

# **TIME FOR JUSTICE**

**EGYPT'S CORROSIVE  
SYSTEM OF DETENTION**

**AMNESTY  
INTERNATIONAL**



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# CONTENTS

1. Introduction .....	5
Egypt's emergency and ordinary legislation .....	8
Action needed.....	13
About this report.....	15
2. Administrative detention system.....	18
Enforced disappearances .....	20
Release: a discretionary practice .....	21
Denial of rights after release .....	22
3. Use of administrative detention.....	25
To prolong interrogation .....	26
To bypass judicial rulings.....	27
To additionally punish .....	28
To stifle dissent.....	28
Political opposition circumscribed .....	29
Freedom of expression suppressed .....	31
Religious persecution .....	32
To lock up criminal suspects .....	34
To hold foreign nationals.....	35
4. Denial of detainees' rights .....	36
Right to be informed of the reasons for detention .....	36

Right to have access to family and lawyer .....	38
Right to be held in accordance with the principle of legality .....	39
Right to be promptly brought before a judicial authority .....	40
Right not to incriminate oneself.....	41
Right to challenge detention before a court .....	42
Right to an effective appeal .....	42
Right to reparation .....	44
5. Torture and other cruel, inhuman or degrading treatment or punishment .....	48
Routine use of torture.....	48
Ill-treatment of administrative detainees .....	50
Denial of adequate medical care .....	51
Collective punishment – transfer to remote prisons .....	53
Conditions of detention .....	54
6. Conclusions and recommendations.....	56
Recommendations .....	57
Endnotes.....	62
Appendix: Egypt – Human rights agenda for change .....	71

# 1. INTRODUCTION

**“Forget about the law! If they want to say that someone is a terrorist or a drug dealer, they say so and the person is detained, as simple as that”**

A lawyer who dealt with cases of the dissolved State Security Investigations service, speaking to Amnesty International in December 2010

In Egypt, a corrosive system of administrative detentions without charge or trial, where detainees were routinely tortured, has been the hallmark of 30 years of repression under the Emergency Law. Under the cover of the state of emergency, Egyptian state security forces, in particular the State Security Investigations service (SSI), committed gross human rights violations for which they have yet to be held to account. The SSI, operating above the law, presided over the regime of administrative detention, and became synonymous with the crackdown on dissent and the torture of detainees.

To uproot the culture of human rights abuses and impunity in Egypt, the decades of human rights violations under the rule of President Hosni Mubarak must be addressed, and measures taken to ensure truth, justice and reparation for victims of human rights violations, including for former detainees. Holding SSI officers to account is an essential initial step towards realizing the calls to end impunity that was one of the main triggers of the recent uprising in Egypt.

Massed ranks of Egyptians defied decades of repression on 25 January 2011 by taking to the streets to protest against the 30-year-old state of emergency, poverty, corruption and police brutality. Very quickly, the protests came to demand an end to the corrupt and defunct political system. The call eventually evolved into one clear and succinct message – for President Hosni Mubarak to depart. Three weeks later, having endured vicious attacks by the security forces and alleged government supporters, the spiralling ranks of protesters achieved their first aim – the removal of the President from office.

Their victory came at a heavy cost. Some 840 people were killed by the security forces and 6467 more were injured, according to officials of the Ministry of Health and Population.<sup>1</sup> Many hundreds of protesters and bystanders were seized and held in secret locations or detention centres. Many say they were tortured and abused.

One of the many triggers for the uprising was the killing by police of 28-year-old Khaled Said in Alexandria on 6 June 2010.<sup>2</sup> Two officers from Sidi Gaber police station reportedly dragged him out of an Internet café and beat him in public until he died. Shocking pictures of his barely recognizable face taken in the morgue were widely circulated on the Internet. In fury, activists marched through Alexandria and Cairo demanding justice for Khaled Said, whom they called “the martyr of the state of emergency”, and an end to police impunity. The case became a rallying cry for opponents of the

repressive state, and the campaign for justice and accountability was named "We are all Khaled Said".

The brutal killing happened just weeks after the government renewed for a further two years the state of emergency, which had been continuously in force since Hosni Mubarak became President following the assassination of President Anwar Sadat in October 1981. Ostensibly, the May 2010 renewal reduced the application of the Emergency Law (Law 162 of 1958, as amended), limiting it to cases relating to drugs and terrorism. In practice, however, the authorities continued to use its sweeping powers to repress government critics and commit other human rights violations.

One of the most pervasive violations has been the use of administrative detention – the main focus of this report. This entails depriving individuals of liberty, by order of an administrative authority, without intent to prosecute them in a criminal trial – a practice that Amnesty International always opposes.<sup>3</sup>

In Egypt, the emergency powers given to the Interior Minister to order the arrest and administrative detention of individuals have been used over the years to hold tens of thousands of people without charge or any prospect of trial for months or years – in some cases 20 years – often in defiance of repeated court orders for their release. The extensive use of administrative detention has pervaded Egyptian society and affected Egyptians from all walks of life, reinforcing the repressive atmosphere fostered by the authorities.

While Amnesty International has not received information on individuals arrested and served with administrative detention orders since the fall of Hosni Mubarak, the provisions of the Emergency Law allowing the Minister of Interior to order the indefinite detention without charge or trial of individuals suspected of constituting a "danger to public security and order" remain in force. Similarly, although the SSI, which was at the heart of the corrosive administrative detention system, has been disbanded, it remains unclear how many officers it employed nor what has happened to them. Amnesty International fears that they are likely to have been simply integrated into other security bodies, including the newly-established national intelligence body, without any vetting mechanism. With the exception of the former Interior Minister, to whom the SSI directly reported and who is now facing charges of corruption and ordering security forces to shoot demonstrators during the recent unrest, Amnesty International is not aware of any steps by the Egyptian authorities to hold SSI officials to account for the years of abuses under the rule of President Mubarak, or to provide truth, justice and reparation for the thousands of individuals arbitrarily detained over the years.

Unless the Egyptian authorities address the legacy of abuse by the SSI, repeal the Emergency Law which has facilitated abuses, and hold those responsible to account, there would be no guarantee that the abuses under President Mubarak would not be repeated.

The main reason for the resort to administrative detention, despite all the government rhetoric of "safeguarding national security" and "combating terrorism", was clear – to bypass normal criminal investigation procedures and judicial safeguards in order to lock away people who dared to criticize the authorities or who were deemed to be a threat to the government. The vast majority of victims were political prisoners, including many prisoners of conscience detained solely for their peacefully held views.

Administrative detention was also used against ordinary criminal suspects, particularly alleged recidivists. Like political administrative detainees, many remained held despite court orders for their release. Some were detained although they had no criminal record. Again, it appears that the authorities simply found it convenient to circumvent normal judicial procedures and protections in order to put and keep certain people behind bars for as long as they want.

Government officials repeatedly told Amnesty International during meetings that the total number of administrative detainees was less than 800, although no details were ever provided, such as a list of the names of those detained. National and international human rights organizations, however, estimated the number to have been between 6,000 and 10,000 at most points in recent years. In June last year, shortly after the adoption of the amendments to the Emergency Law, the authorities announced that some 400 detainees had been released. However, many others continued to be held without there being any clear indication of the grounds on which the Interior Ministry had concluded that they were a "danger to public security and order". Following the fall of President Mubarak and calls from civil society and relatives of detainees, a newly-installed Interior Minister announced on 12 March 2011 that 1,659 administrative detainees had been released since early February.<sup>4</sup> However, he did not disclose how many people remained held in administrative detention and for what reasons, maintaining the long-standing official policy of withholding such information about the numbers, identities, places of detention and length of time that such detainees have been locked up without charge or trial and without any effective means of obtaining remedy.

This led the families of those who continued to be detained to stage further protests outside the offices of the Public Prosecutor, the Interior Ministry, the Prime Minister and the Foreign Affairs Ministry, demanding the release of their relatives, especially as many of them had obtained court decisions ordering their release but continued to be held. More administrative detainees were subsequently released, thus reportedly closing the file of long-term recurrent administrative detention.<sup>5</sup>

Even though administrative detainees were not charged, let alone tried and convicted, they were treated like sentenced prisoners once in jail. Some were tortured or otherwise ill-treated. Some were transferred to remote prisons far from their families, including as punishment. Some were denied adequate medical care.

Following their release, many were repeatedly summoned to appear before officers of the now-dissolved SSI responsible for the district where they live, making it impossible for them to rebuild their lives. After years in detention, many have struggled to find paid work or reintegrate into their communities.

The system of administrative detention and the draconian emergency powers given to Egypt's security forces facilitated other serious human rights violations. These have included enforced disappearances, torture and other ill-treatment, and severe restrictions on the rights to freedom of expression, association and assembly. Among those targeted for such abuses have been political opponents and government critics, human rights defenders, members of minority religious communities, journalists and bloggers.

Since President Mubarak's departure from office, Egypt has been governed by the Supreme Council of the Armed Forces (SCAF). In early March, following the resignation of newly-appointed Prime

Minister Ahmed Shafiq, former Transport Minister Essam Sharaf was asked to form a new government. On 26 February, an eight-member committee of legal experts, appointed by the SCAF to propose constitutional reform, called for eight articles of the Constitution to be amended, including the abolition of the controversial and much-criticized Article 179 that had effectively written emergency-style powers into law. However, the state of emergency was not lifted.

The proposals were put to a national referendum in March 2011, and endorsed by a large majority of voters. The amendments create new term limits on the presidency, make it easier for Egyptians to stand in presidential elections, ensure more robust judicial oversight of elections, and restrict the government's power to maintain the state of emergency to a maximum of six months and any renewal of the state of emergency to be subjected to a popular referendum.<sup>6</sup> On 30 March, the SCAF announced a Constitutional Declaration made up of 63 articles, including the recently amended articles of the Constitution, which is meant to serve as an interim constitution that will remain in force until a new constitution is drawn following the convening of a new parliament. The Declaration also sets the roadmap for transition, with the parliamentary elections being scheduled in September and presidential elections later in 2011.

## EGYPT'S EMERGENCY AND ORDINARY LEGISLATION

The state of emergency has dominated Egyptian society continuously for the last 30 years. The Emergency Law gave the security forces sweeping powers, suspended some constitutional rights, allowed the creation of exceptional courts, circumscribed oppositional political activity, restricted demonstrations, hemmed in civil society organizations, and legalized censorship. Other restrictive measures included the 1992 Anti-Terrorism Law (Law No. 97 of 1992) which provides a very broad definition of terrorism and can be used to criminalize the peaceful exercise of the rights to freedom of expression, association and assembly.

Amnesty International unreservedly condemns attacks against civilians and calls for those responsible to be brought to justice. It recognizes the Egyptian government's responsibility to maintain public safety and to punish crime, including by preventing, investigating and punishing acts of terrorism. In carrying out its responsibilities, however, the Egyptian authorities must abide at all times by relevant international human rights law and standards, including the International Covenant on Civil and Political Rights (ICCPR); the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (the Convention against Torture, CAT); and other treaties to which Egypt is a state party. These treaties set out standards to which governments must adhere at all times, even after the most heinous crimes. Any law, policy or practice aimed at countering terrorism must never undermine the rule of law or fail to comply fully with international human rights law and standards.

Over the decades of the state of emergency, patterns of serious human rights violations have become entrenched and a shadow justice system has been created to bypass the normal judicial system and safeguards prescribed in Egyptian law, particularly the Code of Criminal Procedure (CCP).

Article 7 of the Emergency Law allows the establishment of exceptional courts, such as the State Security Courts and the (Emergency) Supreme State Security Courts (emergency courts), which may include military officers as judges, if so decided by the President. Such courts do not guarantee

the right to appeal. Judgements by the emergency courts cannot be appealed and become final after ratification by the President, who may decide to commute the sentence, revoke the judgement or order a retrial by another emergency court. This violates the principles linked to the separation of powers and the independence of the judiciary, as spelled out in the ICCPR and other international standards. Article 9 of the Emergency Law also allows the President to refer to emergency courts people accused of ordinary criminal offences, breaching the constitutional right of Egyptians to be tried by a competent judge and receive a fair and impartial trial.

In 2005, President Hosni Mubarak pledged to end the state of emergency during his re-election campaign. After his victory, the government repeated this promise but made it conditional on the introduction of a new anti-terrorism law. In March 2006, the government announced the establishment of a committee to draft an anti-terrorism law to accompany the lifting of the state of emergency, but then renewed the state of emergency for two years in May.

In March 2007 the Constitution was amended following a referendum. Article 179, which was amended to pave the way for the new anti-terrorism law, was particularly draconian. It stated that measures taken to combat terrorism would not be constrained by the protections in Articles 41(1), 44 and 45(2) of the Constitution, which provided legal safeguards against arbitrary arrest and detention, police searches without a warrant, and the tapping of telephone calls and other private communications by the security authorities. It allowed the President to bypass ordinary courts and refer people suspected of terrorism to any judicial authority he chose, including military and emergency courts which have a long history of conducting unfair trials. There were also fears that the anti-terrorism law would embed emergency legislation into permanent law.

The May 2010 presidential decree renewing the state of emergency limited the application of the Emergency Law to terrorism and drug-trafficking and specified that only Article 3(1) and 3(5) could be applied.<sup>7</sup> Article 3(1), however, is the provision that has been extensively invoked over the years to keep people in administrative detention for long periods. It is particularly pernicious and gives the authorities the power to "restrict people's freedom of assembly, movement, residence, or passage in specific times and places; arrest suspects or [persons who are] dangerous to public security and order [and] detain them; allow searches of persons and places without being restricted by the provisions of the Criminal Procedure Code; and assign anyone to perform any of these tasks." All this can be exercised by a simple "oral or written order".

Under emergency legislation, people served with a detention order by the Interior Minister have no right to access a court or any other judicial authority for the first 30 days of their detention. The order of detention is an executive one and it is not subject to review by any other authority for the first 30 days. By contrast, Article 36 of the CCP stipulates that a detainee must be brought before the office of the Public Prosecutor for questioning within 24 hours of arrest, after which the detention period can be extended or the detainee is to be released. For people detained in connection with alleged national security offences, Article 7bis of the Anti-Terrorism Law allows the judicial police to hold them for up to seven days before referring them to the office of the Public Prosecution. In both cases, the Public Prosecutor plays a key role in reviewing the detention of suspects.

However, because all these guarantees have been routinely flouted during the long years of the state of emergency, particularly by the SSI, and because the violations have been committed with impunity, a whole system has emerged that operates outside of the law.

## THE STATE SECURITY INVESTIGATIONS SERVICE, THE TOOL OF REPRESSION

*"I passed through the gates of the State Security Intelligence (SSI) headquarters in Nasr City and entered one of the most notorious complexes in Mubarak's Egypt. Suddenly I was in our Bastille, the scene of our nightmare."*

### **An Egyptian protester describes entering the SSI building in Nasr City on 5 March 2011.<sup>8</sup>**

Amnesty International has documented decades of abuses by the SSI which, prior to its announced dissolution on 15 March 2011, was the main domestic intelligence security body in Egypt. Answering directly to the Interior Minister, and subject to little or no judicial oversight, the SSI was one of the three main bodies responsible for investigating matters of national security (the other two being the General Intelligence Services, or Mukhabarat al-'Amma, and the Military Intelligence (Mukhabarat al-Harbiya)). It also had responsibility for enforcing the state of emergency, monitoring those suspected of involvement in terrorist-related activities, as well as opposition groups and civil society and human rights groups. The agency became synonymous with the worst abuses of the Egyptian authorities' decades-long crackdown on dissent. It has been at the heart of systematic human rights abuses, including arbitrary arrests, detention, intimidation, torture and other ill-treatment.

No official figures were published on the number of SSI officials; recent estimates have put the figure at around 100,000.<sup>9</sup> The agency benefited from the sweeping powers of arrest and detention both under the Emergency Law, and through amendments to the Egyptian Constitution, adopted in March 2007, that overrode guarantees against arbitrary arrest and detention; police searches without a warrant; and surveillance of telephone calls and other private communication.<sup>10</sup> In practice, the lack of judicial oversight meant that the SSI routinely operated outside even the Emergency Law.

During the "25 January Revolution", and in the protests that followed the SCAF's assumption of power, SSI premises became sites of popular protest. In the aftermath of the "Friday of Anger" on 28 January 2011, several SSI branches across the country were reportedly burned in circumstances that remain to be clarified.

During March 2011, SSI premises became the site of renewed demonstrations, following widespread reports that SSI officers were destroying evidence of abuses committed during the rule of President Mubarak. On 4 March 2011 protesters forced their way into a SSI building in the city of Alexandria. On 5 March 2011, protesters broke into SSI premises in Nasr City and 6 October City. On 6 March 2011 protesters attempted to do the same to the SSI headquarters in Lazoghly Square in central Cairo but were reportedly dispersed by the army. Other supposed SSI buildings around Egypt were also the site of protests.<sup>11</sup>

Protesters who gained access to SSI premises reported uncovering records of SSI intelligence activities, including evidence of surveillance networks, as well as purported evidence of torture and other ill-treatment. Documents and audiovisual material reportedly seized by protesters was quickly uploaded to the Internet, including onto social networking sites such as Facebook.<sup>12</sup> While it is difficult to determine the authenticity of the material now available online, at least some is likely to be genuine. The materials found reinforced protesters' calls for accountability, in particular for the SSI, and for the lifting of the state of emergency, for detentions to be acknowledged and cases of torture and other ill-treatment committed

by SSI officers to be investigated and for the perpetrators to be brought to trial.

Following the break-ins, the SSI premises were secured by the army and the SCAF requested that SSI documents seized by protesters be returned to the authorities.<sup>13</sup> Demonstrators reportedly attempted to hand much of the material that they found to officials of the public prosecution.<sup>14</sup> Following the protests, a number of members of the SSI were reportedly detained on suspicion of destroying evidence. It is unclear whether any charges were brought against them.<sup>15</sup>

Following the protests, on 15 March 2011 the Interior Ministry announced that the SSI had been abolished, and that a new national security body would be established in its place.<sup>16</sup> At the time of writing, the decree dissolving the SSI was not yet published. It is also unclear what vetting mechanisms, if any, have been put in place by the Egyptian authorities to ensure that former SSI personnel are not simply reintegrated into other branches of the security forces, or into the new national security agency.

The UN Special Rapporteur on human rights and counter-terrorism summarized concerns about Egypt's counter-terrorism and emergency laws in 2009. Among other things, he questioned their compliance with the principle of legality:

*"The lack of a clear indication in the law as to what exactly constitutes a threat to public security and order is at variance with the principle of legality. This deficiency, coupled with the fact that SSI officers in practice enjoy carte blanche in deciding on whom to arrest and that terrorist suspects are in many cases detained without receiving sufficiently detailed information, if any, on the reason for their detention, is incompatible with article 9(2) of the International Covenant and seriously diminishes any real possibility for the detainee to contest the legality of detention, as stipulated by article 9(4)."*<sup>17</sup>

Amnesty International continues to call for the state of emergency to be lifted immediately and for the Emergency Law to be abolished. This would mean that arrest and detention in Egypt would be regulated by the Constitution and the CCP or, in the case of some security suspects, the existing Anti-Terrorism Law. The CCP already provides appropriate human rights safeguards that, if respected, would end long-established patterns of abuse. For example, Article 36 of the CCP provides protection against disappearance, arbitrary detention and other abuses by stipulating that a detainee must be brought before a Public Prosecutor for questioning within 24 hours of arrest, after which the detention period can be extended or the detainee is to be released. Article 302 of the CCP provide protection against torture and miscarriages of justice by stipulating that statements extracted under "coercion or threat" must be dismissed and not relied upon in legal proceedings against a defendant. Article 139 of the CCP provide protection against arbitrary detention, denial of access to lawyers and other abuses by stipulating that anyone arrested or detained must be informed of the reasons for their arrest or detention and have the right to communicate with whomever they deem fit to inform and seek legal counsel. The same article also provides protection against prolonged detention without charge and denial of the right to challenge the detention by stipulating that detainees must be promptly charged and have the right to lodge an appeal to the courts against any measure taken to deprive them of their liberty.

Many of these guarantees were also enshrined in the Constitution. The Constitutional Declaration of the SCAF also outlines some important human rights safeguards, and upholds some of the freedoms set down by the previous Constitution. Article 8 states that security forces' powers of search, detention or restrictions on freedom of movement are subject to a warrant issued "by a specialized judge or the general prosecutor." Article 8 further states that "[t]he law also determines

the period for which one may be detained." Article 9 states that it is forbidden for those detained to be "abused in body or mind, as it is forbidden to detain him/her in places outside of those designated by the prisons law." The Article further states that "[a]ny statement proven to be extracted from a citizen under duress or threat will not be counted and is unreliable."

The main problem, therefore, has not been so much the Constitution, but the lack of political will to uphold it and the application of the state of emergency to circumvent and effectively subvert it. Any new Constitution needs to strengthen human rights guarantees and judicial safeguards without any clawback clauses which, in effect, allow the authorities to disregard basic human rights safeguards.

As well, some Egyptian laws do fail to provide adequate safeguards for detainees and create an environment that facilitates abuse.

For example, although torture and other forms of ill-treatment are prohibited by the ICCPR and the CAT, which Egypt has ratified, the narrow definition of torture in Egypt's Penal Code means that only some of the practices banned internationally are prohibited and criminalized under Egyptian law.<sup>18</sup> Egyptian law defines torture narrowly in the context of forcing an accused person to "confess". Death threats and physical torture are criminalized only when they happen following an unlawful arrest by someone purporting to be a government officer.<sup>19</sup> The law therefore does not address a situation where a person may be tortured for other reasons (such as to extract information, intimidate, punish or degrade) or when the victim is not accused of an offence.

Moreover, the safeguards against torture and other ill-treatment provided by Articles 36 and 40 of the CCP are routinely breached in practice, and the perpetrators of such crimes are rarely if ever held to account.

Since President Mubarak was forced to step down, a number of steps have been taken in an apparent effort to break with the abuses of the past, including the release of hundreds of administrative detainees and the dissolution of the much-feared SSI.

Clearly, changes are happening rapidly. The purpose of this report is to highlight longstanding patterns of abuse linked to emergency legislation and other aspects of Egyptian law as legislative reform is urgently needed and former detainees and Egyptians at large demand their right to truth, justice and adequate reparation including, but not limited to, financial compensation for the abuses primarily committed by SSI officers. Amnesty International hopes it will help those pushing for, or preparing, long-needed reforms to create a new kind of Egyptian state, one that is based on respect for human rights.

In order to truly break with the legacy of human rights violations and impunity for the violations highlighted in this report, the Egyptian authorities must also introduce comprehensive institutional and legal reforms to guarantee that such abuses will not be repeated.<sup>20</sup> Only then will Egyptians, particularly those whose rights have been severely flouted as a direct result of the sweeping powers given to security forces under the state of emergency, start to trust public institutions and to heal after decades of abuse.

## **THE RIGHT TO A REMEDY: TRUTH, JUSTICE AND REPARATION**

**Under international law, states have an obligation to respect, protect and fulfil international human rights**

**law, including the right of victims to an effective remedy. The right to an effective remedy for victims of human rights violations and serious violations of international humanitarian law is guaranteed in international law.**

It is enshrined in Article 2 (3) of the International Covenant on Civil and Political Rights (ICCPR) and further expanded in the Human Rights Committee General Comment No.31 on the "Nature of the General Legal Obligation imposed on States Parties to the Covenant", adopted on 29 March 2004 at its 2187th meeting. It is also recognized in Article 8 of the Universal Declaration of Human Rights, Article 6 of the International Convention on the Elimination of All Forms of Racial Discrimination, Article 14 of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, Article 39 of the Convention on the Rights of the Child, Article 3 of the 1907 Hague Convention concerning the Laws and Customs of War on Land, Article 91 of the Protocol I Additional to the Geneva Conventions of 12 August 1949 relating to the Protection of Victims of International Armed Conflicts (Additional Protocol I), Article 75 of the Rome Statute of the International Criminal Court, Article 7 of the African Charter on Human and Peoples' Rights and Article 23 of the Arab Charter on Human Rights. This obligation includes three elements:

- Truth: establishing the facts about violations of human rights that occurred in the past;
- Justice: investigating past violations and, if enough admissible evidence is gathered, prosecuting the suspected perpetrators;
- Reparation: providing full and effective reparation to the victims and their families, in its five forms: restitution, compensation, rehabilitation, satisfaction and guarantees of non-repetition.

Principle VII of the Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law sets out:

"Remedies for gross violations of international human rights law and serious violations of international humanitarian law include the victim's right to the following as provided for under international law: (a) Equal and effective access to justice; (b) Adequate, effective and prompt reparation for harm suffered; and (c) Access to relevant information concerning violations and reparation mechanisms." Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law (Basic Principles on the Right to a Remedy and Reparation), adopted and proclaimed by UN General Assembly Resolution 60/147 of 16 December 2005 (UN Doc. A/RES/60/147).

With respect to past human rights violations, states must ensure that the truth is told, that justice is done and that reparation is provided to all the victims without discrimination. In this sense, truth, justice and reparation are three aspects of the fight against impunity.

## **ACTION NEEDED**

Amnesty International is calling on the Egyptian authorities to take a number of steps as a matter of urgency to stop the serious abuses linked to the system of administrative detention as well as other long-standing patterns of human rights violation. They include:

- Immediately acknowledging the number of individuals held in administrative detention, their

identity and their place of detention.

- Immediately ending the state of emergency and repealing all provisions of the Emergency Law.
- Abolishing the system of administrative detention, repealing all legislative provisions that enable it, and ending indefinite detention without criminal trial.
- Releasing anyone still detained under the Emergency Law for whom release orders have been issued.
- Releasing all other administrative detainees who are not promptly charged with a recognizable criminal offence and given a fair trial.
- Immediately and unconditionally releasing all prisoners of conscience, that is anyone deprived of their liberty solely for the peaceful exercise of their rights of freedom of thought, conscience, religion, opinion or expression.
- Ending incommunicado detention.
- Taking immediate steps to end torture and other ill-treatment, including investigating all allegations of such abuse and bringing the perpetrators to justice.
- Bringing prison conditions in line with the Standard Minimum Rules for the Treatment of Prisoners and the Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment.
- Establishing an oversight body which is able to hold the security forces to account for abuses. Such a body should have an independent, effective, and impartial complaints mechanism which can deal with complaints about security forces' misconduct, including human rights violations. The independent security forces complaints mechanism should have independent investigation teams, to deal specifically with complaints against or involving the security forces.
- Providing victims of human rights violations with financial compensation and other forms of reparation that are appropriate and proportional to the gravity of the violation and the circumstances of their case.
- Immediately establishing an independent, thorough and impartial inquiry into human rights abuses committed by the SSI under the rule of President Hosni Mubarak. The investigation should be provided with sufficient resources to accomplish all its tasks effectively and promptly, and have powers to gain access to all relevant documents, other evidence and persons. The investigation's findings should include recommendations aimed at ending and preventing further human rights abuses and at ensuring justice, truth and full reparation for the victims, including restitution, rehabilitation, compensation, satisfaction, and guarantees of non-repetition. Amnesty International is prepared to make its archive of human rights reports available to the Egyptian authorities to assist in any such investigation..
- Ratify without reservations, and fully implement in practice, the Optional Protocol to the UN

Convention against Torture and the International Convention for the Protection of All Persons from Enforced Disappearance, including accepting the competence of the Committee under Articles 31 (receipt of individual complaints) and 32 (inter-state complaints).

## **MOHAMED ABU ESSAOUD ISMAIL**

Fifty-two-year-old Mohamed Abu Essaoud Ismail from Sharanis village, Manoufiya governorate, spent almost two decades in detention without charge or trial despite scores of court decisions ordering his release, until he was finally released on 19 February 2011. He was arrested on 30 June 1991 for alleged membership of Gamaa al-Islamiya, at that time an armed Islamist group. His family had no news of him until 1998. During this time, he was subjected to torture and other ill-treatment. In 1997, after the group renounced violence, thousands of its members were released. Mohamed Abu Essaoud Ismail, however, continued to be held in prison in harsh conditions, although he denied that he still belonged to the group and committed himself to non-violence. While in prison, he is believed to have suffered serious health problems, to have been denied adequate medical care and, at times, to have been barred from receiving family visits.

On 30 January 2011, after prison riots erupted, Mohamed Abu Essaoud Ismail phoned his brother, Ahmed, from outside Wadi El-Natroun Prison II, North West of Cairo, informing him that the prison guards had deserted their posts allowing inmates to get out of the prison. According to Ahmed, he drove to the prison and picked up Mohamed only for them to be stopped by an SSI officer accompanied by people armed with sticks who then detained Mohamed although his brother asked that he be allowed to return home, under guarantee of return, until the prison administration could guarantee his safety. Ahmed was not told what would happen to his brother by the SSI officer who took him away.

Later in the day, Mohamed phoned Ahmed to tell him that he had been taken to Bandar Manouf, Manoufiya governorate, north of Cairo, where he was being held with around 50 people in a small cell. In the following days, his family were denied access to him and prevented from giving him medication for his diabetes but, fortunately, he was eventually released on 19 February. He had spent almost 20 years in jail without being convicted of any offence.

## **ABOUT THIS REPORT**

Amnesty International has closely monitored the human rights situation in Egypt for decades.<sup>21</sup> This report, finalized in March 2011, focuses mainly on administrative detention and associated abuses in the period leading up to the uprising in early 2011. It details serious human rights violations committed by security forces benefiting from the unrestrained powers granted to them under emergency legislation. It draws on hundreds of cases examined by Amnesty International over recent years. The cases relate to detainees held across Egypt, including Asyut, Cairo, Duqahliya, Gharbiya, Kafr El-Sheikh, Manoufiya, El-Minya, Sohag and North Sinai. Often, the cases were brought to the attention of Amnesty International by relatives of detainees, human rights lawyers and activists in Egypt. Amnesty International has interviewed many relatives, lawyers of detainees and former detainees.

All the cases featured in the report concern male detainees or former detainees. Amnesty International has received reports that women were held in administrative detention for alleged crimes such as theft, drug-trafficking and assault. However, the organization has been unable to obtain or fully verify details about individual cases of women held in administrative detention.

This report is largely based on three fact-finding trips to Egypt by Amnesty International delegates in January/February 2009, February/March 2010 and November/December 2010. An Amnesty International delegation was also in Egypt between January and March 2011. It further draws on discussions with lawyers, human rights activists, academics and journalists who report on abuses of administrative detainees as well as the many interviews conducted by Amnesty International delegates with relatives of detainees and former detainees. Amnesty International is extremely grateful to all these people who generously and often bravely shared their experiences and explained the impact administrative detention has had on them. Requests for anonymity by relatives and former detainees have been respected.

Amnesty International would also like to thank the activists and lawyers who assisted in the research, including representatives of the Arab Center for the Independence of the Judiciary and Legal Profession, the Arab Penal Reform Organization, the Arabic Network for Human Rights Information, the Association for Human Rights and Legal Aid, the Egyptian Initiative for Personal Rights, the Egyptian Organization for Human Rights, the Hisham Mubarak Law Center, the Land Center for Human Rights, Maat for Peace Development and Human Rights, the Nadim Center for the Psychological Rehabilitation of Victims of Violence and Torture, and the Sawasya Center for Human Rights and Anti-Discrimination. Amnesty International is particularly grateful to the Geneva-based Alkarama Foundation for its assistance with a number of individual cases. In addition, Amnesty International is grateful to the academics, civil society activists and media workers whose contributions enrich this report.

Amnesty International delegates raised concerns about their preliminary findings during meetings in 2009 and 2010 with Egyptian government officials, namely the Director of the Legal Unit of the Interior Ministry, Hamed Rashed; the Public Prosecutor, Abd El-Megeed Mahmoud; and his Deputy, Adel Elsaid; the former Deputy Assistant Minister of Foreign Affairs for Human Rights, Wael Aboulmagd; and officials at the National Council for Human Rights (NCHR – Egypt's official human rights institution), former Minister of State for Legal and Parliamentary Councils, Mufid Shihab, during several meetings in Cairo and one meeting in Geneva in February 2010, including members of the Supreme Constitutional Court and of the State Council. The organization requested meetings with key officials at the Interior Ministry in order to raise its concerns about administrative detention, but these remained unanswered. Interior Ministry officials said they considered Amnesty International's concerns as unproven allegations or individual instances not reflecting patterns of abuse, and pointed to the protections provided by Egyptian law. On some occasions, they said that national security considerations justified the detention of certain individuals, including those who had obtained court decisions ordering their release.

Amnesty International wrote to (now former) Interior Minister Habib Ibrahim El Aldy with specific questions regarding the number of administrative detainees and to seek clarification of allegations of human rights violations. It had received no answer. The views and answers of representatives of the NCHR, and the Public Prosecutor, as well as officials of the Interior, Foreign Affairs and Legal and Parliamentary Councils Ministries who met Amnesty International delegates in 2009 and 2010, are reflected in this report.

Amnesty International delegates have been in Egypt almost continuously since the early days of the uprising in January 2011 until early March. They have sought where possible to update information on cases featured in this report.



## 2. ADMINISTRATIVE DETENTION SYSTEM

**“My son also lost his job in the Emirates and he lost all his money! And he will lose his career! And he will lose his health! All this without any accusation...”**

Letter to Amnesty International by Galal Zaki al-Gammal, father of detainee Ahmed Zaki al-Gammal, received on 22 January 2008.

The Egyptian authorities have said: “Administrative detention is a measure taken by the Ministry of the Interior during a state of emergency to deprive persons who manifestly constitute a threat to public security and public order of their liberty. It is a temporary and an exceptional measure...”<sup>22</sup> In practice, however, the authorities have used it widely for decades.

Administrative detention is governed by the Emergency Law. Article 3(1) grants the authorities arrest and detention powers greater than those prescribed under Egypt’s normal criminal procedural law.<sup>23</sup> It empowers the President or his deputies to arrest and detain not only criminal suspects but any person the authorities deem to be “dangerous to public security and order”, and to search them or their homes. These powers are not subjected to the rules that ordinarily govern arrest, detention and house search under the CCP.

A person who is arrested under Article 3 of the Emergency Law should be notified immediately and in writing of the reasons for the arrest and detention, as stipulated in Article 3bis. According to the law, the person should be treated as someone in pre-trial preventive detention with the right to contact anyone they choose and have legal assistance.

In practice, following arrest by the SSI in state security cases or by General Security Investigations in criminal cases, detainees were held in custody at the local police station or SSI premises before being transferred to prison or the SSI headquarters for interrogation. They were never informed of the reason for their arrest; many were not allowed to contact the outside world or have legal assistance, and some alleged security cases disappeared for months.

If not released after 30 days,<sup>24</sup> the detainee, a relative or lawyer is entitled to lodge – free of charge – a complaint requesting that the detention order be reviewed by an emergency court. Amendments to the Emergency Law contained in Law No. 50 of 1982 made the emergency courts the only judicial authority that could look into appeals against administrative detention – before

this, administrative courts had examined appeals. The emergency court must provide a reasoned ruling on the complaint within 15 days of receiving it, after listening to the detainee's testimony, or the detainee must be released immediately. The Interior Minister is entitled to appeal against the release of a detainee in cases where the appeal against the detention was not examined by the court within the 15-day limit. The Interior Minister is also entitled to appeal within 15 days of the court deciding that the detainee should be released. The case is then referred within 15 days to another emergency court for review. This court must examine the case within 15 days from its referral. If the court does not examine the case within the 15 days or if it upholds the initial release order, the detainee must be released immediately.

Detainees whose complaints against their detention order are rejected by the court continue to be detained and can file a new complaint only after 30 days have elapsed from the date of the previous complaint, as prescribed by the Emergency Law.

In practice, administrative detention orders have been issued at different stages following arrest. Some have been served immediately after arrest and interrogation. Some have been issued after the person has been released without charge by the Public Prosecutor or released on bail by the Public Prosecutor pending trial. Some have been served after the person has been acquitted, including by emergency and military courts. Yet others have been issued after the person has finished serving their prison sentence.

The authorities repeatedly stated that administrative detention orders were authorized and signed personally by the Interior Minister. For example, on 24 January 2010, former Interior Minister Habib Ibrahim El Adly affirmed that "detention is carried out via presentation from the security apparatus, the SSI or the General Security, of dangerous activities of elements that are carrying out political or criminal offences. This information is presented to me personally with its evidence and I decide to agree the detention of the individual or not."<sup>25</sup>

Amnesty International delegates in Egypt have frequently tried to obtain a copy of a detention order where the signature of the Interior Minister is clearly visible – but without success. The organization has asked scores of lawyers and human rights organizations working on administrative detention for such evidence. None had ever seen a single detention order signed by the Minister in the previous 10 years. Lawyers have only been able to obtain a certificate of detention with the name and title of the Interior Minister, and a reference that the order is a copy of the original, but no signature. The copy includes the legal provisions used to justify the detention, the name of the detainee, the date the order of detention was issued, but no detention number. A copy of the Interior Minister's appeal against the release of a criminal administrative detainee obtained by Amnesty International only has a stamp with the name of the Interior Minister. Interior Ministry officials have refused to provide Amnesty International delegates with examples of detention orders signed in person by the Interior Minister, saying that such orders can only be shown to a court.

Many Egyptian lawyers argue that this means that administrative detainees are detained outside the law. They believe that it is only when an appeal is lodged against the "presumed" administrative detention that a detention order is retroactively issued and backdated to the time of arrest to create the appearance that the detention was in line with emergency legislation. This theory is supported by the fact that, to Amnesty International's knowledge, no administrative detainee has been informed in writing and immediately after arrest of the reasons for their detention.

## ENFORCED DISAPPEARANCES

Many security suspects arrested by the SSI or forcibly returned to Egypt from abroad disappeared for months. Many were held in secret; the authorities either denied that the individuals had been detained or refused to disclose their fate or whereabouts to lawyers and relatives. Such detentions were beyond effective judicial control and the individuals were outside the protection of the law. The detentions amounted to enforced disappearances, which are absolutely prohibited under international law.

Enforced disappearances of detainees in national security-related investigations have been facilitated by the virtually unlimited discretionary powers invested in the Interior Ministry to determine where particular detainees are held. Article 1bis of the Law on Prison Regulations (Law No. 396 of 1956) states that: "individuals deprived of their liberty can be detained in one of the places of detention previously specified in this law as well as in places defined by decree of the Interior Minister..." In addition, prisons are under the supervision of Prisons Sector Department of the Interior Ministry, allowing the Interior Ministry full control of all detention facilities.

Most of those who have disappeared are believed to have been held in the premises of the SSI or, less often, of the Mukhabarat Al-'Amma. These premises are not subject – in law or practice – to inspection or control by the office of the Public Prosecutor or any other judicial authority, as specified in Article 42 of the CCP and Article 85 of the Law on Prison Regulations. Moreover, in these facilities no official record is kept that can be inspected to prove that a detainee has indeed been held there and showing details such as the dates of their detention. Such practices breach Principle 12 of the Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment. Holding detainees in such informal detention centres, even for a short period, also violates Article 41 of the CCP, which prohibits detaining people in unofficial detention facilities.

The UN Declaration on the Protection of all Persons from Enforced Disappearance provides, among other things, that "[a]ny person deprived of liberty shall be held in an officially recognized place of detention," that all detentions be subject to judicial supervision, that "accurate information on the detention of such persons and their place or places of detention, including transfers, shall be made promptly available to their family members, their counsel or to any other persons having a legitimate interest in the information", and that an official up-to-date register of everyone deprived of their liberty shall be maintained in every place of detention and the information made available to any family member, counsel or other interested person seeking to trace the whereabouts of a detainee.<sup>26</sup> Similar obligations arise under the CAT.<sup>27</sup>

In his report on his April 2009 visit to Egypt, the UN Special Rapporteur on human rights and counter-terrorism,<sup>28</sup> Martin Scheinin, referred to "an alarming lack of judicial oversight of facilities run by SSI". He noted that reported practices would place detainees beyond any protection of the law, in some cases amounting to enforced disappearance. He emphasized that: "only officially recognized places of detention must be used for the detention of terrorist suspects" and stated that, given the "consistent allegations... of the use of other facilities for this purpose, independent, prompt and thorough investigations are needed."<sup>29</sup>

It appears that the office of the Public Prosecutor is not informed by the SSI about people detained in such premises or the reasons for their detention, and so is unable to provide any oversight of detention conditions or the treatment of the detainees. In February 2009, Amnesty International delegates asked the Public Prosecutor if members of his office visited SSI detention premises; he

replied that Egyptian law does not specify these places as subject to inspection by the Public Prosecutor.

## RELEASE: A DISCRETIONARY PRACTICE

The Egyptian authorities viewed the release of administrative detainees as a security issue and a form of reward for those who adhered to instructions of the SSI officers, not as part of a judicial process. In practice, the final decision to implement or ignore a release order by a judicial authority, be it a court or the Public Prosecutor, lay with the Interior Minister and his staff. Indeed, the decision of the Interior Minister seemed to override all other considerations.

In a meeting with Ministry officials in March 2010, Assistant Minister Hamed Rashed told Amnesty International delegates that a court decision to release a detainee represents "a mere opinion of a judge". He said that the security officers, by virtue of their job, training and information available to them on particular detainees, are better placed to assess whether or not a person constitutes a threat to public security and order and whether or not it is "safe for public security and order" to release them. He added that courts had on many occasions not been able to convict people because of irregularities in the arrest and detention procedures, and so dangerous suspects and drug dealers had been released.

The refusal of Interior Ministry officials to implement court orders and release detainees not only stripped these court decisions of their value, it also violated Article 64 of the Constitution (subsequently suspended by the SCAF), which stated that "the sovereignty of the law is the basis of the state rule". In addition, according to Article 123 of the Penal Code, any public official who intentionally refuses to implement court decisions and other orders after eight days has elapsed, if their implementation is part of his functions, may be punished with imprisonment.

The Assistant Minister also said that administrative detention is a precautionary measure taken against individuals considered to be a threat to public order and security. He said these cases are subjected to a regular security assessment by the security officers dealing with the cases and who also receive information on the activities of the detainees. These assessments are then used to decide whether individuals are released or rearrested and detained after receiving a judicial release order.

A principal element of the assessment is the monitoring of the activities and attitudes of detainees. Former political administrative detainees have told Amnesty International that the security assessments are based on the behaviour of the detainee in prison, including the way he dresses, how he wears his beard, how often he recites the Qoran and prays, and with which inmates he socializes. They have said that such security monitoring is carried out by prison wardens, SSI officers during interviews with the detainee, and by other detainees. The lack of sufficient evidence to prosecute the detainees means that their actual or perceived stance towards the authorities and society in general is essentially substituted for evidence.

Individual security assessments are carried out more intensively on detainees accused of association with Islamist groups. These assessments are inextricably linked to the general "reviews" (*muraga'at*) in prisons involving the leaders of the largest Islamist groups, Gamaa Islamiya and Islamic Jihad, whose members were convicted for the killing of Anwar Sadat in 1981. In July 1997, Gamaa Islamiya called for a non-violent initiative. In late 2001, many of the group's leaders toured prisons to promote the non-violent ideology, described in a number of publications. In November

2007, Islamic Jihad declared a similar initiative.<sup>30</sup> Many observers saw the revisionist reviews as a result of years of security pressure; others questioned their value given the context of continued detention and imprisonment. Nonetheless, the reviews have led to the release of thousands of the groups' members and special treatment and facilities for those still in detention who endorsed them.

Some detainees not arrested in connection with links with Islamist groups were released after a few years without explanation. It appears that their administrative detention was designed to punish and intimidate them, but for what reason is frequently unclear.

The release of criminal administrative detainees has often been linked to the relations they had with the police officer of the district where they live. Sometimes, they were asked to work as informers to secure their release and had their detention order renewed if they refuse.

The persistent refusal to release some detainees in compliance with court orders has prompted many detainees, their families and lawyers to submit their cases to UN human rights procedures, in particular to the UN Working Group on Arbitrary Detentions (WGAD).<sup>31</sup> In all cases of administrative detainees submitted to it, the WGAD has found that continuing to hold a person in administrative detention after release had been ordered constituted an arbitrary deprivation of liberty.<sup>32</sup> It has stated that: "no legal basis can be invoked to justify the detention, least of all an administrative order issued to circumvent a judicial decision ordering the release."<sup>33</sup>

The WGAD opinions have gone unheeded and the Egyptian authorities have continued to refuse to allow the WGAD to visit the country. In the vast majority of cases that the WGAD decided were arbitrary detentions, the detainees remained held – sometimes for years. Indeed, in not a single case did the Egyptian authorities immediately release the individual concerned.

In its responses to the WGAD, the Egyptian authorities often maintained that the people in question belong to "terrorist" networks and constituted a threat to public order and security. In other cases, they stated that those concerned were released but resumed "their radical activities" and were re-arrested in order to prevent them from committing "acts of terrorism".<sup>34</sup>

## DENIAL OF RIGHTS AFTER RELEASE

*"I was 18 when I was arrested, now I am 35. All this time, I have been in administrative detention. After my release, I sometimes still think and behave as if I were 18 years of age."* A former administrative detainee, name withheld, speaking to Amnesty International in February 2010

After months or years in detention, administrative detainees have been released without any help from the state that has so abused their rights. Long-term detainees in particular have been abandoned to face a future without money, jobs or prospects, and without any counselling or other assistance to help them overcome the trauma and health problems brought on by torture or harsh prison conditions, and to reintegrate into society.

Assistant Interior Minister for Social Security, Mohamed Farahat, told a press conference on 19 April 2010 that the assistance given by the General Directorate for Aftercare to prisoners after release and their families was designed to help them overcome social problems and to ensure that former prisoners did not return to crime.<sup>35</sup> He said there had been 140,000 aid packages in 2009 benefiting 19,000 families.<sup>36</sup> None of this assistance, however, was directed at administrative

detainees or their families.

Instead, released administrative detainees were asked to report to the local SSI office once a week, when they were asked about their family situation, their reintegration into society and whether they were able to get a job. This continued until the SSI officer believed that the person was no longer a "danger", and then less frequent reporting was required. Former detainees also had their freedom of movement restricted and warned against any public speaking or preaching in mosques; among other things, many were denied passports or were forced to seek permission from the SSI officer responsible for their case before they could travel inside or outside of Egypt.

Many former administrative detainees and lawyers believed that the SSI helped the released leadership of Gamaa Islamiya and Islamic Jihad to find jobs or set up a small business. However, most former detainees have faced unemployment as work opportunities have been limited and most of them could not develop or gain professional qualifications in prison. A few of those employed in the public sector at the time of their arrest have been able to return to their jobs, but only after litigation and court rulings. Some have been removed from their jobs and become daily wage labourers. Others remain unemployed or work as street traders.

### **ABD AL-MUNEIM GAMAL AL-DIN ABD AL-MUNEIM**

Former administrative detainee Abd al-Muneim Gamal al-Din Abd al-Muneim has worked as a journalist since his release in August 2007 after more than 14 years in detention. On 17 June 2009, he was prevented at Cairo Airport from travelling to Beirut in Lebanon to participate in a television programme to discuss his book, *The Map of Islamist Movements in Egypt*. He was given no reason for the travel ban, although he received on 16 June confirmation from the SSI officer responsible for his case that there were no restrictions on his travel for that particular occasion.

Abd al-Muneim Gamal al-Din Abd al-Muneim was arrested in February 1993 when SSI officers raided his house, confiscated belongings and took him to the Giza SSI branch for one day before transferring him to Abu Zaabal Prison. He appeared before a military court between August and October 1993 in connection with his alleged membership of Talai' al-Fatah (Vanguards of the Conquest), a banned Islamist organization. He and dozens of others were acquitted by the Supreme Military Court in Cairo in October 1993 of terrorism-related charges. Instead of being released, he was given a new detention order and taken to the High Security Prison in Tora until early 1995, when he was transferred to Wadi El-Gedid Prison.

In December 1998, he was again charged as part of the "returnees from Albania" case.<sup>37</sup> Although the Military Prosecutor did not provide details of the charges, the defendants were accused of membership of the armed group Islamic Jihad, which was active inside and outside Egypt while Abd al-Muneim Gamal al-Din Abd al-Muneim was in prison.

On 18 April 1999, Abd al-Muneim Gamal al-Din Abd al-Muneim was acquitted, along with 19 others. Instead of being released, he was again issued with a new detention order and transferred to Istiqbal Tora Prison. Before his eventual release, he was held in a number of places, including El-Faiyum Prison and Abu Zaabal High Security Prison. He was given no reason for his release.



## 3. USE OF ADMINISTRATIVE DETENTION

**“When issuing and extending the declaration of the state of emergency, the political authorities have always pledged to refrain from using their emergency powers except to deal with terrorism and drugs offences, and they have kept their pledge.”**

Egypt's Universal Periodic Review Report 2009, page 12

Whatever the stated aims, the Egyptian authorities did not honour that pledge and administrative detention was used as a shadow criminal justice system. It was used to prolong the detention of people beyond the period allowed, to impose a punishment additional to the prison sentence handed down by a court, and to bypass judicial decisions, particularly to secure continuous detention when little or no evidence has been submitted to obtain a criminal prosecution or secure a conviction. It has also been used in response to sectarian and communal violence and, according to the authorities, to pre-empt and reduce crime. In other cases, it was used in order to stifle dissent and seek to intimidate independent critical voices. In all cases, its use was inconsistent with international human rights.<sup>38</sup>

### **MOHAMED ABDEL AL-FATEH BASYOUNI**

Mohamed Abdel al-Fateh Basyouni, aged 24, was held in El-Faiyum Prison, south of Cairo, under administrative detention without charge or trial between September 2009 and February 2011. He was arrested when he came from Yemen, where he is a resident, to visit family in Egypt, and held incommunicado for several weeks, during which he was reportedly tortured. He continued to be detained despite having received court orders for his release, most recently on 4 January 2011. His relatives believe that he was arrested because his father, Ahmed Basyouni Dawidar, was wanted in Egypt and had previously been tried in absentia by a military court for security-related crimes in the case known as the “Returnees from Albania” in 1999 and sentenced to life. Ahmed Basyouni Dawidar, who was allegedly linked to al-Qa’ida, was later killed by the Yemini security forces in July 2007.

On 29 January 2011, Mohamed Abdel al-Fateh Basyouni phoned his brother from El-Faiyum Prison and

told him that the cells were on fire and that the prison was burning.<sup>39</sup> His brother went to ask about him at the SSI office in Tanta, northern Egypt, where he was usually brought to renew his administrative detention order, but obtained no answer. In the breakdown of law and order in the days surrounding the departure of President Mubarak which saw prison guards abandoning their posts and prisoners left unattended, Mohamed Abdel al-Fateh Basyouni together with others prisoners escaped from prison. He was set free when he surrendered himself in March 2011.

## TO PROLONG INTERROGATION

By issuing an administrative detention order, the authorities circumvent the 24-hour limit in the CCP and the seven-day limit of laws relating to terrorism after which detainees must be brought before a prosecutor.<sup>40</sup> Those held under administrative detention are outside any judicial supervision for at least 45 days (30 days before the appeal plus 15 days during which the court should review the case).

In practice, during these 45 days detainees were interrogated and usually tortured at SSI detention centres. Even if the case was brought before a judge on the 45<sup>th</sup> day, the detainee was not brought before the judge in person and his or her lawyer was not entitled to appear either. This prevented the lawyer or the detainee from reporting any allegations of torture and other ill-treatment. In effect, as shown above, detainees remained at the mercy of the authorities even after that date.

Many administrative detainees who were brought before the public prosecution for interrogation on a security-related case had not by this fact received greater protection. For instance, defence lawyers in the so-called Zeitoun Cell case (see below) told Amnesty International that the defendants were all issued with administrative detention orders following arrest. When the Public Prosecutor ordered their pre-trial detention, their papers stated that the detention order would start when the administrative detention order issued by the Interior Minister expired. This suggested that the Public Prosecutor believed he had no power or oversight over the detention of administrative detainees.

## ZEITOUN CELL CASE

Mohamed Fahim Hussein, a 27-year-old petroleum engineer who is disabled, was arrested at his home in the village of Telbana in Mansoura, Daqahliya governorate, during a dawn raid by the security forces on 2 July 2009. Between 2 and 8 July, 13 others from the villages of Telbana and Kum Darbi were arrested. All were taken to the Mansoura police station for a couple of hours before being transferred to an undisclosed SSI detention facility in Cairo. Their relatives were told that they were being taken for a simple security check and that they should be back in a few hours. They were told not to complain to the public prosecution otherwise their loved ones would be issued with administrative detention orders.

On 9 July, the Interior Ministry announced that Mohamed Fahim Hussein and 25 others had been arrested in Daqahliya, Alexandria and Cairo. It accused them of terrorism-related offences; robbing a jewellery store in May 2008 in Zeitoun, Cairo, and killing four people, including the shop owner. Two days later, defence lawyers wrote to the Public Prosecutor, and several times afterwards, requesting that the Interior Ministry disclose the place of detention of the suspects, for them to be brought immediately before the Public Prosecutor for interrogation within normal office hours and in the presence of their lawyers, for them to be medically examined for signs of torture and other ill-treatment, and for their lawyers to meet and consult with them in private. Despite this, the lawyers and families learned nothing about the detainees' fate or

whereabouts.

The 14 who were arrested in Telbana and Kum Darbi were issued with administrative detention orders, dated 2 July 2009, when they were brought before the Public Prosecutor for interrogation on 26 July. Some of them were interrogated in the absence of their lawyers, who were not informed of the interrogation dates. Some of the lawyers present in court at the time were prevented from assisting them.

The case was later referred for trial before an emergency court in Cairo, with the first session opening on 14 February 2010 amid allegations by the defendants that they had been tortured. Following further torture allegations in the hearing of 20 March 2010, the court referred seven of the men for forensic examination. In another session, the prosecution presented a statement allegedly written by Mohamed Fahim Hussein in which he confessed to all the charges and said he renounced violence. The case was postponed to 13 February 2011, but no session was held. All the defendants continue to be held in High Security Prison in Tora. It is not clear whether their trial will resume before an emergency court or they will be referred for retrial before an ordinary criminal court.

## TO BYPASS JUDICIAL RULINGS

Administrative detention has been used to circumvent judicial rulings enjoining the release of individuals whom the Interior Minister and his officials wanted to keep in custody. This applied when the Public Prosecutor ordered release on bail pending further investigation, or when a detainee should have been released for lack of evidence to bring charges, or after a court ordered the release of an administrative detainee following an appeal against their detention. It was also applied in cases where the individuals were acquitted after trial, including by a military court. This demonstrates that the Interior Minister and his staff had the final decision on which individuals must continue to be detained, regardless of rulings of courts or the Public Prosecutor.

## KERDESSA CASE

Ahmed Shahat Abdel Aal al-Gundi, Muhsin Abdallah Hassan and Ayman Bekr Abdelsalam were arrested in connection with a bombing in 1995 attributed to members of Gamaa Islamiya in what became known as the Kerdessa case. Although they were acquitted by a military court in 1995, they remained held in administrative detention by order of the Interior Minister until their release on 19 February 2011, after more than 15 years in administrative detention. Their relatives told Amnesty International that they refused to accept the Interior Ministry's "reviews" whereby they would promise to renounce violence (see Chapter 2). They refused on the grounds that they had not been convicted of any violent acts. Their relatives believe that their refusal was the main reason they remained in detention as many of those who accepted the "reviews" were released.

All three obtained numerous court decisions ordering their release. Ahmed Shahat Abdel Aal al-Gundi received a release order in July 2010 and was transferred to the SSI in 6 October detention facility, around 30km from central Cairo, where he was kept for two weeks, before being returned to Istiqbal Tora Prison. Ahmed Shahat Abdel Aal al-Gundi told Amnesty International that at least 23 other detainees remained in the prison wing where he was held in Istiqbal Tora Prison after his release, including Yasser Mahmoud Fahmi Ahmed, Mohamed Najah Abdelaziz and Gamal Mahmoud Obeid. They were all released shortly afterwards.

## TO ADDITIONALLY PUNISH

Administrative detention was used to keep in prison individuals who had served their sentence. On the expiry of their sentence, the Interior Minister issued them with detention orders on the grounds that they were considered a risk to public order and security.

Such action not only violates the court decision that set the term of imprisonment, it also inflicts an additional punishment on the prisoner. This is perceived by many victims as worse than the original sentence because detainees have no idea when they will be freed and fear they will be kept in administrative detention for years.

The WGAD cites the situation where "a person is kept in detention after the completion of his sentence" as a primary example of "category I arbitrary detention" which applies "[w]hen it is clearly impossible to invoke any legal basis justifying the deprivation of liberty."<sup>43</sup>

## HISHAB DIAB

Dual Egyptian-Dutch national and film-maker Hisham Diab, aged 50, spent seven years in administrative detention from 2004 until his release on 6 February 2011. The Interior Minister issued an administrative detention order after he had served the three-year sentence imposed on him in November 2001 by the Supreme Military Court in Heikstep, North Cairo, in what was known as the trial of the alleged Islamic armed group, Tanzim al-Wa'ad (Organization of the Promise). He received several release orders by courts.

Hisham Diab was due for release on 8 May 2004. Instead of being freed he was moved from prison to the SSI offices in Lazoghly, Cairo, where he was detained for two weeks, fell ill and was taken to hospital. He was then returned to Liman Tora Prison under an administrative detention order. In October 2004, he filed his first appeal against his administrative detention and received a court decision ordering his release. However, he was again moved to Lazoghly and served with a new detention order.

He said that after consular visits or visits by his family he was subjected to torture and other ill treatment, including by being beaten and threatened with death. In June 2006, he was transferred from Mazra'at Tora Prison, Cairo, to Wadi El-Gedid Prison in the Western Desert about 730km from his family. He said he was put in solitary confinement more than 10 times. He suffered from a blood clot in his left leg, high blood pressure and kidney problems, which he said were the result of his torture and other ill-treatment in prison.

Hisham Diab had been detained since his arrest on 8 May 2001. He was initially taken to the SSI offices in Lazoghly where he spent 45 days. During this period he said he was interrogated and tortured, including with suspension, electric shocks and beatings. On 9 September 2002, a military court sentenced 51 of the 94 defendants to prison terms of between two and 15 years. At least 24 of them told the Public Prosecutor that they had been tortured. They were tried on charges of membership of an illegal organization; illegally collecting money to send in support of the Palestinian intifada and Chechens fighting Russian forces; seeking to topple the Egyptian government and to assassinate top government officials; premeditated sabotage and destruction; threatening peace and public security; and possessing firearms, ammunition and explosives without licence. The rest were acquitted.

## TO STIFLE DISSENT

*"In my opinion they detained me to kill a model. They think that there shouldn't be in Sinai a peaceful civil activist asking people to peacefully and civilly fight for their rights and their rights for citizenship."*

Musaad Abu Fagr in an interview with Amnesty International, July 2010

The Egyptian authorities persistently used emergency powers to curtail freedom of expression, association and assembly as well as to repress peaceful political opposition, even after the May 2010 presidential decree had limited the application of the Emergency Law to terrorism and drug-related offences. Those targeted included journalists, bloggers, members of the Muslim Brotherhood and other political groups, and government critics, who have often been referred for trial before military and emergency courts.

In his 2009 report on his visit to Egypt, the UN Special Rapporteur on human rights and counter-terrorism explained that anti-terrorism laws that are not "confined to the countering of terrorism" are problematic because the "overly expansive scope" of such laws "may unjustifiably restrict the enjoyment of human rights pertaining to the exercise of peaceful activities, including dissent and political opposition, through legitimate associations."<sup>42</sup> He expressed concern about "the arrest and detention of a number of Internet bloggers critical of the Government, human rights activists, members of the country's largest opposition group the Muslim Brotherhood, and journalists" in "circumstances that have no clear link to terrorist violence."<sup>43</sup>

In February 2010, during its review before the UN Human Rights Council within the framework of the Universal Periodic Review, Egypt accepted the Council's recommendation that "emergency powers should not be abused or used against journalists and bloggers in their exercise of their right to freedom of expression," but rejected as "factually inaccurate" the recommendation to "release bloggers and activists currently detained under the Emergency Law and cease its arrests and detention of political activists."

#### **POLITICAL OPPOSITION CIRCUMSCRIBED**

The authorities routinely arrested members and supporters of the Muslim Brotherhood, usually without a judicial warrant or formal charge. Those eventually charged were brought before emergency or military courts which lack basic fair trial guarantees, including the right to appeal to a higher tribunal.<sup>44</sup> Those not charged were administratively detained.

### **KHAIRAT AL-SHATIR**

Khairat al-Shatir, a senior figure in the Muslim Brotherhood, was arrested on 14 December 2006 along with 16 other prominent Muslim Brotherhood members in pre-dawn raids. They were subsequently charged with terrorism-related and money laundering offences, membership of a banned organization, and providing students with weapons and military training. On 29 January 2007, a Cairo criminal court dismissed all charges against Khairat al-Shatir and his co-defendants and ordered their immediate release. However, they were kept in detention and served with administrative detention orders. A week later, on 4 February, President Hosni Mubarak, ignoring the court's verdict, ordered the cases, and those of 23 other alleged members of the Muslim Brotherhood, to be transferred to the Supreme Military Court in Heikstep, Cairo. Twenty-five of them were sentenced in April 2008 to up to 10 years in prison, including seven who were tried in their absence. Khairat al-Shatir was sentenced to seven years' imprisonment. Fifteen defendants were acquitted and released, but banned from travelling abroad. The appeal filed by 18 of them was rejected by the Supreme Court of Military Appeals on 17 November 2009. In July that year, an administrative court had ordered that 13 of them who had served three-quarters of their sentences should

be released, but they all remained in prison. Khairat al-Shatir, who suffered various health problems while in detention, was released on 2 March 2011 by orders of the SCAF.

The Muslim Brotherhood was widely seen for many years as the main rival to Egypt's ruling National Democratic Party. Although officially banned since 1954, it has continued to operate openly and leaders and supporters of the organization have stood as independent candidates in parliamentary elections despite years of waves of arrest and detention. Such waves have often intensified before, during and after local or parliamentary elections, as was the case in 2005, 2008 and 2010. Potential Muslim Brotherhood electoral candidates, their supporters and activists were arrested days or months before the poll in a clear attempt to restrict the activities of the group and stem their election participation. Many of those arrested were held for months before being released without charge. Most were arrested on the same charges for which they had previously been absolved by the court.<sup>45</sup>

In addition to arresting the group's leadership, the security forces also targeted the Muslim Brotherhood's youth activists. For example, on 7 November 2010, **Ahmed Abdelsattar al-Hajri** and **Mahmoud Suleinam Abu Shams**, both students and members of the Muslim Brotherhood, were arrested and detained at the police station in Shebin El-Kom, 70km north-west of Cairo, when they went there to report an assault on them by university security officers a few days earlier. They were themselves accused of beating the university security guards. Although the prosecution released them two days later, the Interior Ministry issued detention orders against them and they were transferred to detention in Wadi El-Natroun, 100km north-west of Cairo. They filed an appeal against their detention, but it was refused. During the prison unrest and the security forces subsequently abandoning the prison in January 2011, both were able to get out with other prisoners. They have not been apprehended or wanted by the authorities. They plan to run as candidates for the Students Union.

Other strands of political opposition were also targeted. With the mounting protests against the rise in living costs, for better work conditions, against government policies towards Gaza, and for political reforms, the authorities expanded their use of administrative detention to lock up protesters or to use it as a threat to deter others from protesting.

On 5 April 2008, for example, the government banned all demonstrations in advance of a general strike planned for the following day in support of industrial action by textile workers in Mahalla, some 120km north of Cairo. Thousands of police and security forces were deployed in Mahalla and Cairo. Although the industrial action was called off, violent protests broke out in the city against the rising cost of living. At least three people, including a 15-year-old boy, Ahmed Ali Mubarak, who was watching the demonstrations from the balcony of his home, were shot dead, and 258 people were arrested. The authorities charged 49 of them with an array of offences, including assembly of more than five people with the aim of disturbing public order and security, deliberate destruction of public and private property, ransacking and theft, violent resistance and assault on police officers during their duties, and illegal possession of firearms. All were tried before an emergency court, which sentenced 22 of them to prison terms ranging from three to five years, amid allegations that many of them had their "confessions" extracted from them under torture. Others arrested during the Mahalla demonstrations were administratively detained without charge or trial. They included **Wael Abdelsalam** and **Hassan Salem Hagar**, released in January and February 2010 respectively after spending almost two years in detention; and **Abdelhamid Ahmed Farag**, **Hisham Talaat Awad**, **Youssef Ahmed Abu Nasser**, **Essam Youssri Mohamed al-Qadi**, **Farouk Ahmed Shalabi**

and Mohamed el-Sayyed al-Khashem, who were released in July 2010.

## DIA EL DIN GAD

Dia el Din Gad, a 25-year-old student blogger and spokesperson for the Egyptian Movement for Change (Kefaya)<sup>46</sup> in Gharbiya governorate, north of Cairo, was arrested on 6 February 2009 by the SSI after he returned to his home in the town of Qotour, south of Tanta. During his interrogation he was threatened with administrative detention for five years and beyond. He told Amnesty International that his arrest came a few days after he had taken part in demonstrations in Cairo organized by the Muslim Brotherhood in solidarity with the people of Gaza. He said that afterwards he was taken to the SSI branch in Tanta, where he was kept for one day before being transferred first to the SSI headquarters in Lazoghly and subsequently to the SSI facility in Nasr City. There, he said, he was punched and kicked, which caused him to lose one of his teeth. He was threatened with and eventually given electric shocks when he refused to eat; he said the shocks caused him to bleed from his nose. He was also threatened with death. During all this time, he was insulted, handcuffed and blindfolded. Although he suffered from breathing problems, he was denied medication.

He was interrogated about his references to President Mubarak as “Ehud Mubarak”, an apparent reference to Israeli Defence Minister and former Prime Minister Ehud Barak, on his blog, *Sout Ghadheb* (An Angry Voice) in posts critical of the role of the Egyptian authorities in the blockade on Gaza. He had also denounced President Mubarak for Egypt’s policy towards the Gaza Strip and the authorities’ attitude to the delivery of humanitarian aid to Palestinians in Gaza during the Israeli military assault there in December 2008 and January 2009. Dia el Din Gad was also interrogated about Gaza, his alleged contacts with Palestinian groups, and his involvement with the Kefaya movement and asked for the password to his blog.

On 24 February 2009, he was transferred to al-Qatta Prison, Giza. His family and lawyer were not able to see him until 7 March, a month after his detention. He was released on 27 March 2009 and his family received several threats that he would be detained again and never released, and that he should stop his activities for the “Relief for Gaza Campaign”. He continued to receive phone calls ordering him not to go to demonstrations and threatening him with detention. Despite this, he was one of many who camped in Tahrir Square during the January-February uprising.

In April 2010, demonstrators calling for the abolition of the state of emergency and political reform and for an end to security forces’ abuses were victims of excessive use of force by the police – a foretaste of what security forces attempted during the early days of the 2011 uprising. Protesters were also arbitrarily arrested and detained in police trucks for hours before being left in remote areas after their belongings, including shoes and mobile phones, were confiscated from them. Some were threatened with being put under administrative detention if apprehended in the future.

## FREEDOM OF EXPRESSION SUPPRESSED

The authorities have relentlessly used emergency and other repressive laws to stifle criticism and dissent. They have prosecuted journalists on charges of “defamation” and other offences. They have censored books and editions of foreign newspapers. They have imposed restrictions on the Egyptian media. They have blocked internet websites and arrested bloggers. They have administratively detained many other people solely for the peaceful expression of their views. All of these detainees have been considered by Amnesty International to be prisoners of conscience.

Article 19 of the ICCPR guarantees freedom of expression and specifically protects the freedom “to

seek, receive and impart information and ideas of all kinds", whether orally, in writing, in print, or through art or any other form of media. The WGAD considers deprivation of liberty resulting from the exercise of the rights and freedoms guaranteed by Article 19 of the ICCPR to constitute arbitrary detention (in what it calls "category II").<sup>47</sup>

## MUSAAD ABU FAGR

Musaad Abu Fagr,<sup>48</sup> a novelist, human rights activist and founder of the Sinai-based movement Wedna Na'ish (We Want to Live), was released on 13 July 2010 after two and a half years in administrative detention despite having received 21 court orders for his release. His detention came after a court acquitted him of "inciting protests" and "resisting the authorities". He was arrested on 26 December 2007 following demonstrations in al-Arish, North Sinai, involving Wedna Na'ish supporters and others who were demanding permits to build houses, title to the farmland they work, and the release of Bedouin who had been detained without charge or trial after bomb attacks in Taba, Sharm al-Sheikh and Dahab between 2004 and 2006.

Musaad Abu Fagr was arrested in a police raid on his house at 2am, during which they took his books, computers and CDs. The prosecution continued to order his detention, until he was acquitted by a court.<sup>49</sup> Instead of being released, another similar case was brought against him, and he was again acquitted.<sup>50</sup> This time, instead of being set free, he was taken to the SSI premises in al-Arish and issued with a detention order on 15 February 2008. He told Amnesty International:

*"Between my arrest and the date of my release, I spent 30 months and 17 days as a high-risk prisoner. I was moved between more than seven places, three prisons and four places of detention, one of which was a storage room in the basement of one of the police departments. I spent 10 days there and it was the worst cruelty I have suffered in my life. I was moved around more than 20,000km in the back of a truck while my hands were bound behind my back with an iron shackle. My government disregarded 21 court rulings to release me. I caught several skin diseases, some of which I still haven't recovered from."*

Musaad Abu Fagr was released, together with other Bedouin prisoners, after pressure from Bedouins in Sinai and demonstrations calling for their release.

## RELIGIOUS PERSECUTION

The security forces arrested many people on account of their religious belief, citing security concerns as justification. Several cases documented by Amnesty International involved people served with an administrative detention order on the basis that they harmed "social peace". Such people were often charged with "contempt of religion" under Article 98(f) of the Penal Code, which stipulates imprisonment for "exploiting religion... for extremist ideas with the aim of provoking a conflict or of showing scorn or contempt for one of the divinely revealed religions... or harming national unity or social peace".<sup>51</sup> Article 98(f), which prescribes prison sentences of a minimum of six months and a maximum of five years for "contempt of religion", is vaguely worded and has been abused to allow for the imprisonment of prisoners of conscience. Many of those who were investigated by the public prosecutor in relations to these charges were also held under administrative detention by the Minister of Interior on the basis they constituted a threat to "social peace". Victims have included Shi'a, Qoranis,<sup>52</sup> Ahmadis<sup>53</sup> and sometimes converts from Islam to Christianity.

**Osama Gomaa Abdel Latif Maatouq**, aged 39 and married with two children, converted from Islam

to Christianity when he was 23 years old. Church leaders believe that he was served with administrative detention order because he converted to Christianity and because he provided social support for Christian communities. He was arrested by SSI officers on 11 April 2008 and he disappeared for 45 days. His lawyer reported that he was tortured when held at the SSI facility in El-Minya, as a result of which he was taken to El-Minya hospital where he stayed for 21 days. Eyewitnesses told his lawyers that he had several broken bones. To uncover his whereabouts, his lawyers filed an appeal on the assumption that he had been served with an administrative detention order. Osama Gomaa Abdel Latif Maatouq remained in detention, despite at least seven court decisions ordering his release.<sup>54</sup> His lawyer told Amnesty International that in August 2010, he had been transferred to a mental health hospital near Abu Zaabal Prison. Although it is not clear whether he is still under administrative detention, he remains in Wadi El-Natroun Prison at the time of writing. His lawyers have complained to the Public Prosecutor to secure his release.

**Mohamed Farouq El-Sayyed**, a Shi'a, and seven others arrested with him, remained in administrative detention without charge or trial at Damanhur Prison although courts have ordered his release at least seven times. He and 11 others were arrested in April/May 2009; all were suspected of trying to set up an organization to promote Shi'a Islam in a manner deemed to be threatening to Islam and the Sunni community. The prosecution released all 12, but they were detained by the Interior Ministry under administrative detention orders. Four were subsequently released. The others were released on separate dates in 2010. Mohamed Farouq El-Sayyed was the last from the group to be released on 19 February 2011 as part of the wave of releases ordered by the Ministry of Interior.

Freedom of thought, conscience, religion and belief are protected by Article 18 of the ICCPR. The WGAD considers that deprivations of liberty resulting from the exercise of these rights and freedoms constitute arbitrary detention.<sup>55</sup>

In disregard of their international obligations, the Egyptian authorities have enacted laws that restrict freedom of religious association. Law 15 of 1927 continues to regulate the establishment of religious associations. It requires that for a religious group to be recognized by the authorities, it must submit a request to the Religious Affairs Department of the Interior Ministry. The department consults with leading religious figures from the Coptic Church and al-Azhar University and only registers the group if it decides that it will not pose a threat to so-called national unity and social peace. The registration is then referred to the Egyptian President, who issues a decree recognizing the new group, if he agrees with the decision of the Interior Ministry; or denies registration and the group is then banned and its members subject to detention and prosecution under Article 98(f) of the Penal Code.

## **AL-AHMADIYYA COMMUNITY**

On 15 March 2010, SSI officers arrested nine members of the al-Ahmadiyya religious community in five governorates, who were then served with administrative detention orders. The nine are: Mohamed Hatem Al-Shafai and Khaled Ezzat Gaber from Cairo; Ibrahim Mostafa Atallah and Ibrahim Mahmoud Saed from Qalyubia; Mostafa Hassan Abul-Leef and Maarouf Saber Abdallah from Sohag; Mahmoud Wafdi Hassan and Nasr Abdel-Moniem Nassr from Minya; and Ashraf Abdel-Fadel Al-Khayyal from Manufiya. During the arrest, their houses were searched and books and computers confiscated. They were held in the SSI offices in various governorates and denied access to their families and lawyers. During this period, they were not presented before any judicial authority. At the beginning of May 2010, they were transferred to Istiqbal Tora Prison, Cairo, and brought before the Supreme State Security Prosecution for questioning in

connection for “contempt of religion” under Article 98(f) of the Penal Code. Some of them were interrogated without a lawyer. All appealed against their administrative detention and received a court order for their release. Despite this, they remained in detention until their release on in June 2010.

## TO LOCK UP CRIMINAL SUSPECTS

Although Egyptian law only envisages administrative detention in the framework of threats of terrorism and drug-trafficking, people whose alleged recurrent criminal activities were considered to constitute a “danger to public order and security” were served with administrative detention orders with the stated aim to limit their criminal activities and were classified as “criminal” administrative detainees by the Interior Ministry. Most of those served with a “criminal” detention order were said to be registered with the Interior Ministry as “dangerous”. Such orders were often issued against people against whom the security forces had no evidence to secure their conviction but whom they nevertheless accused of continuous involvement in criminal activities.

Because the administrative detention of criminal suspects was supposedly linked to their past criminal record, the memorandum requesting their arrest usually provided details of previous criminal cases against them. However, many people had been issued with an administrative detention order even though they had no criminal record and had not been registered as “dangerous”. The Interior Minister cited various alternative grounds, including suspicion of links to networks aiding illegal migration abroad or to sectarian violence between Muslims and Christian Copts.

## MOHAMED SALAH EL-SANOUSI

Mohamed Salah El-Sanoussi, a shoe-maker aged 28, was served with an administrative detention order following his acquittal by a Cairo criminal court on 4 November 2009 in connection with drug-trafficking charges. His mother, Wafaa Mohamed Abdelnabi, told Amnesty International that her son was arrested on 29 March 2009 because of an altercation with a police officer during a police raid of a restaurant. He was taken to Shubra El-Khayma police station, where officers told her that her son had been rude and would be charged with drug-trafficking. He was held in preventive detention until his acquittal. Instead of being released, he was kept at the police station in Shubra El-Khayma and on 25 November 2009 was served with an administrative detention order and transferred to Borg El-Arab Prison, near Alexandria. He appealed in February 2010 and a court ordered his release, but he was kept in detention in a police station in Shebin El-Qanater. He was then issued with a new detention order on 5 April 2010 and returned to Borg al-Arab Prison.

His mother, who saw him in Benha police station in late 2009, said that he told her that he had been tortured with beatings, electric shocks, cigarettes burns and being suspended upside-down. She filed a complaint and was questioned by the Public Prosecutor, but no further action was known to have been taken. He remained in detention until his release on 22 February 2011, as part of the releases announced by the newly installed Minister of Interior.

Unlike political administrative detainees, appeals against criminal administrative detention are filed at the Committee for the Reception of Appeals of the Office of Legal Affairs at the Police Academy in Cairo, and then referred to an emergency court for review. The detainees have the same limited appeal and review rights as people held in political administrative detention.

Criminal administrative detention orders were often requested by the police officer responsible for

the district where the individual lived and where they allegedly carried out their criminal activities. Usually, the detention order followed the release of the detainee from prison or their acquittal by the Public Prosecutor or a court because of a lack of sufficient evidence to prosecute or convict them.

Amnesty International has documented cases where the detainee had no criminal record. For example, at least 35 fishermen from Metoubess, Rachid, Kafr El-Sheikh, Talkha and Balteem in the Nile Delta region were detained in connection with their alleged involvement in transferring irregular migrants to Europe. Although some of them were acquitted by criminal courts and others released by the Public Prosecutor without charge, the Interior Minister issued them with administrative detention orders and they remained in detention between 2007 and July 2010. They were only released following the May 2010 presidential decree limiting the application of the Emergency Law, although they had previously received court release orders.

### **ADEL EL-SAYYED EISA SALIM**

Adel El-Sayyed Eisa Salim, a fisherman, was arrested on 24 September 2007 and charged with the illegal transfer of migrant workers abroad. He was released on bail by the public prosecution in Rashid on 7 October 2008. However, the next day he was detained and served with an administrative detention order. Although he was acquitted by a court in his absence on 2 December 2007, he continued to be held in administrative detention. He filed several appeals against his detention in October and December 2009 and again in February 2010, but these were rejected by the court. He continued to be held in Borg al-Arab Prison, near Alexandria until he was released in July 2010.

In other cases, police officers sought to mislead the court by appending several criminal cases to the detainee which lawyers later proved were unrelated to the detainee in question.

### **MOUNIR GIRGIS GAD ER-RAB**

Mounir Girgis Gad Er-Rab, a Coptic Christian, was served with an administrative detention order after he was freed by the Public Prosecutor on 25 June 2007. He was released after he reconciled with the plaintiffs and the case was closed, in accordance with Article 18bis of the CCP, which regulates reconciliation in cases of infractions and misdemeanours punishable by a fine. He was arrested on 18 October 2007 and held in administrative detention on the false grounds that he was registered as "dangerous" in the Alexandria General Security Department and was previously accused in five similar cases. The police officer requesting his detention failed to provide details of these cases. Despite court orders enjoining his release, he remained in administrative detention in Borg al-Arab Prison until his release in 2009.

### **TO HOLD FOREIGN NATIONALS**

Administrative detention orders have also been used to detain foreign nationals, mainly Palestinians from the Gaza Strip.

### **AYMAN NAOUFEL**

Ayman Naoufel, aged 38 and father of six, was held in administrative detention after he entered Egypt when Palestinians from the Gaza Strip broke the border barriers to get to Egypt in January 2008, following months of blockade of the Gaza strip. He was arrested at Al-Arish by SSI officers on the suspicion that he was a member of Hamas. He was then held incommunicado for several weeks during which he said he was tortured, including with electric shocks, suspension and beating on sensitive parts of his body. While in al-

**Marg Prison, he was kept in solitary confinement for four months and denied family visits. Although he received at least two court decisions ordering his release, his detention orders were repeatedly renewed by the Minister of Interior. Following the recent unrest and prison riots in January 2011, his whereabouts have not been officially confirmed and he is believed to have returned to the Gaza Strip.**

In addition to Ayman Naoufel some 30 other Palestinians were held in administrative detention, including student **Mohamed Mohamed al-Sayyed**, aged 29, who was held in administrative detention from May 2009 and reportedly tortured while detained incommunicado at the SSI in Nasr City in the outskirts of Cairo. He was detained in Abu Zaabal High Security Prison. Another student was **Mohamed Ghazi Mohamed Abdelhadi**, also aged 29. He was kept in administrative detention from March 2009, despite receiving a number of release orders, most recently in October 2010. He was tortured while in SSI detention, and as a result, was transferred to intensive care in Qasr al-Eini hospital in Cairo for treatment. Like Mohamed Mohamed al-Sayyed, he was also held in Abu Zaabal High Security Prison. Both are believed to have been released as part of the wave of releases ordered by the newly installed Minister of Interior in February and March 2011.

Dual Egyptian-Israeli national **Ouda Suleiman Tarabin** continues to be detained allegedly on the basis that he had been tried by a military court and sentenced to 15 years' imprisonment for espionage back in 1999, when he was aged 19. Ouda Suleiman Tarabin was arrested two days after he entered Egypt illegally. He said he was insulted when he showed an Israeli passport. He told the lawyer who represents him now that he was never brought before a judge nor assigned a lawyer before. The authorities have so far failed to provide a copy of the verdict of the military court despite repeated requests by the lawyer to the Minister of Interior, Minister of Justice and the prison authorities and it remains unclear whether he is indeed serving a prison sentence or is in fact held in administrative detention. Amnesty International wrote to the Minister of Interior to inquire about the legal status of Ouda Suleiman Tarabin but received no answer. Ouda Suleiman Tarabin continues to be held in Liman Tora Prison.

The above information and analysis demonstrates that administrative detention was clearly used to circumvent all sorts of judicial rulings, including those issued by courts established by the Emergency Law. The authorities appeared intent on holding people they consider a "threat". While arresting and detaining them, they have also deprived them of their most fundamental rights.

## 4. DENIAL OF DETAINEES' RIGHTS

Although the Emergency Law and other Egyptian legislation contain provisions regulating arrests and detentions, and allow detainees to challenge their detention, these provisions have been routinely violated in practice, particularly for people who were arrested by the SSI.

### RIGHT TO BE INFORMED OF THE REASONS FOR DETENTION

People arrested by the SSI were generally not told of the reasons for their arrest and detention, and did not know whether their arrest was linked to a detention order already issued by the Interior Ministry, or was part of an ongoing investigation and possible prosecution. Such practices breached Egyptian law, including Article 71 of the now suspended Constitution and Article 139 of the CCP,

which both set out protection against arbitrary detention, denial of access to lawyers and other abuses by stipulating that anyone arrested or detained must be informed of the reasons for their arrest or detention and have the right to communicate with whomever they deem fit to inform and seek legal counsel and be promptly charged. They also breach international standards.

Article 9(2) of the ICCPR provides that "[a]nyone who is arrested shall be informed, at the time of arrest, of the reasons for his arrest and shall be promptly informed of any charges against him." The UN Human Rights Committee has expressly confirmed that where states use "so-called preventive detention... for reasons of public security", all such detentions must equally be controlled by Article 9(2) as well as other requirements of Article 9.<sup>56</sup>

Principle 16(1) of the UN Body of Principles for the Protection of all Persons under Any Form of Detention or Imprisonment (Body of Principles)<sup>57</sup> states that "[p]romptly after arrest and after each transfer from one place of detention or imprisonment to another, a detained or imprisoned person shall be entitled to notify or to require the competent authority to notify members of his family or other appropriate persons of his choice of his arrest, detention or imprisonment or of the transfer and of the place where he is kept in custody."<sup>58</sup> The UN Declaration on Enforced Disappearances makes similar provision,<sup>59</sup> as do the UN Standard Minimum Rules for the Treatment of Prisoners.<sup>60</sup>

The African Commission on Human and Peoples' Rights has stated that "holding an individual without permitting him or her to have any contact with his or her family, and refusing to inform the family if and where the individual is being held, is inhuman treatment of both the detainee and the family concerned."<sup>61</sup> Principle 13 of the Body of Principles stipulates that the arresting authorities must promptly provide any person taken into detention with "an explanation of his rights and how to avail himself of such rights". The right of detainees to be informed of their rights and to contact relatives has also been linked to obligations under Article 2 of the CAT.<sup>62</sup>

In not one of the cases documented by Amnesty International in recent years was the detainee notified of the reasons for their detention in writing immediately following arrest. Nor were they informed of their rights.

Relatives of those arrested by the SSI at home were often told that the detainee would be freed within hours. Such arrests usually took place during house raids in the early hours of the morning, during which violence was used by the security forces to break into the house, search it and confiscate documents, books, CDs, computers and mobile phones they found. During such raids, family members, including children, were intimidated and sometimes abused and arrested. Typically, the suspect was blindfolded and taken to an SSI branch where they were generally kept for several days before being transferred to the SSI headquarters in Lazoghly or Nasr City, or they were taken to the headquarters directly after arrest.

Following arrest, information about the fate and whereabouts of those arrested by the SSI was routinely denied to family members and their lawyers. During this period, detainees were usually held at SSI detention facilities. The detainees themselves were not told for weeks or months of the reasons for their arrest and detention. Later, when the detainee's family or lawyer obtained the certificate of administrative detention, it stated that the person was detained in a secure place but did not specify where.

## AHMED ZAKI AL-GAMMAL

Ahmed Zaki al-Gammal, aged 31, who worked as a sales executive in Dubai, was arrested on 4 April 2008 at 2am at his father's home in Ain Shams. He and his 22-year-old Chechen wife, Sayana Ruslanovna Khadaeva,<sup>63</sup> were taken to the SSI premises in Nasr City. His father asked why his son had been arrested, particularly given that he had just returned three months earlier from working in the United Arab Emirates and had not faced problems before he went there. He was simply told that the SSI needed the couple. His father later requested, without success, information about the fate or whereabouts of his son from the Public Prosecutor, the Interior Minister, the SSI Director, and the SSI office in Madinet al-Salam, Ain Shams. On 2 July, 90 days after the arrest, the father received an anonymous phone call informing him that his son was detained at Istiqbal Tora Prison. When his father was finally able to visit him, Ahmed told him that he had been tortured, including with electric shocks and beatings. He was transferred to Abu Zaabal Prison and then back to Tora High Security Prison. He continued to be administratively detained in Tora High Security Prison, despite several court orders for his release, until his release on 23 March 2011. He told Amnesty International that he is going to file a case against those involved in his torture and to demand justice and reparation for his years in detention.

## RIGHT TO HAVE ACCESS TO FAMILY AND LAWYER

In virtually all cases of arrest and detention by the SSI, detainees were completely cut off from the outside world following arrest. Nobody could visit them, despite repeated requests by the family and lawyers, and complaints to the office of the Public Prosecutor and the Interior Minister.

Relatives were never, to Amnesty International's knowledge, formally told where their family member was being held. Their only hope of learning about their whereabouts was through the relatives of other inmates, or if a prison guard could be bribed to phone the family.

The Emergency Law in theory allows the detainee to be assisted by a lawyer, but does not specify how quickly access must be granted. To Amnesty International's knowledge, no administrative detainee has had access to their lawyer during the first 30 days of detention. For instance, all of those who were detained and tried in connection with what was known as the Zeitoun Cell case (see Chapter 3) were held in secret and denied access to their lawyer and family, even after being presented before the Public Prosecution for interrogation.

The right to communicate with and be represented by a lawyer of one's own choosing in the determination of criminal charges is guaranteed by Articles 14(3)(b) and (c) of the ICCPR. The UN Human Rights Committee has emphasized that this includes the requirement of prompt access to a lawyer. In any case where justice requires, such as in cases of serious criminal charges (including terrorism-related offences), the state has an obligation to assign legal assistance where the accused does not have the means to pay for it. Even where a person has not yet been charged with a criminal offence, under Article 9(4) of the ICCPR he or she must 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".<sup>64</sup> To be given an effective opportunity to do this generally requires the assistance of legal counsel.<sup>65</sup>

The UN Committee against Torture has emphasized "the right promptly to receive independent legal assistance, independent medical assistance, and to contact relatives" as among the "basic guarantees" that "apply to all persons deprived of their liberty."<sup>66</sup> The Body of Principles similarly recognizes the right of detainees to prompt and confidential access to legal counsel,<sup>67</sup> and the right

“to be visited by and to correspond with, in particular, members of his family” and “to communicate with the outside world” more generally.<sup>68</sup>

## HANI NAZEER

Hani Nazeer, a Coptic Christian and blogger from Qina, Upper Egypt, was released on 21 July 2010, after having spent 22 months in detention under a succession of (criminal) administrative detention orders by the Interior Minister and despite receiving 10 court decisions ordering his release. He told Amnesty International that during the whole period of his detention, he was only once – on 29 March 2009 – allowed to meet his lawyer. He was also denied medical care and refused permission to send and receive letters.

Hani Nazeer was forced into hiding when angry crowds in Qina gathered in front of his home and denounced him for posting on his blog, *Karz El Hob* (Preacher of Love), a link to a Coptic website that had an electronic copy of a book they deemed insulting to Muslims.<sup>69</sup> Security officers then threatened to detain his brothers and sisters to force him to surrender.

He was arrested on 3 October 2008 at Qina police station when he went there to file a complaint against threats being made against him because of his blog, after receiving promises from a church official that he would not be detained. Three days later he was transferred to SSI offices in Asyut, where he was held for one day. Nobody told him what was happening at any stage. The next day, 8 October, he was issued with an administrative detention order and transferred to Borg al-Arab Prison near Alexandria, some 700km away from his family. There, prison guards beat him and fellow prisoners pressured him to convert to Islam.

Every time he received a release order, Hani Nazeer was taken to Alexandria Security Directorate, held for three to 10 days, issued with a new administrative detention order and then returned to Borg El-Arab Prison. On three occasions, he was also taken back to Qina police station in a police truck during a 17-hour journey, held for up to a week before being returned to Borg al-Arab Prison with a new detention order. His family was never informed of his transfers.

During his detention, Hani Nazeer was questioned by the SSI officer in prison about his relations with other Copts but never in relation to his blog or the novel. He told Amnesty International that he believed his detention was linked to his activities in defence of the human rights of the Coptic minority and in seeking to publicize the discrimination they face. Members of the Egyptian delegation to the UN in the framework of the Universal Periodic Review told an Amnesty International delegation in February 2010 that Hani Nazeer’s detention was “partly for his own protection”.

After his release, Hani Nazeer was dismissed from his job as a social worker at a high school in Qina because of “unjustified absence” although he presented documents to show that he was held in administrative detention without charge or trial.

## RIGHT TO BE HELD IN ACCORDANCE WITH THE PRINCIPLE OF LEGALITY

Administrative detainees were held on the vague grounds that they constituted a threat to public order and security. No specific accusations were ever made. Most political administrative detainees were held on the basis of a vague phrasing used on the detention request note, in particular that “they belong to a group that embraces and adopts the *jihad* and principles of declaring others as

infidels as well as seeking to carry out terrorist acts". The Emergency Law does not contain any definition of what constitutes a threat to public order and security. In addition, the definition of terrorism in the Penal Code is overly broad.

Article 86 of the Egyptian Penal Code as amended by the Anti-Terrorism Law defines the offence of "terrorism" to mean "any use of force or violence or any threat or intimidation to which the perpetrator resorts in order to carry out an individual or collective criminal plan aimed at disturbing the peace or jeopardizing the safety and security of society and which is of such nature as to harm or create fear in persons or imperil their lives, freedoms or security; harm the environment; damage or take possession of communications; prevent or impede the public authorities in the performance of their work; or thwart the application of the Constitution or of laws or regulations."

Indeed, shortly after the entry into force of the Anti-Terrorism Law, the UN Human Rights Committee concluded, and later reiterated, that it contravenes a number of rights enshrined in the ICCPR, in particular Articles 6, 7, 9 and 15. The Committee also stated that the "definition of terrorism contained in that law is so broad that it encompasses a wide range of acts of differing gravity" and called on Egypt to review the law.<sup>70</sup> As a result of the lack of clear provisions on which to arrest and detain individuals considered a threat to public security and order, administrative detainees were held in violation of the principle of legality (that is, the requirement to limit both criminal liability and punishment to clear and precise provisions in the law that existed and were applicable at the time when the offence was committed, except in cases where a later law imposes a lighter sentence).

Article 9(1) of the ICCPR provides that "[n]o one shall be deprived of his liberty except on such grounds and in accordance with such procedure as are established by law." In the context of counter-terrorism laws, the principle of "legality" (arising from the requirement that the grounds and procedure be only as "established by law") means that provisions "must be framed in such a way that: the law is adequately accessible so that the individual has a proper indication of how the law limits his or her conduct; and the law is formulated with sufficient precision so that the individual can regulate his or her conduct."<sup>71</sup> The WGAD has expressed particular concern about "extremely vague and broad definitions of terrorism in national legislation", and has stated that "[i]n the absence of a definition of the offence or when the description of the acts or omissions with which someone is charged is inadequate... the requirement of a precise definition of the crimes – the key to the whole modern penal system – is not fulfilled and that the principle of lawfulness is thus violated, with the attendant risk to the legitimate exercise of fundamental freedoms."<sup>72</sup>

## **RIGHT TO BE PROMPTLY BROUGHT BEFORE A JUDICIAL AUTHORITY**

People served with a detention order by the Interior Minister under the emergency legislation have no right to access a court or any other judicial authority for the first 30 days in detention. The order of detention is an executive one and not subject to review by any other authority for those first 30 days.

Such provisions breach Egypt's international human rights obligations. The Declaration on the Protection of all Persons from Enforced Disappearance provides that: "[a]ny person deprived of liberty shall ... be brought before a judicial authority promptly after detention."<sup>73</sup> Article 9(3) of the ICCPR provides that: "anyone arrested or detained on a criminal charge shall be brought promptly before a judge or other officer authorized by law to exercise judicial power". The African Commission on Human and Peoples' Rights included a virtually identical provision in its Principles

and Guidelines on the Right to a Fair Trial and Legal Assistance in Africa.<sup>74</sup> The UN Human Rights Committee has also applied this provision in cases where a person is held on what are in substance criminal allegations, but where formal charges have not been laid. It has also held that “promptly” in this context means that any delay “must not exceed a few days”.<sup>75</sup>

As will be discussed below, the exclusion of judicial review during the first 30 days of detention also violates the right to challenge the lawfulness of detention before a court (under, for instance, Article 9(4) of the ICCPR). Even after 30 days, the detainee is not automatically brought before a judicial authority: the review mechanism established under Article 3bis of the Emergency Law leaves it up to the detainee’s family or his lawyer to file an appeal to trigger the review and in any event does not involve the detainee actually being brought before the court. In fact, most detainees not only were not brought promptly before a judicial authority; they were held entirely incommunicado and in secret when detained by the SSI – including beyond the 30-day limit specified in the law – violating a range of human rights under the ICCPR.<sup>76</sup>

## JUMAA ABDALLAH AL-TALHA

Forty-eight-year-old Jumaa Abdallah al-Talha, a Jordanian national of Palestinian origin who owns a construction company in the United Arab Emirates, was held in administrative detention after his arrest on 18 April 2009 by the hotel where he was staying during a business trip to Egypt. His relatives remained in the dark about his fate or whereabouts until 29 July 2009, when they received a phone call from the relatives of another detainee informing them that he was in Abu Zaabal Prison. He later told his family he was tortured, including with beatings, electric shocks, sleep deprivation and prolonged solitary confinement. He also said that he was continuously blindfolded for 103 days when he was in detention in SSI premises. He received at least three court orders for his release but remained in Abu Zaabal Prison until his release in March 2010.

## RIGHT NOT TO INCRIMINATE ONESELF

In many cases, the treatment of political administrative detainees and their eventual release were contingent on their attitude towards the “reviews” to renounce violence that were carried out in prison. Many of those who endorsed the “reviews” were released. In many cases, SSI officers made adherence to the reviews a condition for release, and administrative detainees linked to armed Islamist groups were asked to write and sign a “declaration of repentance” (*iqrar al-tawba*). Such declarations state that the person in question had belonged to a group that considered the government “infidel” and whose aim was to overthrow it using violent means – and that they now rejected this thinking and renounced violence.

Article 14(3)(g) of the ICCPR states that no one shall “be compelled to testify against himself or to confess guilt”. Principle 21 of the Body of Principles states: “It shall be prohibited to take undue advantage of the situation of a detained or imprisoned person for the purpose of compelling him to confess” or “to incriminate himself otherwise”. It appears that the particular “declaration of repentance” being used by Egyptian authorities essentially requires detainees to incriminate themselves by confessing in writing to having sought to overthrow the government by violent means, clearly a crime under Egyptian law. Given the fundamentally unlawful nature of the administration detention regime, such practices would indeed seem “to take undue advantage of the situation of a detained or imprisoned person for the purpose of compelling him to confess, [or]

to incriminate himself otherwise". The UN Special Rapporteur on human rights and counter-terrorism recommended that the Egyptian government "promptly and thoroughly investigate any claim regarding policies that through the imposition of a 'declaration of repentance' would set as a condition for release the self-incrimination of administrative detainees."<sup>77</sup>

Many detainees refused to endorse these "reviews" or sign a "declaration of repentance" because they did not want to incriminate themselves in ways that could be used to convict them in military and emergency courts. Some refused because they were not members of Gamaa Islamiya or Islamic Jihad, or felt that they had never used or advocated violence. Others maintained that the Interior Ministry should have dealt with them as "security detainees", which had nothing to do with their personal opinions or religious views. Many believed that by signing the declaration they would indeed be accepting that they had constituted a threat to security and public order and that their administrative detention would therefore be justified. All such people were kept in detention with little prospects for release and many of them were said to have been held in difficult conditions, including in Wadi El-Gedid Prison.

## RIGHT TO CHALLENGE DETENTION BEFORE A COURT

*"Oh God! I was so happy and was distributing money to [needy] people in the court building; I knew that my son was innocent. But he did not come back home. I was told he was detained again. I could not understand it as the court had just ordered his release!"*

Galal Zaki al-Gammal, father of Ahmed Zaki al-Gammal, in administrative detention between April 2008 and March 2011

Galal Zaki al-Gammal was not alone in experiencing bewilderment, fear and disappointment. His feelings were shared by many other Egyptians who had come up against the machinery of administrative detention for the first time. All of them expected that a judicial order to release their detained relative would mean that their loved one would be set free. Their reasonable expectations were shattered.

Under Article 9(4) of the ICCPR anyone deprived of their liberty must 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."<sup>78</sup> This right, frequently referred to as "habeas corpus" continues to apply in situations of emergency.<sup>79</sup> The African Commission on Human and Peoples' Rights has declared that "judicial bodies shall at all times hear and act upon petitions for habeas corpus, amparo or similar procedures" and that "no circumstances whatever must be invoked as a justification for denying the right to habeas corpus, amparo or similar procedures."<sup>80</sup> The UN Committee against Torture has referred to "the availability to detainees and persons at risk of torture and ill-treatment of judicial and other remedies that will allow them to have their complaints promptly and impartially examined, to defend their rights, and to challenge the legality of their detention or treatment" as among the "basic guarantees" that apply "to all persons deprived of their liberty".<sup>81</sup>

The fact, as was highlighted above, the Emergency Law precludes review by any other authority for the first 30 days of a detention order, in itself clearly violates the right to challenge the detention before a court.

## RIGHT TO AN EFFECTIVE APPEAL

Even after the first 30 days of detention and when the detainees can finally challenge their

detention problems arise. The review process under Article 3bis of the Emergency Law has proved ineffective in practice.

Appeals must be lodged in Cairo, regardless of where the detainee is held. Appeals against detention for political administrative detainees are filed at the Office of Detainees Affairs located at the High Court (Dar al-Qada al-'Ali) in central Cairo. After lodging the appeal, the detainee's family or lawyer is given an issue number on a piece of paper, not an official receipt. The family or lawyer then has to return at some later point to the Office of Detainees Affairs to find out when the appeal is scheduled.

The files of administrative detainees are then referred to a chamber in the Criminal Court of South Cairo, in Bab el-Khalq, or Tagamua al-Khames, in New Cairo, which sits as an emergency court. The court must give a reasoned decision within 15 days. During the appeal, only the documents in the case file are examined: the court does not hear from the detainee, who remains in detention, and the lawyer is only allowed to submit a memorandum, not present oral arguments.<sup>82</sup> The court secretariat or an official at the Office of Detainees Affairs notifies the detainee's family or lawyer verbally of the decision of the court. If the court orders release, the detainee continues to be held because the Interior Minister is entitled to object within 15 days and often does so on day 14. The case is then referred to the Criminal Appeals Court in Abbasiya, North Cairo, sitting as an emergency court. This too has 15 days to examine the case. If this court upholds the initial decision of release, the detainee must be released. The whole process means that people can be detained without charge for at least 60 days before receiving a final release order.

The appeal can be further delayed if the information filed in the complaint does not correspond to the information held in the detention order, such as a different spelling of the detainee's name or an incorrect date of birth. In such cases, the appeal is not registered (*yuhfadh*) and the relative or lawyer must file a new appeal.

In addition, the appeal is not examined if it is filed on behalf of the person as a political administrative detainee when in effect the Interior Ministry has classified him or her as a criminal administrative detainee. This was the case of Musaad Abu Fagr (see Chapter 3), who had to go on hunger strike to demand a change of his status from criminal to political detainee.

The implementation of a first-instance release order that is not appealed, or the decision of a second court to uphold a release order, is supposed to be binding, according to Article 3bis of the Emergency Law. In practice, however, according to the cases studied by Amnesty International, the authorities appeared to collude to avoid giving effect to the release order. Instead of physically releasing the detainee, the Interior Ministry used to issue release documents to create the impression in official records that it was implementing court decisions. In reality, Interior Ministry officials simply transferred the detainee to the police station of the district where he or she lived or to SSI premises, where they were held for days or up to several weeks. The detainee was then issued with a new detention order on the false grounds that they had been set free and resumed their criminal activities. The detainee was then sent from the police station or SSI centre back to prison.

Such practices by the Interior Ministry rendered the appeal process virtually meaningless. Many detainees no longer even attempted to appeal because they lost faith in a judicial system that allowed their release orders to be routinely flouted. They also refrained from appealing to spare

themselves the ill-treatment, and sometimes torture, that they knew they may suffer during their transfers while security officers avoided implementing the release order. Detainees who persisted in filing appeals also faced reprisal from the authorities. Some were transferred to remote prisons, far from their families, where they were subjected to harsher treatment and denied their right to receive visits for periods of time, to access medical care and to pursue their education.

This was the case for instance of Mohammed Farid Farag Farrag and Mohamed Abd Rehim El-Sharkawi (see Chapter 5), who were transferred to Wadi El-Gedid Prison as a way to punish them for persisting in challenging their detention and complaining about their torture and other ill-treatment in Abu Zaabal and Tora Prisons, respectively.

The UN Human Rights Committee has stressed that the "decisive" factor in determining whether Article 9(4) of the ICCPR has been respected is whether "such review is, in its effects, real and not merely formal."<sup>83</sup> It has held that continuing to hold someone after a judge has ordered release violates Article 9(1) and 9(4) of the ICCPR.<sup>84</sup> This point is so fundamental that a human rights court established that, "it is inconceivable that in a State subject to the rule of law a person should continue to be deprived of his liberty despite the existence of a court order for his release."<sup>85</sup> Under Article 2(3)(c) of the ICCPR, Egypt expressly undertook to ensure that the competent authorities would enforce judicial remedies when granted. The Declaration on the Protection of All Persons from Enforced Disappearance also expressly provides that: "[a]ll persons deprived of liberty must be released in a manner permitting reliable verification that they have actually been released and, further, have been released in conditions in which their physical integrity and ability fully to exercise their rights are assured."<sup>86</sup>

The UN Special Rapporteur on human rights and counter-terrorism expressed particular concern about the practices deployed by Egyptian authorities to avoid giving effect to release orders from the courts, emphasizing that "a state of emergency does not justify action that is in contravention of peremptory norms of international law, such as the prohibition against arbitrary deprivation of liberty". He urged the government of Egypt "to discontinue the renewal of administrative detention when a person has been granted release by a court."<sup>87</sup>

Furthermore, while the Interior Minister has the right to appeal against a court decision to release a detainee, the latter does not have any right of appeal to a different judicial authority if their appeal is rejected. Such detainees must wait a further 30 days before they are allowed to file a new appeal.

Finally, there is no provision in the law that specifies a maximum limit to the period that an individual can be detained without trial under the Emergency Law, in effect allowing detainees to be held indefinitely. The African Commission on Human and Peoples' Rights has found indefinite detention to constitute a violation of the right to liberty under Article 6 of the African Charter.<sup>88</sup> The UN Human Rights Committee has also indicated that "indefinite detention without charge", including in the name of countering terrorism, is inconsistent with the ICCPR.<sup>89</sup>

## RIGHT TO REPARATION

*"I want the government to have mercy on me for my old age and to allow me to cash part of my compensation to be able to settle in a booth or a small shop... They are responsible and should heed our cases and problems"*

Mohamed Hossam Eddin, former administrative detainee

In August 2008, the Interior Ministry agreed to pay a total of 10 million Egyptian pounds (US\$1.87 million) in compensation to around 1,000 members of Gamaa Islamiya who had been detained without charge or trial or kept in jail despite court release orders during the 1990s. This decision followed media pressure by detainees' lawyers earlier that year complaining against the delays in payment of compensation by the Interior Ministry, although the lawyers considered such compensation to be inadequate and incommensurate with the harm caused to the detainees and their families. The compensation was not attached to any recognition of wrongdoing. Indeed, the authorities were still maintaining at the time that no detainees had been or were being held unlawfully.

According to Article 57 of the Constitution, recently suspended by the SCAF, "[a]ny assault on individual freedom or on the inviolability of the private life of citizens and any other public rights and liberties guaranteed by the Constitution and the law shall be considered a crime, whose criminal and civil lawsuit is not liable to prescription. The State shall grant a fair compensation to the victim of such an assault."

In line with this, thousands of cases have been filed against the Interior Minister for the mental and physical harm caused to detainees and their families by the decision of the Interior Minister to keep people in detention despite court orders enjoining their release, as well as the torture and other ill-treatment they suffered in detention. Such cases have been filed before the State Council (Majlis al-Dawla) mandated by Article 172 of the Constitution to rule over administrative disputes and disciplinary cases.

Article 9(5) of the ICCPR states that: "[a]nyone who has been victim of unlawful arrest or detention shall have an enforceable right to compensation". The ICCPR and the CAT also require effective remedy, including compensation and other reparation, for torture and other ill-treatment.<sup>90</sup> Reparation can involve restitution, rehabilitation and measures of satisfaction, such as public apologies, public memorials, guarantees of non-repetition and changes in relevant laws and practices, as well as bringing to justice the perpetrators of human rights violations.

While few cases of compensation for torture and other ill-treatment have been successful, the State Council has often ruled in favour of compensation in cases where unlawful deprivation of liberty of administrative detainees has been established. Lawyers dealing with compensation cases have told Amnesty International that the amount of monetary compensation ordered by the court has decreased over the years, averaging 3,000 to 5,000 Egyptian pounds (US\$500 to US\$800) per year of detention. Some believe this has been the result of the growing number of cases being filed. Despite the volume of complaints received, it appears that the State Council was not ready to openly criticize the administrative detention regime in its rulings.

At a meeting with Amnesty International's delegates in March 2010, the Director of the General Directorate for Legal Affairs at the Interior Ministry, Hamed Rashed, said he was not in a position to give the number of compensation cases brought against the Interior Ministry or how many of them were successful. He said that Amnesty International should look at the final outcome of cases because the Interior Ministry has the right to appeal. Indeed, the Interior Ministry appealed against court rulings to compensate detainees, prolonging the cases. On 12 March 2011, State Litigation Counsellors decided that they would not appeal against court decisions granting compensation for the wrongful detention and other abuses of administrative detainees, except in cases where the appeal is linked to public order or when the monetary compensation demanded is unreasonably high.<sup>91</sup> Even after the court decision becomes final, the Ministry has often delayed for years the

payment of compensation to former detainees and their families. According to lawyers, former detainees and their families, the Interior Ministry has only made sporadic payments every three to four years and these were subject to informal consent by SSI officers.

Such delay in the implementation of court decisions is a criminal offence under Egyptian law. Article 123 of the Penal Code provides for the imprisonment and dismissal of any government official who has used his power and position and refused to implement court decisions.

## **MOHAMED HOSSAM EDDIN**

Mohamed Hossam Eddin, aged 56, a perfume salesman, spent 11 years in administrative detention between 1994 and 2005, during which he received at least 15 release orders. After his release, he filed several complaints against the Interior Minister for compensation and received court rulings in his favour in 2006, 2007 and 2008 in about six separate cases. According to his lawyer, he should receive a total of 62,000 Egyptian pounds (about US\$10,400) in compensation. However, every time the lawyer has gone to the Interior Ministry to collect the cheque, it has not been ready. Mohamed Hossam Eddin told Amnesty International:

*"The lack of implementation of compensation rulings is sad and disappointing... Until now I try avoiding people were it not for my need to sell perfumes to subsist... I sell my perfumes on the streets... I want the government to have mercy on me for my old age and to allow me to cash part of my compensation to be able to settle in a booth or a small shop... They are responsible and should heed our cases and problems."*



## 5. TORTURE AND OTHER CRUEL, INHUMAN OR DEGRADING TREATMENT OR PUNISHMENT

**“There are no charges against me but I am treated worse than a convicted criminal.”**

Mohamed Abd Rehim El-Sharkawi, who was detained in Wadi El-Gedid Prison, 730km from his family in Cairo

Under the state of emergency, interrogation of detainees using torture has been routine. For administrative detainees, torture was often followed by years of various forms of cruel, inhuman or degrading treatment or punishment.

### **YAHYA MOHAMMED KHALAFALLAH ALI**

Yahya Mohammed Khalafallah Ali was arrested in February 1993 in connection with his alleged membership of Talai' al-Fatah (Vanguards of the Conquest), a banned Islamist organization, and sentenced by a military court to six years in prison.

After serving his prison sentence he was issued with a detention order and kept in detention until his release on 19 February 2011. He told Amnesty International that when arrested in 1993 he was held incommunicado and tortured, including by being beaten and given electric shocks to sensitive parts of his body. Although he presented a medical report that he was tortured and was questioned about torture by the Public Prosecutor then, no SSI officer or other officials were investigated in relation with his torture allegations. He told Amnesty International that he will obtain copies of these reports in order to file a new torture complaint and hold those responsible to account.

### **ROUTINE USE OF TORTURE**

Torture of detainees has been systemic and widespread for decades in Egypt's police stations, prisons and SSI detention centres, and has been committed with virtual impunity. In recent years, police have sometimes assaulted suspects openly and in public, or filmed their abuse and circulated it, as if entirely unconcerned about possible consequences. Often, police have threatened victims against lodging complaints.<sup>92</sup>

Political detainees, especially alleged members of unauthorized Islamist groups, including alleged members who were returned from abroad, have been particularly at risk of torture and other ill-treatment, notably at the SSI headquarters in Lazoghly Square or Nasr City as well as at other SSI branches, police stations and occasionally prisons.

Before the State Security Investigations was disbanded in March 2011, SSI officers had routinely taken people from prisons for interrogation without the authorization of the Public Prosecutor – a clear violation of the CCP and the Law on Prison Regulations. Both laws prohibit police officers from contacting a detainee without written authorization from the Public Prosecutor. In many cases reported to Amnesty International by lawyers and former detainees, detainees were taken from Tora Prison to the SSI premises and tortured or otherwise ill-treated during interrogation. Usually, the detainee's file contained no record of these transfers. Egyptian law actually prohibits such transfers, but there are no provisions to prosecute or punish those who undertake them.

Torture took different forms during these interrogation sessions. The most frequently reported methods were beatings; electric shocks; suspension by the wrists and ankles and in contorted positions for long periods; sleep deprivation and threats that the victim or their relatives would be killed, raped or otherwise sexually abused.

In the context of administrative detention and other detention practices witnessed over the years, the general pattern was that, following the initial interrogation before the Public Prosecutor, detainees were often returned to the SSI, even when they told the Public Prosecutor that they were being tortured by the SSI. It appears, based on consistent reports received by Amnesty International, that the Public Prosecutor interrogated detainees without taking any adequate action to investigate allegations that they were being tortured before and after being brought before him, although he knew that they were at the mercy of the SSI and outside any other substantive protection of the law.

## **ABDALLAH MAHER IBRAHIM AWAD**

Abdallah Maher Ibrahim Awad, a 26-year-old student from Fouakhria, al-Arish, North Sinai, and member of the Muslim Brotherhood, was arrested on 25 March 2009 at his home. He was taken to the SSI offices in Nasr City where he was detained incommunicado for two months. During this period, he says he was beaten repeatedly on his head and body, given electric shocks, suspended and whipped on the soles of his feet and deprived of sleep. He was interrogated in connection with his membership of the Muslim Brotherhood and collecting money for Palestinians in Gaza. On 25 May 2009 he was transferred to al-Marg Prison, Qalyubiya Governorate, and held in solitary confinement until 30 June 2009. His family remained without news of his fate or whereabouts until they were unofficially told that he was detained in al-Marg Prison and were able to visit him on 2 June, 70 days after his arrest. They noticed that he was tired and had a slight squint in one of his eyes, and he complained of severe headaches. Despite this, he was only given painkillers by the prison doctor. A court ordered his release on 30 June 2009, but he was issued with a new administrative detention order and transferred to Borg El-Arab Prison. His health continued to deteriorate and he was taken to Alexandria University Hospital. A scan showed that he had bleeding in his brain, which required surgery. On 18 August 2009, the Interior Minister ordered his release because of his deteriorating health, and he was freed.

The main problem with tackling the widespread problem of torture in Egypt partly lies in the legal shortcomings in the definition of torture in Egyptian law. Egyptian law defines torture narrowly in the context of forcing an accused to "confess". Death threats and physical torture are criminalized only when they happen following an unlawful arrest by someone purporting to be a government officer. Torture is defined under the section of the Penal Code entitled "Coercion and ill-treatment by civil servants against people" (Articles 126-132). The most severe penalties for torturers are up to 10 years' imprisonment for anyone "who ordered or committed torture to force an accused to make a confession" or, when the victim dies, to "the same sentence stated for intentional killing" (which

has the maximum punishment of the death penalty). Torture, including death threats, can be punished by imprisonment under other provisions, including Article 282 of the Penal Code. However, this only applies when the person tortured has been arrested unlawfully, as specified in Article 280 of the Penal Code, by someone purporting to be a police officer or wearing police uniform. Article 282 stipulates: "Whoever arrests, confines or detains a person without an order from one of the concerned authorities, and in other than the cases wherein the law and statutes authorize the arrest of the suspects, shall be punished with the detention or a fine not exceeding two hundred pounds." The Egyptian authorities stated during the framework of the UN Universal Periodic Review in February 2010 that they were preparing a legal reform to render the definition of torture compatible with that in the UN Convention against Torture. No such reform has been proposed to date.

In 2009, the UN Special Rapporteur on human rights and counter-terrorism, "gravely concerned" about the risk of torture faced by terrorism suspects in SSI detention, reminded the Egyptian government "of the obligation of the State to ensure that all perpetrators of such offences are brought to justice on the basis of prompt and independent investigations that are carried out whenever there are reasonable grounds to believe that torture has been committed."<sup>93</sup>

### **ILL-TREATMENT OF ADMINISTRATIVE DETAINEES**

Under the Emergency Law, people held in administrative detention should be treated like those in preventive, pre-trial detention. Likewise, Article 20bis of the Law on Prisons states that "anyone not deprived of his or her liberty by a judicial order should be treated like a person in preventive, pre-trial detention...". Article 14 specifies that "people detained in preventive, pre-trial detention should be held separately from other prisoners and allowed to pay no more than "0.150 Egyptian pounds" (approximately US\$0.3) to live in a furnished room, within the limits permitted by the prison's internal regulations and the space available. According to Article 16, people in preventive detention are in theory allowed to bring in their own food or buy food from the prison canteen.

This overall approach, and these particular rules, are also found in the UN Standard Minimum Rules for the Treatment of Prisoners.<sup>94</sup> Article 10(2)(a) of the ICCPR effectively reinforces the UN Standard Minimum Rules by providing that accused people "shall, save in exceptional circumstances, be segregated from convicted persons and shall be subject to separate treatment appropriate to their status as unconvicted persons."

In practice, however, these provisions were rarely implemented in Egypt and administrative detainees were instead held and treated as if they were convicted criminals.

Amnesty International has over the decades met many families of administrative detainees as well as former administrative detainees and heard disturbing testimony. Some detainees were tortured. Some were held in isolation for weeks beyond the seven-day limit on solitary confinement prescribed under Article 44(d) of the Law on Prisons, which could in some circumstances itself constitute a violation of the prohibition of torture and other ill-treatment. Many were harassed by the prison authorities or subjected to various forms of reprisal for demanding their rights inside prison, such as being denied adequate and sufficient food, being forced to sleep on the floor, and having their personal belongings such as books and clothes confiscated. Others were denied medical care or prevented from leaving their cells for recreation in the courtyard for months at a time. Some were denied family visits or had visits interrupted.

Such treatment prompted many protests. In March 2010, for example, scores of women relatives of detainees in Abu Zaabal Prison held a sit-in in front of the office of the Public Prosecutor in Cairo to protest against the detention of their male relatives without charge or trial. They also complained that the detainees were being frequently punished, including with torture, denial of clean water and adequate food, and being locked inside their cells for more than a month and threatened with dogs, particularly in the High Security Wing 1 of the prison.

Detainees themselves staged hunger strikes to protest against their harsh conditions. Prison authorities sometimes responded with torture or other ill-treatment and transfer to remote prisons, hundreds of kilometres away from their family's home.<sup>95</sup>

## **MOHAMMED FARID FARAG FARRAG**

Mohammed Farid Farag Farrag, a linguist and a prisoner of conscience between November 2007 and July 2010, was held in administrative detention in various prisons following his arrest.<sup>96</sup> During six months in Abu Zaabal Prison, he was reportedly beaten with sticks for complaining about the prison conditions, including the bad quality of water. He was kept with criminal prisoners before being transferred in July 2009 to Walid El-Gedid Prison, over 780km away from his family home in Qalyubiya.

At the beginning of February 2010, his cell was searched by prison officers. When he asked the guards to be careful with his books, he was reportedly badly beaten, had his hands tied behind his back and was put in a solitary cell. His books were destroyed. His family told Amnesty International that he already had kidney and heart problems and that he had not been given adequate medical care for head injuries he sustained when he was beaten. He went on hunger strike for several weeks in February 2010, demanding access to adequate medical care and to meet an official from the office of the Public Prosecutor to complain about ill-treatment in prison. His family filed a complaint with the Public Prosecutor on 17 February 2010. On 24 February, inmates reportedly attempted to forcibly feed him under SSI officers' instructions. In March 2010, a member of the prosecution office in al-Kharga, Wadi El-Gedid governorate, visited him at the prison hospital and recorded his complaint, but no follow-up is known to have taken place. He was released in July 2010, following the amendments limiting the application of the Emergency Law to terrorism and drug trafficking.

## **DENIAL OF ADEQUATE MEDICAL CARE**

Former detainees, lawyers and relatives have repeatedly told Amnesty International that administrative detainees were denied adequate medical care arbitrarily and on a discriminatory basis, sometimes as a means to put pressure on them not to challenge their detention orders or, more often, to show them that they were at the mercy of the SSI officer who was posted in the prison for the surveillance of political prisoners, as well as political administrative detainees. Detained medical doctors have reported after their release that virtually all long-term prisoners are ill due to poor prison conditions, including inadequate hygiene and medical care, and sometimes as a result of torture or other ill-treatment inflicted prior to the transfer to prison.

Amnesty International has received reports that seriously ill detainees and prisoners have not been transferred to hospitals as required by their medical condition. This has been particularly worrying given the lack of specialized doctors in prisons and the deteriorating state of prison hospitals.<sup>97</sup> Detainees and their relatives have reported that prison hospital is little different to the cells.

Hospitals often lack the facilities and equipment necessary to provide patients with adequate care, and prisoners always remain handcuffed to their beds.

Article 33 of the Law on Prisons stipulates that there should be a medical doctor employed on site in all prisons, responsible for the health care and treatment of prisoners. The doctor's duties should include: examining each prisoner as soon as possible after their arrival at the prison (no later than the morning of the day after their arrival) to establish their health condition; examining ill patients every day and referring them when necessary to the prison hospital or a hospital outside the prison; examining prisoners in solitary confinement on a daily basis; examining all prisoners at least once a week; and conducting a surgery at least once a day. If the prison doctor is absent from the prison for any reason, the prison director is responsible for replacing him or her with another Ministry of Health and Population doctor.

International human rights instruments also require effective provision of health care and monitoring of detainees' health by medical professionals,<sup>98</sup> who should be independent,<sup>99</sup> and specify the right "to be visited and treated by his own doctor or dentist if there is reasonable ground for [the] application and [the detainee] is able to pay any expenses incurred."<sup>100</sup> Denial of adequate medical treatment can constitute a violation of Articles 7 and/or 10 of the ICCPR.<sup>101</sup>

In August 2007, in response to the lack of adequate medical care in prisons, the Doctors' Union, which is dominated by members of the Muslim Brotherhood, called on the Interior Minister to establish a hospital unit in every compound containing several prisons and to place it under the oversight of the Ministry of Health and Population. They called on the Minister to set up proper contingency mechanisms to deal with cases in need of specialized medical care, and to staff prisons with the number of doctors commensurate with the prison population. They also called on the Minister to take preventive measures to limit the spread of diseases by improving hygiene, food quality, the ventilation of cells and the amount of water available for prisoners. These poor prisons conditions have witnessed little or no change since, prompting a number of human rights organizations in Egypt to urgently call on the Prime Minister, the Minister of Interior and the Assistant Minister for Prisons to improve the health and hygiene situation in prisons and to ensure the security and safety of prisoners.<sup>102</sup> This call followed the unrest of January 2011, in which prison guards vacated their posts and left prisoners to fend for themselves, amid prison riots and reports of unlawful killings of inmates by prison guards.<sup>103</sup>

## **MOHAMED ABD REHIM EL-SHARKAWI**

The health of 60-year-old Mohamed Abd Rehim El-Sharkawi deteriorated significantly during the 16 years he had been administratively detained; he continued to be held despite being acquitted by a court and securing at least 20 court orders for his release, most recently on 6 March 2011. He was finally released on 17 March.

He was detained following his forcible return from Pakistan in 1995, and in November 1996 an emergency court acquitted him of the charges of conspiracy to commit murder, unauthorized possession of firearms and ammunition, forgery and other charges.<sup>104</sup>

Mohamed Abd Rehim El-Sharkawi has three slipped discs in his lower back and two in his neck, causing him a lot of pain, and he suffers from inflammation of the colon. He was denied regular, adequate medical care while in detention. For example, in 2006 when in Tora Prison he was prescribed physiotherapy

sessions in Minyal University Hospital, but SSI officers ensured he missed his appointments by delaying the departure of the security forces truck that was scheduled to take him. In 2008, he was again prescribed uninterrupted physiotherapy sessions, but this was blocked by the prison administration. In December 2010, he was taken to al-Kharga Hospital, Wadi El-Gedid governorate, and promised surgery but this promise did not materialize.

Mohamed Abd Rehim El-Sharkawi had gone on hunger strike several times to protest against his ill-treatment and denial of medical care, and made complaints to the office of the Public Prosecutor, but to no avail. In July 2008, he was transferred to Wadi El-Gedid Prison, 730km from his family home in Cairo, in reprisal for his complaints, and denied visits for six months.

Every time he received a release order, he was transferred to al-Kharga SSI premises for a week or so and then sent back to Wadi al-Gadid Prison. He decided to stop appealing against his detention because the transfers between the prison and the SSI detention centre caused him so much pain. In June 2010, Mohamed Abd Rehim El-Sharkawi and 59 others went on hunger strike in Wadi El-Gedid Prison to protest the torture and ill-treatment of some of them by the prison authorities.<sup>105</sup>

## COLLECTIVE PUNISHMENT – TRANSFER TO REMOTE PRISONS

Administrative detainees who have persisted in appealing against their detention or sought to expose abuses in detention have been transferred to other prisons, often far from their family homes, as a form of punishment. For instance, detainees from the northern governorates or Cairo have been detained in prisons in the south, such as Wadi El-Gedid Prison, in the Western Desert; detainees from North Sinai have been detained in Borg El-Arab Prison near Alexandria, some 500km away.

Principle 20 of the UN Body of Principles provides: "If a detained or imprisoned person so requests, he shall if possible be kept in a place of detention or imprisonment reasonably near his usual place of residence."

Detainees transferred to other prisons complained that they suffered additionally because they had to develop new habits, meet new detainees and become used to a new prison regime. Invariably, they were not allowed to inform their families of their transfer;<sup>106</sup> families only found out during their next attempted visit, but were often not told to where their relative had been transferred.

Many detainees complained that during such transfers they often lose their personal belongings, including books and clothes. Sometimes their medical file was not sent to the new prison, forcing the detainee to once again submit repeated requests to see doctors as the prison authorities consider such requests invalid given that the detainee had no medical record to prove that they needed specialized medical care.

Transferring detainees to remote prisons is perceived by the detainees and their relatives as a collective punishment. Detainees feel guilty about the even heavier burden on their relatives to travel to visit them. Relatives see such transfers as a way to harass them, and drain them financially and emotionally in order to force them to limit their ties with the detainees and further isolate them. In many cases, visits have become less frequent, especially as elderly parents and lone women find the trip to remote prisons difficult and unsafe.

**Wadi El-Gedid Prison** is located in the south-west desert, 730km from Cairo, in Wadi El-Gedid

governorate, with the city of al-Kharga as its capital. Many prisoners see their imprisonment there as an additional punishment and indeed were told it was by the security forces during their transfer. Because of its remote location, detainees are often cut off from the outside world.

The majority of those held there are political prisoners; most of them alleged members of Islamist groups.

Many of those transferred to Wadi El-Gedid Prison have been put in solitary confinement for weeks or months following their arrival and subjected to other forms of reprisal, such as denial of adequate food and access to the prison courtyard and medical care. They have faced extensive searches of their cells, and their books and other personal belongings have been taken. Such treatment has rarely been reported or has only been reported weeks later because of the remoteness of the prison.

**Borg El-Arab Prison** is about 50km from Alexandria. People detained there have complained of overcrowding and continuing abuses by the prison administration. The prison was said to host some 15,000 inmates in early 2010, including some from Sinai, 500km away, and others from Qina, 790km away. In May 2010, 150 detainees from Sinai complained about their continued detention, lack of basic services and ill-treatment by the security forces in the prison.<sup>107</sup>

Borg al-Arab Prison has been known for hosting many criminal administrative detainees.

## CONDITIONS OF DETENTION

*"All persons deprived of their liberty shall be treated with humanity and with respect for the inherent dignity of the human person."*

Article 10(1) of the ICCPR

Over the past 10 years, prison conditions in Egypt have generally improved as a result of legal reforms, including a ban on whipping and other corporal punishments, aimed at ensuring that detainees are treated humanely.<sup>108</sup> Despite this, the vast majority of prisoners continue to suffer poor conditions of detention, although standards vary from one prison to another. Prisoners and lawyers have said that treatment, access to medical care and general prison conditions are better in prisons in Cairo, such as Tora Prison Compound, than elsewhere in the country, such as Borg al-Arab Prison and Wadi El-Gedid Prison. In some cases, prison conditions amount to torture and other cruel, inhuman or degrading treatment or punishment.<sup>109</sup>

Many prisoners and administrative detainees have staged hunger strikes to protest against abuses by the prison administration or to demand improvements in their incarceration conditions and other rights.

Former prisoners, prisoners' relatives, lawyers and Egyptian human rights organizations continue to report overcrowding, inadequate and poor quality food, unclean water, and lack of the minimum of hygiene and privacy needed for a humane and dignified detention.<sup>110</sup> These poor conditions are affecting the wellbeing of prisoners and have resulted in, or contributed to, illness and the spread of diseases throughout prisons, including asthma, pneumonia and skin diseases. Coupled with the lack of adequate medical care, these conditions have led to the deterioration in detainees' health, particularly for those held for long periods. In addition, some prisons have periodically been closed

to the outside world by the Interior Ministry for security considerations, thus cutting off detainees from their families and lawyers.

Such abuses of prisoners' rights contravene Egyptian legislation and Egypt's international obligations and are often not adequately investigated. In May 2007, the Public Prosecutor instructed members of the prosecution office to personally investigate all incidents of abuse in prisons and detention centres and to conduct the necessary inspections. While these instructions were welcome, detainees' complaints to the Public Prosecutor have often remained unanswered and in cases where investigations have been carried out, the perpetrators have rarely, if ever, been brought to justice.

The Human Rights Committee and the Defence and National Security Committee of the Egyptian parliament, as well as the government-sponsored NCHR, have carried out prison inspection visits, but their reports have not been made public. The NCHR has only briefly referred to them in its annual reports. No independent human rights NGOs have been allowed access to prisons. The International Committee of the Red Cross has for decades engaged with the authorities regarding authorization to visit people held in connection with alleged terrorism and national security offences, but it too has no access to prisons and detention centres in Egypt.<sup>111</sup>

In February 2009, the Assistant Public Prosecutor, Adel Elsaid, told Amnesty International delegates that the law mandates the prosecution to inspect prisons and any place of detention, and such inspections are periodic and unannounced. He also said that the SSI premises were not covered by the law as they were only administrative buildings. He added, however, that if a specific allegation was received that someone was being detained in such a building, there was no obstacle to a search being carried out, as detaining someone in SSI premises was like detaining them in a private home. However, despite numerous reports of people being detained in SSI premises, the Public Prosecutor and his staff are not known to have taken any steps to inspect these places or inquire about those detained there.

## 6. CONCLUSIONS AND RECOMMENDATIONS

Administrative detention in Egypt has been the most visible face of the state of emergency, yet shrouded in secrecy. The authorities withheld the truth about how many people had been detained without charge or trial in total disregard for their basic human rights. Its widespread use against people from all walks of life has turned it into a social phenomenon, with almost every Egyptian knowing or having had a relative or a neighbour who has been a victim of administrative detention. The treatment of the detainees has deeply affected them as well as their families, who sometimes felt isolated because of pressure from the SSI and as a result of the social repercussions in their locality of having links to an individual considered as a security detainee. Prolonged administrative detention was clearly used as a means to punish people and break the spirit of those who dared oppose the authorities. In the years leading up to the January-February 2011 uprising, it was increasingly used to curtail dissent. The protracted discussions on the anti-terrorism law and the total lack of transparency surrounding its drafting reflected the reluctance of the security forces, in particular the SSI, to surrender the powerful tool of administrative detention and other emergency powers. The storming of SSI premises by protesters in March 2011 sparked by reports that SSI officers were destroying evidence of abuses and efforts by Egyptians to protect archives highlights the wish of Egyptians to see SSI held to account and for the truth about decades of abuses to be uncovered.

With the fall of President Hosni Mubarak, the newly-installed Minister of the Interior released administrative detainees following calls by their relatives and the civil society. On 15 March, he issued a decree dissolving the key enforcer of the state of emergency, the SSI, and all its offices across Egypt and announced the establishment of a new "national security" department to work with anti-terrorism state agencies, while "abiding by human rights principles and observing citizens' freedoms".<sup>312</sup> While these are welcomed positive steps, no details were given as to how this will be carried out, nor what will happen to SSI officers, and whether any of them will be subject to any investigations, especially that they were at the centre of abuses of human rights. Similarly, it is unclear whether any vetting mechanism has been put in place to ensure that officials against whom there is evidence of serious human rights violations do not remain or are not placed in positions where they could repeat such violations. Amnesty International is not aware of any steps taken to set up an oversight body which will be able to hold the security forces to account for abuses, including human rights violations. However, what is clear is that the Emergency Law and the 30-year old state of emergency, which were used to detain people without charge or trial, continue to be in force.

During their prolonged detention without trial, the mental and physical integrity of administrative detainees was violated. They were considered to be held in preventive detention, but in effect were treated like convicted criminals. They were often held in conditions that amounted to torture and other ill-treatment, and transferred to different prisons without their families and lawyers being informed. After years in detention and their lives shattered, administrative detainees have been left with no effective means of remedy. Their right to compensation has not been fully respected. Many of them are still waiting for long overdue compensation money to try to secure a dignified life for them and their children. In short, from their arrest and detention to their release and its aftermath,

administrative detainees have suffered a full cycle of injustice.

International human rights law recognizes that those held in detention for any reason require special protection due to the vulnerable position they are in because they are entirely in the power of the state and its security forces. Administrative detainees in Egypt were even more vulnerable to abuse as the detaining authorities operated under a declaration of a state of emergency under which Egyptian law and practices effectively allowed them to avoid the safeguards to which all detainees are entitled. These safeguards were expressly set aside and security officials instructed not to abide by them.

As a result, the practice of administrative detention in Egypt has led to an entrenched regime of arbitrary arrests and detentions. Information about the fate and whereabouts of detainees, and in some case the very fact of detention, was denied to or concealed from relatives and lawyers for weeks and months. Detainees were not brought physically before a judge, even during appeals. The cumulative effect was to place the detainees outside the protection of the law and to render them vulnerable to abuse for much of their time in detention. Indeed, even when appeals against detention were successful, detaining authorities often ignored the release order, or colluded to avoid giving it any real effect. This has often happened repeatedly for months or even years and led detainees and their relatives to lose faith in a justice system that did not deliver justice.

For those who suffered abuses during years of administrative detention to regain faith in the very institutions and justice system which failed them, it is essential that the Egyptian authorities ensure that victims and their families receive adequate reparation. Reparations should include but not be limited to financial compensation, in line with the UN Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law. The authorities should also take effective measures to prevent repetition of past violations, such as reforming laws, administrative procedures and practice; and strengthening the justice system.

It is crucial, as the Egyptian government and parliament have an historic opportunity to formulate new laws, that the grave deficiencies that have marked the use of emergency legislation in Egypt should not be perpetuated and entrenched under an ordinary and permanent statute. The violations and impunity associated with the state of emergency should not now be replicated or widened. Rather, the authorities should seize the opportunity to ensure that any new legislation takes fully into account Egypt's obligations under international law, including the human rights treaties that have been ratified by it. This is essential to protect, respect and promote human rights, including in relation to the absolute prohibition on secret and incommunicado detention, enforced disappearance, torture and other forms of ill-treatment, as well as the prohibition of arbitrary deprivation of liberty.

## RECOMMENDATIONS

## **Amnesty international calls on the Egyptian authorities to:**

### **Lift the state of emergency**

- End immediately the state of emergency and repeal all provisions of the Emergency Law.
- Publish the number of people who were held in administrative detention, the specific allegations against them as well as the number of detention orders issued against them.
- Abolish the system of administrative detention, repeal all legislative provisions that enable it, and end all use of indefinite detention without criminal trial.
- Release anyone still believed to be detained under the Emergency Law for whom release orders have been issued by a competent court.
- Immediately and unconditionally release all prisoners of conscience, that is anyone deprived of their liberty solely for the peaceful exercise of their rights of freedom of thought, conscience, religion, opinion or expression.
- Ensure that any new legislation and the new Constitution, does not entrench the practices that have facilitated human rights abuses under the state of emergency, including indefinite detention without criminal trial and ensure transparent and broad-based consultation and review of the law, which includes national and international civil society.
- Seek the repeal of all legislation that purport to give sweeping powers of arrest to the police and allow the executive authorities to bypass ordinary courts and refer people suspected of terrorism to military and special courts.

### **End impunity and rein in the security forces**

- Carry out an independent, impartial and comprehensive investigation into all allegations of abuses against detainees and their families by the SSI and other security forces, including of torture and other ill-treatment, denial of visits and adequate medical care; make its findings public; and hold those responsible to account.
- Take all appropriate criminal or administrative measures against officials who fail to comply with safeguards against human rights abuses.
- Ensure that no member of the security apparatus is allowed to act above the law;
- Undertake a fundamental overhaul of all the security and law enforcement bodies, and make public a clear structure of the various security branches with a clear chain of command;
- Establish an oversight body which is able to hold the security forces to account for abuses. Such a body should have an independent, effective, and impartial complaints mechanism which can deal with complaints about security forces' misconduct, including human rights violations. The independent security forces complaints mechanism should have independent investigation teams, to deal specifically with complaints against or involving the security forces.
- Immediately establish an independent, thorough and impartial inquiry into human rights

abuses committed by the SSI under the rule of Hosni Mubarak. The investigation should be provided with sufficient resources to accomplish all its tasks effectively and promptly, and have powers to gain access to all relevant documents, other evidence and persons. The investigation's findings should include recommendations aimed at ending and preventing further human rights abuses and at ensuring justice, truth and full reparation for the victims, including restitution, rehabilitation, compensation, satisfaction and guarantees of non-repetition. Amnesty International is prepared to make its archive of human rights reports available to the Egyptian authorities to assist in any such investigation;

**Provide adequate reparation**

- Implement – without delay and with full respect – court rulings ordering the payment of compensation for detainees and their families for unlawful detention and other human rights violations suffered in detention.
- Provide victims of human rights violations with financial compensation and other forms of reparation that are appropriate and proportional to the gravity of the violation and the circumstances of their case.

**Take all necessary measures to improve prison conditions, including by:**

- reducing overcrowding and providing adequate food and medical care, in accordance with the Standard Minimum Rules for the Treatment of Prisoners and the Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment; and
- adopting a mechanism that provides for the mandatory conduct of independent, unrestricted and unannounced visits to all places of detention (which include confidential interviews with any detainees of the visiting body's choice), including any national security and military installations involved in counter-terrorism that have been identified as being used for detentions.

**Strengthen protection during detention by:**

- ending immediately the use of incommunicado detention;
- ensuring officers carrying out arrests identify themselves to those arrested and notify them in writing of the reasons for the arrest, the authority ordering the arrest, and the place where they will be detained;
- ensuring that the families of those detained are informed promptly of the place of detention of their relatives, and any subsequent transfers to other places of detention, without delay;
- ensuring that all detainees are able to exercise their right to be examined by an independent doctor as soon as they are arrested and after each period of questioning; and monitoring the quality of medical reporting;
- ensuring that all detainees are brought before a judge within 24 hours of arrest;
- ensuring that all detainees can exercise their right to consult a lawyer of their choice in private, and to have a lawyer present during questioning and the making of statements, from the outset of detention and throughout the period in custody.

- Taking immediate steps to end torture and other ill-treatment, including investigating all allegations of such abuse and bringing the perpetrators to justice.
- Modifying the definition of the crime of torture in Egyptian law to make it comply fully with the definition in Article 1(1) of the UN Convention against Torture. All forms of cruel, inhuman or degrading treatment or punishment should be explicitly prohibited. It should be made clear that the prohibition is absolute and must not be suspended under any circumstances, including during a state of war or other public emergency.
- Keeping under systematic review interrogation rules, instructions, methods and practices with a view to preventing any cases of torture or ill-treatment, in line with the provisions of the UN Convention against Torture.

**Ratify without reservations, and fully implement in practice:**

- The Optional Protocol to the UN Convention against Torture;
- The International Convention for the Protection of All Persons from Enforced Disappearance, including accepting the competence of the Committee under Articles 31 (receipt of individual complaints) and 32 (inter-state complaints).



# ENDNOTES

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<sup>3</sup> See *Al-Masry Al-Youm*, "840 killed in Egypt's revolution, health ministry official says," 4 April 2011. A Ministry of Health and Population official reportedly said that based on counts from all hospitals, including private hospitals, and army and police hospitals, death toll reached 840. It is unclear, however, whether this number includes prisoners killed inside prisons.

<sup>3</sup> See for instance, Amnesty International, *Egypt: Brutal police killing of young man must be investigated*, 14 June 2010 (Index: PRE01/192/2010); *Egypt: Protection of witnesses and suspension of police officers needed* (Index: MDE 12/023/2010), 15 June 2010; *Egypt authorities must ensure witness protection in police brutality trial* (Index: PRE01/256/2010), 26 July 2010.

<sup>3</sup> Amnesty International opposes all systems of administrative detention as they circumvent the fair trial safeguards that should protect everyone's right to liberty.

<sup>4</sup> See "The list of political and criminal administrative detainees released by the Prison Administrative Services," 12 March 2011:  
<http://www.moiegypt.gov.eg/Arabic/Departments+Sites/Media+and+public+Relation/News/sgon12032011.htm>, accessed 12 March 2011.

<sup>5</sup> Amnesty International has received information on at least 20 people still held in administrative detention in Istiqbal Tora Prison, in connection with the bomb attack on the al-Qidissin (the Saints) Church in Alexandria in January 2011, despite having received court decisions enjoining their release. The organization had condemned the bombings and called on the authorities to ensure that the alleged perpetrators are tried in ordinary courts and the rights of victims of the bombings and their families to truth, justice and reparation upheld. See Amnesty International, *Egypt: Amnesty International condemns deadly attack on church in Alexandria, calls for improved protection ahead of Coptic Christmas* (Index: MDE 12/002/2011), 5 January 2011.

<sup>6</sup> See revised Article 148 of the Constitution and Article 59 of the Constitutional Declaration of the SCAF. The latter stipulates that "Article 59: The president of the republic, after taking into account the opinion of the cabinet, can announce a state of emergency as stipulated in law. He/she must present this announcement to the People's Assembly within the seven subsequent days to decide its view on this matter. If the state of emergency is announced in a period of recess, the Assembly must be called back to session immediately to review the matter, taking into account the time limit mentioned above. If the People's Assembly is dissolved, the matter will be reviewed by the new Assembly at its first meeting. A majority of the members of the People's Assembly must agree to the announcement of a state of emergency. In all cases, the announcement of a state of emergency will be for a limited time period not exceeding 6 months. It is not permissible to extend it, except after a people's referendum on the matter and their agreement to an extension."

<sup>7</sup> Other powers as set out in Article 3 of the Emergency Law (Law 162 of 1958 as amended) are: "(2) order the surveillance of letters of any type; supervise censorship; seize journals, newsletters, publications, editorials, cartoons, and any form of expression and advertisement before they are published, and close their publishing places; (3) determine the times of opening and closing public shops, and order the closure of some or all of these shops; (4) confiscate any property or building, order the sequestration of companies and corporations, and postpone the due dates of loans for what has been confiscated or sequestered; (5) withdraw licences of arms, ammunitions, explosive devices, and explosives of all kinds, order their submission, and close arms stores; (6) evict some areas or isolate them; regulate means of transport; limit means of transport between different regions."

<sup>8</sup> See interview in *Al-Ahram*, "The night State Security fell" (Issue No. 1038), 10-16 March 2011: <http://weekly.ahram.org.eg/2011/1038/eg31.htm>

<sup>9</sup> See BBC, *Egypt: Protesters raid on Cairo state security HQ*, 5 March 2011: <http://www.bbc.co.uk/news/world-middle-east-12657464>; *The New York Times*, "Egyptians Get View of Extent of Spying", 9 March 2011: <http://www.nytimes.com/2011/03/10/world/middleeast/10cairo.html>; and Agence France-Presse (AFP), *Egypte: suppression de l'impopulaire Sécurité de l'Etat*, 15 March 2011.

<sup>10</sup> In a constitutional referendum in March 2011, Egyptians voted repeal Article 179, which had entrenched such abuses in the Constitution. See Amnesty International, *Egypt: Constitution proposals faltering first step to reform* (Index: MDE 12/023/2011), 28 February 2011.

<sup>11</sup> See Reuters, *Exposed: Egypt's spies dragged from shadows*, 8 March 2011: <http://www.reuters.com/article/2011/03/09/us-egypt-security-idUSTRE7280HJ20110309>

<sup>12</sup> See for example the Facebook group Amn Dawla Leaks: <http://www.facebook.com/AmnDawlaLeaks?sk=wall>

<sup>13</sup> See SCAF's statement No. 27 accessible at <http://www.sis.gov.eg/vr/arm/27.pdf>

<sup>14</sup> See for example Al Jazeera, *A first step towards prosecutions?*, 6 March 2011: <http://english.aljazeera.net/indepth/spotlight/anger-in-egypt/2011/03/2011368410372200.html> and interview in *Al-Ahram*, *The night State Security fell* (Issue No. 1038), 10-16 March 2011.

<sup>15</sup> See for example AFP, *Egypte: 47 policiers arrêtés pour la destruction de documents de la sécurité*, 7 March 2011; Deutsche Presse-Agentur (DPA), *84 Egyptian police officers detained for links to burnt documents*, 9 March 2011; and Reuters, *Egypt arrests 47 officers for destroying documents*, 7 March 2011: <http://www.reuters.com/article/2011/03/07/us-egypt-security-arrests-idUSTRE7264QM20110307>.

<sup>16</sup> See Egypt State Information Service, *State Security Investigation Agency Abolished*, 16 March 2011: <http://www.sis.gov.eg/En/Story.aspx?sid=54223>

<sup>17</sup> *Report of the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism, Mission to Egypt* (UN Doc: A/HRC/13/37/Add.2), 14 October 2009, para20. See also paras 10, 11, 14-16 and 50.

<sup>18</sup> See Articles 126, 129 and 282 of the Penal Code.

<sup>19</sup> Torture is defined under the section of the Penal Code entitled "Coercion and ill-treatment by civil servants against people" (Articles 126-132). The most severe penalties for torturers are up to 10 years' imprisonment for anyone "who ordered or committed torture to force an accused to make a confession" or, when the victim dies, to "the same sentence stated for intentional killing" (with the maximum punishment of the death penalty). Torture, including death threats, can be punished by imprisonment under other provisions, including Article 282 of the Penal Code. However, this only applies when the person tortured has been arrested unlawfully, as specified in Article 280 of the Penal Code, by someone purporting to be a police officer or wearing police uniform. Article 282 stipulates "Whoever arrests, confines or detains a person without an order from one of the concerned authorities, and in other than the cases wherein the law and statutes authorize the arrest of the suspects, shall be punished with the detention or a fine not exceeding two hundred pounds."

<sup>20</sup> For information on Amnesty International's full list of recommendations to the Egyptian authorities aimed at consolidating respect for human rights and breaking with the past of rampant human rights violations, see Amnesty International, *Egypt: Human Rights Agenda for Change* (Index: MDE 12/015/2011), 10 February 2011.

<sup>21</sup> See for instance, the following Amnesty International reports: *Egypt: Violations of Human Rights*, (Index: MDE

12/014/1982), January 1982; *Egypt: Security Police Detentions Undermine the Rule of Law*, (Index: MDE 12/01/92), January 1992; *Egypt: Indefinite Detention and Systematic Torture, the Forgotten Victims*, (Index: MDE 12/13/96), July 1996; and *Egypt – Systematic Abuses in the Name of Security*, (Index: MDE 12/001/2007), April 2007.

<sup>22</sup> See Egypt report to UN Human Rights Council's Universal Periodic Review, UN Doc A/HRC/WG.6/7/EGY/1, 16 November 2009, p11.

<sup>23</sup> Article 6 of the Emergency Law also authorizes the immediate arrest of any person who violated any order issued under the Emergency Law or any offence defined in such an order. Anyone arrested under Article 6 may complain immediately against the detention order and must be released should the court not rule on the complaint within 30 days. Detainees held under Articles 6 whose complaints are rejected by the court remain in detention and can renew the complaints every 30 days. In practice, this Article has rarely been used, and in any event appears not to be in force under the current Decree 126/2010 (see Article 2).

<sup>24</sup> Before amendments introduced by Law 50 of 1982, the detainee had the right to appeal only after six months in detention.

<sup>25</sup> TV interview, Hadith al-madinat (The city's talk), 24 January 2010. See: <http://www.youtube.com/watch?v=A2nwog8U55E&feature=related>

<sup>26</sup> UN General Assembly Resolution 47/133 of 18 December 1992, Articles 9 and 10.

<sup>27</sup> UN Committee against Torture, *General Comment No. 2: Implementation of article 2 by States parties* (UN Doc: CAT/C/GC/2), 24 January 2008, para13.

<sup>28</sup> The full title is: Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism.

<sup>29</sup> Report of the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism, *Mission to Egypt* (UN Doc: A/HRC/13/37/Add.2), 14 October 2009, paras 28 and 29.

<sup>30</sup> In November 2007, Jihad leader el-Sayyed Imam Abdelaziz al-Sharif (known as Abu Fadl) issued an 11-page document entitled "Rationalizing Jihad in Egypt and the World", which was published by the daily newspaper *Al-Masry Al-Youm*, in which he reviewed positions taken by the group in the past and renouncing violence. Abu Fadl was returned from Yemen to Egypt in February 2004 and remained in secret detention by the Mukhabarat al-'Amma and then by the SSI in Nasr City from May 2004 until February 2007, when he was transferred to Liman Tora Prison, before being moved to Tora High Security Prison. He continues to be held to serve a life prison sentence imposed on him by a military court in what was known as the "returnees of Albania" case in 1999.

<sup>31</sup> Individual complaints about violations of the ICCPR cannot be brought directly to the UN Human Rights Committee because Egypt has not ratified the Optional Protocol.

<sup>32</sup> The WGAD considers a detention arbitrary when there is no legal basis for detaining someone (Category I), or when the detention is the result of the exercise of the rights or freedoms guaranteed under the ICCPR and the Universal Declaration of Human Rights (Category II) or when the international norms related to fair trial were totally or partially ignored (Category III).

<sup>33</sup> See, for instance, UN Working Group on Arbitrary Detention, Opinion No. 5/2005, concerning Mohamed Ramadan Mohamed Hussein El-Derini, adopted on 24 May 2005.

<sup>34</sup> See UN Doc A/HRC/7/4, 10 January 2008, para12.

<sup>35</sup> The Interior Ministry has an Integration and Rehabilitation Bureau, under the General Directorate for Aftercare. The families of sentenced ordinary criminal prisoners receive an allowance from the Ministry of Social Solidarity when the person is in prison. This follows a request for assistance that is subjected to a case study by a social unit, which then decides whether or not to grant the allowance, depending on the family's financial situation.

<sup>36</sup> *Al-Masry Al-Youm* daily newspaper, "General Directorate for Aftercare gives 140 thousands aid to 19 prisons and former prisons", 20 April 2010.

<sup>37</sup> Case No. 8/1998 and so-called because some of the defendants were forcibly returned from Albania to stand trial.

<sup>38</sup> The UN Working Group on Arbitrary Detention has specifically rejected the legitimacy of such use of administrative detention as a counter-terrorism measure: Working Group on Arbitrary Detention, *Report to the Human Rights Council* (UN Doc: A/HRC/10/21), 16 February 2009, para52.

<sup>39</sup> Amnesty International called for an urgent investigation by the Egyptian authorities after receiving video footage from inside the Zenhoum morgue in Cairo showing the bodies of scores of dead prisoners from al-Faiyum Prison, some of whom had apparently been tortured before being killed. For more details, see *Video footage shows Egyptian prison inmates apparently tortured and killed*, 8 March 2011.

<sup>40</sup> See Article 7bis of Law 105 of 1980 establishing State Security Courts; this article was added by the Anti-Terrorism Law of 1992, which amended the Penal Code as well as Law 105 of 1980.

<sup>41</sup> See UN Doc E/CN.4/1998/44, 19 December 1997, Annex I, Article 8(a).

<sup>42</sup> *Report of the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism, Mission to Egypt* (UN Doc: A/HRC/13/37/Add.2), 14 October 2009, para16.

<sup>43</sup> *Report of the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism, Mission to Egypt* (UN Doc A/HRC/13/37/Add.2), 14 October 2009, para16.

<sup>44</sup> More than one hundred alleged Muslim Brotherhood were tried before military courts in 1995, 1996 and 1999-2000, 2001, and 2007-2008, since President Mubarak started referring civilians to military courts in 1992 as well as before emergency courts.

<sup>45</sup> According to the Sawasya Centre for Human Rights and Anti-Discrimination, 2010 witnessed the highest number of arrests since 2005. During the year, 6,001 people were arrested, with 2,735 held under preventive detention (pending trial), 944 under administrative detention, and 2,321 held without legal basis at various points. By the time of the election to the People's Assembly on 28 November 2010, the Muslim Brotherhood reported that at least 1,200 of its members and supporters had been arrested and detained across Egypt since the organization's chairman, Mohamed Badie', announced on 9 October 2010 that the Muslim Brotherhood would be standing in the election. Many supporters of the group were only held briefly.

<sup>46</sup> The Kefaya movement, established in late 2004, is a broad coalition of political activists opposed to the presidency of Muhammad Hosni Mubarak.

<sup>47</sup> See UN Doc E/CN.4/1998/44, 19 December 1997, Annex I, Article 8(b). Article 19(3) of the ICCPR limits the possible grounds and severity of any restrictions on these rights.

<sup>48</sup> Musaad Abu Fagr's real name is Musaad Suliman Hassan Hussein.

<sup>49</sup> Case No. 1538 of 2007.

<sup>50</sup> Case No. 1925 of 2007.

<sup>51</sup> Other Penal Code provisions restricting freedom of religion are Article 161, which provides for imprisonment for acts which include "imitating religious ceremonies... with the intention of mockery".

<sup>52</sup> A Muslim group which relies almost exclusively on the Quran as authoritative for Islam, to the exclusion of the prophetic traditions (*Hadith*) and other sources of Islamic law.

<sup>53</sup> The Ahmadi Muslims believe in all of Islam's five pillars and other articles of faith in Islam, but differ from other Muslims in their belief in their founder, Hadhrat Mirza Ghulam Ahmad, as a Prophet within Islam, and consider that Jesus survived the attempted crucifixion. Ahmadi Muslims also believe in the continuation of divine revelation. This applies primarily to the Khalifas whose authority derives from God Himself.

<sup>54</sup> The numbers of some of his appeals are as follows: Appeal No. 1,175 on 30 May 2008; Appeal No. 2,140 in September 2008; Appeal No. 892 in March 2009; Appeal No. 3,198 in July 2009; and Appeal No. 6,340 in October 2009.

<sup>55</sup> See UN Doc E/CN.4/1998/44, 19 December 1997, Annex I, Article 8(b). Article 18(3) of the ICCPR only allows restrictions on the *manifestation* of such beliefs, and even then limits the possible grounds and severity of any restrictions.

<sup>56</sup> Human Rights Committee, *General Comment No. 8: Right to liberty and security of persons (Article 9)* (UN Doc: HRI/GEN/1/Rev.9), 30 June 1982, para4.

<sup>57</sup> Adopted by UN General Assembly Resolution 43/173 of 9 December 1988.

<sup>58</sup> Principle 16(4) allows for delay of such notification "for a reasonable period where exceptional needs of the investigation so require", but Principle 15 specifies 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", i.e. clearly less than a week (and probably no more than two or three days).

<sup>59</sup> UN General Assembly Resolution 47/133 of 18 December 1992, Article 10.

<sup>60</sup> Adopted by the First UN Congress on the Prevention of Crime and the Treatment of Offenders, held at Geneva in 1955, and approved by the Economic and Social Council by its resolutions 663 C (XXIV) of 31 July 1957 and 2076 (LXII) of 13 May 1977, Rules 92 and 95.

<sup>61</sup> *Amnesty International, Comité Loosli Bachelard, and others v. Sudan*, Communications 48/1990, 50/1991, 52/1991, and 89/1993, decision in 13<sup>th</sup> Activity Report (1999-2000), AHG/222 (XXXVI), Annex V, para5.

<sup>62</sup> UN Committee against Torture, *General Comment No. 2: Implementation of article 2 by States parties* (UN Doc: CAT/C/GC/2), 24 January 2008, para13.

<sup>63</sup> Sayana Ruslanovna Khadaeva disappeared for 34 days in the custody of the SSI, during which she said she was blindfolded, interrogated, beaten and asked to confess that she was a terrorist. On 8 May 2008 she was put on a flight to Russia.

<sup>64</sup> The Human Rights Committee has expressly confirmed the application of this provision to "so-called preventive detention... for reasons of public security" (See General Comment No. 8 (1982), para4).

<sup>65</sup> See the UN Body of Principles for the Protection of all Persons under Any Form of Detention or Imprisonment, Principle 11(1).

<sup>66</sup> UN Committee against Torture, *General Comment No. 2: Implementation of article 2 by States parties* (UN Doc:

CAT/C/GC/2), 24 January 2008, para13. See also the UN Body of Principles for the Protection of all Persons under Any Form of Detention or Imprisonment, Principles 15-19.

<sup>67</sup> Principles 15, 17 and 18. See also UN Standard Minimum Rules for the Treatment of Prisoners, Rules 93 and 95.

<sup>68</sup> Principle 19 (and see Principle 15). See also UN Standard Minimum Rules for the Treatment of Prisoners, Rules 37, 92 and 95.

<sup>69</sup> The electronic link on Hani Nazeer's blog led to a Coptic Christian website that had a copy of a *Azazil's Goat in Mecca*, a novel written under the pseudonym "Father Utah", which was considered insulting to Islam and which featured on its cover a goat on top of the Kaaba, the most sacred Muslim site. *Azazil's Goat in Mecca* was a response to *Azazil*, a novel by Youssef Ziedan, the Egyptian Director of the Manuscripts Centre at the Bibliotheca Alexandrina.

<sup>70</sup> UN Doc, CCPR/C/79/Add.23, 9 August 1993, para8. These articles guarantee the right to life (Article 6); the right not to be subjected to torture or other ill-treatment (Article 7); the right not to be arbitrarily detained and deprived of liberty (Article 9); and the legality of the offence (that is, the requirement to limit both criminal liability and punishment to clear and precise provisions in the law that existed and were applicable at the time when the offence was committed, except in cases where a later law imposes a lighter sentence) (Article 15).

<sup>71</sup> Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism, *Report to the Commission on Human Rights* (UN Doc: E/CN.4/2006/98), 28 December 2005, para46.

<sup>72</sup> UN Working Group on Arbitrary Detention, *Report to the Commission on Human Rights* (UN Doc: E/CN.4/2004/3), 15 December 2003, paras 64-65.

<sup>73</sup> Declaration on the Protection of all Persons from Enforced Disappearance, proclaimed by General Assembly Resolution No. 47/133 of 18 December 1992, Article 10(1).

<sup>74</sup> DOC/OS(XXX) 247 (2005), Article M(3)(a).

<sup>75</sup> See UN Human Rights Committee's General Comment No. 8, para2.

<sup>76</sup> The UN Human Rights Committee has found prolonged incommunicado detention without being brought before a judge or given access to counsel to violate rights under, depending on the circumstances, articles 7, 9 and/or 10 of the ICCPR in a number of cases. Examples include *Freemantle v Jamaica* (UN Doc: CCPR/C/68/D/625/1995), 2000 [four days without judge or lawyer]; *Kurbanov v Tajikistan* (UN Doc: CCPR/C/79/D/1096/2002), 2003 [seven days without judge]; *Rafael Marques de Morais v Angola* (UN Doc: CCPR/C/83/D/1128/2002), 2005 [40 days detention without judge; 10 days incommunicado]; *Bousroual v Algeria* (UN Doc: CCPR/C/86/992/2001), 2006 [33 days]. See also its observations of inconsistencies between Sri Lanka's Prevention of Terrorism Act and provisions of the ICCPR, particularly that the legislation permitted detention for an initial period of 72 hours without the person being produced before a court: *Concluding Observations: Sri Lanka* (UN Doc: CCPR/CO/79/LKA), 1 December 2003, para13 ("HRC Sri Lanka 2003").

<sup>77</sup> UN Doc: A/HRC/13/37/Add.2, 14 October 2009, para54.

<sup>78</sup> Article 9(4) of the ICCPR. See also African Commission on Human and Peoples' Rights, Principles and Guidelines on the Right to a Fair Trial and Legal Assistance in Africa, (Ref: DOC/OS(XXX) 247), 2005, Article M(4); and Articles 6 and 7(1) of the African Charter on Human and Peoples' Rights.

<sup>79</sup> As the UN Human Rights Committee, for instance, has said: "the right to take proceedings before a court to

enable the court to decide without delay on the lawfulness of detention, must not be diminished by a State party's decision to derogate from the Covenant" in situations of emergency. General Comment No. 29, 31 August 2001, para16.

<sup>80</sup> African Commission on Human and Peoples' Rights, Principles and Guidelines on the Right to a Fair Trial and Legal Assistance in Africa (Ref: DOC/OS(XXX) 247), 2005, Article M(5)(e).

<sup>81</sup> UN Committee against Torture, *General Comment No. 2: Implementation of article 2 by States parties* (UN Doc: CAT/C/GC/2), 24 January 2008, para13. See also Principles 4 and 11 of the Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment.

<sup>82</sup> The right of a lawyer to present a memorandum is rarely exercised because the case file has no evidence or additional information to be challenged. The file typically comprises the detention order and the detention memorandum by the security officer requesting that an individual be held in administrative detention. This is particularly the case for those classified as political administrative detainees.

<sup>83</sup> *A v. Australia* (UN Doc: CCPR/C/59/D/560/1993), 1997, para9.5.

<sup>84</sup> See, for example, *Moriana Hernandez Valentini de Bazzano v. Uruguay* (1984), Communication No. 5/1977 (UN Doc. CCPR/C/OP/1) at 40, para10(i); *Carmen Amendola Masslotti and Graciela Baritussio v. Uruguay* (1982), Communication No. R.6/25 (UN Doc. Supp. No. 40, A/37/40) at 187, paras 12 and 13; *Leopolda Buffo Carballal v. Uruguay* (1981), Communication No. 33/1978 (UN Doc: CCPR/C/12/D/33/1978). See also *Constitutional Rights Project and Civil Liberties Organisation v. Nigeria*, African Commission on Human and Peoples' Rights, Communications Nos. 143/95 and 150/96 (1999), para30. Such circumstances also clearly constitute a "Category I" arbitrary detention within the legal framework applied by the UN Working Group on Arbitrary Detention.

<sup>85</sup> See European Court of Human Rights' decision in the case *Assanidze v. Georgia* (Application No. 71503/01), 8 April 2004, para173.

<sup>86</sup> General Assembly resolution 47/133 of 18 December 1992, Article 11.

<sup>87</sup> *Report of the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism, Mission to Egypt* (UN Doc: A/HRC/13/37/Add.2), 14 October 2009, para23.

<sup>88</sup> *Free Legal Assistance Group, Lawyers' Committee for Human Rights, Union Interafricaine des Droits de l'Homme, Les Témoins de Jehovah v Zaire*, Communications 25/89, 47/90, 56/91, 100/93, Decided at the 18th ordinary session, October 1995, 9th Annual Activity Report, para42.

<sup>89</sup> See, for instance, *Concluding observations on Yemen*, (UN Doc: CCPR/CO/84/YEM), 9 August 2005, para13.

<sup>90</sup> ICCPR, Article 2, and Human Rights Committee, *General Comment 31: Nature of the General Legal Obligation Imposed on States Parties to the Covenant* (UN Doc: CCPR/C/21/Rev.1/Add.13), 26 May 2004, paras 15 and 16 and General Comment 20 concerning prohibition of torture and cruel treatment or punishment, para14; CAT articles 14 and 16 and UN Committee against Torture, *General Comment No. 2: Implementation of article 2 by States parties* (UN Doc: CAT/C/GC/2), 24 January 2008, para3.

<sup>91</sup> See, *al-Youm al-Saba'*, "State litigation counsellors decide not to appeal against court rulings on detention and torture of detainees", 12 March 2011.

<sup>92</sup> See for instance, Amnesty International's following statements: *Egypt: protection of torture victim is key for justice to be done* (Index: MDE 12/003/2007), 10 January 2007; *Egypt: Sweeping measures against torture needed* (Index: MDE 12/034/2007), 5 November 2007; *Egypt: Brutal police killing of young man must be investigated*, 11

June 2010; and *Egyptian authorities must ensure new death in custody case is fully investigated* (Index: PRE01/376/2010), 16 November 2010.

<sup>93</sup> *Report of the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism, Mission to Egypt* (UN Doc: A/HRC/13/37/Add.2), 14 October 2009, para30.

<sup>94</sup> Rules 84-93, 95.

<sup>95</sup> See, for instance, AFP, "Egypt prison guards beat inmates to end hunger strike", 29 June 2008; Egyptian Organization for Human Rights, *Egyptian Organization for Human Rights calls on the Public Prosecutor to investigate the hunger strike of an inmate in Abu Zaabal*, 7 September 2009; and Reuters, "Egypt families protest deserter's torture death", 8 February 2010.

<sup>96</sup> Mohammed Farid Farag Farrag was arrested at his house at 2am on 26 November 2007 in the city of Qalag, Qalyubiya governorate, north of Cairo. For 60 days, his family had no information about him. He told his family that during those 60 days he was in Tora Prison and tortured with electric shocks, suspended, whipped and beaten by SSI officers. His arrest seemed to be linked to his role in setting up an association called Jam'iat al-Furqan al-Khayriya (Qoran Charitable Association), created to teach children the Qoran. See Amnesty International, *Urgent Action: Detainee beaten and denied medical care* (Index: MDE 12/010/2010), 25 February 2010.

<sup>97</sup> See for instance, Sawasya Centre for Human Rights and Anti-Discrimination, "Medical care in Egyptian prisons", 27 July 2007.

<sup>98</sup> UN Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment, Principles 24-26; UN Standard Minimum Rules for the Treatment of Prisoners, Rules 22-26, 91.

<sup>99</sup> UN Committee against Torture, *General Comment No. 2: Implementation of article 2 by States parties* (UN Doc: CAT/C/GC/2), 24 January 2008, para13.

<sup>100</sup> UN Standard Minimum Rules for the Treatment of Prisoners, Rule 91.

<sup>101</sup> See, for example, Human Rights Committee, *Mika Miha v Equatorial Guinea* (UN Doc: CCPR/C/51/D/414/1990), 1994 para6.4; *Brown v Jamaica* (UN Doc: CCPR/C/65/D/775/1997), 1999 para6.13.

<sup>102</sup> See "Letter from Human Rights NGOs to Officials on Security and Health Situation in Egyptian Prisons", 31 March 2011. The letter was signed by The Egyptian Initiative for Personal Rights, Association for Freedom of Thought and Expression, El Nadim Center for Rehabilitation of Victims of Violence and Torture, Hisham Mubarak Law Center, New Woman Foundation, Cairo Institute for Human Rights Studies and Egyptian Center for Economic and Social Rights.

<sup>103</sup> See Amnesty International, *Guards accused as scores allegedly shot dead in Egyptian prison*, 21 February 2011.

<sup>104</sup> Case No. 502 of 1994.

<sup>105</sup> In May 2007, the WGAD considered him and 45 others to be arbitrarily detained and called on the Egyptian authorities to release them.

<sup>106</sup> Article 139 of the CCP stipulates: "Any person arrested or detained shall be informed immediately of the reasons for his arrest or his detention. He shall have the right to communicate with whoever he sees fit and inform them of what has taken place and to ask for a lawyer's assistance. He must be notified, as soon as possible, with the charges directed against him." Almost the same provisions were provided for by Article 71 of the Constitution. Similar provisions are also in Article 9(2) of the ICCPR.

<sup>107</sup> *Al-Dostour*, "150 Sinai detainees in Borg al-Arab, in a letter: we do not know the reason for being in this hell", 25 May 2010.

<sup>108</sup> See, for instance, Law No. 152 of 2001, amending some provisions of Law No. 396 of 1956 on prison regulations, which abolished lashing; Law No. 95 of 2003 abolishing State Security Courts and replacing penalties of hard labour with life-sentence imprisonment or imprisonment. In 2002, an Interior Minister Decree (Decree No. 668 of 2002) abolished the punishment of lashing.

<sup>109</sup> Such treatment or punishment is prohibited by Article 7 of the ICCPR and by the CAT.

<sup>110</sup> See endnote 95 and 112.

<sup>111</sup> ICRC, "Egypt", *ICRC Annual Report 2009*, p3, available at: <http://www.icrc.org/eng/assets/files/annual-report/icrc-annual-report-2009-egypt.pdf>

<sup>112</sup> State Information Services, "State Security Investigation Agency Abolished", 16 March 2011, <http://www.sis.gov.eg/En/Story.aspx?sid=54223>.

# APPENDIX: EGYPT – HUMAN RIGHTS AGENDA FOR CHANGE

On 10 February 2011, Amnesty International issued Egypt: Human rights agenda for change (Index: MDE 12/015/2011), with the following recommendations:

## **End the state of emergency: Stop arbitrary detentions, torture and unfair trials**

- Immediately lift the state of emergency and repeal all provisions of the Emergency Law. The state must not arbitrarily detain people, torture them, engage in other reprisals against them, or deny their right to fair trial. In this respect, the authorities should repeal those aspects of Article 179 of the Constitution that give sweeping powers of arrest to the security forces and allow the Egyptian President to bypass ordinary courts and refer people suspected of terrorism to military and special courts.
- Abolish the powers of the security forces to arrest and detain people incommunicado and without judicial oversight.
- Ensure that all detainees are granted access to lawyers of their own choosing, their relatives and any medical treatment that they may require.
- End blanket bans on demonstrations and public gatherings.
- Release immediately and unconditionally all prisoners of conscience – those deprived of their liberty solely for the peaceful exercise of their right to freedom of conscience, thought, opinion, expression, association or assembly.
- Enforce court orders for the release of prisoners; detainees held under administrative orders should either be released or charged with a recognizable criminal offence and tried in full conformity with international standards for fair trial and without recourse to the death penalty.
- Abolish trials of civilians before military and emergency courts. Halt immediately all trials of civilians before military courts and either release them or transfer them to civilian courts for fair trial.
- Guarantee an independent judiciary, including by ensuring that judges are not subject to arbitrary disciplinary measures, or have their judicial immunity revoked, for their activities as judges. Ensure that the Supreme Judiciary Council (the body that oversees the nomination, appointment, placement and promotion of judges) can function as an independent body, and that discriminatory restrictions preventing women from serving as judges are removed.
- Immediately make public the draft anti-terrorism law, and ensure transparent and broad-based consultation and review of the draft law, which includes civil society.

## **Uphold and defend the rights to freedom of expression, assembly and association**

- Guarantee that all security forces, including the army, do not use excessive force when policing demonstrations and comply fully with the UN Code of Conduct for Law Enforcement Officials and the UN Basic Principles on the Use of Force and Firearms by Law Enforcement Officials.
- Open independent investigations into all cases where the security forces are reported to have used excessive force. Evidence of human rights abuses, including unlawful killings, must not be tampered with or destroyed. Investigations into killings must follow the methods set out in the UN Principles on the Effective Prevention and Investigation of Extra-legal, Arbitrary and Summary Executions. Ensure that the reports of such investigations are made public, and that those identified as responsible for human rights abuses are brought to justice in fair trials and without recourse to the death penalty.
- Publish and disseminate in a form that is readily accessible to the public the rules and regulations on the use of force by all security forces, including the army.
- Ensure that peaceful protesters are not arbitrarily arrested and detained, or tortured or ill-treated.
- Uphold the right to freedom of expression, including by protecting the freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers and through any media; and by refraining from imposing undue restrictions on internet and mobile telecommunications services.
- Repeal or amend, with a view to bringing into conformity with international law, the provisions of the Penal Code that infringe freedom of expression, in particular Articles 80(d), 98bis(b), 98(f), 102, 102bis, 171, 178, 179, 181, 188, 201 and 308, as these allow for the imprisonment of journalists and others for vaguely defined offences, such as harming "national interest" or "social peace".
- Review Law 84 of 2002 (the Law on Associations) to enable non-governmental organizations to function without impediments such as prior authorization, funding controls and administrative dissolution under Article 42 of the Law.
- End the use of criminal defamation to punish criticism of government officials.

#### **End torture and other ill-treatment**

- Publicly condemn torture and other ill-treatment, including by instructing the security forces that these abuses will not be tolerated under any circumstances.
- Ensure that all places of detention are publicly listed and are under the oversight of judicial authorities, including military facilities and those of the State Security Investigations (SSI) department. In this respect, repeal Article 1bis of Law No. 396 of 1956 (the Law on Prison Regulations), which states that people can be held in places of detention specified in this Law as well as in places defined by decree by the Minister of Interior. In practice, this has led to detainees being held in SSI detention centres and military camps, premises that are not open to inspection by the Public Prosecutor or any other judicial authority, as required by Article 42 of the Code of Criminal Procedure and Article 85 of the Law on Prison Regulations.

- End enforced disappearances by immediately disclosing the whereabouts of all those detained, and ensure that all detainees are officially registered and their families and lawyers notified.
- Bring the crime of torture in Egyptian law in conformity with the definition in Article 1(1) of the UN Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. In particular, explicitly prohibit all forms of cruel, inhuman or degrading treatment or punishment, and make clear that the prohibition is absolute and must not be suspended under any circumstances, including during a state of war or other public emergency.
- Ensure that all allegations of torture or other ill-treatment are investigated promptly, thoroughly and impartially, that officials responsible for such abuses are brought to justice, and that victims receive full reparation. No evidence obtained using torture or other ill-treatment should be used in trials.
- Take all appropriate criminal or administrative measures against officials who fail to comply with safeguards against human rights abuses.

### **Prioritize the full realization of economic, social and cultural rights**

- Ensure, for the whole population, minimum essential levels of economic, social and cultural rights, such as the rights to food, water, sanitation, health care and housing and, where necessary, seek international co-operation and assistance to do so.
- Ensure non-discrimination in access to essential public services, including water, sanitation and healthcare.
- Review national laws and institutions to ensure that effective remedies are available to all victims of violations of economic, social and cultural rights.

### **Ensure the right to an adequate standard of living, including housing**

- Immediately end all forced evictions and enforce a clear prohibition on forced evictions.
- Ensure that no evictions, including from state-owned land, are carried out until the procedural protections required under international human rights law are in place in national law and adhered to.
- Develop a comprehensive plan, consistent with Egypt's obligations under international human rights law, to address the inadequate housing conditions leading to threats to life and health of people living in slums.
- Make public the plans for the Cairo 2050 development project, and ensure the active participation of and genuine consultation with the affected communities in developing and implementing the plans.

### **Uphold the right to work**

- Initiate legal and institutional reforms to promote and protect labour rights, including by allowing for workers to organize freely and form independent trade unions.
- Ensure that workers are able to establish in practice trade unions that can represent them, negotiate on their behalf or allow them to bargain collectively, independently of the Egyptian Trade Union Federation and its local affiliates, which since 1957 has been mandated to be the sole trade union structure in the country.
- Set up and enforce a system to ensure a fair minimum wage so that all workers and their families are guaranteed decent living conditions. This is in line with Article 23 of the Egyptian Constitution, which states that a minimum and a maximum wage should be fixed in order to ensure less disparity in income, and with Egypt's obligations under Article 7 of the International Covenant on Economic, Social and Cultural Rights, which stipulates that states must ensure that all workers receive, as a minimum, a fair wage.
- Amend Article 124 of the Penal Code to decriminalize peaceful exercise of the right to strike.

### **Protect women's rights**

- Introduce legal provisions to protect women from domestic violence, including marital rape and sexual harassment, in compliance with Egypt's obligations under international human rights law.
- Implement the February 2010 recommendation of the Committee on the Elimination of Discrimination against Women, which calls on the Egyptian authorities to take the necessary measures to secure the participation of women in the various phases of the electoral process.
- Comprehensively review existing and proposed legislation on personal status, ensuring that women and men have equal rights to marriage, divorce, the custody of children and inheritance, in line with Egypt's obligations under the Convention on the Elimination of All Forms of Discrimination against Women.
- Amend Articles 260-264 of the Penal Code to allow abortion for women and girl survivors of rape and incest, or when a pregnancy poses a grave risk to the health of the woman or girl.
- Amend Law No.126 of 2008 to prohibit female genital mutilation in all cases.

### **Eliminate discrimination**

- Review, amend or abolish all laws that discriminate on the basis of race; colour; religion; ethnicity; birth; sex; sexual orientation; gender identity; political or other opinion; national or social origin; property; or other status.
- Change all laws and practices that discriminate against religious or ethnic minorities to ensure that they uphold Article 18 of the International Covenant on Civil and Political Rights, which guarantees freedom of thought, conscience and religion. Such laws include Article 98(F) of the Penal Code, which criminalizes the exploitation of religion to "disturb national peace"; Presidential Decree 291/2005, which makes repair or expansion of Christian churches subject to a permit from

the regional governor; and Law 263 of 1960, which bans Baha'i activities and does not grant Baha'is legal recognition.

- Ensure that members of religious minorities, including converts, are promptly issued with up-to-date civil documents, including identification papers.
- Undertake measures to prevent sectarian attacks, and promptly and impartially investigate all reports of attacks against members of religious and ethnic minorities.
- End the arrest and prosecution of people for their real or alleged homosexuality and unconditionally release anyone imprisoned solely on the basis of their actual or imputed sexual orientation.
- Decriminalize consensual sexual relations, including by repealing Law 10 of 1961 (the Law on Debauchery) and all other legislation that criminalizes actual or alleged consensual same-sex relations.

#### **End violations against migrants, refugees and asylum-seekers**

- Ensure that the security forces do not use force against people seeking entry to or exit from Egypt, except in strict accordance with international human rights standards, and are instructed that they may not use firearms or other lethal force except when this is strictly necessary to protect their own lives or the lives of others.
- Investigate promptly, thoroughly and impartially all cases in which Egyptian border guards or other security forces have opened fire on people seeking to cross Egypt's borders with Israel or other countries, to bring to justice those responsible for killings or other excessive use of force, and to provide reparation to those whose rights have been violated.
- Allow asylum-seekers meaningful access to asylum procedures and to the UN refugee agency, UNHCR, and ensure that individuals who are fleeing persecution are afforded international protection.

#### **Abolish the death penalty**

- Impose an immediate moratorium on all executions.
- Commute all death sentences and review the Penal Code in order to reduce the number of capital offences, with a view to working towards abolition of capital punishment.

#### **Co-operate with UN mechanisms**

- Implement recommendations by UN treaty bodies and special procedures, and report to the Human Rights Committee, the Committee against Torture and the Committee on Economic, Social and Cultural Rights.
- Issue a standing invitation to all UN human rights experts, and facilitate immediately the visits requested by the special procedures, including the Special Rapporteur on torture, the Special

Rapporteur on extrajudicial executions, the Special Rapporteur on the independence of judges and lawyers, the Special Rapporteur on the situation of human rights defenders, the Special Rapporteur on freedom of religion or belief, and the Working Group on Arbitrary Detention.

- Ratify the Rome Statute of the International Criminal Court and implement it in national law. Accede to the International Convention for the Protection of All Persons from Enforced Disappearance and implement it in national law. Accede to the Optional Protocol to the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment. Ratify the optional protocols to the international covenants on Civil and Political, and Economic, Social and Cultural Rights.





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