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# EGYPT

## Indefinite detention and systematic torture: the forgotten victims

### 1 INTRODUCTION

Gross human rights violations continue to be carried out in the name of “fighting terrorism” in Egypt. Thousands of political detainees have been held without charge or trial, some for as long as six years; systematic torture continues to be used against suspected members of, or sympathizers with, armed Islamist groups; the President of the Republic continues to send scores of civilians to military courts whose procedures are grossly unfair and which have handed down 70 death sentences over the last three and a half years. Even though, according to the Egyptian authorities, killings by security forces have taken place in clashes with members of armed groups, some of these killings bear the hallmark of extrajudicial executions. Political violence between armed Islamist groups and security forces has claimed the lives of at least 1,000 people since early 1992, mostly security officers and members or suspected members of armed groups, but also some civilians caught in the crossfire. Armed groups have also been responsible for grave human rights abuses. Dozens of civilians, including members of the Coptic Christian community and tourists, have been deliberately killed.

In May 1996 the United Nations Committee against Torture issued a report summarizing the processes of a confidential inquiry carried out since November 1991 and concluded that “torture is systematically practised by the Security Forces in Egypt, in particular by State Security Intelligence, since in spite of the denials of the Government, the allegations of torture submitted by reliable non-governmental organizations consistently indicate that reported cases of torture are seen to be habitual, widespread and deliberate in at least a considerable part of the country.” Amnesty International and other human rights organizations have, on many occasions, made detailed recommendations to the Egyptian Government to take measures to stop violations and to improve its human rights record, but these have been ignored.

While Amnesty International recognizes the right of the Egyptian Government to bring to justice anyone who has committed a recognizably criminal offence, this must be conducted within the rule of law and with full respect for human rights. It would seem, however, that the rule of law is sacrificed in Egypt. The Government consistently uses indefinite administrative detention, thus breaching its obligations under international treaties, particularly the International Covenant on Civil and Political Rights (ICCPR), ratified by Egypt in 1982, and even disregarding the few safeguards provided for by laws related to the State of Emergency, in force without interruption since 1981. Political detainees are routinely tortured, but Government officials continue to deny the systematic use of torture. They have stated to Amnesty International that there may have been some individual cases of torture but this does not amount to a government policy. However, Amnesty International has since 1981 issued numerous reports and sent direct communications to the Government documenting the systematic use of torture against political detainees. It has also submitted reports to the United Nations, under Article 20 of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT), ratified by Egypt in 1986.

Over the last 18 months the Egyptian Government, in particular the Minister of the Interior, has lashed out at international and local human rights organizations and accused them of “defending the rights of terrorists”, or propagating false and politically motivated information, each time a report on any aspect of human rights in the country is published by these organizations. The Government continues to claim that

human rights are respected in Egypt and to reject the findings of these organizations as baseless.

This report focuses on administrative detention, torture and the death penalty for which the Egyptian Government is responsible, as well as on killings and other human rights abuses by armed opposition groups. Amnesty International has other serious human rights concerns, including unfair trials and possible extrajudicial executions, which are not discussed in this report.

## **2ADMINISTRATIVE DETENTION**

Thousands of sympathizers, members and suspected members of unauthorized Islamist groups have been administratively detained without charge or trial, some for as long as six years, under Article 3 of the Emergency Law. Under this article, the Minister of the Interior may “arrest and detain suspected persons or those who endanger public order or security.” Anyone detained under this article may petition against detention after 30 days have elapsed from the date on which the detention order was issued. These petitions are referred to the (Emergency) Supreme State Security Court, which has to give a reasoned decision within 15 days of presentation of the petition after hearing the detainee’s testimony. If the court decides to release the detainee the Minister of the Interior may challenge this decision within 15 days. If the Minister objects to the decision the matter is referred to another equivalent court within 15 days of the Minister’s objection, and this court must issue its decision within 15 days of the referral. If the second court orders release, this decision has to be given effect. If the court orders continued detention, the detainee is entitled to submit a fresh petition after 30 days have elapsed.<sup>1</sup>

In practice, however, when a second court orders release, detainees are, most of the time, secretly transferred to local police stations, Firq al-Amn (security brigades), the Headquarters of the State Security Investigations Department (SSI) in Cairo or SSI branches elsewhere in the country by SSI officers for a few days before they are issued with new detention orders and taken back to prison. Some detainees were charged and tried by state security courts or military courts, and were acquitted. However, instead of being released after judgments were pronounced, they were issued with new detention orders and have been illegally held in various prisons. The Government, however, continues to deny that detainees are held illegally. In 1993 it stated to Amnesty International that “anyone whose petition was accepted and where the court decided to release him was released, except where the released person returned to his terrorist activities immediately on his release, thus requiring new security measures to be taken in his regard (in relation to his activities following release)”.

Amnesty International has, on many occasions, reminded the Egyptian Government of its obligations under international treaties and drawn its attention to the requirement that detainees be brought before a judicial authority without delay, as stipulated by Article 9(4) of the ICCPR, which states that “Anyone deprived of his liberty by arrest or detention shall be entitled to take proceedings before a court, in order that that court may decide without delay on the lawfulness of his detention and order his release if the detention is not lawful.” This is also required by Principle 11.1 of the United Nations Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment (Body of Principles),

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<sup>1</sup>For more details on the system of administrative detention in Egypt see Amnesty International’s reports entitled *Egypt: Arbitrary detention and torture under emergency powers* (AI Index: MDE 12/01/89, published in 1989) and *Egypt: Security police detentions undermine the rule of law* (AI Index: MDE 12/01/92, published in 1992).

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which states that “A person shall not be kept in detention without being given an effective opportunity to be heard promptly by a judicial or other authority.”

Thousands of political detainees have also been denied the basic right to be visited by lawyers and family members. Detainees held in the High Security Prison in Tora (commonly known as the Scorpion Prison), Istiqbal Tora Prison and al-Fayoum Prison, a new prison which was opened in May 1995, have had no access to lawyers and families since December 1993, September 1994 and May 1995, respectively, because visits to these prisons have been banned by the Minister of the Interior. This ban totally disregards international human rights standards. For example, Principle 15 of the Body of Principles states that “... communication of the detained or imprisoned person with the outside world, and in particular his family or counsel, shall not be denied for more than a matter of days.” It also violates Egyptian law. Articles 38, 39 and 40 of the Law Regulating Prisons guarantees the detainee’s right to visits by lawyers and families.

The following cases illustrate the pattern of administrative detention practised in Egypt. They are a small sample representative of thousands of others.

**Mu‘awwadh Mohammad Youssef Gawda**, a 34-year-old lawyer, married with two children, was arrested in Cairo on 18 May 1991. He was allegedly beaten up in his house by SSI officers before being transferred to the SSI headquarters in Lazoghly Square where he was reportedly tortured during interrogation. Methods of torture were believed to have included the use of electric shocks on various parts of his body. He was then transferred to Istiqbal Tora Prison. A petition (no. 3778/year 1991) was submitted on his behalf by his wife to the (Emergency) Supreme State Security Court. The court ordered his release on 17 June 1991, but the Minister of the Interior objected on 29 June 1991. A second court decided on 7 July 1991 that he should be released, but he was reportedly taken secretly by SSI officers to the SSI Headquarters in Lazoghly Square and was allegedly tortured again. He was then issued with a new detention order on 13 July 1991 and taken back to Istiqbal Tora Prison. His wife again challenged the detention (petition no. 5811/year 1991). On 28 August 1991 a court ordered his release, but the Minister of the Interior objected on 9 September 1991. A second court over-ruled this objection on 15 September 1991 and issued a new order for the detainee’s release. The same process was then repeated: the detainee was taken to the SSI Headquarters for a few days, then returned to prison with a new detention order. As of March 1996 he had been issued with more than 21 release orders. He remained in Istiqbal Tora Prison for nearly two years, during which he was taken back to Lazoghly Square on many occasions and was allegedly tortured each time. He was then transferred to al-Marg Prison, then Abu Za‘bal Penitentiary, Abu Za‘bal Industrial Prison, the High Security Prison, and Istiqbal Tora Prison. In February 1995 he was transferred to al-Wadi al-Gadid Prison and in the summer of that year he was taken back to Istiqbal Tora Prison, where he is still held without charge or trial.

**At least 48 other lawyers have been administratively detained. Both the Egyptian Organization for Human Rights and the Bar Association have been campaigning**

**for their release, but to no avail.** **Hassan al-Gharbawi Shahhata**, aged 34, is one of the longest serving administrative detainees in the country. He was arrested on 11 January 1989 and charged in connection with two cases relating to disturbances in ‘Ain Shams, a densely populated district in Cairo. He was tried and acquitted in May 1990, but has remained in administrative detention since then, despite

many court orders to release him. He is now held in al-Wadi al-Gadid Prison and is reportedly suffering from ill-health. Amnesty International has raised his case with the Egyptian authorities on a number of occasions. The Government stated in 1993 that Hassan al-Gharbawi Shahhata "is a leading member of a secret terrorist organization using violence and terrorism to achieve its unlawful aims. A number of his attempts to provoke sectarian strife and carry out hostile acts were abortive. He was previously charged in case No. 47/86 - Supreme State Security (disturbances in 'Abedine Square). He was also charged in case No. 2730 of 1989 - felonies / 'Ain Shams district). He was previously charged in case No. 52/89 - Supreme State Security (attempt to blow up a bus). He was among those questioned during investigations into case No. 2731 of 1989 - felonies / 'Ain Shams (disturbances and incidents of violence and terrorism in the 'Ain Shams district). He is currently held in detention (in accordance with law No 162 of 1958)<sup>2</sup> in light of the criminal and terrorist danger he represents, issuing directives and orders to elements of a secret terrorist organization to undertake acts of violence and terrorism." The Government, however, failed to acknowledge that he was tried and acquitted of all the charges and that his continuing detention is illegal. In December 1993 the UN Working Group on arbitrary detention concluded that the detention of Hassan al-Gharbawi Shahhata was arbitrary because it contravened Articles 9 and 10 of the Universal Declaration of Human Rights as well as Articles 9 and 14 of the ICCPR.

**Mohammad Sulayman Mohammad 'Ali**, aged 22, was in his third and final year of high school in Cairo when he was arrested on 6 November 1993. Up until July 1995 he was issued with four release orders by the courts (19 January 1994, 27 September 1994, 7 January 1995 and 26 February 1995) but was also issued with four new detention orders (23 January 1994, 2 October 1994, 11 January 1995 and 4 March 1995). On 13 July 1995 the then member of the People's Assembly (Parliament), Kamal Khaled, wrote to the Speaker of the People's Assembly and to the Minister of the Interior requesting clarification on the reasons behind the continuing detention of Mohammad Sulayman Mohammad 'Ali, but as yet has received no response from either. Mohammad Sulayman Mohammad 'Ali continues to be held without charge or trial.

**Mahmoud Mubarak Ahmad**, a 28-year-old unmarried medical doctor working in a hospital in Kitkata, a village in Sohag in the south of Egypt, was arrested on 24 January 1995 by SSI officers. No one was informed of his arrest or his whereabouts until 14 July 1995 when his family learned that he was detained in Istiqbal Tora Prison. The family also learned that Mahmoud Mubarak Ahmad had been arrested while driving from Kitkata to Sohag and that he had been held in the SSI branch in Sohag first, then in Sohag Prison, before he was transferred to Istiqbal Tora Prison. He was reportedly accused of membership of a secret organization but at the end of 1995 a court ordered his release. Instead of being released he was issued with a new detention order and was transferred to al-Wadi al-Gadid Prison where he is still being held without charge or trial.

**Mahmoud Khalifa Sayyid Nasr al-Din**, aged 23 and employee of a company, was arrested at his parents' home in 'Ain Shams in Cairo on 2 November 1994. He was reportedly held in a police station at al-Madha in Cairo, until mid-December 1994 when he was taken to Istiqbal Tora Prison. His family did not know his whereabouts until someone who was detained in the same police station and later released told them that he saw him there. On around 18 or 19 December 1994 his mother and brother took some food to the police station, hoping to see their son there, but they were told that he was not there and the

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<sup>2</sup>This law is the emergency law which provides for the proclamation and implementation of a state of emergency.

police denied that he had ever been held there. The family learned from another friend that he had been transferred to Istiqbal Tora Prison. In February 1995 he was transferred to al-Wadi al-Gadid Prison, where he is still being held without charge or trial despite the fact that he has been issued with a number of release orders. Since February 1995 each time he was issued with a release order he was transferred to a police station in al-Kharga town for a few days and then returned to the prison with a new detention order. In June 1995 his father went to see him in al-Wadi al-Gadid Prison, but after a journey of about 12 hours he was told by the authorities at the prison that his identity card had expired and therefore he could not visit his son. The father returned to Cairo without seeing his son. His mother visited him later.

**‘Abd al-Hakim Fahmi ‘Awwad ‘Ammar Isma‘il**, a 28-year-old student married with two children, was arrested in early 1993 in connection with the *Talai’ al-Fatah* case<sup>3</sup>. When the Military Prosecution received the file from the State Security Prosecution after the case had been referred to be tried by a military court following a presidential decree, the Military Prosecution decided on 10 August 1993 that there was no evidence against him and ordered the Prisons Department to release him. However, he was never released and was detained without charge or trial in various prisons until the beginning of 1995 when he was transferred to al-Wadi al-Gadid Prison, where he is still being held without charge or trial.

**Youssef Mohammad Salah**, a 39-year-old businessman, married with seven children, was arrested on 17 May 1995. He holds dual US and Egyptian citizenship. He had lived in the US for around 15 years before he returned to Egypt with his American wife and their children on 17 November 1994. On 17 May 1995 SSI officers reportedly burst into their house in a small town outside Alexandria. Youssef Mohammad Salah was not there at the time but when he heard that they were looking for him, he reportedly returned during the same day and went to the SSI branch in Alexandria. He was arrested there and was taken to the SSI headquarters in Lazoghly Square, where he allegedly remained for two weeks. He was then transferred to Mazra‘at Tora Prison. He was reportedly charged with membership of an illegal organization and possession of weapons. He was kept in detention while investigations were being carried out until 17 November 1995 when the State Security Prosecution ordered his release. He was, however, transferred by SSI officers to the SSI Headquarters in Lazoghly Square for 18 days and was issued with a new detention order from the Ministry of the Interior and returned to Mazra‘at Tora Prison. Early in 1996 he was issued with two release orders by courts, but instead of being released he was taken on 11 February to the SSI Headquarters yet again for around six days and then transferred to al-Fayoum Prison, where visits are banned. He is being held there without charge or trial.

The cases highlighted above, and thousands of similar cases, demonstrate that the Egyptian Government is sanctioning indefinite arbitrary detention, thus flagrantly disregarding international human rights treaties which it has ratified and other international standards and consistently undermining the independence of its own judiciary. Amnesty International once again urges the Government to review and revise Emergency Law provisions, which have also facilitated systematic torture and provided for executive approval of courts’ decisions and verdicts. In 1993 the Human Rights Committee and the UN Committee against Torture concluded that the State of Emergency was a serious impediment to the

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<sup>3</sup>*Talai’ al-Fatah* is a splinter group of *al-Gihad* (Holy Struggle), an unauthorized Islamist group. Two Amnesty International delegates observed parts of the trial of scores of alleged members of this group in September 1993. For more information on this case and on the trial see Amnesty International’s report *Egypt: Military trials of civilians: a catalogue of human rights violations* (AI Index: MDE 12/16/93, published in October 1993).

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implementation of the ICCPR and the CAT, respectively.

### 3 TORTURE

Egyptian laws, including Article 42 of the Constitution and Article 40 of the Code of Criminal Procedures, prohibit torture and ill-treatment of detainees. Article 42 of the Constitution also invalidates confessions obtained under duress. Under Article 126 of the Penal Code any public servant found guilty of inflicting, or ordering the use of, torture on an accused person in order to extract a confession is to be sentenced to three to 10 years' imprisonment. However, despite the Government's pledges to abide by international human rights treaties which forbid torture, and despite constitutional and legislative guarantees, torture of political detainees continues to be systematic, in clear violation of international and national law.

Amnesty International has over the years issued numerous reports documenting the systematic use of torture against political detainees in Egypt<sup>4</sup>. Torture continues to take place in the SSI headquarters in Lazoghly Square, SSI branches in the country, police stations and Firaq al-Amn, where detainees are held incommunicado. Torture usually occurs immediately following arrest, but also when detainees are secretly transferred to these places following the issuing of release orders by courts (as explained above) pending their return to prison with new detention orders. The most common methods reported are the use of electric shocks, beatings, suspension by the wrists or ankles, extinguishing of cigarettes on the body, and various forms of psychological torture and ill-treatment, including threats of rape or sexual abuse of the detainee or of his female relatives in front of him. Amnesty International has received numerous reports that torture and ill-treatment also occur in prisons. Over the last three years an increasing number of detainees have died in custody, some reportedly as a result of torture, but in almost all cases the Government has stated that their deaths were due to natural causes.

Amnesty International welcomes recent court decisions in three separate cases not to accept as evidence confessions which had been made under duress. On 14 October 1995 the (Emergency) Supreme State Security Court pronounced judgment in the case known as the "Tima Case" (Supreme State Security Case Nos. 388 and 95 for the year 1993). Five alleged members of *al-Gama'a al-Islamiya*, **Bakhit 'Abd al-Rahman Salem, Mohammad Fawzi 'Abd al-'Adhim, Mahmoud Mostafa Sulayman, al-Sayyid Maqboul Fahmi** and **'Ali Ahmad 'Ali Ahmad**, had been charged, among other things, with "criminal collusion", murdering a policeman, attempting to kill a soldier and illegal possession of weapons. The incidents took place just outside Tima, a small town in Sohag Governorate, south of Cairo, between 9 and 11 March 1993. The court acquitted all defendants of the charges brought against them on the basis that their confessions were extracted under duress (in addition to other breaches of procedure). The court relied on the forensic medical reports of the examinations of the defendants which found that the injuries they sustained were consistent with the methods of torture to which the defendants alleged they had been subjected. The forensic report on the first defendant, Bakhit 'Abd al-Rahman Salem, states that there were bruises on both thighs and both legs, which were the result of beatings by an object such as a stick. In addition, the report also found traces of an injury on his penis which could have been caused by the use of electric shocks.

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<sup>4</sup>See for example Amnesty International's October 1991 report entitled *Egypt: Ten years of torture* (AI Index: MDE 12/18/91).  
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On 14 December 1995 the (Emergency) Supreme State Security Court pronounced judgment in another case known as the “Abu Tig Case”. Five defendants, **‘Abd al-Rahman Farag Sayyid Morsi**, **‘Abd al-Gayyid ‘Ali Ahmad**, **Mohammad ‘Ali ‘Abd al-‘Aal Isma‘il**, **Ga‘far Mahmoud Nasr** and **‘Amer ‘Abd al-Rahim Mahmoud ‘Ali**, were acquitted of the charges brought against them. They had been charged with membership of an illegal organization, *al-Gama‘a al-Islamiya*, that “calls for the suspension of constitutional provisions and harming national unity and social peace”, and “criminal collusion”. They were also accused of murdering a police officer in a small village called Abu Sami‘ near Abu Tig, in Asyut Governorate, on 21 May 1993, and of possessing weapons. The court ruled that, among other things, confessions made by the defendants during interrogation had been extracted under physical and psychological duress.

The same court gave its verdict on the same day in another case known as the “Ahnassia Case” (Supreme State Security Case No.1200 of 1994). The case involved 13 alleged members of *al-Gama‘a al-Islamiya*, who had been arrested in the summer of 1994 in connection with the attempted assassination on 15 June 1994 of two SSI officers in Ahnassia, a small town in Bani Sueif Governorate, south of Cairo. Their trial started in the summer of 1995. They were all charged with membership of an illegal organization, *al-Gama‘a al-Islamiya*. Some defendants were accused of “criminal collusion”, while two defendants were accused of attempting to murder two SSI officers. The court acquitted 10 defendants of all charges and sentenced three people to prison terms, one to five years’ imprisonment with hard labour and the other two to three years’ imprisonment each, for membership of an illegal organization. It ruled that it could not rely on the prosecution witnesses, mainly SSI officers, whose statements it found marred by contradictions. It also ruled that confessions made by the defendants during interrogation had been extracted under physical and psychological duress. All defendants alleged that they had been tortured following arrest. For example, **Gamal ‘Amer Mohammad Ahmad** who was arrested on 22 June 1994 in Bani Sueif, claimed on 26 October 1994, when the State Security Prosecution was reviewing his detention, that he had been tortured following his arrest. The torture allegedly left injuries on his body. He was acquitted of all the charges brought against him.

Other people arrested in the same case but who were not formally charged also claimed they had been tortured. They are believed to be still held without charge or trial. They include **Ashraf ‘Uwais Sulayman**, aged 26, who was arrested on 9 July 1994. While the State Security Prosecution was reviewing his detention on 10 September 1994 he stated that following his arrest he was taken to the SSI branch in Bani Sueif. Before entering the building he was blindfolded by members of the SSI and his hands were handcuffed behind his back. Once inside, he alleged, electric shocks were applied to his body, including on his calves and at the back of his ears while he was lying on his back. This was allegedly repeated several times. He was also punched in the face and kicked which reportedly resulted in an injury on his left knee. He was referred to a forensic medical doctor on 12 September 1994 and the report stated “on forensic examination of the accused, Ashraf `Uwais Sulayman, two injuries of a traumatic nature were found on the left wrist and the back of the left knee. Such injuries could result from a trauma with a blunt hard object(s) of any type. The exact date of their occurrence could not be determined given that both wounds have healed. This does not exclude the possibility that the accused was beaten on the date referred to in the [relevant] documents, and in the prosecution statement [report]. As for the allegation made by the accused in the prosecution statement that he was exposed to electricity, this matter cannot be proved or disproved since the ordinary electric current does not leave behind any trace of injury.”

Amnesty International obtained copies of medical reports by forensic doctors working in the Forensic  
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Department at the Ministry of Justice concerning some of the defendants in the “Ahnassia case”. These official reports are representative of scores of cases obtained by Amnesty International. Medical examinations are carried out only on political detainees who are actually charged and questioned by the Prosecution. Administrative detainees, held without charge or trial, usually do not have the opportunity to complain about their treatment to the Public Prosecutor’s Office. Such examinations have often taken place long after the alleged torture occurred, which clearly detracts from their usefulness, as physical traces of torture may fade or disappear in the meantime. In addition, methods of torture used may, as in the case of electric shocks, leave few or no physical traces.

The defendants acquitted in the three court cases mentioned above are believed to be still detained, mostly in the High Security Prison, since the three court verdicts have yet to be ratified by the President of the Republic. Under Article 12 of the Emergency Law, judgments by these courts are not final until ratified by the President, and under Article 13 he may decide to revoke the judgment and order a retrial by another court of the same standing. Whenever a court conducting the retrial decides on acquittal this second verdict must also be ratified by the President<sup>5</sup>. This procedure violates independence of the judiciary and the prohibition of double jeopardy<sup>6</sup>. There is no right of judicial appeal.

The following testimony, by a former detainee interviewed by Amnesty International delegates in 1995, is typical of hundreds of torture testimonies gathered by Amnesty International since 1981. The detainee stated that he was arrested on 27 April 1995 at around 2.30 am. He recounted the following: “... I was sleeping when I heard people knocking at the front door. My sister opened the door and there were many SSI officers who came into the house and started searching it. I was upstairs and they came there. They told me I had to go with them just for five minutes and then I would go back home. I asked them if they had an arrest order and they said no. They took a lot of books, my university degree and my passport. I went downstairs with them and then they blindfolded me. After we got out of house they pushed me inside a car and drove away.... The car stopped and I was taken inside a building which I later knew was Lazoghly [Square - the headquarters of the SSI]. Two people started interrogating me. They handcuffed me with tight iron handcuffs, my hands behind my back... The questions they asked were about which mosque I go to, which books I have read, who do I know, etc... Then I was stripped of most of my clothes. They starting beating me and they also used electric shocks on different parts of my body, including my private parts... They also put me on a table and suspended my arms from the door and then pushed the table out from under me. I was left suspended behind the door for about 30 minutes. This torture was repeated many times during the first few days of my detention in Lazoghly, usually between 10am and 4pm, but sometimes after 10pm. I was downstairs but I could hear people screaming upstairs... I was kept there for 22 days. During the first 15 days my family did not know where I was, then someone from the Journalists’ Syndicate came and visited me. I was then taken to al-Fayoum Prison. There I was beaten repeatedly with a stick by the prison guards... I was released on 24 June thanks to the efforts made by the Journalists’ Syndicate... I have not made any complaint because I am afraid that they will arrest me again....”. Amnesty International’s delegates noted some marks, which this person said were of the torture

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<sup>5</sup>For more information on Amnesty International’s position on trials before (Emergency) State Security Courts see the organization’s May 1989 report entitled *Egypt: Arbitrary detention and torture under emergency powers* (AI Index: MDE 12/01/89), pp 14-16.

<sup>6</sup>Article 14(7) of the ICCPR states: “No one shall be liable to be tried or punished again for an offence for which he has already been finally convicted or acquitted in accordance with the law and penal procedure of each country.”

AI Index: MDE 12/13/96 Amnesty International July 1996

he had undergone, on his left shoulder and left upper arm.

Amnesty International has for years repeatedly urged the Egyptian Government to eradicate the use of torture and set up prompt, thorough and impartial investigations into all allegations of torture and that the methods and conclusions of such investigations be made public within reasonable time. The organization has consistently drawn the authorities' attention to their obligation under international human rights treaties which they have ratified. Article 12 of CAT states that "Each State Party shall ensure that its competent authorities proceed to a prompt and impartial investigation, wherever there is reasonable ground to believe that an act of torture has been committed in any territory under its jurisdiction". The Egyptian Government stated in its response to Amnesty International's September 1994 report<sup>7</sup> that "torture allegations, assuming some of them are true, are limited to exceptional individual cases and do not amount, in any way, to a pattern or a systematic policy, which is condemned by our legislation, by the religions we believe in and by our customs and traditions". However, even when the Government admitted that there may have been some exceptional individual cases of torture, no preventive measures are reported to have been taken to remedy the situation.

In May 1996 the Committee against Torture having concluded that torture was indeed systematically practised in Egypt, noted with concern that "no investigation has ever been made and no legal action been brought against members of State Security Intelligence since the entry into force of the Convention for Egypt in June 1987." The Committee urged the Egyptian Government to "make particular efforts to prevent its security forces from acting as a State within a State, for they seem to escape control by superior authorities." It recommended that the Government set up an "independent investigation machinery, including in its composition judges, lawyers and medical doctors, that should efficiently examine all the allegations of torture, in order to bring them expeditiously before the courts. This independent group should also monitor the safeguards against torture guaranteed to persons deprived of their liberty under Egyptian law, in particular by having access to all the places where allegations of torture have been reported, by alerting immediately the authorities concerned whenever those safeguards are not fully respected, and by making proposals to the authorities concerned to ensure that those safeguards are respected in all places where persons are detained." The Committee also urged the Government to set up a "thorough investigation into the conduct of the police forces in order to establish the truth or otherwise of the many allegations of acts of torture, bring the persons responsible for those acts before the courts and issue and transmit to the police specific and clear instructions designed to prohibit any act of torture in the future."

The Human Rights Unit within the Public Prosecutor's Office, set up in November 1993, is charged with investigation of reports of torture and other human rights violations. However, despite the hundreds of complaints lodged with the Unit by lawyers, acting on behalf of their clients, the Bar Association and local human rights groups, particularly the Egyptian Organization for Human Rights and the Centre for Human Rights Legal Aid, no prompt and impartial investigations are known to have been conducted. In spite of this the Government continues to claim that all allegations of torture are officially investigated. Amnesty International has, on many occasions, specifically requested copies of reports of investigations claimed to have been carried out, but has received none to date. In October 1994 the Government stated to Amnesty International that "the Niyaba [the Prosecution]- including the Public Prosecutor's Technical Office [the Human Rights Unit], is not obliged to publish the results of any investigation it carries out. In

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<sup>7</sup>Egypt: *Human rights defenders under threat* (AI Index: MDE 12/15/94).  
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spite of this, and as an indication of its cooperation in the field of human rights, the Niyaba, through its Technical Office, published the results of investigations relating to certain cases. However, because of the misuse in certain quarters of this information and the attempts to discredit it in the media inside and outside the country, the Niyaba has reverted to informing only those concerned with the results of any completed investigation, as stipulated by the law". But lawyers who have lodged numerous complaints, on behalf of their clients, with this Unit, have told Amnesty International delegates that even they do not receive any information about the outcome of such investigations. There is still little indication that complaints are indeed being properly investigated.

Over two years have now elapsed since the death, reportedly following torture, of lawyer Mohammad 'Abd al-Harith Madani<sup>8</sup> and the investigation into the circumstances surrounding his death is, according to the Government, still underway. Amnesty International has raised his case with the Government on a number of occasions and in October 1994 the Government stated that "the post mortem report has not yet been issued and the Office of the Public Prosecutor is continuing its investigations, the result of which will be announced once the investigations are completed"<sup>9</sup>. Amnesty International will continue to urge the Government to publish the result of the investigation into Mohammad 'Abd al-Harith Madani. The organization draws the Government's attention to the requirements of international standards. For example, Article 17 of the 1989 UN Principles on the Effective Prevention and Investigation of Extra-legal, Arbitrary and Summary Executions, which apply to deaths resulting from torture or ill-treatment in custody, requires that a detailed report of the investigations, including their findings and "the procedures and methods used to evaluate evidence", be "made public immediately" upon completion.

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<sup>8</sup>He was arrested on 26 April 1994 and died the following day. His family did not learn of his death until 6 May 1994, when they were ordered to collect his body from a morgue. For more information see Amnesty International's September 1994 report *Egypt: Human rights Defenders under threat* (AI Index: MDE 12/15/94).

<sup>9</sup>The Government's full response regarding this case is attached at the end of this report.  
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#### **4THE DEATH PENALTY**

While a number of countries worldwide have moved towards abolishing or at least reducing the use of the death penalty, in accordance with Article 6 of the ICCPR, Egypt has over the last few years increased its use dramatically. In the first four months of 1996 alone Amnesty International recorded 25 death sentences passed by criminal, military and (Emergency) State Security Courts in the country. During the same period four people who had been sentenced to death in separate cases in previous years were executed.

Since October 1992, when President Mubarak started issuing special decrees referring civilian cases to be tried by military courts, 70 people charged with “terrorist” offences have been sentenced to death, including 16 *in absentia*, by these courts and 48 executions have been carried out. Six people sentenced to death by the Supreme Military Court on 13 January 1996 had their sentences ratified by the President on 26 February but their executions have not been carried out yet. There is no right to appeal verdicts or sentences of military courts to a higher court<sup>10</sup>. All death sentences issued by military courts are subject only to review by the Military Appeals’ Bureau, a non-judicial body headed by the President, and ratification by the President. All death sentences issued so far have been confirmed by the Bureau and the President. Such procedures fall far short of international standards for fair trial, including Article 14 (5) of the ICCPR, which states that “Everyone convicted of a crime shall have the right to his conviction and sentence being reviewed by a higher tribunal according to law.”

Amnesty International has repeatedly called on the Egyptian Government to stop trying civilians before military courts and has, on many occasions, urged President Mubarak to commute all death sentences. The Government, however, continues to claim that trials of civilians before military courts are fair and that the President is empowered to refer crimes to the military judiciary.

The death penalty is also extensively used for criminal offences such as drug taking or trafficking and murder. Death sentences passed by criminal courts are referred to the Mufti, the highest religious authority in the country, for approval and then ratification by the President of the Republic or his nominee. According to the Egyptian Code of Criminal Procedures (Article 381) the Mufti has to give his opinion within 10 days after receipt of the case dossier and if he does not respond within that time then the verdict is final and the case dossier will go to the President of the Republic, through the Minister of Justice, for ratification. The sentence will be carried out if no order for a pardon or change of the sentence have been issued within 14 days from the receipt of the case dossier as stipulated for by Article 470 of the Code of Criminal Procedures. Final verdicts by criminal courts can be appealed against before the Court of Cassation only when it can be proved that there were procedural irregularities during the trial.

Amnesty International opposes the use of the death penalty in all cases, as the ultimate cruel, inhuman and degrading punishment and a violation of the right to life. The organization does not in any way condone the crimes allegedly committed by those sentenced to death and recognizes the right of states to bring criminals to justice. However there is no evidence that the death penalty is an effective deterrent to any such crimes. Amnesty International is concerned

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<sup>10</sup>For more information on unfair trials before military courts see Amnesty International’s October 1993 report entitled *Egypt: Military trials of civilians: a catalogue of human rights violations* (AI Index: MDE 12/16/93).

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that most death sentences passed, especially by military courts, were after unfair trials. International human rights standards stress the need for the most careful legal procedures and the greatest possible safeguards to be followed in death penalty cases. The United Nations' Economic and Social Council (ECOSOC) has underscored the need that these rights be respected in all cases involving the death penalty.<sup>11</sup>

## **SKILLINGS AND OTHER HUMAN RIGHTS ABUSES BY ARMED OPPOSITION GROUPS**

Amnesty International is gravely concerned by the growing number of civilians targeted by armed opposition groups. Over the last 18 months scores of civilians, including members of the Coptic community and some tourists, have been deliberately killed, reportedly by these groups, in particular *al-Gama'a al-Islamiya*. Most of these killings have taken place in Upper Egypt. In the period from January to April 1996 at least 46 civilians were deliberately killed by members of armed opposition groups.

On 19 February 1996 and on the eve of 'Id al-Fitr (end of Ramadhan), five civilians were shot dead in a coffee shop in the village of al-'Aqal al-Bahri near the town of al-Badari, south of Asyut, by three gunmen believed to be members of *al-Gama'a al-Islamiya*.

On 20 February 1996 three gunmen, believed to be members of *al-Gama'a al-Islamiya*, reportedly attacked a house in the village of Sahel Salim and killed two Coptic Christian brothers, Nabil Was'at Bashta, aged 29, and Girgis aged 13.

On 24 February 1996 two armed men, allegedly members of *al-Gama'a al-Islamiya*, opened fire on civilians who were sitting outside their houses in al-'Uthmaniya village, near al-Badari in the governorate of Asyut. The gunmen killed eight civilians including six Coptic Christians, Magdi Sadeq Gubrayal, aged 22, Zaki Tawfiq Mounir, aged 45, Boutros Nasif Rizq, aged 35, Kamil Fathi Bakhit, aged 38, 'Aziz Boutros Sulayman, aged 50, Makin Sa'ad Salem, aged 45, Gami' Shukri Nasir 'Abd al-Rahman, aged 43, and Khalaf Shukri Nasir 'Abd al-Rahman, aged 22. The two gunmen escaped. The area where the killings took place, known as 'Izbat al-Aqbat, is predominantly Coptic Christian and it appears that the victims were targeted because of their religion.

Eighteen Greek tourists, including 14 women, were deliberately killed outside a hotel in Cairo, by four armed men, in the early morning of Thursday 18 April 1996. Fifteen others, including

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<sup>11</sup>ECOSOC Res. 1984/50 of 25 May 1984. Safeguard 5 of the Safeguards guaranteeing protection of the rights of those facing the death penalty states that "Capital punishment may only be carried out pursuant to a final judgement rendered by a competent court after legal process which gives all possible safeguards to ensure a fair trial, at least equal to those contained in article 14 of the International Covenant on Civil and Political Rights, including the right of anyone suspected of or charged with a crime for which capital punishment may be imposed to adequate legal assistance at all stages of the proceedings." Safeguard 6 states that "Anyone sentenced to death shall have the right to appeal to a court of higher jurisdiction, and steps should be taken to ensure that such appeals shall become mandatory."

nine women, and an Egyptian man, were reportedly injured. *Al-Gama'a al-Islamiya* claimed responsibility for the killing adding that it believed the tourists were Israeli nationals and that it was in retaliation for Israeli attacks in Southern Lebanon. The 18 tourists killed were among a group of around 150 Greek holiday makers inside and outside the Europa Hotel, in Giza, waiting for buses to take them to Alexandria at the time of the shooting. The tourists were on an Easter visit to some Middle Eastern churches and other sites. The four gunmen reportedly got out of a van and started firing at the tourists for several minutes before they got back into the van and drove away. Amnesty International issued a statement on the same day strongly condemning the killings.

In recent years, armed opposition groups have also issued death threats. The well known writer, Dr Nasr Hamed Abu Zeid, remains under threat of death, which was reportedly issued by the armed opposition group, *al-Gihad* (holy struggle) on 21 June 1995. The death threat came after a court of appeal in Cairo ruled on 14 June 1995 that Dr. Nasr Hamed Abu Zeid should separate from his wife because he allegedly insulted the Islamic faith through his writings, and as a Muslim she could not remain married to an "apostate". On 29 June 1995 Amnesty International issued a public statement calling for the withdrawal of the death threat against him. Members of *al-Gama'a al-Islamiya* had already claimed responsibility for the killing of Farag Foda, a well known secularist writer, in June 1992, an act which Amnesty International condemned, and for attempting to kill Egypt's most famous novelist, Nobel laureate Naguib Mahfouz, in October 1994 for his writings.

The organization has repeatedly condemned all deliberate killings of civilians by armed opposition groups and continues to call for an end to such killings. They are human rights abuses which should not be tolerated under any circumstances.

## **6 THE GOVERNMENT'S RESPONSE**

Amnesty International has consistently raised its human rights concerns in Egypt with the Egyptian Government, whether through direct talks with Government officials or through written communications, but no practical steps have been taken to redress the situation. Over the last two years numerous communications have been sent to the Government regarding specific cases of human rights violations, but most of them have remained unanswered. The Government has, however, responded to reports published and placed in the public domain by Amnesty International. In October 1995 the Government's response to the organization's report, published during the same month entitled *Egypt: Deaths in custody* (AI Index: MDE 12/18/95) questioned the veracity of Amnesty International's information, specifically the names of detainees who had died in al-Wadi al-Gadid Prison, and stated that some of those mentioned by the organization were still alive and some had never been detained. It stated that the names cited by Amnesty International were incomplete and these should have been checked with the Government. The authorities' response completed those names considered incomplete and stated that they did not die. No further information was given. There are at least two thousands detainees in al-Wadi al-Gadid Prison and many have the same or similar first and middle names. Some in fact have the same full names. The Government has as yet failed to provide human rights organizations, including Amnesty International, with any statistics regarding deaths in custody. The response gave some information on 14 detainees who died in custody and who were mentioned in the report, but failed to give detailed information on the circumstances of death, nor did it give any details of the medical care which these men had been receiving. The response also stated that "Medical care is provided by resident doctors in al-Wadi al-Gadid Prison, as in all other Egyptian prisons. There is also a fully equipped hospital in the prison. According to Prison Regulations, al-Wadi al-Gadid Prison is subject to full judicial supervision. The Public Prosecution Authority is responsible for carrying out periodic inspections of the prison...".

This is inconsistent with the findings of Amnesty International and other international and national non-government human rights organizations which point to the fact that detainees are routinely tortured and ill-treated and that prison conditions are very poor. Amnesty International acknowledges that the Law Regulating Prisons provides many guarantees for detainees, but this does not reflect the reality - for example, thousands of prisoners and detainees in three prisons referred to earlier in the text, continue to be denied access to their lawyers and families.

Amnesty International delegates met with the Head of the Human Rights Unit within the Public Prosecutor's Office, in July 1995 and with the Head of the Human Rights Unit within the Foreign Affairs Ministry, in November 1995, and discussed human rights concerns. The delegates raised the cases of deaths in custody. They were told that all reports of torture and deaths in custody were being investigated but were not able to obtain details as to the methods and the procedures followed in the investigations. In the November meeting the delegates were again told that Amnesty International should have checked the names of those who died with the authorities. When the delegates asked for permission to undertake a visit to the prison in the near future they were told that it would not be allowed. The delegates again raised the case of 'Abd al-Harith Mohammad Madani and were told the investigation was still underway.



## **7RECOMMENDATIONS**

Amnesty International has repeatedly urged the Egyptian Government to act decisively to end human rights violations by adopting the necessary legal and practical measures to ensure effective implementation of all the provisions contained in international human rights treaties, especially those ratified by Egypt, but no practical steps have been introduced to stop violations. The organization is once again calling on the Government to:

- end the use of administrative detention;
- review and revise Emergency Law provisions relating to court review of the legality of detention in order to ensure that anyone detained by order of the Minister of the Interior appears in a court promptly after arrest, during the first hours or days of detention. The power of this court to order the release of individuals who are unlawfully detained should not be liable to be overturned by any executive official;
- immediately release all those who are at present in detention under the Emergency Law for whom release orders have been issued;
- set up prompt, thorough and impartial investigations into all reports of torture;
- make the methods and findings of these investigations public within reasonable time;
- provide fair and adequate compensation and rehabilitation for victims of torture;
- ensure that any members of the security or other forces implicated in torture and ill-treatment of detainees and prisoners be brought to justice;
- ensure that detainees are treated humanely in accordance with international standards and in particular have access to their lawyers and families;
- commute all outstanding death sentences;
- ensure that legislation and practice are brought into full conformity with Egypt's international obligations under the ICCPR and CAT.

## **APPENDIX**

The following is the Egyptian Government's response, sent to Amnesty International in October 1994, regarding the case of the lawyer 'Abd al-Harith Mohammad Madani, who died in April 1994 reportedly following torture.

\* On 24 April 1994 the Criminal Investigation Department for State Security compiled an investigation report on Case no. 235/1994 Higher State Security concerning a terrorist organization, headed by Tal'at Yassin Humam, which implied that 'Abd al-Harith Mohammad Ibrahim Madani, together with 27 other persons, was a member of that organization. The report comprised details of information and investigations indicating that the above person was one of its most prominent members, since he was responsible for coordination between the members of the organization and its leadership, and for conveying instructions and ensuring that they were carried out. The Department requested authorization to arrest the 28 members of the organization and to search their places of residence.

\* On the same day, the Office of the Higher State Security Prosecutor gave authorization for the necessary legal action to be taken to arrest the 28 suspects and to search the person and home of each one with a view to seizing any explosives, unlicensed firearms, ammunition, printed or written opposition material or inflammatory leaflets that they had in their possession.

\* In accordance with the decision of the Office of the Prosecutor, the squad assigned to arrest the afore-mentioned lawyer went to his office in the Pyramids area at approximately 11 pm on 26 April 1994, where he was informed of the Procuracy's decision and forthwith accompanied to his first home in the Pyramids district of Talibiya in the governorate of Giza. A search of the suspect's home, which was conducted in his presence, led to the discovery of papers and documents relating to the organization, inflammatory leaflets, and correspondence between himself and imprisoned members of the organization.

\* Following the search of the lawyer's afore-mentioned home, he was accompanying the arrest squad on its way to search his second home in the district of Warraq al-'Arab at Giza when he began to experience difficulty in breathing. He was immediately taken for medical assistance to Qasr al-'Aini (Al-Manyal al-Jami'i) Hospital, where the hospital management decided that he should remain for treatment.

\* On 27 April 1994, the Office of the Higher State Security Prosecutor was notified by report of all the above measures.

\* That night, the Office of the Higher State Security Prosecutor received a further report containing notification from Al-Manyal al-Jami'i Hospital of the death that evening of the afore-mentioned suspect.

\* A representative of the Office of the Higher State Security Prosecutor went immediately to

inspect the corpse and appointed a forensic doctor to carry out a post-mortem to determine the cause of death.

\* The forensic doctor carried out the post-mortem on the corpse on the afternoon of 28 April [1994].

\* The Public Prosecutor ordered an investigation into the incident, to be conducted under his direct supervision, and the case was entered under Technical Office of the Public Prosecutor Case no. 11/1994.

\* The final post-mortem report has not yet been issued and the Office of the Public Prosecutor is continuing its investigations, the result of which will be announced once the investigations are completed.