

AI INDEX: MDE 01/06/98

EMBARGOED UNTIL 00.01 HRS GMT 16 APRIL 1998

Middle East and North Africa: The right to a fair trial is a basic human right

Throughout the Middle East and North Africa political prisoners, including prisoners of conscience, are languishing in prison or awaiting execution, on spurious convictions or after sham trials, Amnesty International said today in a major report on unfair trials in the region.

“One of the most basic tenets of any sound justice system is the right to be presumed innocent until proven guilty,” the organization said. “Tragically, the opposite is all too often the case in the region.”

In its 80-page report, *State Injustice: Unfair trials in the Middle East and North Africa*, Amnesty International says that states across the region have allowed or encouraged unfair trial practices despite having ratified international human rights treaties that require them to bring their law and practice into line with them. Unfair trials fuel other human rights violations outside the courtroom. They encourage arbitrary arrests of opponents, long periods of pre-trial incommunicado detention, and the use of torture to extract confessions.

“When the justice system is not allowed to play its role in checking abuse of authority, security police officers and jailers know they can get away with abusing their power,” the organization said.

“Miscarriages of justice can happen in any judicial system, but are inevitable in countries where the authority and independence of the judiciary are systematically undermined through government interference or the introduction of laws that circumvent the normal judicial process.”

The organization highlighted the wide range of international standards designed to protect people’s rights from the moment they are arrested to their final appeal, standards which are routinely flouted by governments in the Middle East and North Africa, as well as in other regions of the world.

Throughout the Middle East and North Africa, people are often arbitrarily arrested and held in secret detention, frequently without being charged with any offence. Many have been held for months or even years in secret detention – cut off from their relatives, lawyers or doctors – before being tried, if indeed they are tried at all.

According to fair trial standards, anyone who is detained should be allowed access to a lawyer, know what charges they are facing, and be tried without “undue delay”.

“While most states’ constitutions may be in line with these standards, in reality these safeguards seldom apply to those arrested for their political or religious beliefs or activities,” Amnesty International said. “Governments may resort to creating exceptional courts, imposing emergency laws or using administrative detention to circumvent the normal course of justice”.

In **Saudi Arabia** and **Libya**, hundreds of people who were arbitrarily arrested years ago are still being held without trial, in some cases in **Libya** for at least 15 years. In **Saudi Arabia**, those political prisoners who do get a trial are routinely denied access to a lawyer. In **Israel and the Occupied Territories**, the Palestinian Ahmed Qatamesh is the longest serving administrative detainee, held without charge or trial since 1993.

In **Algeria**, thousands of people arrested by security forces and held in secret detention have “disappeared” and in most cases remain unaccounted for. In **Tunisia**, more than 270 people convicted in 1992 after mass trials before military courts had been tortured in secret detention.

“The trials in Tunisia also highlight the all too frequent lack of impartiality of judges in the region, who may be appointed for political reasons or succumb to pressures exerted by the political authorities,” Amnesty International said.

In the Tunisia trials, some of the defendants still bore visible torture marks at the time they were tried, more than one year after their arrest. Rather than investigating the complaints of torture, the judge threatened the defendants with additional charges of slandering and defaming the security forces.

“Confessions extracted under torture continue to be accepted as evidence and even as the sole basis of conviction in many courts,” Amnesty International said. “Admitting such confessions sends a signal to the security forces that they can torture defendants with impunity so long as they get the confession and regardless of whether the defendant is guilty.”

In May 1996 the Committee against Torture concluded that torture in **Egypt** was systematically practised with impunity by the security forces. And in countries including **Bahrain, Lebanon, Syria** and **Tunisia** women have been targeted with threats, sexual assaults and other forms of torture often to force them to make statements against their politically active husbands or brothers.

“There is even less likelihood of defendants getting a fair trial in emergency, military or other special courts,” said Amnesty International. “Such courts are allowed by international law only in exceptional circumstances and for limited periods but in many countries such as **Iran, Iraq** and **Israel and the Occupied Territories** have been in place for years or even decades.”

Trials in these courts may be closed to the public and presided over by judges who are politically appointed or military officers. Defendants may not have the right to a defence lawyer, and be denied the right to appeal against conviction and sentence to a higher court. Yet these are basic human rights which should be respected in **all** cases, including in trials by special courts.

Across the region, such as in **Algeria, Syria** and **Saudi Arabia**, national laws allow people to be imprisoned because of their political or religious beliefs, or trumped up criminal charges are used to prosecute people for those views. For this reason, prisoners of conscience are behind bars in virtually every country in the region. In **Jordan**, for example, 500 people arrested after bread riots in August 1996 stated that they were charged with insulting the King (*italat al-lisan*), without any specification of time or place.

In several cases the administration of justice in this region has showed disregard for vulnerable groups, including women, children, religious and ethnic minorities, foreign nationals and those considered stateless. These people have been allowed fewer rights and have been punished more harshly. Nieves, a Filipina worker in **Saudi Arabia**, married mother of two, was forced to sign a statement written in Arabic which she did not understand. As a result, she was convicted as a prostitute on the basis of the “confession” (which she had thought was her release order) and received 60 lashes.

While an increasing number of countries worldwide have abolished the use of death penalty, several states in the Middle East and North Africa have increased its scope or use in recent years. Each year, hundreds of people in the region are sentenced to death or to corporal punishments such as flogging and amputation after unfair trials. In **Iran**, the death penalty still applies to a wide range of offences, and in cases of adultery victims are stoned to death. In **Iraq** hundreds of prisoners, including political prisoners were reportedly summarily executed towards the end of 1997 among them many who had been tried and sentenced to terms of imprisonment. In **Yemen** several political prisoners have been on death row for many years.

“In cases where the punishments are clearly irreversible it is vital that every possible safeguard is respected, the possibility of human error can never be discounted, no matter how good the system”, Amnesty International said. The organization is calling on all states in the region to ratify human rights treaties providing the basic requirements for fair trial and to implement them in law and practice without further delay.

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For further information, please refer to Amnesty International’s report: *State Injustice: Unfair trials in the Middle East and North Africa* (AI Index: MDE 01/02/98). See also Appeals cases (AI Index: MDE 01/03/98)