

## ***Is it a crime to defend human rights in Egypt?***

My work on human rights was the reason why I travelled outside of Egypt on many occasions. I always saw myself as a lucky person as this also brought the opportunity to discover different cultures and meet colleagues from other countries, sharing common aspirations in the defence of economic and social rights.

But every time I travelled, I knew where, when and how I would return. Until my last departure from Egypt, I had always held a round-trip ticket.

### **One way ticket**

In December 2016, I headed to Brussels for a regional conference on the rights of workers in the Middle East. My trip came at a critical time for human rights defenders in Egypt and in a hostile political environment for the civil society, as the Egyptian authorities intensified their crackdown against human rights organisations.

The Egyptian human rights movement is going through a very difficult phase after the parliament approved a draft law regulating the work of civil society organisations, ratified by President Abdel Fatah al-Sisi last May. Even before this NGO law was formally passed; human rights defenders were being banned from traveling abroad and many saw their bank accounts frozen. An increasing number of activists are being summoned for interrogations or are under arrest. The government has prioritised its battle against civil society over the war against terrorism. All this makes it difficult to return to Egypt now.

I have been working in the field of human rights for more than 12 years as a lawyer, defending fundamental rights and freedoms. Some years ago, I was honoured to join a newly-created association promoting social and economic rights. Since then, I have dealt with many cases of strategic litigation, attempting to give effect to international conventions, charters and treaties through individual cases, as well as to establish new judicial principles that would allow access to economic and social rights, including the rights of workers and the rights to health and education. We also challenged numerous pieces of unconstitutional legislation referring them to the relevant court.

We have obtained sentences that brought new judicial principles, obliging the government to award restitution to citizens who were dispossessed of their property by providing them with alternative lands instead of money, which constituted a new trend in the understanding of reparation. We also obtained judgments that enabled persons in prison to vote in the post-revolution elections.

### *The obstacles we face as human rights defenders*

- 1- In September 2014, President Abdel Fattah El-Sisi issued a legislative amendment to **Article 78 of the Criminal Code** and imposed severe penalties on the receipt of foreign funding.

The amendment penalises "whoever asks for themselves or for a third party, or accepts or takes, even by intermediation, from a foreign country or from one operating in its interest [...], funds with the aim of committing an act that is prejudicial to Egypt's national interest".

Because of its large scope, this amendment added natural and legal persons, whether they are Egyptian or foreign organisations. The old article was also expanded by adding broad terms that have come to criminalise what is called "the disruption of public security and peace" and which are deemed vague. This means that the criminalisation scope has been expanded to include other activities. The new article also foresees life sentences.

This is an unprecedented legislative trend in the criminalisation of civil society in Egypt.

- 2- In November 2016, the Egyptian Parliament passed a Civil Society Organizations and Associations draft law submitted by Deputy Abd Al Hadi Al Kasabi. The civil society has, therefore, been viciously attacked by the Parliament in the attempt to eliminate active human rights organisations. Over the last twenty years, the government has been carrying out lots of practices to harass these organizations and their members, but what has been lately decided by the parliament goes far beyond these previous practices. Controversially, President al-Sisi ratified the law six months later, in May 2017.

**The NGO Law** contains legislative flaws and contravenes the Egyptian Constitution, which states in Article 75 that an association acquires legal capacity through notification and the combined wills of its founders but does not required the permission of the government authorities.

In addition to this, if the association undertakes activities related to opinion polls, publishes their results or conducts field research, such activities should then be presented to the body which monitors the work of associations. The new law allows the administrative body to intervene and prevent its dissemination.

Furthermore, the monitoring body should be notified of any agreement made with any non-Egyptian organization inside or outside the country. Finally, some words in the law could be used to restrict their freedom of associations by defining certain activities as of "political nature".

The new law not only restricts the nature of the activities and funding, but is also increases the financial requirements for civil society organisations to operate. For instance, it requires the payment of a higher fee for the registration of a new association.

The law stipulates that associations shall have appropriate and independent headquarters for the conduct of their activities, constituting a setback for new organisations that have just started their work.

Setting arbitrary requirements and restrictions for associations, which are seeking to obtain donations and foreign funding, has negative impacts on donors, who risk seeing their funds and assets seized and frozen, thus preventing the investment of these funds in the targeted activities.

The law has also set an awkward precedent by assigning the monitoring of the work of civil society organizations to an exceptional security service, which has unlimited powers to intervene in the work of associations and their internal affairs, thus violating the principles of freedom of association.

Although the work of NGOs is of civil nature, the draft law established a paramilitary structure, which is predominantly of a security nature, to control the management of the associations work and activities. This includes member representatives of Ministries of Foreign Affairs, Defence, Justice, Interior, International Cooperation and Social Solidarity as well as of the General Intelligence Service, the Central Bank, the Anti-Money- Laundering Unit and the administrative Control Authority.

The law will affect any entity that performs civil and human rights work, regardless of its legal form or the grounds on which it was founded, even when inconsistent with provisions contained in other laws.

### **My return ticket will have to wait**

As a lawyer, I was always interested in the different legal experiences of each place I visited. I have studied various examples of national legislation as that could be helpful for controversial cases: a behaviour in a certain place might seem appropriate whereas the same behaviour could be deemed unacceptable in another one. Each country has its own laws, regulations, customs, philosophy and constitution; all of this should be respected by everyone especially when being a jurist; nevertheless, I do not find one single reason that makes me respect laws which criminalise working on – and defending – human rights.

Despite what I previously said, sometimes I feel nostalgic and think about all the risks that I face in Egypt. It is true that I do not feel secure there but I do miss my homeland wherever I am...