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COMMUNIQUE DE PRESSE – COMUNICADO DE PRENSA

For immediate release

Cairo, 27 April 2011

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Egypt: ICJ high-level mission calls for the establishment of effective democratic institutions and accountability for human rights violations

The International Commission of Jurists (ICJ) today called upon Egypt's Supreme Council of the Armed Forces and the transitional government to take immediate concrete measures to end the practice of torture and arbitrary detention; pursue accountability for serious human violations; ensure that civilians are not prosecuted before military courts; and adopt, in accordance with international standards, legal and policy reforms necessary to establish the Rule of Law and effective democratic institutions in Egypt.

The statement comes as the ICJ concluded a high-level mission to Egypt aimed at assessing the Rule of Law and human rights situation in the country following the ouster through popular protest of the regime of Hosni Mubarak on 11 February 2011.

The mission was headed by ICJ President Pedro Nikken, who was accompanied by ICJ Commissioner Justice Kalthoum Kennou, and ICJ Legal Adviser for the Middle East and North Africa Saïd Benarbia. The delegation met with the Egyptian Minister of Justice, Mohamed El Gendy; Senior Officials of the Ministry of Foreign Affairs; and members of the judiciary, the legal profession and civil society.

The ICJ urged the Egyptian authorities to undertake major reforms of the Egyptian legal system, including by adopting a new Constitution which safeguards the Rule of Law and human rights; ending immediately the 30 year old state of emergency; and dismantling the legal framework related to the state of emergency, including the special courts and elements of the Penal Code and the Code of Penal procedure that severely restrict the enjoyment and exercise of human rights and freedoms.

"The ICJ hails the historic and heroic popular protest that led to the end of the Mubarak regime demonstrating the aspirations and the determination of the Egyptian people to establish the Rule of Law; protecting the enjoyment of human rights without restriction; guaranteeing the independence of the judiciary in all circumstances, and ensuring the effectiveness of democratic institutions in Egypt," said Pedro Nikken. *"The Supreme Council of the Armed Forces and the transitional government should now take all necessary measures to meet these aspirations, including through the election of a constitutional assembly; the adoption of a fair and widely representative electoral system; and holding transparent and fair elections that guarantee the rights of Egyptians to take part in the conduct of public affairs."*

The ICJ mission expressed its concern that the process of constitutional reforms so far initiated by the Supreme Council of the Armed Forces had been insufficient to bring Egypt in line with international standards in respect of many aspects of the administration of justice. In addition, Articles 56, 57, 61 of the constitutional declaration of 30 March, which give the Council sweeping legislative and executive powers, were not submitted to the referendum on constitutional reforms held on 19 March.

The ICJ mission also urged the Egyptian authorities to assess the legacy of widespread and systematic human rights violations in Egypt, by effectively investigating and prosecuting cases of serious violations committed during and after the rule of former President Mubarak. The rights of

The ICJ is an international non-governmental organisation comprising fifty-two of the world's most eminent jurists and has a worldwide network of national sections and affiliated organisations

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the victims of these violations to truth, to a remedy and to reparation, including by holding officials and law enforcement officers responsible of such violations to account, must be ensured.

At least 846 people were killed during the 18-day protests, 25 January - 11 February, according to information provided by the government-appointed *National Fact-Finding Commission on the events of 25 January* and confirmed by Egyptian officials during meetings with the ICJ delegation. The ICJ welcomes the measures that have been taken so far to pursue accountability for these widespread unlawful killings, including the prosecution of former state officials and some of the high-ranking security officers. However, the ICJ mission is deeply concerned that serious human rights violations continue to occur in Egypt, including torture and other ill-treatment and arbitrary detention by military personnel, including officers. Allegations include instances of subjection to electric shocks, whipping, severe beating and, in the case of some female detainees, administration of “virginity tests”. During the mission, the ICJ delegation heard from victims who had been subjected to such human rights violations.

“The right to freedom from torture and cruel, inhuman or degrading treatment is an absolute right that may suffer no exception, including in times of crisis,” said Justice Kalthoum Kennou. *“The Egyptian authorities must investigate all allegations of torture and ill-treatment and those responsible for such practices must be held to account.”*

The ICJ mission also expressed its deep concern at the widespread use of military courts to try civilians. Hundreds of cases have been prosecuted before these courts during the past three months. The authorities have argued that the use of military courts is justified by the “nature” of the transitional period in Egypt and necessary in light of the insecurity that prevails in such period.

Trials before military courts fail to meet international standards of fairness and due process. In practice, lawyers do not have full access to their clients or important case files, as the trials are generally held within a week, and in some cases 48 hours from the time of arrest.

“Under international standards, the right to be tried by an independent and impartial tribunal established by law must be respected at all times,” said Saïd Benarbia. *“The jurisdiction of military courts must be limited to military personnel and relate strictly to military offences. Civilian criminal suspects must be tried by ordinary courts under international fair trial standards,”* Benarbia concluded.

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