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Date: 18 June 2021

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Hon. Commissioner Solomon Ayele Dersso,
Chairperson of the African Commission on Human and Peoples' Rights
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**URGENT
IMMEDIATE ACTION REQUIRED
REQUEST FOR SPECIAL MEASURES TO PREVENT EXECUTIONS**

Dear Hon. Commissioner Dersso,

RE: Request for urgent actions by the African Commission in regards to 12 Egyptian citizens at risk of imminent execution

We write to the African Commission on Human and Peoples' Rights in order to urgently raise a matter of emergency in regards to the confirmation of the death penalty of 12 Egyptian citizens who are at risk of immediate execution, and to request urgent action by the African Commission to avoid irreparable harm to the individuals' rights under the African Charter, particularly the right to life and integrity of person as set out in Article 4 of the Charter.¹

This request is submitted by the international legal representatives for the Freedom and Justice Party of Egypt (FJP) on behalf 12 Egyptian citizens whose death sentences have been confirmed. The detainees include:

- Abdul Rahman Albar,
- Mohamad Albeltaji,
- Safwat Hejazi,

¹ African Charter, Article 4, provides that "*Human beings are inviolable. Every human being shall be entitled to respect for his life and the integrity of his person. No one may be arbitrarily deprived of this right.*"

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On 14 June 2021, the Court of Cassation in Egypt delivered a judgment on the pending death sentences of 75 Egyptian citizens, which confirmed the sentences of the 12 individuals listed above and for whom this request is submitted.²

The individuals whose death sentences were confirmed by Egypt's highest appeal court include senior members of the Muslim Brotherhood, a former Government Minister, doctors, engineers, lawyers and an imam and preacher.

These individuals, along with 63 other Egyptians, were sentenced to death in September 2018 by the Criminal Court of Cairo for charges relating to their participation with sit-ins in Rab'a al-Adawiya square in 2013.³ The Rab'a sit-in dispersal case was conducted as a mass trial with 739 defendants which *“failed to assess the individual guilt of each defendant, yet resulted in lengthy sentences or even the death penalty.”*⁴ The proceedings of the mass trial, and resulting convictions and death sentences, have been widely criticised and condemned by international organisations for being *“grossly unfair and riddled with serious due process violations, violating both Egyptian law and international standards.”*⁵

It is noted that Rule 84 of the Rules of Procedure of the African Commission provides that the *“Commission shall treat a situation as a matter of emergency”* when *“[i]t is one of serious or massive human*

² See, Egypt: Death sentences upheld for 12 defendants after shameful mass trial, Amnesty International, 14 June 2021 (<https://www.amnesty.org/en/latest/news/2021/06/egypt-death-sentences-upheld-for-12-defendants-after-shameful-mass-trial/>); Egypt upholds death sentence for 12 senior Muslim Brotherhood figures, Reuters, 14 June 2021 (<https://www.reuters.com/world/middle-east/egypt-upholds-death-sentence-12-senior-muslim-brotherhood-figures-2021-06-14/>).

³ Egypt: Death sentences upheld for 12 defendants after shameful mass trial, Amnesty International, 14 June 2021.

⁴ All According to Plan: The Rab'a Massacre and Mass Killings of Protesters in Egypt, Human Rights Watch, 12 August 2014 (<https://www.hrw.org/report/2014/08/12/all-according-plan/raba-massacre-and-mass-killings-protesters-egypt#>).

⁵ See for example, All According to Plan: The Rab'a Massacre and Mass Killings of Protesters in Egypt, Human Rights Watch, 12 August 2014 (<https://www.hrw.org/report/2014/08/12/all-according-plan/raba-massacre-and-mass-killings-protesters-egypt#>); Egypt: No Justice for Rab'a Victims 5 Years on: Impunity for Officers; Unfair Mass Trials for Survivors, Human Rights Watch, 13 August 2018 (<https://www.hrw.org/news/2018/08/13/egypt-no-justice-raba-victims-5-years#>).

rights violations” and “[i]t presents a risk of irreparable damage or requires urgent action to avoid irreparable harm.”⁶ To address an emergency situation, and in order to preserve the fundamental rights of individuals under the African Charter, Rule 100 allows the Commission to “issue Provisional Measures to be adopted by the State concerned in order to prevent irreparable harm to the victim or victims of the alleged violation as urgently as the situation demands.”⁷

Despite challenges to the convictions and sentences of the individuals as unsafe due to the severe violations to international standards on fundamental fair trial and due process rights, including the rights set out in Article 7 of the African Charter, the death penalties of the 12 individuals named above have been confirmed by the Court of Cassation (Egypt’s highest court). There is no further right to appeal

It is submitted that the 12 individuals are at risk of imminent execution, and therefore irreparable violation to their fundamental right to life and to human dignity, and that urgent action by the African Commission is required to avoid irreparable harm to the individuals’ rights. The immediacy of this risk is demonstrated by the escalated rate at which Egypt has carried out executions with reports that in October and November 2020 alone the Egyptian authorities doubled the number of executions recorded in all of 2019.⁸ Human rights organisations have expressed equal concern about the rise in executions carried out in 2021 including of individuals who were subjected to unfair trials.⁹

It must also be recognised that the confirmed death sentences and risk of immediate execution of these individuals who have been subjected to a grossly unfair mass trial is contrary to the African Union’s position on the prohibition of the death penalty, and in particular the African Commission’s 2019 Resolution on the Abolition of the Death Penalty in Africa which urged all State Parties to the African Charter, including Egypt, to “*observe a moratorium on the death penalty with a view to*

⁶ Rules of Procedure of the African Commission on Human and Peoples’ Rights, Rule 84.

⁷ Rules of Procedure of the African Commission on Human and Peoples’ Rights, Rule 100.

⁸ Egypt: Chilling rise in executions reveals depth of human rights crisis, Amnesty International, 2 December 2020 (<https://www.amnesty.org/en/latest/news/2020/12/egypt-chilling-rise-in-executions-reveals-depth-of-human-rights-crisis/>); Egypt: 49 Executions in 10 Days, Amnesty International, 22 October 2020 (<https://www.hrw.org/news/2020/10/22/egypt-49-executions-10-days>); Steep rise in executions in Egypt in past two months: Amnesty, Aljazeera, 2 December 2020 (<https://www.aljazeera.com/news/2020/12/2/steep-rise-in-executions-in-egypt-in-past-two-months-amnesty>).

⁹ Egypt: Nine people put to death in chilling Ramadan executions, Amnesty International, 26 April 2021 (<https://www.amnesty.org/en/latest/news/2021/04/egypt-nine-people-put-to-death-in-chilling-ramadan-executions/>); Rights groups raise alarm as Egypt executes 17, Al-Monitor, 12 May 2021 (<https://www.al-monitor.com/originals/2021/05/rights-groups-raise-alarm-egypt-executes-17#ixzz6y8YICQSu>).

abolishing it in conformity” prior Commission resolutions and to “fully implement the right to life and the right to human dignity.”¹⁰

Importantly, when an emergency “*situation arises during the Commission’s inter-session period*”, the Rules provide the Commission the ability to immediately and urgently address the matter by allowing “*the Bureau, the competent subsidiary mechanism[] or the member responsible for the State Party concerned*” to consider the matter and take a decision on “*urgent action to avoid irreparable harm.*”¹¹

Jurisprudence from the Commission demonstrates the same ability of the Commission to act quickly to impose provision measures in situations where a death penalty has been ordered or is at stake, and there is evidence of gross violations to the fair trial and due process rights of the accused. This includes instances whereby the Commission has imposed provisional measures when the Commission was not in session and within a few days of receiving notification of a case involving the death penalty and “*serious and massive violations of the right to fair trial and associated guarantees.*”¹²

In requesting the African Commission’s urgent action to protect the rights and life of the 12 individuals sentenced to death, including by way of provisional measures, the African Commission is notified that a full Communication under Article 56 of the African Charter is forth coming. While the remedies provided for matters of emergency in Rule 84 and 85 set no requirement that consideration is tied to an outstanding Communication, it is acknowledged that Rule 100 references consideration of provisional measures in conjunction with a Communication lodged before the Commission. To this, the imminent risk that the 12 individuals will be immediately executed is raised.

Consideration must be given to the difficulties of gathering information from the individuals in Egyptian custody concerning the full violations of their rights under the African Charter, and delays caused by the Court of Cassation which will only release the written appeals judgment 30 days after its announcement. While the legal team is working to expeditiously gather the information required to lodge the Communication, the risk that the individuals might be executed is real and immediate. Actions to preserve their rights and prevent irreparable harm must not be jeopardized by difficulties in gathering information to support the Communication caused by State alleged to be causing the very risk to the individuals’ rights and life. The Government of Egypt should not be rewarded for delays in the individuals’ ability to report violations they experience, and appeal to the African Commission for protection against risk to their right to life.

¹⁰ Resolution on the Abolition of the Death Penalty in Africa ACHPR / Res. 416 (LXIV) of 2019.

¹¹ Rules of Procedure of the African Commission on Human and Peoples’ Rights, Rule 84.

¹² INTERRIGHTS (on behalf of Safia Yakubu Husaini et al) v. Nigeria, Case No. 269/03, 11 May 2005, para. 2.

Therefore, in accordance with Article 58(3) of the African Charter and Rules 84 and 85 of the Rules of Procedure regarding matters of emergency, and Rule 100 on the issuance of provisional measures,¹³ it is requested that the African Commission take the following steps:

- 1) Direct that the carrying out of the death sentences against the 12 individuals is suspended as an urgent provisional measure pursuant to Rule 100 of the Rules of Procedures of the African Commission on Human and Peoples' Rights;
- 2) Urgently convene the Bureau, the competent subsidiary mechanism or the member responsible for the State Party concerned in accordance with Rule 84(3) to consider emergency of the situation of the 12 Egyptian individuals sentenced to death;
- 3) Find that the situation of the 12 Egyptian individuals sentenced to death is a matter of emergency which concerns a serious human rights violation and presents an immediate risk of irreparable harm;
- 4) Raise this emergency situation with the Chairperson of the Assembly of Heads of State and Government of the African Union, the African Union Peace and Security Council, the Executive Council of the African Union, and the Chairperson of the African Union Commission in accordance with Rule 85(1); and
- 5) Remind the Government of Egypt of the position of the African Union on the prohibition of the death penalty, including the African Commission's Resolution on the Abolition of the Death Penalty in Africa ACHPR / Res. 416 (LXIV) of 2019 which applies to all State Parties to the African Charter.

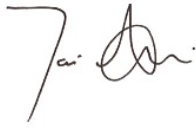
This request respectfully seeks the Commission's urgent consideration of the above requested remedies, and particularly the request for provisional measures, on the basis that 12 individuals are in immediate danger of execution and irreparable violation of their most fundamental right.

Correspondence in this matter should be addressed to Mr Tayab Ali who is a partner of this firm and has conduct of this matter.

¹³ African (Banjul) Charter on Human and Peoples' Rights, Article 58(3). See also, Rules of Procedure of the African Commission on Human and Peoples' Rights, 2020. Rules 84, 85, 100.

We look forward to hearing from you.

Yours faithfully,



**International Legal Representatives for the FJP and on behalf of the
12 individuals sentenced to death:**

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