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Egypt: Cancel Military Court Death Sentences

Convicted Civilians Alleged Torture, Forcible Disappearances



القبض على أكبر خلية إرهابية تهدد الأمن القومي

وزارة الدفاع المصرية

Souhaib Sa'ad in a still from a video released by the Defense Ministry several weeks after his disappearance. His brother told Human Rights Watch that Sa'ad was forced to repeat dictated confessions after being tortured for 3 days.

(Beirut) – The case of eight men who could face imminent execution following a military trial shows why Egyptian authorities should place a moratorium on the death penalty, Human Rights Watch said today.

The eight civilians, six of whom are in custody, were sentenced to death on May 29, 2016, after a trial on terrorism charges that denied them basic due process rights and relied on confessions that the defendants said were obtained under torture. If the Supreme Military Court for Appeals denies the defendants' appeal, the six men in custody could be executed as soon as Defense Minister Sedky Sobhi and President Abdel Fattah al-Sisi ratify their death sentences.

“Egyptian authorities have been using military trials to dodge the already threadbare due process protections in regular courts, and we fear these trials may become rubber stamps for the death penalty,” said **Joe Stork**, deputy Middle East director at Human Rights Watch. “Military courts should never be used against civilians, and they should certainly not be allowed to condemn civilians to death.”

Sobhi should cancel the death sentences and order military prosecutors to drop the case, and if there is evidence against the men or their co-defendants, Egypt's prosecutor general should charge them in a regular court, Human Rights Watch said.

Since 2013, military courts have sentenced at least 60 defendants to death in at least 10 cases. Six of these sentences have been approved and carried out. While military courts have handed down far fewer death sentences than the hundreds issued by regular courts since 2013, they do not provide even the limited due process protections available in those courts. Egyptian authorities have **tried more than 7,400 civilians** in military courts since al-Sisi decreed a law in October 2014 that vastly expanded military court jurisdiction.

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among 28 tried together on terrorism charges. Only one of the 28 was a member of the military. The court sentenced 12 to life in prison, six to 15 years, and acquitted two.

Military prosecutors alleged that the men had supported or belonged to a group tied to the Muslim Brotherhood that obtained explosives and weapons and plotted to carry out surveillance and attacks on government and security officials.

Human Rights Watch reviewed the military prosecution's 20-page indictment, a 149-page defense memo, and the 37-page military court verdict. Human Rights Watch also interviewed two defense lawyers, one defendant who was sentenced to death but lives outside Egypt, and relatives of five other defendants.

The relatives said that the authorities arrested the five men between May 28 and June 2, 2015, and did not provide information about their whereabouts for weeks. The families inquired in local police stations and sent telegrams to various government offices but received no response. Some learned of their relatives' whereabouts weeks later, when they received calls from people who saw the men in detention. The authorities did not officially acknowledge that the men were being accused of crimes until July 10, 2015, when some of the men appeared in a video released by the Defense Ministry that accused them of belonging to "the biggest terrorist cell threatening national security."

Five of the men told their relatives that interrogators had tortured them, including with beatings, electric shocks, and hanging in painful stress positions. Three said they were then forced to read confessions written for them. Two told their relatives that the Defense Ministry's Military Intelligence and Reconnaissance Department had held them in Cairo's Nasr City neighborhood, in a facility that Human Rights Watch independently confirmed belonged to military intelligence. None of the men were allowed access to lawyers during their detention, interrogation, or initial questioning by military prosecutors.

The men's trial, known as Case 174 of 2015, began on September 17, 2015. Military prosecutors charged the defendants with manufacturing explosives, acquiring defense secrets, possessing firearms, and violating article 86 of the penal code – Egypt's **primary anti-terrorism statute**. The law provides for life imprisonment or the death penalty for anyone who helps lead a group that uses terrorism to “disrupt the provisions of the constitution or laws, prevent state institutions or public authorities from carrying out their work, assault citizens' personal freedoms or general rights, or harm national unity or social peace.” Under article 86, anyone who supplies such a group with money, weapons, or explosives can also receive the death penalty.

The indictment Human Rights Watch reviewed relied entirely on the testimony of Major Hani Soltan, an officer with military intelligence Group 77. Soltan testified that on May 24, 2015, during a routine inspection of troops returning from leave, military personnel discovered a concealed camera pen in the possession of a conscript assigned to the Defense Ministry's general secretariat. After interrogating the man, Soltan testified, he was able to uncover the plot and identify the members of the “terrorist cell.”

Prosecutors did not charge any of the 28 defendants with an act of violence but said the men were preparing for attacks by stockpiling weapons and conducting surveillance on security officials, including Gen. Medhat al-Menshawy, the head of the Interior Ministry's Central Security Forces, who commanded the **brutal 2013 dispersal** of a mass sit-in in Cairo that left at least 817 protesters dead in one day.

In March and April 2017, Human Rights Watch sent **letters to six Egyptian institutions** including the presidency and Defense Ministry, expressing serious concerns about death sentences handed down in military courts and urging al-Sisi and Sobhi not to approve the death sentences in this case or another case in which **seven men were sentenced to death by a military court** in connection with a deadly explosion at a stadium in Kafr al-Sheikh. Human Rights Watch also said that Egyptian authorities should place a moratorium on the death penalty in all regular and military courts in view of the sharp rise in the number of death sentences, turbulent political upheaval, and failure to pass a comprehensive transitional justice law in Egypt since the military removed the country's first freely elected president in July 2013.

In 2015, six men were executed following an unfair military trial in which they were accused of participating in attacks on security forces, including a gunfight that killed army officers. In that case, **Human Rights Watch determined** that three of the men could not have participated in the attacks because authorities had arrested them months earlier and they were in detention at the time. Nevertheless, they were sentenced to death and executed by hanging after Sobhi and al-Sisi ratified their sentences.

Military courts should never be used against civilians, and they should certainly not be allowed to condemn civilians to death. ”

Joe Stork

Deputy Middle East Director at Human Rights Watch

Human Rights Watch opposes the death penalty in all circumstances as a punishment that is not only unique in its cruelty and finality, but also inevitably and universally plagued with arbitrariness, prejudice, and error.

Egypt's military courts violate several key elements of due process, including the defendants' right to be informed of the charges against them, to access a lawyer, to have a lawyer present during interrogations, and to be brought promptly before a judge. Judges in the military justice system are military officers subject to a chain of command, without the independence to ignore instructions by superiors.

The use of military courts to try civilians violates international law. The Human Rights Committee, the international expert body that interprets the International Covenant on Civil and Political Rights, which Egypt ratified in 1982, has stated that civilians should be tried by military courts only under exceptional circumstances and only under conditions that genuinely afford full due process. The African Commission on Human and Peoples' Rights, which interprets the African Charter on Human and Peoples' Rights, ratified by Egypt in 1984, has stated that civilians should never face military trial and that military courts should not have the power to impose the death penalty. The African

Principles and Guidelines on the Right to a Fair Trial and Legal Assistance, adopted in 2003, prohibit military trial of civilians under all circumstances.

The Case Against the 28 Men

According to the indictment in Case 174 of 2015, the investigation began when guards found a concealed camera pen and flash memory in the possession of Ahmed Magdi Nagi, a conscript assigned to the Defense Ministry general secretariat, during an inspection on May 24, 2015.

Major Soltan, the military intelligence officer, interrogated Nagi and said that Nagi told him a man named Khaled Ahmed al-Sagheer had recruited Nagi into a terrorist cell tied to the Muslim Brotherhood. Al-Sagheer met Nagi through Nagi's neighbor, Mohamed Hamdi, on May 19, and the two met again four days later, when al-Sagheer gave Nagi the camera pen and instructions for conducting surveillance on military officers and facilities.

Soltan testified that after arresting Nagi, he made Nagi contact al-Sagheer and arrange a meeting near the Qobba Bridge Hospital in Cairo's Nasr City district, where he promised to give al-Sagheer the camera pen containing photos of his surveillance. After obtaining permission from prosecutors, Soltan testified, he arrested al-Sagheer following the meeting and found him in possession of the pen and a second camera concealed in a watch.

Afterward, Soltan said, al-Sagheer confessed to leading a group within the cell responsible for surveillance, and identified a man named Ahmed Amin Ghazali as the cell's leader. Soltan instructed al-Sagheer to arrange a similar meeting with Ghazali in the nearby Qobba Gardens neighborhood and arrested Ghazali as well.

Through these arrests, Soltan testified, he was able to identify 25 other people who had either been members of the cell's three groups – for surveillance, weapons manufacturing, and carrying out operations – or who had assisted the cell. Soltan testified that the cell had plotted to target General al-Shennawy, the Central Security Forces commander; army Gen. Mohamed al-Assar, the minister of military production; and Cairo University President Gaber Nassar.

According to military intelligence Group 77 inspection reports marked “secret” but included in the court files, intelligence officers seized two concealed camera pens, two flash memory drives, and a concealed camera watch. One camera pen contained “unimportant” photos and videos, while the other had three photos meant to “study and observe the objectives” and four videos “filmed in the streets possibly to observe the road to the target.”

An inspection report prepared by crime scene investigators with the Interior Ministry's Public Security Agency, also included in the files, documented the seizure of numerous weapons from the home of one of the defendants, Abd al-Basir Abd al-Raouf, including one FAL and one Kalashnikov assault rifle, two types of shotguns, and three pistols. The report also stated that the authorities had seized a Kalashnikov assault rifle from Ghazali's home.

A military engineers' report included in the court files documented the controlled destruction of what the authorities alleged were homemade explosive devices and other equipment seized from some of the defendants. Defense lawyers told Human Rights Watch that military prosecutors did not present any of the seized weapons at trial, but that they also had not asked them to do so.

Soltan testified that two men living outside Egypt, Ahmed Abd al-Basit, a former Cairo University doctoral student, and Abdullah Nour al-Din, had founded and funded the cell. He also said that the group was involved in vandalizing police cars and electricity and telecommunications towers but gave no details about these operations or where, when, and how they were carried out. In May 2016, the military court sentenced Abd al-Basit, Nour al-Din, and Ghazali to death and sentenced Nagi and al-Sagheer to life in prison.

The relatives who spoke with Human Rights Watch said that only two of the defendants, **Souhaib Sa'ad and Omar Ali**, had known each other before the case. Military prosecutors did not charge Hamdi, the neighbor who allegedly introduced al-Sagheer to Nagi, and the presiding judge rejected the defense team's request to call Hamdi as a witness.

All five families said they had received no response to their telegrams to the prosecutor general inquiring about their relatives' whereabouts. Human Rights Watch examined several of the telegrams. In court, defense lawyers requested that the prosecution present official documents stating where the defendants had been held after they disappeared, but prosecutors refused. The presiding judge "was just like a silent watcher," said one relative, who was allowed to attend three court sessions because he is a lawyer. Military judges also did not respond to requests from defense lawyers to investigate the defendants' allegations of enforced disappearance and torture, nor did the judges allow the defendants to be examined by the Justice Ministry's Forensic Medical Authority, the lawyer said.

The families said they never received warrants from the police authorizing their relatives' arrests, either during the arrest or afterward.

Abd al-Basit, one of the cell's two alleged founders, is mentioned only once in the indictment, in a section that summarizes the confession of Ghazali, the cell's purported leader, and states that Ghazali admitted to receiving an unidentified amount of money from Abd al-Basit. The prosecution's file contains no evidence of this money transfer. Defense lawyers stated in court that all the defendants renounced their confessions and said they had been obtained under torture. Abd al-Basit, who was expelled from Cairo University in 2015 for organizing peaceful protests against the military's removal of former President Mohamed Morsy and human rights abuses by the security forces, and who lives abroad, told Human Rights Watch that he believed Ghazali had mentioned his name under torture because they knew each other from the university.

Disappearances

Ghazali, 27, disappeared on the night of May 28, 2015, his brother Ammar said. He said that a woman saw a group of men pull Ghazali into a car near the Maadi metro station in Cairo. When Ghazali resisted, his mobile phone fell under a car parked in the street. The woman picked up the phone after they left, called the last number dialed and reached Ghazali's family. She told them what she saw and that she was going to get rid of the phone because she did not want to get in trouble, Ghazali's brother said.

The next day, security forces in uniform and others wearing civilian clothes came to their home with Ghazali, who was blindfolded and handcuffed behind his back, said his brother, whose family was there at the time. The uniformed men broke into the apartment and searched it, saying they said they were looking for guns, but found nothing. They left and did not tell the family where they were taking Ghazali.

His brother said that the family visited every police station in the Maadi neighborhood, as well as other Interior Ministry facilities in Cairo, but none admitted to having any information about Ghazali. The family sent a telegram to the prosecutor general on May 30, but received no response. After seeing the Defense Ministry video on July 10, Ammar Ghazali visited military prosecutors, who told him to look for his brother in Cairo's Tora Prison compound. When Ammar went there, he discovered that the authorities were holding Ghazali in the "Scorpion" Maximum Security Prison inside the Tora compound.

Security forces arrested Mohamed Fawzy Abd al-Gawwad, 24, an electrical engineer who had recently graduated from Cairo University, on May 29, 2015, at his apartment in the Helwan neighborhood of Cairo, his father said. Several neighbors witnessed the arrest and called Abd al-Gawwad's father, who was traveling with his wife to visit family in another city.

The father said that when they returned hours later, they found that security forces had broken into their building, destroying the metal door downstairs and their apartment door. They had confiscated their son's laptop, mobile phone, and tablet, which the family received later during the trial. The father began inquiring about Abd al-Gawwad in local police stations, where officers denied knowing anything about him. The next day, the family sent a telegram inquiring about his whereabouts, a copy of which Human Rights Watch reviewed, to the prosecutor general, who did not respond.

On June 17, the father received a phone call from an unknown person who said that he had seen Abd al-Gawwad in Istikbal Prison inside Tora. When the father went to Tora, officers told him he could visit his son in 15 days.

Mahmoud al-Sherif Mahmoud, 30, a mechanical engineer, disappeared on June 1, 2015, his father said. Though the father did not witness the arrest, Mahmoud told his father later that a group of men had taken him from the street close to Cairo's Helwan metro station. His father said that security forces – including police, Central Security Forces, and a man whom he believed was an intelligence officer in civilian clothes – came to search their home the day after Mahmoud's disappearance, without a warrant. The intelligence officer told his group to search the house without destroying any property.

“He was more polite than others,” the father said.

The next day, the family sent a telegram inquiring about Mahmoud's whereabouts, which Human Rights Watch reviewed, to the prosecutor general but did not receive a response.

Like Abd al-Gawwad's family, Mahmoud's family received a call on June 17 from an unknown person who said he had seen Mahmoud in the Tora prisons compound.

On June 2, 2015, the day after Mahmoud's disappearance, police arrested Abd al-Basir Abd al-Raouf, 20, then a first-year student at the Maritime Academy, on the street near a department store in Helwan, his mother said. She said that he was studying for final exams at the time and had been going to a friend's house so they could study together. When his mother tried to call him several times the next day, his phone was off. Later that day, he called back and said he had finished the exam but would stay with his friend for a few days. There was no need to worry, he told her.

On June 7, after Abd al-Raouf did not call or return home, his mother sent a telegram to the prosecutor general saying that her son had disappeared, but she received no response. On June 15, a woman called the family and said that she had seen Abd al-Raouf while visiting her husband in Istikbal Prison inside Tora and that he wanted them to bring him clean white clothes instead of the prison's standard white uniform. Later, Abd al-Raouf told his mother that when he had called her on June 3 and claimed to be with his friend, he was actually in the custody of security officers, who allowed him to make only that call.

Abd al-Raouf told his mother that two men in civilian clothes had carried him into a civilian car and taken him to Helwan Police Station where they held him for a night before moving him to a place he could not identify. His mother said that a few days after her son's arrest, someone came and searched their home while the family was gone. When her other son went home to retrieve some belongings, he found that the door was broken and the apartment appeared to have been searched.

Notes made by the military prosecutor in the file reviewed by Human Rights Watch stated that prosecutors had ordered Abd al-Raouf arrested and detained pending investigation on June 3, but his father obtained a document from the Interior Ministry's Prison Administration Authority, which Human Rights Watch also reviewed, stating that Abd al-Raouf had not been in any of its prisons before June 13, the day when he and other defendants said they saw military prosecutors for the first time. The authorities were unable to account for the 10 days in between, the period of Abd al-Raouf's forced disappearance.

Ahmed Mustafa Ahmed, 42, the owner of a small workshop who lived in Cairo's Manshiyat Nasr neighborhood with his wife and four children, disappeared around the end of May 2015, his brother,

Walid, told Human Rights Watch. Walid Mustafa said that the family did not know his brother's whereabouts for several weeks, and that he sent telegrams to the prosecutor general and the Interior Ministry inquiring about his brother but did not receive a response.

Later, Ahmed Mustafa told his brother that security forces had taken him from his home, put him in his car, and made him drive to work. The building guard told Walid that the security forces had beaten his brother severely during the arrest. Police searched his workshop and destroyed many items, Walid Ahmed said. He said that the police had confiscated a large amount of money that Mustafa Ahmed had saved for his business and did not take anything else from the home or the workplace, except Mustafa Ahmed's car, which they did not return to the family.

Several weeks later, Walid Ahmed said, he was "surprised one day when an unknown man called me and said that my brother was in Tora Prison and that the first visit would be in 11 days."

In June 2015, Human Rights Watch **documented the enforced disappearance** of Ali and Sa'ad, whom security forces arrested on June 1, 2015, along with a third friend, Esraa al-Taweel, outside a restaurant in the Maadi neighborhood. Interior Ministry officials repeatedly denied arresting them, but more than two weeks later, relatives found Sa'ad and Ali in Tora Prison and al-Taweel in al-Qanater Women's Prison. Prosecutors held al-Taweel in pretrial detention on accusations of belonging to a terrorist group, but **after widespread public pressure**, a court ordered her release six months later on medical grounds. Al-Taweel was not charged in case 174, but military prosecutors alleged that Sa'ad and Ali belonged to the cell's surveillance group.

Most of the relatives who spoke with Human Rights Watch said that security forces kept the men blindfolded and stripped to their underwear during their entire time in custody, leaving them unable to identify their detention site. But relatives of Abd al-Raouf and Mahmoud said the men claimed they had been held in the Nasr City military intelligence headquarters. Human Rights Watch has independently confirmed that military intelligence Group 77, to which Major Soltan belonged, is located there.

Torture

The five families who spoke with Human Rights Watch alleged that security forces tortured their relatives while they were forcibly disappeared to make them sign dictated confessions and read them out loud while being videotaped. The Interior Ministry does not allow human rights groups to interview prisoners, and the military judges presiding over the case denied the defense team's request for the defendants to receive medical examinations, so Human Rights Watch was unable to independently confirm these accounts.

Abd al-Raouf's mother said that when she first saw her son, it was a "big shock," and that he appeared exhausted.

"I was crying and holding him and saying, 'What happened to you, what did they do to you, my son,'" she said. Abd al-Raouf pointed at Ali, she said, whose mother was visiting him, and indicated that Ali's wrist was almost broken. Abd al-Raouf told his mother "not to worry." During another visit, he told her that his interrogators beat him severely while he was blindfolded for 12 days and once kept him hanging from his wrists for three days.

Abd al-Raouf's father said that his son told him his interrogators shocked him with electricity and tortured him psychologically by driving him into the desert on one occasion and threatening to kill him. Abd al-Raouf's mother said he told her that his only desire during his detention was for the torture to stop. He told her that his interrogators eventually took him, blindfolded and handcuffed, to a man he was told was a military prosecutor.

The man asked Abd al-Raouf questions but wrote down fabricated answers without waiting for Abd al-Raouf to respond. He then asked Abd al-Raouf to sign a document. Abd al-Raouf's mother said he told her that at one point, when he denied the prosecutor's accusations that he had possessed weapons, someone hit him in the back with a gun and told him that nobody knew where he was and that they could make him "another Islam Atito." The man was referring to a student who disappeared from Ain Shams University in May 2015 and was later said by the Interior Ministry to have died in a shootout with security forces.

Abd al-Raouf's mother said that when he arrived at Istikbal Prison, the prison doctor, inspecting him and other detainees, refused to admit them without hospital reports documenting their injuries, but that the prison warden pressured him not to insist on this.

Ghazali's brother Ammar said that when the family saw him for the first time in prison, "he still didn't understand what was happening to him."

"He was tortured in many different ways: Hanging from hands and tying weights to his legs. When he was [let down] he got immense pain. [They hit him] with a piece of cloth soaked in a flammable liquid, and when he tried to sleep later he couldn't, because his back was so inflamed," his brother said.

The day before recording the confession video, the interrogators brought a paper to Ghazali and told him: “You will read what is written on it [in] order to get out of here, or you will stay with us,” Ammar Ghazali said.

Abd al-Gawwad was held completely naked, his father said. “Anything you can think of happened to him. When he fainted, they used to wake him up and torture him again,” he said. “He was beaten and humiliated verbally in all ways. When I saw him, he had dark skin on his hands and wounds from ties and hanging.”

The father said that his son was forced to read his confession from a piece of paper while the interrogators videotaped him. He said that they recorded the confession about 10 times, until they obtained a recording that made it seem as if Abd al-Gawwad were speaking naturally and not reading. He said Abd al-Gawwad told him that he was so badly tortured he could not raise his arms or legs to put clothes on and that the interrogators had to dress him in a shirt and pants to be filmed.

Walid Ahmed, the brother of Mustafa Ahmed, said his brother told him that interrogators hanged him from his wrists, gave him electric shocks on his genitals, deprived him of sleep, and held him naked while pouring water on him. When Walid saw his brother for the first time, he seemed to have lost weight and have torture marks on his hands.

“He wasn’t the brother I knew,” Walid Ahmed said of his appearance. He said that when his brother tried to carry his six-month-old daughter in one of the prison visits, his hands were shaking so severely that he nearly dropped her. He told his family that his interrogators beat him severely when he asked to remove his blindfold to identify a man his interrogators said was a prosecutor.

The interrogators filmed his pre-written confession between 10 and 15 times because his eyes kept dropping down to read the confession paper, his brother said.

“I asked him how can you sign such confessions,” Walid Ahmed said.

His brother responded: “I was dying ... I was going to die.”

He also told his brother that the interrogators threatened to bring his wife and other family members and rape them if he did not confess.

Mahmoud’s father said that Mahmoud told him that the worst torture was the threat to arrest his family. But Mahmoud also told his father the interrogators had dragged him on the floor, handcuffed his hands behind him and hanged him painfully from a door, beat him with hoses, and shocked him with electricity repeatedly. After Mahmoud’s arrest, intelligence forces arrested two of his younger brothers separately, without charges, the father said.

He said that the older of the two arrested brothers, Moataz, disappeared for more than four months after the military unit in which he served as an unenlisted civilian laborer called him back from leave. The family only discovered his whereabouts after they submitted a special request to the commander of the air force. The father said that authorities took Moataz to a military intelligence office for a month and half and that intelligence officers brought him to see Mahmoud while both were in custody.

“When he saw Mahmoud, he was shocked, he thought he was burned, his face looked like it was burned,” the father said. He said that officers tortured both brothers, including with beatings and cigarette burns. They then

sent Moataz back to his unit, where he spent two and half months in custody and was later released after he was discharged without any compensation, his father said.

Several days after Mahmoud's disappearance, security forces raided their home for the second time, at about 11 p.m., breaking the door and taking away Mahmoud's youngest brother, who had secondary school exams at that time.

"They threatened [Mahmoud] that they wouldn't allow his brother to take exams," his father said. Around dawn the next day, they released the brother. The father said that a man from the local police station called him on the phone and told him to come take his son, saying, "We don't need him anymore." A few days later, they received a phone call from an unknown individual informing them that Mahmoud was being held in Tora Prison.



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