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EGYPT

@Military trials of civilians: a catalogue of human rights violations

1. BACKGROUND

The last 18 months have seen an upsurge of political violence in Egypt with armed Islamic opposition groups launching numerous attacks on police and security officials throughout the country. There have been attempts to assassinate two government ministers, both of whom sustained injuries. Other victims have included a secularist writer, members of the Christian community and foreign tourists. Meanwhile mass arrests and torture have continued to be widespread and many suspected members of Islamic militant groups have been killed by police in circumstances suggesting that they may have been extrajudicial executions or that police were contravening international standards regulating the use of lethal force.

In October 1992 President Mubarak began issuing special decrees ordering that groups of civilians charged with offences related to "terrorism" be tried by military courts. Since then a number of such trials have taken place, trials in which the amount of time between the beginning of the trial and the judgment has been very short. In some cases, executions have taken place soon after the conclusion of the trial. By September 1993 military courts had sentenced 28 civilians to death, and 14 executions had taken place.

Since October 1992 Amnesty International has been examining these military trials of civilians. Two Amnesty International delegates visited Egypt in September 1993 to discuss the issue of military trials with military judges, military prosecutors, defence lawyers, defendants and others including legal experts. The delegates also observed sessions of two military trials of civilians: in both cases scores of defendants (55 in the first case, case number 123/1993; 66 in the second case, case number 21/1993) were charged with offences in connection with their alleged membership of a banned Islamic organization calling for the overthrow of the government and the abolition of the constitution. The authorities say that the name of the banned organization is *Talai' al-Fatah* (Vanguards of the Conquest). Some defendants are accused of committing specific criminal offences in connection with "terrorism", such as murder or attempted murder, storing explosives or weapons, or forging identity cards. Others are more generally charged with being part of a "terrorist" group. Some of these offences are punishable by death. For example, under Articles 86 bis and 86 bis(a) of the Penal Code as amended in 1992, anyone who sets up an association with the aim of calling for the suspension of constitutional provisions may be punished by death or life imprisonment if "terrorism" was among the means used in achieving the association's goals.

2. THE MILITARY COURTROOM

The court used in the two *Talai' al-Fatah* cases observed by Amnesty International is located at a military base in the desert outside Cairo. The courtroom is a large auditorium. Three military judges (a presiding judge and two assistant judges) were seated behind a table in the centre of the elevated stage. The military prosecutors (military *niyaba*) were seated on the stage at the side. All the military judges and military prosecutors are serving officers in the armed forces, and they are in uniform during court proceedings. For example, in the *Talai' al-Fatah* Group Two case, the presiding judge was a general, the two assistant judges were colonels, one of the military prosecutors was a colonel, and the other military prosecutor was a major.

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Defence lawyers, each of whom represented between one and seven or eight defendants in each case, sat in the first two rows of seats, and the rest of the seats were occupied mainly by family members of the defendants. During the trial the defendants were held in a large cage running along one side of the courtroom, a cage subdivided into smaller cells where groups of defendants sat during the proceedings.

The Amnesty International delegates were allowed free access to the courtroom by the authorities. The military judges and military prosecutors were very willing to talk with the delegates during breaks in the proceedings, and to answer questions.

3. MILITARY COURTS: LACK OF INDEPENDENCE AND COMPETENCE

The *International Covenant on Civil and Political Rights* provides that anyone charged with a criminal offence is entitled to a fair hearing by an independent and competent tribunal [Article 14 (1)]. The *United Nations Basic Principles on the Independence of the Judiciary* emphasize the absolute necessity of judicial independence, and require that such independence be guaranteed by such means as proper selection and removal procedures, training and guaranteed tenure.

Egypt's civilian judges are appointed for life by a high judicial council. Egypt's military judges, on the other hand, are serving military officers appointed by the Minister of Defence for a two-year term, which can be renewed for additional two-year terms at the discretion of the Minister of Defence. This does not provide sufficient guarantees of independence.

While Egypt's military judges may have considerable experience in applying the Code of Military Justice to infractions by military personnel, they do not have such experience applying criminal laws to civilian defendants. Before President Mubarak began referring civilian cases to military courts in October 1992, military courts tried only military cases. One military judge explained to Amnesty International that in his 30 years experience as a military judge he had not tried civilian cases until his involvement in two cases referred to military courts by President Mubarak earlier in 1993 involving alleged "terrorism". Both cases resulted in death sentences. This lack of experience is particularly worrying given the complexity of the civilian cases now being tried by military judges in Egypt, and given the fact that so many of the defendants are charged with crimes which may carry the death penalty. The concern about lack of experience with criminal trials of civilians also applies to the military prosecutors.

In July 1993 the United Nations Human Rights Committee reviewed Egypt's record of implementing the *International Covenant on Civil and Political Rights*. The Committee's 18 international law experts, who come from all regions of the world, expressed deep concern about military courts trying civilians, and concluded that "military courts should not have the faculty to try cases which do not refer to offences committed by members of the armed forces in the course of their duties".¹

4. REPORTED TORTURE OF DEFENDANTS

Egypt has ratified two international conventions prohibiting torture: the *International Covenant on Civil*

¹Comments of the Human Rights Committee, 48th session, Egypt, para.9
Amnesty International October 1993AI Index: MDE 12/16/93

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and Political Rights, and the *United Nations Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment*. The *Convention against Torture* requires governments to take effective legislative, administrative, judicial or other measures to prevent acts of torture [Article 2]. It requires each state party to ensure the prompt and impartial investigation of all allegations of torture [Article 13] and categorically prohibits any statements extracted by torture from being used as evidence in court except against the torturer [Article 15].

The *United Nations Guidelines on the Role of Prosecutors* set forth the following requirement:

"When prosecutors come into possession of evidence against suspects that they know or believe on reasonable grounds was obtained through recourse to unlawful methods, which constitute a grave violation of the suspect's human rights, especially involving torture or cruel, inhuman or degrading treatment or punishment, or other abuses of human rights, they shall refuse to use such evidence against anyone other than those who used such methods, or inform the Court accordingly, and shall take all necessary steps to ensure that those responsible for using such methods are brought to justice." [Article 16]

Many of the civilian defendants in military court cases have alleged that they were tortured after arrest and forced to make statements. Defence lawyers have repeatedly raised objections with the military prosecutors and military judges when the prosecutors have presented evidence to the court which was allegedly extracted by torture.

For example, according to reports the defendants in the two *Talai' al-Fatah* cases observed by Amnesty International had been systematically tortured by state security police agents. They were taken to state security buildings in Cairo after their arrest (most were arrested in January and February 1993), and held there secretly and illegally for weeks or months. During this time they had no access to a lawyer (they were not even allowed to contact a lawyer when the security officers took them to the procuracy for an initial formal round of questioning), and their families did not even know where they were.

The detainees are said to have been handcuffed, blindfolded day and night, and taken to special rooms where the security officers suspended them in painful positions or applied electric shocks on sensitive parts of the body until they agreed to make statements. One method of suspension involved being hung over an open door, their body on one side of the door and their arms (handcuffed behind their back) on the back side of the door, causing great pain to the shoulders.

Official forensic medical reports confirm that scars on many defendants are consistent with the methods of torture they described. Reportedly the forensic doctors would have seen more severe injuries if the state security officers had not kept the men secretly detained until much of the physical scarring caused by torture had disappeared.

The following are examples of the kind of torture allegations made by the majority of defendants in these cases. All 13 were examined by doctors working in the Department of Forensic Medicine of the Ministry of Justice:

1. **Sharif Mahmoud Hassan Hammouda**, aged 26, university graduate (BSc) in science, arrested on 18 January 1993, was reportedly subjected to beatings after his arrest. On 31 January 1993 he was referred to

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a forensic medical doctor who noted scars on the left ear and the upper side of the chest. The forensic report confirmed that the scars were consistent with the treatment described by Sharif Mahmoud Hassan Hammouda.

2. **Rabi' Ahmad Rikabi Ahmad**, aged 23, a teacher at *'Omar Ibn al-Khattab* primary school in Cairo. He was arrested at dawn on 4 January 1993. He was taken blindfolded to an unknown place, which he suspects was the Headquarters of the State Security Investigations Police in Lazoghly Square, Cairo. He was tortured there. Methods of torture included the appliance of electric shocks to his chest and stomach. The tight blindfolding left a scar on the bridge of the nose. On 6 February 1993 he was referred to a medical forensic doctor who noted the scar on his nose, though marks of electric shocks had already disappeared.

3. **'Ali Hashem Mohammad 'Amara**, aged 22, a student of commerce in Cairo. He was arrested in January 1993. He was reportedly tortured during the month of January, but was not examined by a forensic medical doctor until 30 March 1993. He stated that he was tortured in the Headquarters of the State Security Investigations Police in Lazoghly Square, Cairo. Electric shocks were applied on parts of his body and he was also beaten, resulting in injuries to the left side of his body. The doctor found no scars on his body.

4. **Hussein Taha 'Omar 'Afifi**, aged 35 years, owner of a cassette shop in Imbaba (Cairo). He was arrested on 20 January 1993. He was referred to a forensic medical doctor on 27 February 1993. He stated that he was beaten up for two days after his arrest. The forensic doctor noted scars on his left arm.

5. **Yahya Khalfallah Mohammad 'Ali**, aged 30, owner of a clothes' shop in Cairo. He was arrested on 18 February 1993. He was reportedly tortured for two days following his arrest. Methods of torture included beatings on his face and his head with an iron bar, and electric shocks on different parts of his body. On 28 February he was referred to a forensic medical doctor who confirmed that the scars were consistent with the methods of torture described by Yahya Khalfallah Mohammad 'Ali.

6. **'Abd al-Mun'im Gamal al-Din 'Abd al-Mun'im**, aged 28, graduate in literature from Cairo University and a freelance journalist. He was arrested on 21 February 1993 and was blindfolded for several days at the Giza branch of the State Security Investigations Police. This resulted in injuries on the bridge of his nose. On 28 February he was referred to a forensic medical doctor who recorded scars on his nose.

7. **Midhat 'Abdallah Mohammad al-Sayyid**, aged 28, works in a grocery shop. He was arrested on 17 January 1993. He was reportedly tortured following his arrest. His torture consisted of beatings with a stick on the shoulders and the back. On 21 January he was referred to a forensic medical doctor who confirmed that the scars on the shoulders were consistent with the methods of torture described by Midhat al-Sayyid.

8. **Khalifa 'Abd al-'Azim 'Abd al-'Aziz Khalifa**, aged 33, works for Egypt Air in Cairo. He was arrested on 20 February 1993, and was reportedly tortured at the Headquarters of the State Security Investigations Police in Lazoghly Square, Cairo where he was punched and kicked and electric shocks were applied on different parts of his body. This continued for two days until 22 February. On 27 February he was referred to a forensic medical doctor who confirmed that scars on the victim's body were consistent with the methods of torture described.

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9. **Muhsin 'Ali Mursi Shahhata**, aged 33, is an electronics engineer and works at a research centre in Cairo. He was arrested on 18 January 1993 and was tortured. Electric shocks were applied on different parts of his body and this resulted in injuries on both hands. On 2 March he was referred to a forensic medical doctor who confirmed that scars on the victim's hands were consistent with the methods of torture described.

10. **Ahmad Shawqi Thabet 'Abd al-'Aal**, aged 21, university graduate (BA) in commerce from Cairo, is currently unemployed. He was arrested on 10 April and was reported to have been tortured for four days at the Headquarters of the State Security Investigations Police in Lazoghly Square, Cairo and in their branch office at Gaber bin Hayyan Street in Doqqi, Cairo. Methods of torture included the appliance of electric shocks to different parts of his body and beatings which resulted in injuries on his hands, legs, chest and his back. On 28 April he was referred to a forensic medical doctor who confirmed that scars on the victim's body were consistent with the methods of torture he described.

11. **'Abd al-Rahim 'Abd al-Ghaffar Mursi 'Abd al-Bari**, aged 37, owner of a car repair garage in Cairo. He was arrested on 18 February 1993 and was reportedly subjected to punches and kicks (which resulted in an injury to his right eye), and the appliance of electric shocks to sensitive parts of his body. On 28 February he was referred to a forensic medical doctor who confirmed that scars on the body were consistent with the methods of torture used.

12. **Hazim Mohammad Nour al-Din Hafiz Wahdan**, aged 24, holder of a university degree in law, works as a freelance designer in Cairo. He was arrested on 18 February 1993 and was tortured for five days (for approximately two hours per day). Electric shocks were applied to different parts of his body, including his penis and his rectum, which resulted in injuries on different parts of his body, particularly his arms and thighs. On 28 February he was referred to a forensic medical doctor who confirmed that scars on the victim's body were consistent with the methods of torture described.

13. **Mohammad Hussam Ahmad al-Sharif**, aged 24, university student (BA) in accountancy from the American University of Cairo. He was arrested on 18 January 1993 and alleged that he was tortured over several weeks. Methods of torture reportedly included beatings, the appliance of electric shocks on different parts of his body and suspension. On 21 March 1993 he was referred to a forensic medical doctor who did not record any scars on his body.

One detainee described his experience of torture as follows:

"I was arrested in the middle of the night at my house, beaten by the security officers, blindfolded and taken to Lazoghly (the Headquarters of the State Security Investigations Police, in Cairo).

An interrogation session started soon after I arrived there, at 4am, and lasted about two hours. After the first session of interrogation, each detainee was given a number and told to remember it as if it were his name. We were handcuffed so tightly that we couldn't move our hands freely, and we were kept blindfolded all the time.

They called each detainee by number, so that the others didn't know who was detained and tortured with

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them. Judging by the numbers and the voices, there were about 9 to 15 detainees in each room, with four officers there watching them. The officers worked in shifts, four during the day, then another shift of four came for the night.

When we were arrested at home we were asked to bring a bag of clothes. We used this bag as a pillow and slept on the floor.

When we entered the room for interrogation, they changed the handcuffs so that our hands were handcuffed behind our back rather than in front. When they tortured us, they stripped us except for our underwear. Usually the torture lasted several hours in the middle of the night, but sometimes it went on longer if they didn't get the confessions they wanted.

During the torture sessions, the security officers told us about particular names, and said that when you go to the procuracy you should make sure to say that you know these people.

The torture all happened in the state security offices. They stripped off my clothes, left on just my underwear, then suspended me from the door, with my body on one side of the door and my hands (handcuffed behind my back) on the other side. While you are suspended the officer comes to you to say "Are you ready to say something or not?", then if you answer "yes" they take you to another room so that the discussion is not overheard by others.

In a separate room people are tortured with electric shocks on different parts of their body. This room is close enough to where other detainees are held so that the screams of those being tortured are overheard by others.

I was only tortured by suspension, but others there were tortured with electric shocks.

We were taken to the procuracy a couple of days after arrest. My blindfold was removed but other suspects remained blindfolded in the presence of the procuracy representative. At the end of this interrogation by the procuracy, we were ordered to be taken to prison, but the state security officers in fact took us back to Lazoghly rather than to prison, where we were interrogated again by security officers."

Another detainee recounted the following:

"When I was taken to the state security branch office, my hands were tied to my feet and a stick was placed between my hands and feet, then I was suspended from the stick. If you don't say what they want to hear, they leave you like that until you faint. They used electric shocks on my nipples, stomach, thighs and armpits for a couple of hours. There are still scars remaining from the suspension, and I felt numbness for a long time in both my hands and feet.

The torture usually took place at night. This was torture plus interrogation. The man who arrested me was the same person who tortured me -- I recognized the voice, and could see around the edge of my blindfold.

I also saw from the edge of my blindfold people lying naked on a floor covered with water, with state security officers using electric shocks on their bodies."

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Most defendants had been referred to forensic doctors before the trials began; in addition, during the sessions of the *Talai' al-Fatah* trials which Amnesty International's delegates observed, the defence lawyers asked for certain defendants to be referred to forensic doctors. In the *Talai' al-Fatah* Group One case, on one day the defence lawyers complained to the judge that two of the defendants had asked to be referred to medical specialists and to have allegations of torture investigated, but so far nothing had happened. At the same session, one of the defendants said to the court that he had been beaten on his left eye and had almost lost his sight, but had never been referred to an eye specialist even though he would have been willing to pay for one.

During the *Talai' al-Fatah* Group Two trial session which Amnesty International's delegates observed, in a single morning defence lawyers asked for referral of at least six of the defendants to forensic doctors so that injuries resulting from torture could be investigated. According to press reports at the end of September the judge ordered an investigation by the procuracy into torture allegations made by 15 of the defendants after finding that they bore physical scars.

Some critical evidence presented by the prosecutors against the defendants in these military court cases had allegedly been extracted by torture, including videotaped "confessions" showing certain defendants explaining to authorities in great detail exactly how they had committed an alleged crime.

These reports of incommunicado detention and torture by state security officers are consistent with a long-term pattern of these abuses in Egypt which Amnesty International has documented. For example, the Lazoghly State Security Investigations Police headquarters in Cairo, where many of these defendants are said to have been tortured, has featured prominently since 1987 in reports received by Amnesty International about torture of Egyptian detainees. In 1989 Amnesty International published a detailed report entitled Egypt: Arbitrary detention and torture under emergency powers (AI Index: MDE 12/01/89). That report described a pattern of torture (including in Lazoghly State Security Investigations Police headquarters) and recommended 34 measures which could be taken by the government of Egypt to implement its international human rights commitments and to stop torture. The government has still not implemented these measures, and the pattern of incommunicado detention and torture continues.

The United Nations Human Rights Committee, in July 1993, expressed concern "about the duration and conditions of police custody and administrative detention in Egypt which are likely to expose accused persons to torture and ill-treatment by the police and security forces...." The Committee called on the Egyptian Government to "pay particular attention to the protection of the rights of those who are arrested and detained."²

5. FAILURE TO ALLOW PROMPT AND REGULAR ACCESS BY LAWYERS AND FAMILIES

Internationally recognized standards, adopted by the United Nations, require that anyone detained shall be able to immediately notify their family of their arrest, and shall have prompt and regular access to their family and to legal counsel of their choice.

All of these fundamental human rights standards were grossly violated in the *Talai' al-Fatah* cases which

²Comments by the Human Rights Committee, 48th session, Egypt, paras. 10 and 13.
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Amnesty International's delegates observed, thereby denying detainees essential safeguards for preventing torture, protecting legal rights, and enabling the defence to prepare for trial.

The *United Nations Basic Principles on the Role of Lawyers* require that "governments shall ensure that all persons arrested or detained, with or without criminal charge, shall have prompt access to a lawyer, and in any case not later than forty-eight hours from the time of arrest or detention"³. A detainee's right to communicate promptly and regularly with lawyers and family members is guaranteed in instruments including the *United Nations Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment*.⁴

In the two *Talai' al-Fatah* cases observed by Amnesty International, the defendants were held for months before they were allowed to see a lawyer or their family. Most of the defendants were arrested in January and February 1993, but were then held secretly and reportedly tortured by security officers. During this time they were held incommunicado -- their families did not even know where they were, and there was no access to lawyers. They were not even allowed to have a lawyer present when security officers took them to the procuracy for an initial round of questioning.

Reportedly the defence lawyers did not receive permission to visit the defendants until months after the arrest -- some lawyers reportedly received permission from the state security procuracy to visit the detainees in late April, others in mid-May, but even with this permission a number of lawyers apparently were not allowed inside when they arrived at the prison. Reportedly it was not until July that all the defence lawyers were able to visit their clients in prison without obstruction. However, even then guards or security officers were reportedly present and listening when lawyers spoke with their clients, in contravention of United Nations standards which require that consultations between the detainee and lawyer may be within sight, but not within the hearing, of law enforcement officials.⁵ In practice, most of the contact between defence lawyers and their clients now takes place in the courtroom during breaks in the proceedings, when the lawyers talk with their clients through the cage where the defendants are held. Often there are military or security officers standing nearby during these conversations, so that lawyers are unable to talk with their clients without being overheard.

Some families reportedly received authorization from the state security procuracy to visit detainees in April, but like the lawyers they were not allowed inside when they arrived at the prison. According to reports, it was not until four or five months after arrest that families were able to visit these detainees.

6. FAILURE TO ALLOW ADEQUATE TIME FOR PREPARATION OF THE DEFENCE

The *International Covenant on Civil and Political Rights* requires that adequate time and facilities must be allowed for the preparation of the defence, and for communication between the accused and counsel of their own choosing [Article 14(3)(b)]. The *United Nations Basic Principles on the Role of Lawyers* provides: "It is the duty of the competent authorities to ensure lawyers' access to appropriate information, files and documents in their possession or control in sufficient time to enable lawyers to provide effective

³Principle 7

⁴Principles 15 through 19

⁵United Nations Standard Minimum Rules for the Treatment of Prisoners, Rule 93; United Nations Basic Principles on the Role of Lawyers, Principles 8 and 22.

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legal assistance to their clients. Such access should be provided at the earliest appropriate time" [Principle 21].

In the two *Talai' al-Fatah* cases observed by Amnesty International, the defence lawyers had not been allowed sufficient time to prepare their cases -- in fact they had been allowed virtually no time at all, and did not receive case files until just before the trial began. In the *Talai' al-Fatah* Group One case (55 defendants), the procuracy had over six months from the time of arrest to prepare 3000 to 4000 pages of case files against the defendants, but the defence lawyers were not able even to look at the files until the military court's first session on 15 August 1993; they had to prepare the defence case in time for the next session on 25 August.

The defence lawyers have complained to the procuracy and to the military court about the lack of time they have been given to prepare their cases. The problem is compounded by the fact that defence lawyers did not have access to the defendants for months after arrest. Also, many of the lawyers are representing multiple defendants in each case, and many lawyers are simultaneously representing defendants in several military court trials. Furthermore, defence lawyers have complained to the court that parts of the case files prepared by the procuracy are illegible, with some missing pages.

The denial of adequate time to prepare the defence is particularly disturbing given the complexity and seriousness of these cases, and the fact that some defendants may face the death penalty.

7. PROBLEMS FACED BY DEFENDANTS IN OBTAINING LAWYERS OF THEIR CHOICE

The *International Covenant on Civil and Political Rights* provides that defendants are entitled to legal counsel of their own choosing [Article 14(3)(d)].

In one case of civilians being tried by military courts (*Zaynhum* case), the defence lawyers withdrew from the case on 7 September 1993 following the military judge's denial of a request by the defence lawyers to view video-recorded evidence prior to cross-examination rather than afterwards. Rather than adjourning the case, the presiding military judge is reported to have immediately appointed former military lawyers (who were apparently not far from the military courtroom at the time) to be defence lawyers, against the wishes of the defendants. The presiding judge is said to have insisted that the trial continue that same afternoon and evening, and on 15 September the court sentenced two of the defendants to death, and four others to 25 years' imprisonment. Any court which appoints new lawyers against the wishes of defendants and which continues the proceedings when new lawyers have not had time to prepare the case contravenes fundamental requirements of the *International Covenant on Civil and Political Rights* -- and to impose the death penalty after such unfair procedures is a blatant violation of the right to life.

Some leading Egyptian defence lawyers -- whom some of the defendants in these cases wished to have represent them -- are reportedly refusing to participate in any manner in these trials of civilians before military courts on the grounds that such trials are inherently unfair and illegitimate (a view shared by many other members of the legal profession, including those acting as the defence lawyers in these cases).

8. NO RIGHT TO APPEAL

Those convicted by military courts have no right of appeal to a higher court, in violation of one of the most fundamental guarantees for a fair trial.⁶

Death sentences pronounced by these military courts are subject only to ratification by the President of Egypt, and then review by the Military Appeals Bureau (also headed by the President). All death sentences are referred to the President of the Republic for final approval or the possible exercise of clemency.

9. THE DEATH PENALTY

Between December 1992 and the end of September 1993, military courts had sentenced 28 civilians to death, and 14 executions by hanging had taken place. Other military trials were continuing at the end of September. If nothing is done to stop these grossly unfair military trials and to ensure that civilians receive fair trials in civilian courts, more civilians could soon be sentenced to death and executed in violation of international law.

These executions after unfair trials constitute summary or arbitrary executions. The United Nations Commission on Human Rights has condemned summary or arbitrary executions as an "abhorrent practice...which represents a flagrant violation of the most fundamental right, the right to life".⁷ The most recent report of the *United Nations Special Rapporteur on extrajudicial, summary or arbitrary executions* emphasized that "trials leading to the imposition of capital punishment...should conform to the highest standards of independence, competence, objectivity and impartiality of the judges, and all safeguards and guarantees for a fair trial must be fully respected, in particular as regards the right to defence and the right to appeal and to seek pardon or commutation of the sentence".⁸

The United Nations Human Rights Committee in July 1993 expressed concern that Egypt's new laws against terrorism are overly broad in the range of acts they cover and that they enlarge the number of offences which are punishable with the death penalty (see section 10 below). The Committee called on the Egyptian Government "to bring its legislation in conformity with the provisions of Article 6 of the Covenant [the right to life] and, in particular, limit the number of crimes punishable by the death penalty."⁹

Amnesty International is unconditionally opposed to the death penalty, which it regards as the ultimate cruel, inhuman or degrading punishment and a violation of the right to life. The organization has urged

⁶International Covenant on Civil and Political Rights, Article 14 (5); United Nations ECOSOC Safeguards guaranteeing protection of the rights of those facing the death penalty, Safeguard 6.

⁷Resolution 1993/71

⁸UN Doc. E/CN.4/1993/46, para.680

⁹Comments by the Human Rights Committee, 48th session, Egypt, para.13

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the Egyptian authorities to move towards abolition of the death penalty. As explained above, by executing people after unfair trials the Egyptian authorities are violating international law and carrying out summary or arbitrary executions. But even if the death penalty were enforced by scrupulous procedures, the risk of error is always present, yet the penalty is irrevocable. There is no reliable evidence that the death penalty deters crime more effectively than other punishments.

10. VAGUENESS AND BROAD NATURE OF NEW LAWS AGAINST TERRORISM

The civilians being referred to military courts have been charged with offences relating to "terrorism". The wording of Egypt's new legal provisions against terrorism, introduced in 1992 through Law No. 97 amending the Penal Code, is unacceptably broad and vague.

For example, Article 86 of the Egyptian Penal Code as amended, which defines the offence of "terrorism", says:

"For the purposes of applying the provisions of this law, 'terrorism' means any use of force, violence, threat or intimidation perpetrated as part of an individual or collective criminal plan aimed at breaching public order, or endangering public safety and security, if this leads to harming or 'terrorising' individuals or endangering their lives, freedom or security, or causing damage to the environment, means of transport or communications, public or private property or buildings, or occupying or appropriating any of these, or preventing or obstructing the authorities, places of worship or educational establishments in the performance of their duties, or preventing the implementation of the Constitution, laws or regulations."¹⁰

Article 86 bis (a) provides for the death penalty for any person who sets up or organizes any association or group whose aims include any of those contained in the afore-mentioned paragraph, if 'terrorism' is among the means used.

Such vaguely-worded laws do not make clear to the Egyptian people, judges and legal experts precisely what acts qualify as 'terrorism'. This vagueness increases the risk that some people may be charged and tried even though there is not sufficient evidence that they have committed a specific and recognizably criminal act, and that others who are convicted of a recognizably criminal offence will be subjected to increased penalties (including the death penalty) because they have been deemed to have committed the offence in connection with vaguely-defined "terrorism".¹¹

The United Nations Human Rights Committee examined Egypt's laws against 'terrorism' in July 1993 and concluded:

"The Committee expresses concern at the many severe measures taken by the Egyptian Government to combat terrorism in the country. It is aware that the increasing number of terrorist acts especially in the last 12 months have created a dramatic situation in the country. However, recognizing that the

¹⁰Amnesty International's translation

¹¹As explained in section 1 above, some of the defendants in the cases observed by Amnesty International have been charged with specific crimes in connection with "terrorism", while others have been charged more generally with being part of a "terrorist" group.

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Government has a duty to combat terrorism, the Committee considers that the measures taken to do so should not prejudice the enjoyment of the fundamental rights enshrined in the Covenant, in particular, its articles 6, 7 and 9.

The Committee is particularly disturbed by the adoption in 1992 of law No. 97 on terrorism, which contains provisions contrary to articles 6 and 15 of the Covenant. The definition of terrorism contained in that law is so broad that it encompasses a wide range of acts of differing gravity. The Committee is of the opinion that the definition in question should be reviewed by the Egyptian authorities and stated much more precisely, especially in view of the fact that it enlarges the number of offences which are punishable with the death penalty. The Committee underscores that according to article 6, paragraph 2 of the Covenant, only the most serious crimes may lead to the death penalty."¹²

The United Nations ECOSOC Safeguards guaranteeing protection of the rights of those facing the death penalty require that "in countries which have not abolished the death penalty, capital punishment may be imposed only for the most serious crimes, it being understood that their scope should not go beyond intentional crimes with lethal or other extremely grave circumstances".¹³

11. DIVISION OF CASES INTO SEPARATE TRIALS OF SUB-GROUPS OF DEFENDANTS

The defendants charged in connection with the alleged organization *Talai' al-Fatah* have been divided into at least four sub-groups for separate military court trials. Legal experts in Egypt have criticized the fact that the country's military courts are able to render a final judgment or sentence in such cases without waiting until all the trials of the sub-groups have been completed, even though evidence may come to light in a trial of one sub-group which would be relevant to the other trials, perhaps even crucial to the determination of guilt or innocence.

12. ABUSES BY ARMED OPPOSITION GROUPS

Amnesty International recognizes the fact that there have been many politically motivated acts of violence in Egypt. The organization has strongly condemned deliberate and arbitrary killings by armed opposition groups in Egypt.¹⁴ Amnesty International has called for an immediate halt to such killings, emphasizing that they are contrary to international humanitarian standards which apply both to governments and armed opposition groups.

While the government has the right and responsibility to bring to justice those responsible for such crimes, this can never justify the use of torture, unfair trials, or summary or arbitrary executions by the authorities.

¹²Comments by the Human Rights Committee, 48th session, Egypt, para.8

¹³Safeguard 1

¹⁴For example, Egypt: Amnesty International concerned at deliberate and arbitrary killings by armed opposition groups, 10 August 1993, AI Index MDE 12/WU 05/93

Amnesty International October 1993AI Index: MDE 12/16/93

13. RECOMMENDATIONS TO THE EGYPTIAN AUTHORITIES

Amnesty International is calling on the Egyptian authorities to:

- a. stop referring civilians to be tried in military courts;
- b. halt immediately all pending trials of civilians in military courts, and transfer the cases to civilian courts for a new trial;
- c. launch new trials in civilian courts for all civilian prisoners who have been convicted by military courts;
- d. ensure that the new trials in civilian courts provide all internationally recognized guarantees of fairness;
- e. commute all pending death sentences;
- f. implement safeguards to prevent incommunicado detention and torture, order prompt, thorough and impartial investigations of all reports of torture, bring to justice the perpetrators, and ensure that statements extracted by torture are not invoked as evidence in court (except against the perpetrators);
- g. review the amendments regarding terrorism introduced into the Penal Code in 1992, with the aim of defining more precisely the offences and moving toward the omission of the death penalty as a punishment.