

AMNESTY INTERNATIONAL QUESTIONS AND ANSWERS

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Egypt: Trial of Mohamed Morsi

Introduction

Deposed President Mohamed Morsi will go on trial on 4 November 2013 along with 14 other men. He faces charges that he was involved in deadly political violence around the Presidential Palace in Cairo in December 2012.

1. What is Mohamed Morsi facing trial for?

Egypt's Public Prosecution has charged Mohamed Morsi with "murder", "incitement to murder", "violence" and "inciting violence", as well as "thuggery", "spreading rumours to disturb the work of judicial institutions" and "threatening civilians".

The trial follows a criminal investigation by Prosecutors into clashes between Mohamed Morsi's supporters and opponents around the Ittihadiya Presidential Palace in Cairo on the night of 5 December 2012.

2. What exactly happened around the Ittihadiya Presidential Palace?

The first mass protests against Mohamed Morsi's rule began in November 2012, after the President issued a decree that prevented judges from hearing lawsuits against his decisions, or ruling on the legality of a controversial assembly writing Egypt's Constitution. As the protests continued, they increasingly saw clashes between Mohamed Morsi's supporters and opponents. The worst violence was on the night of 5 December 2012, when pro and anti-Morsi supporters fought in the streets around the Ittihadiya Presidential Palace.

The violence started after Mohamed Morsi's supporters broke up a peaceful protest by his opponents in front of the Presidential Palace. The two opposing sides then fought in the streets around the palace, using stones, Molotov cocktails and shotguns. Riot police failed to intervene effectively to end the violence and later withdrew entirely. Hundreds were injured and at least 10 people died, most of them supporters of Mohamed Morsi. During the fighting, the President's supporters also caught some of their opponents and tortured them.

The next day, each faction placed the blame for the violence on the other. During a speech on television that day, Mohamed Morsi said investigations by the Public Prosecution had concluded that remnants of Hosni Mubarak's government were responsible for the violence. However, lawyers at the scene told Amnesty International that Mohamed Morsi actually made his speech before the Prosecutors had finished their investigation.

3. Who else is facing trial in the same case?

Lawyers for Mohamed Morsi have told Amnesty International they are:

1. Mohamed Morsi (held in an unknown location)
2. Assad al-Shikha (Deputy Chief of Presidential Staff, believed to be held with Mohamed Morsi in an unknown location)
3. Ahmed Abdelaty (Head, President's Office, held in Tora Prison)
4. Ayman Abdelraouf Ali Hodhod (Presidential advisor, held in Tora Prison)
5. Alaa Hamza Ali (reported to be an Acting Inspector in the Department of Civil Administration in Al Sharqia Governorate, held in Tora Prison)
6. Gamal Saber (Activist, Hazemoun group, held in Tora Prison)
7. Mohamed al-Beltagy (General Secretary, Freedom and Justice Party, held in Tora Prison)
8. Reda Mohamed (reported to be a petrol engineer, will be tried in absentia)
9. Lamlom Mekawy Gomaa (occupation unknown, will be tried in absentia)
10. Abdelhakim Ismail Abdelrahman (reported to be a teacher, will be tried in absentia)
11. Hani Said Tawfik Said (reported to be a "worker", will be tried in absentia)
12. Ahmed Almoghaier (occupation unknown, will be tried in absentia)
13. Abdelrahman Ezz Eldin (2011 uprising youth figure and Muslim Brotherhood sympathiser)
14. Issam al-Aryan (Deputy Chair, Freedom and Justice Party, reportedly arrested on 30 October)
15. Wagdi Ghoneim (Muslim Brotherhood member, will be tried in absentia)

4. Does Amnesty International think he can have a fair trial?

Mohamed Morsi and several of his aides have been held incommunicado and in secret detention since 3 July in conditions that amount to enforced disappearance. In addition to being a serious human rights concern, such treatment – it goes without saying – is not conducive to a fair trial. Morsi and aide Assad al-Shikha have not been able to effectively challenge the legality of their detention (or of the conditions of their detentions), or to communicate

with their lawyers. They have been questioned without lawyers and have so far had no assistance from their lawyers in the proceedings against them. Lawyers were only able to obtain a copy of the 7000 page case file on 30 October 2013, restricting the amount of time they have had to prepare a defence. Up until then they only had access to the case sheet detailing the charges. In addition, they had to pay a fee of 15,000 EGP (US\$2,177) for the full case file.

5. What concerns does Amnesty International have about the trials of other Muslim Brotherhood leaders?

In the cases of other Muslim Brotherhood leaders, court proceedings were postponed because the Ministry of Interior did not bring the defendants to court, apparently on the grounds of security. This has interfered with the suspects' right to be assisted by a lawyer at all stages of proceedings. For example, the authorities did not bring Mohamed Badie, the Supreme Guide of the movement, and his deputy, Khairat al-Shater, to the court during a trial on 29 October. They earlier were not brought to court on 25 August. The judges hearing the case then recused themselves, apparently citing "uneasiness" about the situation.

Amnesty International is also concerned that Muslim Brotherhood leaders were questioned in prison rather than in a Prosecutor's office or the court complex. This has interfered with the suspects' right to be assisted by a lawyer at all stages of proceedings. For example, lawyers complained to Amnesty International that in some cases they were unable to attend appeal hearings in Tora Prison against the prosecution's decision to keep their clients in pre-trial detention while investigations were ongoing.

6. What's likely to happen on Monday? Will Morsi appear in court?

It's far from clear that Mohamed Morsi will appear in court. Given that many of the Muslim Brotherhood leaders on trial have not been brought to court for their hearings it seems unlikely Morsi will appear. The judges hearing the case could also decide to simply postpone the hearing to a later date, as they have done in other trials.

The fact that the authorities have so far refused to state where they are holding Mohamed Morsi also makes it unlikely that he will appear in open court.

7. Does Amnesty International think his trial is politically motivated?

When a head of state is deposed by the military and then put on trial there is bound to be an assumption that any such case has a strong political element.

But that is not to say that the case has no merit and Amnesty International is not in a position to judge whether there is a basis for the charges against Morsi

and his co-defendants. In a report that documented the Ittihadiya violence, Amnesty International called for independent and impartial investigations.¹

The motivation for this prosecution will be judged in part by the fairness of the proceedings and the treatment of the defendants. Also relevant to understanding the authorities' intentions is how they deal with allegations of comparable human rights abuses and violations by those opposed to Mohamed Morsi.

Amnesty International's own research into the violence at Ittihadiya suggests that supporters of the Muslim Brotherhood did commit human rights abuses. However, most of those killed during the violence were actually supporters of then-President Morsi. It is therefore of concern that only Morsi himself and other high-ranking pro-Morsi individuals are being tried in connection with these events. No officials or other known activists from the then-opposition, anti-Morsi camp are being prosecuted.

8. What other charges is Mohamed Morsi facing?

The authorities have detained Mohamed Morsi in an unknown location since 3 July, when he was ousted from power. A judge ordered his formal detention in late July, as part of an investigation into charges that he collaborated with Hamas to organize prison breaks during the 2011 uprising. So far, the authorities have not announced the results of the judge's inquiry.

Mohamed Morsi was arrested on 28 January 2011 along with other leading members of the Muslim Brotherhood and was held in prison. Amnesty International issued an Urgent Action on his case.² On 30 January 2011 a number of prisons were stormed by unidentified individuals who led and, in some cases, forced inmates out of prisons. Mohamed Morsi was among those freed.

Egypt's State Information Service reported that the accusations against him included communicating with Hamas, attacking police officers, soldiers and facilities, storming prisons, setting fire to Wadi Natroon Prison, empowering prisoners to escape, breaking out of prison, destroying prison records and documents, storming police stations, and "subverting" public buildings and property. The accusations also include killing prisoners, and killing and abducting police officers and soldiers.

Mohamed Morsi also faces charges in connection with other cases. They include "insulting the judiciary" in a June 2013 speech, in which Mohamed Morsi accused several judges of rigging the 2005 parliamentary elections. He also faces accusations of abducting security personnel, espionage, and concealing information about the killing of Egyptian soldiers in Rafah, near the border with Gaza.

9. What about Muslim Brotherhood? What's happening with its leaders and members?

According to lawyers, the security forces have arrested over 3,000 of Mohamed Morsi's supporters in Cairo since he was deposed on 3 July. Most face a broad array of serious charges including inciting or participating in violence without considering their individual criminal responsibility.

Those arrested include prominent leaders of the Muslim Brotherhood and its affiliated Freedom and Justice Party. They include the movement's Supreme Guide, Mohamed Badie; former General Guide Mohamed Mahdi Akef; and Deputy General Guides Khairat al-Shater and Rashad Bayoumi. They also include the Head of the Freedom and Justice Party, Saad al-Katatni, the deputy head Essam El-Erian and Secretary Mohamed al-Beltagy. All face charges of inciting or participating in political violence in the recent unrest.

Some have been put on trial for political violence during the recent unrest, including the clashes outside the Muslim Brotherhood headquarters in the Cairo district of Moqattam on 30 June, in which eight were killed.

On 23 September a court in Egypt outlawed all Muslim Brotherhood activities, banned the movement and ordered the seizure of its assets and offices. The grounds of the ruling remain unclear but Amnesty International is concerned the decision could be used as a pretext to further crack down on members of the movement.

Some members or supporters of the Muslim Brotherhood might have been involved in inciting or participating in violence. However, Amnesty International is concerned that others are being pursued solely for their membership or support of the Muslim Brotherhood, and their peaceful exercise of their rights to freedom of expression and assembly.

¹ Amnesty International, “More protestors are killed since President Morsi's advent to power”, *Egypt: Rampant impunity: Still no justice for protestors killed in the '25 January Revolution'* (Index: MDE 12/004/2013), 25 January 2013: bit.ly/14PQuSw

² Amnesty International, “Egyptian Protesters At Risk Of Abuse” (Index: MDE 12/005/2011), 28 January 2013: bit.ly/1afE4IU