of the Child Law also states that when a child above the age of 15 is accused of committing a crime with an adult co-defendant, a criminal court or the Supreme State Security Court—neither of which are juvenile courts—will have jurisdiction to hear cases involving the juvenile and her/his adult co-defendant jointly.⁴⁵

In practice, and in conjunction with Egypt's use of mass trials in recent years, this loophole has repeatedly led juveniles to be tried alongside dozens or hundreds of adult co-defendants.



In at least 12 instances, courts have referred juveniles for preliminary death sentences, despite Egyptian and international law prohibiting it.



In some cases, courts are unaware of the presence of a juvenile defendant. One of the juvenile defendants identified in the Index, Sultan Gomaa, was one of 683 people referred for preliminary death sentences in one political trial in the Minya governorate in 2014. His death sentence was later overturned after the presiding judge read an article about Sultan's juvenility in an Egyptian newspaper.⁴⁶ Reprieve believes as many as five juveniles were referred for preliminary death sentences in this trial.

In other cases, however, courts are aware of the presence of juvenile defendants but refuse to refer them to child courts or guarantee they will not receive a death sentence. Ibrahim Halawa, an Irish citizen

arrested at age 17 in Egypt, was imprisoned on trumped-up charges and subjected to a mass trial alongside 493 mostly adult co-defendants over a period of four years. Ibrahim's juvenility received considerable international attention and his case was the subject of extensive high-level advocacy between the Irish and Egyptian governments, yet Egypt refused to transfer him to a child court or even guarantee he would not receive a death sentence.

Ibrahim was eventually acquitted and freed after more than four years, but other juvenile defendants in Egypt have been sentenced to death. Hatem Zaghoul, an Egyptian citizen from the town of Mattay, in the Minya governorate, was arrested at age 17 in 2014 and falsely accused of involvement in a mob attack on a police station.⁴⁷

In March 2014, Hatem was one of 529 people referred for a preliminary death sentence in one trial in Minya. The judge in that trial eventually reduced the number of death sentences to 37 defendants, one of whom was Hatem. Hatem's lawyer submitted evidence of Hatem's juvenility, but the court ignored it and sentenced him to death anyway. The United Nations Working Group on Arbitrary Detention (WGAD), recognising the violations of international law perpetrated against Hatem, recently called for his immediate release.⁴⁸

Hatem's death sentence was eventually commuted to a ten-year prison term by Egypt's Court of Cassation. His ordeal is not unique—he is just one of many young men caught up in Egypt's mass trial system.



Ibrahim Halawa

The statistics reflected in the Index are minimums—
Reprieve has identified 12 juveniles who received
preliminary death sentences from Egyptian courts, but
the true total is likely higher than that. Some of these
young people, like Sultan Goma and Hatem Zaghloul,
were eventually acquitted or had their sentences
reduced. But other children remain under a sentence
of death.

“

The overall picture is one of a regime
that is uninterested in protecting
children from violations of their most
basic rights.

”

Despite juvenile death sentences that have been the
subject of media coverage and communications from
UN human rights experts, the Egyptian government
has taken no steps to amend the Child Law to ensure
it is in line with international law, nor has it taken any
other action to ensure that more juveniles are not
sentenced to death in the future. Egypt is also nearly
three years late in submitting its state party report to
the UN Committee on the Rights of the Child.⁴⁹



Hatem Zaghloul

Ahmed Saddouma

Ahmed Saddouma is an Egyptian national who received a confirmed death sentence for alleged offences committed when he was under the age of 18. His case was identified during the compilation of the Index.

On 2 March 2015, Ahmed, a 17-year-old secondary school student, was arrested from his bed in his family's home in the town of Awsim, not far from Cairo. For the next 80 days, Egyptian authorities held Ahmed in incommunicado detention and tortured him, beating him with metal objects and forcing him to sign a false confession to crimes he did not commit.

“

His family did not know if he was alive or dead for nearly three months.

”

Ahmed was accused of involvement in alleged terrorist acts to which he has no connection. The most serious offence of which Ahmed was accused, the attempted assassination of Judge Fathi el-Bayoumi, did not even occur until three weeks after Ahmed's arrest, at a time when he was in detention being tortured by police.⁵⁰

Following his forced confession, Ahmed was tried as an adult in a mass trial of 30 people; Ahmed's inclusion in this trial resulted directly from the loophole in Article 122 of the Child Law which allows children to be tried as adults. During the trial, Ahmed was never allowed to meet with his lawyer and his torture allegations were not investigated. At the first trial hearing, Ahmed's lawyer made clear to the court that his client was a juvenile who had been tortured into making a false confession. Despite this, the court never ordered an investigation into Ahmed's allegations, allowed his coerced confession to be admitted into evidence, and refused to acknowledge his juvenility.

This trial concluded in February 2018 with confirmed death sentences for Ahmed and three of his co-defendants, even though the court knew Ahmed was a juvenile. The written judgment in the case relies almost entirely on Ahmed's coerced confession, despite his allegations that it was false and extracted through torture. Ahmed remains incarcerated under sentence of death, and his appeal is currently being heard before the Court of Cassation.



Ahmed Saddouma

5. Conclusions

The data revealed in the Egypt Death Penalty Index demonstrates that Egypt's mass trial and death penalty phenomenon is a human rights crisis that must be addressed both by Egypt and by the international community. The international community's response to Egypt's unlawful application of the death penalty over the past six years has not been commensurate with the magnitude of the violations committed by the Sisi government. Key international actors have not spoken out loudly enough, and there is concern that Egypt views this as a sign that it can continue applying the death penalty unlawfully without fear of serious international rebuke.

Egypt's application of the death penalty is now not only amongst the highest in the world, but amounts to a human rights crisis. Unfortunately, the international community has failed to treat it as such. Since President el-Sisi came to power, no resolution has been tabled by member states at the UN Human Rights Council (HRC) regarding Egypt in the context of a human rights situation that requires the Council's attention.^{51 52} In 2014, a cross-regional joint statement on Egypt was made on behalf of 27 member states but did not mention the death penalty.⁵³

Some countries - the United Kingdom, France, and the United States - have raised Egypt's application of the death penalty at the UN only twice between them. Others have issued strong statements on Egypt's human rights record—Iceland's Foreign Minister called out Egypt by name in an address to the HRC⁵⁴ and Germany has issued consistently strong statements on Egypt's use of the death penalty—but overall, the international response has been inadequate given the scope of the problem.

During the same time period, cooperation between European states, the EU, the US and Egypt's criminal justice and defence sectors has continued largely unabated. The EU and some member states have cooperated closely with Egypt's criminal justice system in recent years. The European Commission provided €9m worth of assistance to Egypt's judiciary in the last four years as part of a programme entitled Support for the Modernisation of the Administration of Justice (SMAJ).⁵⁵ The SMAJ project, which was implemented by quasi-governmental agencies from France, the UK, Italy and Spain,⁵⁶ involved a specific focus on Egypt's juvenile court system, as well as direct training of judges at the Court of Cassation.⁵⁷

Separately, the UK government has provided assistance to Egypt focusing on "rehabilitating and reintegrating juvenile detainees" and "counter terrorism capacity building."⁵⁸ The UK Foreign & Commonwealth Office (FCO) has refused to provide details of what these projects entailed, citing international relations exemptions to the UK Freedom of Information Act (2000).⁵⁹

This assistance has taken place during a period when Egyptian courts have sentenced thousands to death, including children. While EU High Representative for Foreign Affairs Federica Mogherini has made clear that "[Egypt's] criminal justice system is outside the [SMAJ] project's scope, and it does not address the death penalty,"⁶⁰ and the paltry language released by the FCO about its work in Egypt does not mention the death penalty, it is nonetheless striking that the EU and UK's close partners in Egypt, including the Ministry of Justice and the Ministry of Interior, are responsible for such serious violations of international law.

6. Recommendations

With the publication of the Egypt Death Penalty Index, Reprieve's hope is that concrete numbers will induce the international community to take much stronger action against Egypt's unlawful application of the death penalty going forward. With this in mind, Reprieve offers the following recommendations:

To the Egyptian Government:

Commit to amending the Child Law to close the loophole in Article 122;

End the use of torture and ill-treatment, including enforced disappearances, in compliance with the Convention Against Torture;

Ratify the Optional Protocol to the Convention Against Torture;

Immediately end the use of mass trials, which run contrary to the fair trial and due process guarantees enshrined in Article 14 of the International Covenant on Civil and Political Rights (ICCPR);

Conduct a full review of all death sentences recommended by Egyptian courts and commute or overturn all sentences resulting from trials that did not uphold all Article 14 ICCPR fair trial rights;

Immediately release all juveniles who have received death sentences, beginning with Ahmed Saddouma and Hatem Zaghloul;

Identify all juveniles tried in adult courts, overturn those verdicts and refer all such defendants to juvenile courts;

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

To the international community:

Vote in favour of establishing a commission of inquiry on Egypt's unlawful application of the death penalty within the HRC;

Make high level representations to the Egyptian government, calling for an end to the use of mass trials and unlawful death sentences;

Call on Egypt to immediately conduct full, impartial investigations in line with international standards into all allegations of torture and ill-treatment, with a view of providing victims with redress;

Make high level representations to the Egyptian government, calling for the immediate release of Ahmed Saddouma, Hatem Zaghloul and all other juveniles unlawfully sentenced to death;

Make high-level representations to the Egyptian government, calling for Egypt to comply with its reporting obligations to the UN Committee on the Rights of the Child.

To the EU:

Make public full details of the SMAJ programme, including the project specification document and copies of any and all assessments carried out to determine potential human rights risk associated with the project;

Make future assistance to Egypt's criminal justice sector contingent upon Egypt first:

- Closing the loophole in Article 122 of the Child Law;
- Ending the use of mass trials;
- Commuting all death sentences handed to juveniles;
- Complying immediately with all reporting obligations to the UN Committee on the Rights of the Child.

To the UK Government:

Make public full details of all UK assistance to Egypt over the past five years in the areas of rehabilitation and reintegration of juvenile detainees and counterterrorism assistance, to include the disclosure of all Overseas Security and Justice Assistance (OSJA) assessments completed for these projects.

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parties which retain the death penalty are under an obligation to limit the scope of capital punishment to the most serious crimes only: 'In countries which have not abolished the death penalty, sentence of death may be imposed only for the most serious crimes in accordance with the law in force at the time of the commission of the crime and not contrary to the provisions of the present Covenant and to the Convention on the Prevention and Punishment of the Crime of Genocide. This penalty can only be carried out pursuant to a final judgement rendered by a competent court'. This is internationally accepted to only include offences with lethal consequences. In 2013, the then-United Nations High Commissioner for Human Rights, Navi Pillay, expressed 'serious concern' about the use of the death penalty in counter-terrorism cases where the acts being prosecuted commonly 'may not meet the threshold of "most serious crimes"' (see UN Human Rights Council, 24th Session, Question of the death penalty: Report of the Secretary-General (Secretary-General's report), 1 July 2013, A/HRC/24/18 (available at: https://view.officeapps.live.com/op/view.aspx?src=http%3A%2F%2Fwww.ohchr.org%2FEN%2FHRBo%20dies%2FHRC%2FRegularSessions%2FSession27%2FDocuments%2FA_HRC_27_23_ENG.doc)

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51 Resolutions are tabled by member states at the UN HRC under 'agenda items' on which states vote; they are not legally binding but constitute an important political expression of the views of its members. Resolutions are either thematic or country specific. Member states wishing to bring a country's human rights situation to the Council's attention for a vote do so under what is known as Item 4. If the vote is successful, the resolution is adopted (see, for example, the resolution on Situation of human rights in the Islamic Republic of Iran, adopted at the 25th UNHRC session). This is distinct from an Item 4 statement made at the general debate on Item 4, which takes place in the course of voting for a resolution, and where member states will read out a short statement reflecting their country's position on the human rights situation in one or more countries. Countries which are the subject of these statements have the right to respond in the course of the general debate.

52 All resolutions adopted at the UN HRC are available at : <https://www.ohchr.org/en/hrbodies/hrc/pages/documents.aspx>

53 UN Human Rights Council, 'Joint Cross Regional Statement Under Item 2' statement during 12th meeting of the 25th session of the Human Rights Council on the Annual report of the United Nations High Commissioner for Human Rights and reports of the Office of the High Commissioner and the Secretary-General (Iceland, on behalf of Austria, Belgium, Czech Republic, Denmark, Estonia, Finland, France, Germany, Iceland, Ireland, Japan, Latvia, Liechtenstein, Lithuania, Luxembourg, Montenegro, the Netherlands, Norway, Poland, Slovakia, Slovenia, Sweden, Switzerland, the former Yugoslav Republic of Macedonia, Turkey, United Kingdom of Great Britain and Northern Ireland, United States of America, 7 March 2014) <<https://www.government.is/news/article/2018/02/26/Minister-for-Foreign-Affairs-Mr.-Gudlaugur-Thor-Thordarsons->

[statement-during-the-High-Level-Segment-of-the-37th-session-of-the-Human-Rights-Council/](https://www.government.is/news/article/2018/02/26/Minister-for-Foreign-Affairs-Mr.-Gudlaugur-Thor-Thordarsons-statement-during-the-High-Level-Segment-of-the-37th-session-of-the-Human-Rights-Council/)> accessed [10 October 2018]

54 Mr. Gudlaugur Thor Thordarson, 'Minister for Foreign Affairs, Mr. Gudlaugur Thor Thordarson's statement during the High-Level Segment of the 37th session of the Human Rights Council' (Government Office of Iceland, 26 February 2018) <<https://www.government.is/news/article/2018/02/26/Minister-for-Foreign-Affairs-Mr.-Gudlaugur-Thor-Thordarsons-statement-during-the-High-Level-Segment-of-the-37th-session-of-the-Human-Rights-Council/>> accessed [10 October 2018]

55 As of 11 December 2018, the official website for the SMAJ – Support to the Modernisation of the Administration of Justice in Egypt is no longer available (Support To The Modernisation Of The Administration Of Justice In Egypt, 'Home' (SMAJ, Unknown) <<http://smaj.eu/>> accessed [11 December 2018] and [23 January 2019]; a screengrab from WayBackMachine from May 2016 is available at: <<https://web.archive.org/web/20180119080035/http://smaj.eu/en/>> accessed [29 January 2019]

56 Justice Coopération Internationale , 'MAGHREB, NEAR AND MIDDLE EAST - SMAJ – Support to the Modernisation of the Administration of Justice in Egypt' (GIP JCI , December 2014 – December 2018 (48 months)) <<https://www.gip-jci-justice.fr/en/projects/maghreb-near-and-middle-east/>> accessed [02 October 2018]; Northern Ireland Co-Operation Overseas , 'Our Projects' (NI-CO, Unknown) <<http://www.nico.org.uk/our-projects/>> accessed [02 October 2018]; Consiglio Superiore della Magistratura, 'Il CSM in breve' (CSM, 2015) <<https://www.csm.it/web/csm-internet/in-breve>> accessed [02 October 2018]; Spanish Agency For International Development Cooperation , 'Portal Web AECID (Ingles)' (AECID, Unknown) <<http://www.aecid.es/EN/aecid>> accessed [02 October 2018]

57 Ibid, GIP JCI.

58 Foreign & Commonwealth Office, 'FOI Release: Projects and CSSF (reference 0722-16)' (Publications: FOI releases , 14 February 2017) https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/600983/FOI_0722-16_letter_.pdf and Annex B https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/600985/FOI_0722-16_Annex_B_Egypt.csv/preview accessed [02 October 2018]

59 FOI response from Foreign & Commonwealth Office, 23 June 2017, reference 0521-1, held by Reprieve

60 European Parliament, 'Answer to Question E-009157/2016' (Parliamentary Questions, 06 March 2017) <http://www.europarl.europa.eu/doceo/document/E-8-2016-009157-ASW_EN.html?redirect> accessed [02 October 2018]

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