

## AMNESTY INTERNATIONAL PUBLIC STATEMENT

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# Egypt: Arbitrary and excessive use of probation measures against peaceful activists and individuals convicted after unfair trials

Egyptian authorities are continuing to use draconian overnight probation measures to further punish peaceful activists upon their release from prison and to prevent them from carrying out any political activity, said Amnesty International.

The organization is aware of more than 400 people currently on probation following their conviction and prison sentences in five grossly unfair mass trials, including those that related to participation in the Rabaa al-Adawiya and Fateh Mosque protests in 2013. Hundreds more who were convicted in the same unfair trials and are still detained could be facing similarly arbitrary and excessive probation conditions upon their upcoming release.

Amongst those under highly restrictive probation measures are peaceful activists, including former prisoners of conscience, who were detained and prosecuted solely for their peaceful participation in the protests or for doing their journalistic work. They should have never been prosecuted and imprisoned in the first place. Amnesty International is concerned that the Egyptian authorities' abusive use of probation measures against peaceful activists and individuals who were convicted after grossly unfair trials facilitates the ongoing arbitrary deprivation of their liberty and violations of their rights to freedom of movement, expression, peaceful assembly and association, and sometimes leads to other abuses including torture or other ill-treatment, forced labour and exploitation.

Amnesty International calls on the Egyptian authorities to halt the use of probation measures against peaceful activists as punishment for exercising their rights to freedom of expression and peaceful assembly and to immediately and unconditionally release those still imprisoned. Individuals convicted after unfair mass trials should be released or retried in line with international fair trial standards.

Amnesty International documented six recent cases of individuals currently subjected to abusive probation measures, as well as the case of an individual serving a prison term for pursuing his activism while on probation. Of these, four individuals were convicted solely for criticising the authorities or for calling for, or participating in, protests and political gatherings; three others were convicted following unfair mass trials. The seven individuals, all of whom are adult men, were sentenced as part of their original convictions to prison terms ranging between three and five years and up to five years' probation under Article 375bis of the Penal Code on charges of "using force" and "thuggery". They have been serving their probation in Cairo, North Sinai, Dakhalia and Giza.

Their probation conditions are regulated by the law on probation (99/1945), which was historically used against individuals convicted of crimes such as the possession of arms and drugs, making individuals stay in their place of residence between sunset and sunrise to keep them under police surveillance. In 2011 however, the Supreme Council of Armed Forces began to use the law to punish activists through a new decree on "thuggery" (10/2011) which amended provisions of the Penal Code on preventing riots and "thuggery". These amendments stipulate mandatory probation of up to five years, in addition to prison sentences, for anyone convicted of "thuggery". The probation period must be equal to the length of the sentence, ranging from one to five years.

Article 5 of the law on probation (99/1945) gives the police broad authority to compel individuals to spend their nights in a police station if the place of residence is unknown or difficult to monitor. However, according to Amnesty International's research, including interviews with human rights lawyers, in recent years, the Egyptian police has been increasingly relying on this article to arbitrarily and excessively extend the punishment of people convicted for expressing their views or protesting.

In all the cases documented in this statement, police compelled individuals to spend 12 hours overnight in police stations, rather than their places of residence, upon their release without any formal explanation, either orally or in writing. During the release procedures, police officers merely warned them that they could be imprisoned again if they failed to report to the police station every evening for 12 hours. Copies of the attendance notebooks, signed by police officers upon arrival and departure from police station each day, were seen by Amnesty International, and allegations made by individuals on probation or their families were verified through interviews with lawyers or supporting court evidence.

Most individuals said that, while at the police station, officers prevent them from receiving visits or keeping electronic devices with them, including mobile phones and laptops. They also reported being threatened, ill-treated and, in some cases, subjected to forced labour and exploitation in police stations. In addition, the family members of four individuals told Amnesty International that they were subjected to intimidation and forced to sign a pledge during the release procedures, stating that they could be detained if their relatives failed to spend 12 hours every day in a police station during their probation period.

Amnesty International further calls on the Egyptian authorities to promptly and effectively investigate all allegations of torture or other ill-treatment and forced labour and bring those suspected of criminal responsibility to justice in fair trials.

## **Threats, ill-treatment and prosecution for speaking up or refusing to "collaborate"**

*"Security forces are explicitly telling political activists: as long as you are under police probation, we are controlling your voices. They penalize you during your 12 hours surveillance for what you say in your 12 hours of freedom. Alaa is doing his best to arrive [to the police station] on time every day, though we don't think that it's a legal battle, but a political one,"*  
Mona Seif, Alaa Abed El-Fattah's sister.

Alaa Abed El-Fattah, a 38-year political activist and software engineer, was convicted for leading an "unauthorized protest" outside of Egypt's parliament in November 2013, just because he engaged in a peaceful protest. He was released in late March 2019 after serving a five-year prison sentence and is now required to serve a further five years on probation. He has been very vocal in criticizing online the strict probation conditions, whereby he spends 12 hours a day locked-up alone in a wooden booth inside Dokki police station in Cairo.

According to his sister Mona Seif, Alaa has been threatened twice since his probation period started. On 9 April, two plainclothes officers violently entered his cell and threatened to send him back to jail unless he stops talking and writing on social media.

In another case documented by Amnesty International, Ahmad (not his real name) reported being subjected to repeated threats by police officers: *"I don't dare speak about the issues that Alaa [Abed El-Fattah] raises. I can't mention my name here"*, he said. He described how before the month of Ramadan (around 6 May), plainclothes police officers interrogated him every week and alleged that they tried to coerce him into becoming an informant while he was handcuffed and blindfolded: *"I know them from their voices. They asked me in different ways to collect information on my friends, other political activists. On several occasions they asked me about my opinion about current political affairs, such as the constitutional amendments. I would tell them my opinion openly sometimes, but when I am so tired, I tell them that I am not concerned,"* Ahmad said. He also told Amnesty International that when he was continually refusing to collaborate, police officers beat him and threatened him with electrocution several times. During these interrogations, they also threatened him with an additional prison sentence.

Under Law 99/1945, anyone who violates the rules of probation could be punished with up to one-year imprisonment. Samhi Mostafa, a 32-year-old journalist described to Amnesty International the devastating impact of his probation on all aspects of his life. He was sentenced to five years in prison and five years of probation for disseminating "false information and news" in the "Rabaa Operations Room" trial, which was marred by serious due process concerns. In April 2019, Samhi had a severe car accident; he said that he fainted and was not able to arrive at the police station on time. Despite his condition, Wasta Court in Beni Suef sentenced him to one month in prison for breaking his probation terms on the day of the accident.

More recently, the authorities resorted to detaining a political activist on probation for 30 hours, and prosecuting another activist, also serving his probation, merely for expressing their opinions on social media platforms.

Ahmad Maher, a 39-year political activist and leader of the April 6 Movement, was sentenced in December 2013 to three years imprisonment and three years police probation for taking part in an "unauthorized protest." Ahmad told Amnesty International that while on his way to the Qattamiya police station in New Cairo (where he must report daily for 12 hours during his probation term) on 17 May 2019, a man crashed into his car. Ahmad explained that, following the accident, the man got out of the car and began to argue with him. The same man then filed a complaint against Ahmed at Qattamiya police station accusing him of damaging his car. Ahmad was subsequently detained pending investigation for 30 hours until the New Cairo Prosecution decided to release him. He told Amnesty International that he had seen the man who caused the accident frequently at the police station, and alleged that he was working as a driver for the police officers. He believes that the accident, and subsequent detention pending investigation, was in fact intentional in order to punish him for speaking up and writing about the arbitrary detention of his brother several days earlier.

Mohamed Adel, also a political activist and co-founder of the April 6 Movement, was convicted in 2013 to three years in prison and an additional three years' probation solely for exercising his rights to freedom of expression and peaceful assembly. He was charged at the time with taking part in an "unauthorized protest" and "attacking security forces" despite evidence showing that he was helping a police officer suffering from the effects of tear gas and witness testimony claiming that he was calming protesters down.

Mohamed Adel was re-arrested in June 2017, while he was serving his probation at Aga police station in the Dakhaliya governorate, on charges of "spreading false news". The charges related to comments he made on Facebook and Twitter criticizing the Egyptian authorities regarding President *Abdelfattah al-Sisi's* decision to hand over the Tiran and Sanafir islands to Saudi Arabia, the increasing cost of living and International Monetary Fund (IMF) policies in Egypt. According to his lawyer, during his interrogation, the prosecutor asked Mohamad Adel what he thought about the current political system. His case was then referred to the Supreme State Security Prosecution (SSSP) in Cairo which eventually ordered his release four days later. However, on 19 June 2018, Aga prosecution ordered Adel's arrest again on different charges, including "spreading false news", in relation to further social media posts. Mohamad Adel has been in pre-trial detention in connection with these new charges since then, according to his lawyer.

Amnesty International is concerned that excessive and arbitrary probation measures are being used to silence political activists and crush dissent by restricting their activities, threatening them or renewing their detention on trumped-up charges.

### **"Inability to lead a normal life"**

Amnesty International is concerned that the arbitrary and excessive use of probation measures in Egypt is severely restricting the enjoyment of a range of other human rights, including the rights to liberty, work, education, family and private life and freedom of movement. In some cases, it is also interfering with the enjoyment of the right to an adequate standard of living.

When he leaves his cell in Qattamiya police station where he spends his night, political activist Ahmad Maher (see above) says that he does not stop looking at his watch. He says that he is always stressed, worried to fall asleep and panics every day on his way back to the station in the middle of Cairo rush hour. Like many other people on probation, he is unable to lead a proper family life, to study, work or travel.

Ahmad has been trying to pursue his postgraduate studies in political science at Alexandria University. However, because of his probation conditions, he cannot attend lectures, so he relies on his classmates' audio recordings and notes. As an engineer, his work requires traveling to different areas in Egypt to submit his projects on strict deadlines. He says that it is often impossible, and he is continually forced to turn down job opportunities.

According to Ahmad, his probation conditions at the police station, where he shares a tiny room with 15 people make it difficult to read or sleep. He told Amnesty International that whenever he manages to fall asleep, police officers often conduct unannounced inspection visits during the night and wake him up. His social and family life is almost non-existent. He says that he is not able to reconnect with his children after three years in detention: "*I am not able to help them with their homework or even to talk or play with them. They constantly ask me why I am always working at night?*" he said.

Ahmad feels that he is not able to provide enough support to his brother, Mostafa Maher, who was arbitrarily arrested in May 2019 because of his history of peaceful activism<sup>1</sup>. He described his sense of helplessness: *"Mostafa was supporting me enormously during my prison sentence and current probation. His detention is affecting me badly. I feel guilty that I am not able to give him enough support and follow up on his case."*

In another case, "Mohamed" (not his real name), who was politically active within the 6 April Movement, is currently serving his probation in a police station in North Sinai following his release from five years in prison. He was convicted of a range of offences, including participating in unauthorized protests and damaging state and private property, after a grossly unfair mass trial relating to the Rabaa al-Adawiya sit-in. He maintains that he was not participating in the protest at the time of his arrest, and that he was merely observing what was happening.

He got married recently, but since his release, he is still unable to live with his wife in their new apartment. The trip between his house and the police station, a distance of around 240 kilometres, takes approximately eight hours because of the multiple army and security checkpoints on the road. He says that he tried to go home a few times, but was stopped and interrogated several times at checkpoints because of his previous conviction. *"I feel punished for a lifetime because of a crime that I still don't know. Visiting my home town to see my wife is a horrible experience,"* said Mohamed. His wife was forced to eventually move to his parents' apartment in North Sinai because he was unable to go back home frequently enough. *"It's still awful as we don't have any privacy, we can't go out because we are always worried about security checkpoints. I am bankrupt and not able to work because it's impossible to find any job here. My criminal record is also full of shocking charges, who will accept to hire me?"* said Mohamed.

Mohamed told Amnesty International that he has stopped any activism since his release, and all he wants now is to leave North Sinai and live peacefully with his wife in their apartment. *"Probation is a tool to paralyze us and force us to think only about our daily issues and problems,"* he said.

In another case, "Rami" (not his real name), who was convicted in the Rabaa al-Adawiya mass trial in September 2018 to five years in prison and five years' probation on charges including "illegal gathering", "incitement to break the law", and involvement in violence, said that he had to postpone his wedding given the length of his probation term, his inability to work and, as a result, his poor financial situation.

Since his release in August 2018, Samhi Mostafa has been forced to spend every night in Wasta police station in Beni Suef, located around 150km away from his home in Cairo. He says that he spends around three hours on transportation every day to be able to see his children in Cairo. *"I am neither imprisoned nor free. I am completely paralyzed. I can't work, travel, and raise my children."*

Under Article 8 of Law 99/1945, the police station chief has the power to grant leave from probation for work and other reasons such as education and illness. However, according to lawyers, political activists under probation are often forbidden from taking leave in such cases.

Ahmad Maher told Amnesty International that he was never allowed to stay the night with his mother when she was hospitalized or when he was ill himself. He said that once, in 2017, when he arrived at the police station 20 minutes late because of his mother's deteriorated health situation, police officers accused him of violating his probation conditions. The prosecution transferred him to a court where he submitted the relevant medical reports to be released. He was only allowed special leave to bury his mother, Ahmad said.

"Rami" reported that he witnessed first-hand how police officers explicitly told his friend that in compliance with the National Security Agency's (NSA) instructions, "political cases" are not allowed to take leave after he requested a special leave to undergo medical surgery in April 2019.

Once probation measures are upheld as part of the final verdict, they can no longer be appealed. However, individuals have the right to challenge how their probation is being implemented through the administrative court. Most interviewees filed

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<sup>1</sup> Mostafa was arbitrarily detained for "aiding a terrorist group in achieving its goals". Amnesty International considers that the charge against him has no credible basis and is overly vague.

lawsuits before the administrative court with a request to spend their probation periods in their homes instead of police stations, however, these they are still pending.

On 3 July, Alaa Abed El-Fattah filed a lawsuit before the administrative court to be able to keep his laptop and mobile phone with him during the 12 hours overnight in Dokki police station so that he can communicate with the outside world and pursue his work as a software engineer.

According to lawyers, the lawsuits can take years, sometimes more than the probation period itself.

## Poor 'detention' conditions and forced labour

According to information available to Amnesty international, conditions in police stations where released prisoners serve their probation differ depending on the area and the perceived political affiliation of the individual. People interviewed by Amnesty International said that conditions are very poor in Cairo and Giza, and even harsher in North Sinai, with reports of overcrowding, poor ventilation and limited access to sanitary facilities. They also reported being subjected to, or witnessing, forced labour. In addition, lawyers reported that individuals on probation convicted on charges of "debauchery"<sup>2</sup> are often subjected to ill-treatment, including physical assault, sexual harassment and humiliation because of their perceived or actual gender identity or sexual orientation.

"Rami" is spending his probation in a police station in Cairo with 25 people in a room that he says measures no more than 16 square metres. He described his experience: "*The place is filthy, unhygienic with insect infestation and poor cleanliness to the extent that the first thing I usually do when I arrive home is to take a shower and change my clothes*". Though he says that he does not get enough sleep at the police station, he avoids sleeping at home to maximize the time he spends with his family and friends.

In another case, Abdelrahman Tarek, a 25-year-old political activist known in his community as Moka, is serving his nightly 12-hour-long probation in an open-air space linked to the Qasr el-Nil police station, regardless of weather conditions. He said that during the winter, he spends his nights in cold and rainy weather, and that he cannot sleep whenever he is at the police station. As a result, he spends most of his time as a "free man" sleeping. Moka was sentenced in June 2015 to three years prison and three years' probation for his participation in the "Shura Council" (upper parliament) protest in November 2013.

In at least five cases documented by Amnesty International, people under probation said that they were subjected to forced labour.

*"They regularly forced us to clean the police stations by threatening to imprison us again if we object, in addition to hurling insults at us and punching us on the chest and stomach,"* Rami told Amnesty International.

Mohamad Adel and Ahmad Maher were both transferred to holding cells for a few hours for refusing to obey police orders to clean halls and bathrooms in the police stations where they are serving their probation. Ahmed's lawyer also reported how, in October 2017, officers at the Qattamiya police station collectively punished those under probation by closing the only vent of the cell where 15 persons – most of them smokers – were held in a room measuring approximately 20 square metres. During that period, Ahmed said that he suffered from several episodes of shortness of breath and he fainted several times.

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<sup>2</sup> "Debauchery" charges are often used against lesbian, gay, bisexual, transgender and intersex (LGBTI) people on the basis of their real or perceived sexual orientation.

