

**AMNESTY INTERNATIONAL'S BRIEFING TO
THE HUMAN RIGHTS COMMITTEE ON
THE ARAB REPUBLIC OF EGYPT
MAY 2002**

1. Introduction

This summary of Amnesty International's concerns in Egypt is submitted by way of a briefing to the UN Human Rights Committee, prior to the Committee's consideration of Egypt's combined third and fourth periodic report on the measures which have been taken to implement that country's obligations as a State Party to the International Covenant on Civil and Political Rights (ICCPR). This briefing summarizes Amnesty International's main concerns under the ICCPR. However, it is not a comprehensive study of Egypt's treaty obligations under the ICCPR. Instead it concentrates on those articles of the ICCPR which are most relevant to Amnesty International's current and pressing concerns.

For the preparation of this briefing, Amnesty International has taken into consideration Egypt's combined third and fourth periodic report to the Committee, which was submitted in November 2001.

2. Concerns by article of the ICCPR

Article 3

There have been some positive legal developments contributing to the elimination of discrimination between women and men, in particular Law 1 of 2000, which grants women the right to a unilateral divorce (arabic: khul) by repudiation. However, it remains a matter of concern that women seeking a divorce must forego their financial provision, including dowry. In 2001 the UN Committee on the Elimination of Discrimination against Women called for a revision of the law in order to eliminate this financial discrimination against women.¹

The Committee on the Elimination of Discrimination against Women expressed a number of other concerns following its consideration of Egypt's report, including that no woman has ever been appointed as a judge, although there is no law that prohibits such an appointment.²

¹ CEDAW/C/2001/I/Add.2. para. 17-18.

² CEDAW/C/2001/I/Add.2. para. 29.

Concerning violence against women the Committee notes:

“The Committee expresses its concern that, although efforts have been made, there is no holistic approach to the prevention and elimination of violence against women, including domestic violence, marital rape, violence against women in detention centres and crimes committed in the name of honour, or the punishment of perpetrators. The Committee is also concerned at the high level of violence against adolescent girls and young married women. The Committee urges the Government to conduct a national survey on the extent of violence against women, including rural women. It calls on the Government to assess the impact of existing measures to address the various forms of violence against women. It recommends that the root causes of violence against women, especially domestic violence, be investigated, so as to improve the effectiveness of legislation, policies and programmes aimed at combating such violence. It also recommends that the Government implement training and sensitization programmes for the judiciary, law enforcement officials and members of the legal and health professions, as well as awareness-raising measures to create zero tolerance in society with regard to violence against women.”³

Over the last few years, Amnesty International has received numerous reports of torture and ill-treatment of women in detention centres. In 1999 the Committee against Torture expressed concern regarding the *“treatment of female detainees which sometimes involves sexual abuse or threat of such abuse”* following its examination of Egypt’s third periodic report. The Committee recommended *“that effective steps be taken to protect women from threats of sexual abuse by police and officers of the State Security Intelligence as a means of obtaining information from them”*.⁴

Women are particularly at risk of human rights violations when held in detention centres where all the staff are male - contrary to recommendations by international human rights bodies. The Egyptian authorities should introduce safeguards to ensure that female staff supervise the detention of women in all cases.

³ CEDAW/C/2001/I/Add.2., paras. 33-34.

⁴ UN doc. A/54/44,para.209- 212.

According to Rule 53 of the UN Standard Minimum Rules for the Treatment of Prisoners, the presence of women officers is required in detention centres where women are held:

“(53.1.) In an institution for both men and women, the part of the institution set aside for women shall be under the authority of a responsible woman officer who shall have the custody of the keys of all that part of the institution.

(53.2.) No male member of the staff shall enter the part of the institution set aside for women unless accompanied by a woman officer.”

The above standards have been established under the section of “rules of general application” and should therefore apply equally to female prisoners as well as to women held in police custody.

In line with UN Standard Minimum Rule 53, female security personnel should be present during the interrogation of women detainees and should be solely responsible for conducting body searches of women detainees. Amnesty International notes that although women constitute only a small proportion within the police forces in Egypt, women police officers are recruited into special units, such as juvenile units, and the authorities employ women warders in women’s prisons. The Egyptian government should ensure that female staff are responsible for the supervision of female detainees under all circumstances. Such a measure would be an important step towards improving the safety of women detained in police stations.

Article 4

The state of emergency in Egypt imposes serious restrictions on the exercise of human rights. The Emergency Law (Law No. 162 of 1958 as amended) provides the President with wide-ranging powers, including the censorship, confiscation and closing of newspapers on the grounds of “public safety” and “national security”. The law empowers the executive to order the prolonged detention without charge or trial of anyone suspected of being “a threat to national security and public order”⁵.

⁵ In January 1998, the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression reported to the UN Commission on Human Rights that “the use and abuse by governments of anti-terrorism and national security legislation remains a grave concern. Many governments use these laws to restrict freedom of opinion and expression and the right to receive and impart information. Further, abuse of the powers granted under such laws often leads to: both prolonged and short-term arbitrary detention; torture, [...] threats and intimidation; the closure of media outlets; the banning of publications and programming; bans on public gatherings; bans and prohibitions on organizations, groups and associations that are in no way associated with terrorism

Since 1967 Egypt has been ruled almost permanently under the state of emergency, initially imposed because of the Arab-Israeli war that year. It was lifted in May 1980, following the implementation of the Camp David accord between Israel and Egypt. The state of emergency was re-imposed on 6 October 1981, following President Anwar al-Sadat's assassination. Since that date it has been renewed regularly. It was extended for another three-year period in May 2000. This almost permanent state of emergency is in contradiction of Egypt's obligations under Article 4 of the International Covenant on Civil and Political Rights (ICCPR), as spelt out in the Human Rights Committee's General Comment 29 on States of Emergency, and under the African Charter on Human and Peoples' Rights (African Charter), which allows for no derogation.

Amnesty International believes that this almost permanent state of emergency has brought about a deterioration in the enjoyment of human rights and has resulted in an increased risk of human rights violations in Egypt. Amnesty International is concerned that under the existing emergency law some basic provisions of the ICCPR have been violated, including Article 9 (prohibition of arbitrary detention) and Article 14 (fair trial). Furthermore Amnesty International believes that emergency legislation has been used to place impermissible restrictions on other rights, including the right to freedom of thought (Article 18), expression (Article 19) and association (Article 22), thereby constituting further violations of Egypt's obligations under the ICCPR.

and violence; strict censorship of all forms of communication; and tolerance, if not actual support for the abuses and crimes committed by police and military groups."

The Special Rapporteur further observed that "in a number of countries, the authorities continue to maintain firm control over the media and individuals' free speech. This often goes hand in hand with undue restrictions on public protest and demonstrations, which call into question the right itself, as well as restrictions on the activities of independent trade unions or organizations of civil society. Furthermore, action taken by States and their agents against individuals [...] and actions against groups and organizations - such as the banning of opposition or ideologically diverse parties and professional associations - seriously erode the public's right to know and to receive and impart information." [E/CN.4/1998/40].

In the light of the serious human rights violations that have been facilitated by emergency legislation, Amnesty International has strong reservations about the continuation of the state of emergency. The organization calls for a review of the emergency legislation in order to bring it into line with international human rights standards.

Article 6

i) Increasing use of death penalty

In defiance of world trends, the use of the death penalty has increased significantly over the past decade in Egypt. From 1991- 2000 Amnesty International recorded at least 530 death sentences and 213 executions. In comparison, for the period from 1981-1990 Amnesty International has recorded 179 death sentences and 35 executions.⁶

A global report published in March 2001 by the UN Commission on Crime Prevention and Criminal Justice on the use of capital punishment has listed Egypt among those twelve countries worldwide where during a five-year period more than 100 executions had been reported.⁷

There is very little official data available on death sentences and executions in Egypt, and the actual number is expected to be significantly higher than that recorded by Amnesty International, whose figures are based chiefly on reports in the Egyptian media.⁸ Amnesty International is aware that not all cases are reported. For example, in July 1998 the main executioner gave an interview in the semi-official daily newspaper *al-Ahram* stating that he had executed 42 people since the beginning of the year, while Amnesty International had recorded 30 executions for that period.

⁶ See Amnesty International: Egypt: Extensive use of the death penalty, AI Index: MDE 12/017/2002, June 2002).

⁷ E/CN.15/2001.10, UN Commission on Crime Prevention and Criminal Justice: Capital Punishment and the implementation of safeguards guaranteeing protection of the rights of those facing the death penalty, 29 March 2001.

⁸ The Egyptian government provides in its combined third and fourth periodic report to the UN Human Rights Committee (submitted in November 2001) some information on the number of death sentences. It records over the period of two years the number of people who have received final death sentences: 25 people in 1999 and 30 people in 2000. Amnesty International recorded 16 executions in 1999 and 22 executions in 2000.

ii) Death sentences after unfair trials before exceptional courts⁹

In 1999 the UN Special Rapporteur on extra-judicial, summary and arbitrary executions noted with regard to Egypt that she continued to receive “reports of death sentences imposed by military and criminal tribunals that fall short of international standards and fail to respect safeguards established by the International Covenant on Civil and Political Rights.”¹⁰

Trials before military courts and the Emergency Supreme State Security Court are grossly unfair and in flagrant violation of Egypt’s obligations under international treaties, such as the International Covenant on Civil and Political Rights (ICCPR).

There is no right of appeal against death sentences passed by military courts.¹¹ They are subject only to review by the Military Appeals Bureau, a body composed of military judges, which is not a court, and ratification by the President. Similarly, there is no right of appeal against sentences, including death sentences, issued by the Emergency Supreme State Security Court.¹² Military courts violate the right to be tried before independent judges.

Since 1992 military courts have sentenced 95 people to death (including several *in absentia*) in connection with charges of “terrorism” and 67 of them have been executed. In response to political violence in Egypt, President Hosni Mubarak began issuing special decrees in October 1992 referring civilians charged with offences under “anti-terrorism” legislation for trial before military courts.

On 23 February 2000 Ahmad Isma’il Othman was executed by hanging on the basis of a death sentence passed *in absentia* in an unfair trial before the Supreme Military Court in Cairo in April 1994. On the same day, Ahmad Ibrahim al-Sayyid al-Naggar, who had been sentenced *in absentia* by the Supreme Military Court in 1997, was also executed. Following their forcible return from Albania to Egypt in 1998, the men were sentenced to 15 and 25 years’ imprisonment respectively in 1999 in a separate case before the Supreme Military Court. Although both death sentences were pronounced *in absentia*, they were executed. In other cases, following the arrest of those convicted by military courts *in absentia*, retrials have been ordered.

⁹ See also below concerns under Article 14.

¹⁰ E/CN.4/1999/39, para. 55.

¹¹ Article 117 of Law 25 of 1966 (Military Law).

¹² Article 12 of Law 162 of 1958 as amended (Emergency Law).

iii) Limited grounds of appeal

Appeals against a death sentence issued by a criminal court can only be appealed by review or cassation before the Court of Cassation. However, grounds of appeal are rather limited and must be made on points of law, but not on the facts of the case.¹³ In the event that the Court of Cassation¹⁴ turns down an appeal, the verdict is final and may not be appealed before another tribunal.¹⁵

If an appeal by review is upheld, the Court of Cassation may either order a retrial or nullify the verdict which implies an acquittal of the convicted party.¹⁶ If an appeal by cassation is upheld, the Court of Cassation can only order a retrial. In the event that the Court of Cassation decides to order a retrial the case is referred to a different circuit of the criminal court.¹⁷ If the retrial results in a conviction and is appealed, the Court of Cassation rules on the case and produces a final verdict.¹⁸

¹³ According to Article 30 of Law 57 of 1959 (as amended by Law 106 of 1962) death sentences can be appealed before the Court of Cassation on the following three grounds:

- I. where the verdict is based on a violation, misapplication, or misinterpretation of the law,
- II. where the verdict is invalid, or
- III. where procedural irregularities had an impact on the verdict.

Article 441 of the Criminal Procedures Code defines five grounds for appeal by review. These relate mainly to exceptional circumstances, namely:

- I. where someone is convicted for killing, but the victim turns out to be alive,
- II. where verdicts in other trials are in conflict with the case in question and require a reassessment,
- III. where a witness or informant in the trial has been convicted for false testimony or for forgery of documents presented during the examination of the case,
- IV. where the verdict was based on the verdict of a civil court which has subsequently been nullified
- V. where new information or evidence comes to light after the verdict.

¹⁴ Provisions for appeal before the Court of Cassation are also applicable for verdicts by the Supreme State Security Court, established under emergency legislations, but not to be confused with the Emergency Supreme State Security Court, whose sentence can not be appealed (see above).

¹⁵ Article 38 of Law 57 of 1959 as amended by Law 106 of 1962.

¹⁶ Article 446 of the Criminal Procedures Code.

¹⁷ Article 39 of Law 57 of 1959

¹⁸ Article 45 of Law 57 of 1959

According to Article 46 of the Criminal Procedures Code, the Public Prosecution has to submit every death sentence, accompanied by a note of its opinion on the case, to the Court of Cassation. Hence, all death sentences issued by criminal courts are brought before the Court of Cassation, including those cases where the defendant does not file an appeal, and the court may or may not order a retrial.

However, it remains alarming that those sentenced to death by criminal courts do not have the right to a full review of their case by a higher tribunal, but may only file an appeal to the Court of Cassation on limited grounds.

iv) A wide range of offences punishable by death

In July 1993 Human Rights Committee called on the Egyptian authorities “to bring legislation in conformity with the provisions of Article 6 of the Covenant [the right to life] and, in particular, limit the number of crimes punishable by the death penalty”.¹⁹

However, since the Committee made its recommendations, no such changes to the Egyptian law have been undertaken. Offences punishable by death continue to include offences under the so-called “anti-terrorism” legislation, premeditated murder, rape and drug abuse. Over the past decade, death sentences have been pronounced for all the above mentioned offences.²⁰

- Anti-terrorism legislation

Law 97 of 1992 introduced new legal provisions against offences of “terrorism”. In July 1993 the UN Human Rights Committee expressed concerns that Egypt’s laws against “terrorism” are overly broad in the range of acts they cover and that they enlarge the number of offences which are punishable by the death penalty.

- Premeditated murder

According to Article 230 of the Egyptian Penal Code premeditated murder shall be punished by death. Further Article 235 stipulates: “Partners in a murder carrying a penalty of death for the perpetrator, shall be sentenced to death, or to hard labor for life”.

¹⁹ Comments by the Human Rights Committee, 48th session, Egypt, para 13.

²⁰ Egyptian legislation also provides for the death penalty for other offences, including arson when death results and offences against the external security of the state - such as espionage in times of war. The Military Code lists a number of capital offences for serving members of the armed forces.

- Abduction and rape

According to Article 290 of the Egyptian Penal Code the abduction of a woman carries life imprisonment. However, if the abducted woman is raped the punishment is the death penalty.

- Drug related offences

Law 182 of 1960 prescribes the death penalty for a variety of drug related offences. Article 33 stipulates the death penalty for trafficking and production of drugs. Several other drug related offences may also be sentenced with the death penalty.

Article 7

i) Torture is widespread and systematic

Torture and ill-treatment remain widespread and continue to be practiced systematically in detention centres, including in police stations and at premises of the State Security Intelligence, throughout Egypt. The most common methods reported are electric shocks, beatings, suspension by the wrists or ankles and various forms of psychological torture, including death threats and threats of rape or sexual abuse of the detainee or a female relative.

Following submissions by Amnesty International and the Egyptian Organization for Human Rights (EOHR), in November 1991 the UN Committee against Torture began a confidential procedure under Article 20 of the Convention regarding “well-founded indications that torture is being systematically practiced in the territory of a State Party”. Following the examination of Egypt’s second periodic report in November 1993, the Committee expressed concern “about the fact that torture is apparently still widespread in Egypt”.²¹

In May 1996 the Committee published its conclusions under the Article 20 procedure. The Committee stated that it had received information on torture allegations mainly through reports of the UN Special Rapporteur on torture, Amnesty International, the EOHR and the World Organization against Torture. The Committee further noted that its requests to conduct a visit to Egypt had received no reply. The Committee concluded that “torture is systematically practiced by the security forces in Egypt, in particular the State Security Intelligence, since in spite of the denials of the government, the allegations of torture submitted by reliable, non-governmental organizations consistently indicate that reported cases of torture are

²¹UN doc. A/49/44, para. 86.

seen to be habitual, widespread and deliberate in at least a considerable part of the country”.²²

In its observations of 1996 the Committee made specific recommendations, including that the government set up an “independent investigation machinery, including in its composition judges, lawyers and medical doctors, that should efficiently examine all the allegations of torture, in order to bring them expeditiously before the courts”.²³ The Egyptian government responded in 1999 stating “that there is currently no need to establish a new monitoring mechanism” and referred to human rights units at the Public Prosecutor’s Office and the Foreign Ministry, both of which had been established some years earlier.²⁴

Egypt’s third periodic report to the Committee against Torture was examined in May 1999. In its conclusions the Committee noted some positive developments, including the release of large numbers of administrative detainees held under emergency legislation and a reduction in the number of complaints of maltreatment by persons detained under the emergency legislation. However, the Committee remained concerned about “the large number of allegations of torture and even death relating to detainees” and allegations of treatment of female detainees “which sometimes involves sexual abuse or threat of such abuse”.²⁵

In his report to the 2001 Commission for Human Rights the UN Special Rapporteur on torture concluded that “torture is systematically practised by the security forces in Egypt, in particular by State Security Intelligence”.

ii) Victims of torture

Torture victims come from all walks of life and include political activists and people arrested in criminal investigations.

Amnesty International’s report of February 2001 *Egypt: Torture remains rife as cries for justice go unheeded* describes the practice of torture in Egypt and

²²UN doc. A/ 51/44, para. 220.

²³UN doc. A/51/44, para. 221.

²⁴UN doc. CAT/C/34/Add.11, para. 183.

²⁵UN doc. A/54/44, paras.197-216.

documents several selected cases of torture victims, in particular people who were tortured while detained at police stations in connection with criminal investigations.²⁶ The report documents cases of torture victims from vulnerable sectors of society, namely women, children and the elderly. Amnesty International continues to receive information about torture or ill-treatment in Egyptian police stations.

For example, 15-year-old Rania Fathi 'Abd al-Rahman was detained in April 2001 for one day, together with members of her family in a neighborhood in the north of Cairo in connection with a criminal investigation. While held at the police station of Shubra al-Khaima's first precinct she was reportedly subjected to torture, including electric shocks. The Association for Human Rights and Legal Assistance, a local NGO, reported that a family member was intimidated and harassed after filing a torture complaint and the complaint was withdrawn.²⁷

When delegates of Amnesty International visited Egypt in February 2002, they interviewed several torture victims, including Umm Hashim Abu al-'Izz a young actress, who was arrested together with friends at the Agouza Police Station in Cairo. When she protested against insults by a police officer she was severely beaten, including with a belt on her face. Amnesty International delegates met her a few days after the incident when her face was still bruised and swollen. She filed a complaint with the Egyptian authorities, but no investigations have been conducted.

Amnesty International's report of December 2001, *Egypt: Torture and imprisonment for actual or perceived sexual orientation*, documents human rights violations - including torture - of victims of a particularly vulnerable group in Egypt.²⁸ Since the report was published, Amnesty International has received information on further cases of torture and ill-treatment of allegedly gay men. In January 2002 eight men were detained in the northern province of Bahariya in connection with their actual or perceived sexual orientation. Five of them were sentenced to three years' imprisonment by Damietta Criminal Court but acquitted in April 2002 on appeal. Amnesty International received reports that the men were

²⁶ See Egypt: Amnesty International: Egypt: Torture remains rife as cries for justice go unheeded (AI Index: MDE 12/001/2001, February 2001) pages 1-2 and 15-25.

²⁷ See Amnesty International: Annual Report 2002 (AI Index: POL 10/001/2002, page 93)

²⁸ See Amnesty International: Torture and imprisonment for actual or perceived sexual orientation (AI Index: 12/033/2001, December 2001).

tortured in pre-trial detention, including by electric shocks.²⁹ On 3 February 2002 a delegate of Amnesty International attended the concluding session of the trial at first instance at the Criminal Court of the Bulaq district of Cairo. She was able to speak to some of the accused, who told her that they were tortured in police custody, including being suspended by the wrists and beaten with a thick stick. Four men, charged with “habitual debauchery”, were sentenced to three years’ imprisonment and their sentences were upheld on appeal in March 2002.

Over the past two decades thousands of political detainees were tortured or ill-treated while held in incommunicado detention at the premises of the State Security Intelligence (SSI) and sometimes in police stations. Since *al-Gama‘a al-Islamiya*, one of the main armed Islamist groups in Egypt, suspended violent attacks at the end of 1997, there have been significantly fewer cases of new arrests of alleged members of armed groups and therefore fewer reports of torture from this particular group of political detainees. However, Amnesty International continues to receive numerous reports by torture victims who are accused of affiliation with armed organizations as well as non-violent political organizations. The vast majority of political detainees who have been tortured report that they were tortured while held in incommunicado detention at premises of the SSI.

In May 2001 two alleged members of the banned Muslim Brothers organization reported that they were tortured while interrogated by agents of the SSI concerning their political activities, apparently in the context of the upcoming elections to the Shura Council, the Egyptian Upper House. One of the men, Saif al-Islam Mohammad Rashwan, a bank employee, described his ordeal to Amnesty International delegates, including being subjected to electric shocks, beaten and suspended from a horizontal pole at the department of the SSI in Giza. Findings of a forensic examination are consistent with his torture allegations. He filed a complaint, but a year later no one has been prosecuted. Ahmed Ali Goma‘a, reported that he was tortured when held at the headquarters of the SSI at Lazoghly Square in Cairo. He reportedly withdrew his torture complaint after having received threats. He was detained again in October 2001 and tried with others before a Military Court for membership in the banned Muslim Brothers organization

²⁹ For further details see Urgent Action (AI Index: MDE 12/004/2002, 24 January 2002) and follow ups (AI Index: MDE 12/011/2002, 27 March 2002 and MDE 12/011/2002, 27 March 2002) on the case.

In January 2002 Ahmad Sa'id Ibrahim al-Duh, a teacher in Kardasa, a village west of Cairo, and an alleged member of the Muslim Brothers organization, was detained by members of the SSI and reportedly tortured, including being subjected to electric shocks while suspended from a pole. The Egyptian Organization for Human Rights reported the case to the Egyptian authorities, but no investigations are known to have been conducted.

In January 2002 several activists of the Egyptian People's Committee for Solidarity with the Palestinian Intifada were arrested during the Cairo International Book Fair. One of them, Wa'el Tawfiq, was held for two days and reported to Amnesty International delegates after his release that he had been tortured and ill-treated, including being subjected to electric shocks, at the headquarters of the SSI at Lazoghly Square. No investigations have been conducted.

On 1 April 2002 four British citizens, Maajid Nawaz, Ian Malcolm Nisbett, Reza Pankhurst and Hassan Rizfi, were arrested in Egypt on suspicion of affiliation with the Hizb al-Tahrir al-Islami (Islamic Liberation Party), which is banned in Egypt. Amnesty International is concerned about reports that the four detainees have been tortured while held in incommunicado detention. No investigations are known to have been conducted into the torture allegations.

Since 11 September 2001, several alleged members of armed Islamist groups have reportedly been tortured after having been forcibly returned to Egypt from countries, including Bosnia-Herzegovina and Sweden.

At the opening of the trial of Ussama Ahmad Farag Allah before the Emergency Supreme State Security Court on 16 March 2002, he reported that he was tortured while held in incommunicado detention following his deportation from Bosnia Herzegovina in October 2001. He demanded a forensic medical examination, but no such examination had been conducted when he was next brought before the court, on 20 April 2002.³⁰ He was charged of membership of an armed Islamist group and arson attacks and sentenced to 10 years' imprisonment on 18 May 2002.

In the case of Sweden, two Egyptian nationals, Muhammad Muhammad Suleiman Ibrahim El-Zari and Ahmed Hussein Mustafa Kamil Agiza, were forcibly returned to Egypt on 18 December 2001, following an unfair procedure. Both men

³⁰See Urgent Action (AI Index: MDE 12/028/2001, 12 October 2001) and follow up (AI Index: MDE 12/015/2002, 23 April 2002)

were held for more than a month in incommunicado detention without contact with their lawyers or relatives. Amnesty International repeatedly appealed to both the Egyptian and Swedish authorities on 19 December 2001 to seek assurances that the men were not subjected to human rights violations.³¹ On 23 January 2002 officials of the Swedish Embassy in Egypt visited the two men for the first time since their deportation. The same day the relatives of one of the detainees were granted a prison visit. On 1 February 2002 Amnesty International appealed to both the Swedish and Egyptian authorities to ensure that prompt, impartial and independent investigations were carried out into the torture allegations. According to the organization's information, no such investigations have taken place.

In June 2002 the Supreme Military Court is expected to pronounce its verdict in a case against 94 men accused of membership of an armed Islamist group which has been referred to as Tanzim al-Wa'd (Organization of Promise).³² Dozens of the accused testified before the Public Prosecutor that they were tortured during their detention at premises of the SSI. No investigations are known to have been conducted into these allegations.

iii) Torture causing or contributing to death in custody

The number of reported cases of death in custody remains alarmingly high. Over the past decade, torture and other ill-treatment have reportedly caused or contributed to the death of scores of detainees. In the majority of reported cases of deaths in custody, no one has been brought to justice. In January 2001 the UN Special Rapporteur on torture commented on communications received from the Egyptian authorities regarding cases of deaths in custody in previous years. He expressed concerns about the persistence of explanations of the cause of death, such as "sharp drop in blood pressure". He concluded that such symptoms were generally provoked by prior factors such as trauma or malnourishment.

In recent years several police officers have been tried in connection with the deaths of detainees in circumstances suggesting that torture caused or contributed to

³¹ See Urgent Action (AI Index: MDE 12/035/2001, 19 December 2001) and follow ups (AI index: MDE 12/001/2002, 10 January 2002; MDE 12/003/2002, 22 January 2002 and MDE 12/006/2002, 1 February 2002).

³² Case number 24/ 2001 before the Military Court. The majority of the accused was detained in May 2001. The case was referred to court in October 2001.

the deaths. During the first quarter of 2002 two cases of death in custody were reported in connection with torture. In February 2002 Ahmad Taha Muhammad Youssif died, after he was reportedly tortured at Wayley Police Station in Cairo in order to force him to disclose the whereabouts of his brother. In June 2002 a trial will be opened against three police officers in connection with the death. In March 2002 Sayid Khalifa Issa died, after he was reportedly tortured at the police station of the second precinct of Madinat Naser, a suburb of Cairo. Two police officers are currently being tried before a Cairo Criminal Court in connection with the death.

Over the last years in a few cases police and security officers have been sentenced to several years' imprisonment in connection with deaths of detainees.³³ However, in many cases of death in custody no one is brought to justice. In the event of a trial, the accused officers are often given lenient sentences or acquitted.

For example, Shahhata Sha'ban Shahhata, a 30-year-old mechanic married with two daughters, died in October 1999 at Qasr al-Nil Police Station in Cairo. His relatives learned that Cairo Criminal Court had sentenced the police officer accused of having beaten Shahhata Sha'ban Shahhata to death to a suspended sentence of one year's imprisonment. One of his brothers told Amnesty International: "This verdict is like an acquittal. I just want the police officer to receive a just sentence."

Shahhata Sha'ban Shahhata was arrested on the night of 28 October 1999 in his workshop in central Cairo. He was brought before the prosecutor the next day and remanded in custody. That evening a fight broke out between detainees in the custody cell in which Shahhata Sha'ban Shahhata was involved. According to fellow detainees Shahhata Sha'ban Shahhata was removed from the custody cell by a police officer and taken upstairs, where he was reportedly held for half an hour. He died soon after he was returned to the cell.

The forensic autopsy report issued on 16 January 2000 documents several injuries on the body, including "ribbon-shaped bruises in pairs with lengths varying between 10cm and 15cm on the middle part of the left arm, the left middle part of the abdomen, the upper and middle front of the left thigh and the middle inner part of the right thigh", and concludes that these injuries were caused by a cane. The report further finds a bruise, 3cm by 4cm, on the left scrotum caused by a hard object and

³³ See Egypt: Amnesty International: Egypt: Torture remains rife as cries for justice go unheeded (AI Index: MDE 12/001/2001) pages 29-31.

concludes that the death was due to the trauma applied to the victim's left testicle which resulted in circulatory and respiratory failure.

The morning after his death, Shahhata Sha'ban Shahhata's relatives heard rumours that he was in a bad state. Two of his brothers went to the Qasr al-Nil Police Station where they were informed that their brother had died. They demanded to see their brother but instead were taken to an office in the police station where police officers reportedly beat them and struck them over their heads with shoes.

Although the autopsy report of Shahhata Sha'ban Shahhata is consistent with allegations of torture, the convicted police officer had not been charged with torture, but with manslaughter which carries between three and seven years' imprisonment.

iv) Reasons for torture being systematically practiced

- Lack of safeguards

The government continues to refuse to implement simple safeguards to prevent torture and ill-treatment, as recommended by national and international human rights organizations and UN human rights bodies. Such safeguards include: ensuring immediate access to detainees by lawyers, relatives and doctors; ensuring the presence of lawyers during interrogation; establishing an effective investigation mechanism into torture allegations; frequent, independent and unrestricted inspection of all places of detention; and bringing those responsible for torture to justice.

Recently the Egyptian government has given greater emphasis to human rights training of state employees, and in 2000 announced a ban on flogging and caning as punishment in prisons, which Amnesty International considers amount to cruel, inhuman and degrading punishments . While these steps are to be welcomed, they are not enough to eradicate the systematic and widespread practice of torture in Egypt.

- Ineffective Investigations

The Egyptian government stated in its third periodic report to the Committee against Torture in 1999 that "Egyptian law guarantees to the victim in torture cases that an investigation will be immediately conducted by an independent judicial authority that enjoys immunity, namely the Department of Public Prosecution".³⁴ The report further notes that investigators must establish apparent injuries, hear statements of

³⁴UN doc. CAT/C/34/Add.11, para. 108.

victim and witnesses, examine the place where torture took place, and refer the victim for a forensic examination.³⁵

In practice the authorities have failed to take action as described above in hundreds or thousands of reported cases of torture. After having filed a complaint, torture victims, their relatives and their legal representatives are unlikely to learn of any progress for weeks, months or, in many cases, years. It is not surprising that, as a result, many have lost confidence in the investigating authorities and therefore have not filed complaints, or no longer inquire about any developments.

Where investigations into torture allegations do take place, they may take years to carry out and rarely end with the perpetrators being brought to justice. Increasingly it appears that torture allegations only lead to the prosecution of alleged perpetrators in some cases where torture is believed to have caused or contributed to the death of a detainee (see above).

Not only have the authorities failed to carry out proper investigations, but in some cases have taken steps to ensure that the truth does not emerge. ‘Abd al-Harith Madani, a lawyer, was arrested at his office on 26 April 1994 and died in detention the following day, yet his family was informed only about a week later. In June 1994 the president of the Cairo branch of the Bar Association reportedly stated that the Public Prosecutor's office had shown a preliminary forensic report to the Bar Association's chairman, showing that the dead lawyer had 17 injuries on various parts of his body. The authorities denied that such a report existed. In December 1995 the government informed the UN Special Rapporteur on torture that it had requested a final autopsy report from the Department of Forensic Medicine and that the file was “awaiting a final decision by the Department of the Public Prosecution”.³⁶ No autopsy report has ever been made public. Over the past five years, the Egyptian authorities have remained silent despite the numerous appeals by Amnesty International and other human rights organizations requesting information about the results of investigations into the death of ‘Abd al-Harith Madani.

- Legal obstacles

Victims of torture and their relatives seeking to press for the criminal prosecution of alleged perpetrators face legal constraints. According to the Criminal Procedures

³⁵UN doc. CAT/C/34/Add.11, para. 107.

³⁶UN doc. E/CN4/1997/7/Add1, para. 129.

Code, a decision of the Public Prosecution not to prosecute can generally be challenged. However, this is not the case if the suspect is a state employee, including members of the security forces. Article 162 of the Criminal Procedures Code stipulates that *“the plaintiff under civil law may appeal the investigating judge’s order that there is no basis for a lawsuit - unless the order was issued for charges against a civil servant, public service employee or law-enforcement officer for any offence that took place in performance of duty or was caused by it (..).”*

Individuals have no right to appeal criminal court rulings. According to Article 30 of Law 57 of 1959 (as amended by Law 106 of 1962) only the Public Prosecution and the defendant are entitled to challenge the criminal conviction or acquittal. Such an appeal needs to be filed before the Court of Cassation within 60 days of the pronouncement of the verdict. Torture victims or their relatives have no legal avenues to appeal against an unsatisfactory verdict concerning an alleged torturer.

- Harassment and intimidation of victims and their relatives

Victims and their relatives have testified to Amnesty International that they have been harassed and threatened by members of the security forces, in order to intimidate them into dropping a complaint filed against alleged torturers.

For example, the relatives of Ahmad Mahmud Mohammad Tamam, a 19-year-old student, who died, reportedly as a result of torture, in July 1999 in police custody in the ‘Omraniya district of Cairo, received threats. In addition to telephone threats the family received in summer 2000, a family member was approached near the family home by an unidentified person attempting to force him to withdraw the complaint. By the end of April 2002 the Public Prosecution had taken no decision as to whether to prosecute or not.

On 15 August 1994 Samah Hamid 'Ali al-Faris' husband allegedly died in Helwan police station under circumstances which suggest that torture caused or contributed to his death. Following his death, Samah Hamid 'Ali al-Faris has submitted several complaints to the authorities. Since that time, she and her family have faced regular targeted harassment at the hands of police officers. Samah Hamid 'Ali al-Faris has been subjected to torture and ill-treatment, apparently in order to force her to withdraw the torture complaints regarding her husband's death. On 3 May 2001 Samah Hamid 'Ali al-Faris was taken by force from her house, and taken

to the police station, where she was beaten and detained for one week. Samah Hamid 'Ali al-Faris' eldest son has also allegedly been tortured on a number of occasions.

Article 9

Thousands of political detainees, including possible prisoners of conscience, remain in administrative detention³⁷ under Article 3 of the Emergency Law (Law No. 162 of 1958 as amended), despite having been issued release orders by Egyptian courts. Most of them are suspected of membership of or sympathy with armed Islamist groups.

The combined third and fourth periodic report of Egypt to the Human Rights Committee elaborates on the legal status of persons detained under Article 3 of Emergency Law.³⁸ Anyone detained under this article may petition against the detention after 30 days have elapsed from the date on which the detention order was issued. These petitions are referred to the Emergency Supreme State Security Court which has to give substantiated decision within 15 days from submission. If the court orders continued detention the, the detainee is entitled to submit a new petition 30 days after rejection of the previous petition.

In the event that the court decides to release the detainee, the Minister of Interior may challenge this decision within 15 days and the case is referred to another equivalent court. If the second court orders release, this decision has to be given effect. However, in practice, when a second court orders release, detainees are transferred to another detention center. They are normally held for a few days before issued with new detention orders and taken back to prison.³⁹

There are no official accounts available of the number of administrative detainees. The total number of administrative detainees has dropped over the past years. Since the end of 1997 several thousand political prisoners, the majority of

³⁷ Administrative detention is ordered by the executive branch of a government without a judicial warrant, without the filing of any criminal charges, and without the intention of bringing the detainee to trial. For details about procedure of administrative detention under the Emergency Law, please refer to "Egypt: indefinite detention and systematic torture, the forgotten victims ", (AI Index: MDE 12/13/96).

³⁸ Advance copy of Egypt's combined third and fourth periodic report to the Human Rights Committee , pages 55 and 73-74.

³⁹ See Amnesty International: Egypt: Indefinite detention and systematic torture – the forgotten victims (AI Index: MDE 12/13/96, July 1996), page 2-3.

them administrative detainees, have been released and there have been significantly fewer new cases of administrative detention. Despite these major releases, several thousand administrative detainees remain in Egyptian prisons, many for years and in some cases for over a decade.

Amnesty International has received information on many individual cases of administrative detainees. The following case is representative for thousands of others.

Dr Mahmoud Mubarak Ahmad, a suspected Islamist sympathizer and a medical doctor working in a hospital in Kitkata, a village in Sohag in the south of Egypt, was arrested on 24 January 1995 by officers of the State Security Intelligence (SSI). No one was informed of his arrest or his whereabouts until 14 July 1995 when, after a long search, his family learned that he was detained in Istiqbal Tora Prison. The family also learned that Dr Mahmoud Mubarak Ahmad had been arrested while driving from Kitkata to Sohag and that he had been held in the SSI branch in Sohag first, then in Sohag Prison, before he was transferred to Istiqbal Tora Prison. He was reportedly accused of membership of a secret organization, but at the end of 1995 a court ordered his release. Instead of being released, he was issued with a new detention order and transferred to al-Wadi al-Gadid Prison. In 1999 the UN Working Group on Arbitrary Detention (WGAD) decided the administrative detention of Dr Mahmoud Mubarak Ahmad to be arbitrary and in conflict with Egypt's international obligations⁴⁰. In early 2000, the Egyptian government replied to WGAD and confirmed the detention of Dr Mahmoud Mubarak Ahmad under Article 3 of the emergency legislation⁴¹.

Amnesty International has, on many occasions, reminded the Egyptian Government of its obligations under international treaties and drawn its attention to the requirement that detainees be brought before a judicial authority without delay and charged, or released, as stipulated by Article 9(4) of the ICCPR and by Principle 11.1 of the United Nations Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment (Body of Principles).

⁴⁰ WGAD Decision No. 15/1999.

⁴¹ WGAD Report E/CN.4/2000/4.29.

Article 10.2

Amnesty International is concerned that juveniles are frequently detained together with adults in police stations. It appears that the transfer of children from a police station to one of the juvenile institutions can take several days or even weeks.

For example, 14-year-old Ahmad Mahmud Muhammad Hamed reported that he was tortured in March 2000 while detained in the police station of the second precinct of al-Zaqaziq. For four days he was held in the custody cell of the police station and for approximately another 40 days in the detention centre attached to the police station. Thus, throughout his detention in the custody cell and in the detention centre he was held with adults.⁴²

Following its examinations of Egypt's second periodic report, the UN Committee on the Rights of the Child recommended in January 2001 that the Egyptian authorities "ensure separation of children from adults in pre-trial detention".⁴³

Article 14

Trials before military courts and emergency state security courts are grossly unfair and in flagrant violation of Egypt's obligations under international treaties, such as the ICCPR.

Under its elaborations on Article 14 of the ICCPR the combined third and fourth periodic report of Egypt to the Human Rights Committee does not refer to exceptional courts.⁴⁴ The document does not refer to the regulations for military courts and the fact that over the past decade hundreds of civilians have been tried before military courts. Under Article 4, Egypt's report only refers to selected articles of the Emergency Law regarding emergency state security courts.⁴⁵ Based on Article 16 of the Emergency Law the report notes:

"Before judgements are ratified by the President of the Republic, both they and any appeals lodged against them must be examined either by a justice

⁴² For details on his case see Egypt: Amnesty International: Egypt: Torture remains rife as cries for justice go unheeded (AI Index: MDE 12/001/2001) pages 16-17.

⁴³ CRC/C/15/Add.145 , para 54

⁴⁴ Advance copy of Egypt's combined third and fourth periodic report to the Human Rights Committee, pages 86-97.

⁴⁵ Ibid. , pages 55-57.

presiding over a court of appeal, or by a solicitor general designated to that end. They must ascertain the correctness of the procedures, examine the appeals and express their opinion, by means of a substantiated memorandum, in each criminal case.”⁴⁶

However, whilst Article 16 only prescribes the examinations of verdicts by legal experts appointed by the President, the report does not refer to Article 12 of the Emergency Law which clearly stipulates that verdicts by emergency state security courts⁴⁷ cannot be appealed against before a higher court.

i) Violations by Military Courts

In October 1992 President Hosni Mubarak began issuing special decrees referring civilians charged with offences related to “terrorism” for trial in military courts. Proceedings before these courts violate some of the most fundamental requirements of international human rights law, including the right to be tried before an independent tribunal and the right to appeal to a higher court.

Egypt’s military judges are serving military officers appointed by the Ministry of Defence for a two-year term, which can be renewed for additional two-year terms at the discretion of the Minister of Defence.⁴⁸ This does not provide sufficient guarantees of independence.⁴⁹

In several mass trials of civilians before military courts, attended by delegates of Amnesty International, defence lawyers consistently complained that they were denied sufficient time to prepare their cases, usually receiving thousands of pages of case files only days before the start of the trial. In several cases, the defence lawyers withdrew from the cases in protest at the fact that their specific requests were refused by the judges. In this situation the president of the military court appoints former military judges to be defence lawyers, often against the wishes of the defendants.

⁴⁶ Ibid. , page 56.

⁴⁷ This applies to Emergency Supreme State Security Court as well as Emergency State Security Courts of Misdemeanours.

⁴⁸ Articles 54 to 59 of Law 25 of 1966.

⁴⁹ The right to be tried before a competent, independent and impartial tribunal is guaranteed in several international human rights documents, including in Article 10 of the Universal Declaration of Human Rights and Article 14 of the ICCPR.

There is no right of appeal against death sentences passed by military courts. They are subject only to review by the Military Appeals Bureau, a body composed of military judges, which is not a court, and ratification by the President.

In July 1993 the UN Human Rights Committee expressed deep concern about military courts trying civilians, concluding that "military courts should not have the faculty to try cases which do not refer to offences committed by members of the armed forces in the course of their duties."⁵⁰

Since 1992 military courts have sentenced 95 people to death (including several *in absentia*) in connection with charges of "terrorism" and 67 of them have been executed.

ii) Trials before exceptional courts

Many defendants who have claimed that they were tortured and coerced into confessions have been convicted without the torture allegations being investigated. In April 1999 the Supreme Military Court issued its verdict in a trial of 107 people, 60 tried *in absentia*, accused of membership of the Islamist armed group *al-Gihad* (Holy Struggle). Nine were sentenced to death *in absentia*; 78 received prison sentences ranging from three years to life imprisonment; and 20 were acquitted. The defendants included more than a dozen people forcibly returned to Egypt from countries including Albania, Azerbaijan, Saudi Arabia and the United Arab Emirates. These defendants were interrogated over several months while held in unacknowledged incommunicado detention by the SSI, and their lawyers were not allowed to meet them until they appeared in court in February. Several defendants alleged that they had been tortured, but no independent investigation was apparently carried out.

In June 2002 the Supreme Military Court is expected to pronounce its verdict in a case against 94 men accused of membership of an armed Islamist group which has been referred to as *Tanzim al-Wa'd* (Organization of Promise). Dozens of the accused testified before the Public Prosecutor that they were tortured while being held in incommunicado detention at premises of the SSI. No investigations are known to have been conducted into these allegations.

In April 2002 Emergency Supreme State Security Court sentenced Sharif al-Filali in a retrial to fifteen years' imprisonment for spying for Israel. He had been

⁵⁰ Comments by the Human Rights Committee, 48th session, Egypt, para. 13.

acquitted of the same charges by a different panel of the same court in June 2001. However, President Mubarak refused to ratify the acquittal and ordered a retrial. Before Emergency Supreme State Security Courts a defendant has no right to appeal to a higher court.

For the last decade, the majority of prisoners of conscience⁵¹ were sentenced and convicted in unfair trials before exceptional courts. Since 1995 scores of alleged members of the Muslim Brother organization have been sentenced by military courts to up to five years' imprisonment. Over the last few years, dozens of members of religious groups have been sentenced to up to five years' imprisonment by an Emergency State Security Court for Misdemeanours for contempt of religion. Dozens of men were sentenced in 2001 before an Emergency State Security Court for Misdemeanours for their actual or perceived sexual orientation.

Article 18

The Egyptian penal code contains a number of articles, which aim to protect religions and religious sites from acts of aggression (Article 160) as well as from provocative acts. Article 161 provides for imprisonment for acts, which include "imitating religious ceremonies (...) with the intention of mockery". However, the majority of people tried in connection with offences against religion are charged 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".

Amnesty International believes that Article 98 (f) of the penal code, which prescribes prison sentences of a minimum of six months and a maximum of five years for "exploiting religion" is vaguely worded and has been abused in such a way as to allow for the imprisonment of prisoners of conscience.

Some defendants have been sentenced for the publication of materials discussing religious issues, whilst others have been imprisoned because of their religious practice. Over the last few years, dozens of people have been brought to trial under charges based on Article 98 (f) for "exploiting religion for extremist ideas", though none of these defendants has used or advocated the use of violence.

⁵¹ See also cases under Articles 18, 19,21,22 and 26.

On 5 March 2002 the Emergency State Security Court for Misdemeanours sentenced two men, Amin Youssef and 'Ali Mamduh, to three years' imprisonment for "offending religion"; six others in the same trial, including Amin Youssef's wife, received one-year suspended prison terms. They were convicted for holding private religious gatherings and advocating modifications to basic Islamic rules, including rules for prayer and pilgrimage.

Others sentenced to prison terms under similar charges by the Emergency State Security Court for Misdemeanours include mother of five, Manal Wahid Mana'i. She was sentenced in September 2000 to five years' imprisonment on the basis of accusations of being the leader of a religious group, which allegedly attributes divine status to a late Sufi Sheikh. Her husband and two other men were sentenced to three year of imprisonment in the same trial.

In January 2001 Salah al-Din Muhsin, a writer, was sentenced by the Emergency State Security Court for Misdemeanours to three years' imprisonment, accused of "offending religion" in his publications. His original trial had resulted in July 2000 in a six month suspended sentence, but the case returned to court after the authorities refused to endorse the verdict, deeming the sentence too lenient.

More than a dozen alleged members of the Baha'i faith, most from the Sohag Governorate, were arrested between January and April 2001 and detained for several months. In February 2001 the UN Special Rapporteur on religious intolerance noted that "Baha'is are not allowed to meet in groups, especially for religious observances, and their literature is destroyed".

Article 19

In May 1995 the parliament passed new legislation, which introduced stiffer penalties for journalists with regard to a variety of offences, including mandatory prison sentences in libel cases. Protests and campaigning by media professionals forced the government to amend the law. However, Law 95 of 1996 only reduced some of the penalties but retained prison sentences for various offences, including defamation, insult and false information. Under Article 185, insulting a public official in relation to the conduct of the official's duty or service can be punished with a maximum of one year's imprisonment.⁵² Article 303 stipulates imprisonment

⁵² Libel laws in the penal code are discriminatory by stipulating higher penalties, including imprisonment, when the plaintiff is a public official, such as a member of the government or a public servant. Under the penal code, as amended by the 1996 Press Law, defamation of an ordinary citizen

of up to two years for defamation of a public official in relation to the conduct of the official's duty or service. Article 307 states that sentences should be doubled in cases where insult or defamation have been produced as printed material.

Several journalists who have solely exercised their right to freedom of expression have been sentenced and convicted under the libel laws.⁵³ In April 2002 Court of Misdemeanours in the Bulaq district of Cairo sentenced journalist Ahmed Haredi Muhammad to six months' imprisonment for libel. He had been sued by Ibrahim Nafi'i, the editor-in-chief of the semi-official newspaper al-Ahram, regarding articles published on the electronic newspaper al-Mithaq al-'Arabi.

Human rights defenders have also been imprisoned as a pretext to punish the exercise of their right to freedom of expression.⁵⁴ Human rights defender Saad Eddin Ibrahim was sentenced in May 2001 to seven years' imprisonment in a politically motivated trial before the Supreme State Security Court. Saad Eddin Ibrahim is the head of the Ibn Khaldun Center for Development Studies whose activities included publications and public events on the situation of minorities in the Middle East and monitoring of elections in Egypt. Saad Eddin Ibrahim faced several charges, including spreading false information, receiving unauthorized funding and embezzlement. Three fellow human rights defenders were sentenced to two years' imprisonment in the same trial.

Political activists of non-violent unauthorized organizations are at risk of imprisonment for exercising their right of freedom of expression. Since 1995 dozens of alleged members of the Muslim Brothers have been sentenced to up to five years' imprisonment for membership in an "illegal organization".

Article 21

The Egyptian authorities generally impose tight restrictions on public gatherings, and on numerous occasions the security forces have used violent means to break up demonstrations. The excessive use of force by law enforcement officials in the

can be punished by up to one year's imprisonment and if the plaintiff is a public official the maximum penalty increases to two years' imprisonment. The longest prison sentences for journalists convicted of libel have been in a case where the plaintiff was a government minister.

⁵³ See Amnesty International: Egypt: Muzzling Civil Society (AI Index: MDE 12/21/00).

⁵⁴ See Amnesty International: Egypt: Imprisonment of human rights defenders (AI Index: 12/016/2001).

policing of demonstrations has led to unlawful killings of and injuries to demonstrators on several occasions.

Since April 2002 demonstrations in solidarity with the plight of the Palestinians have been taking place in cities around Egypt. There have been a number of clashes between demonstrators and security forces, most notably on 9 April 2002 when thousands of students demonstrated at Alexandria University, protesting against US-Middle East policy on the occasion of the visit by US Secretary of State Colin Powell to Cairo. The demonstration started peacefully but events apparently escalated as demonstrators as security forces prevented students from leaving the confines of the university campus to join others outside to march towards the nearby US Cultural Centre.

During the demonstration, Muhammad Ali al-Sayid al-Saqqa, a 19-year-old university student, was killed and several others were seriously injured by buckshot shooting. A statement issued by the Ministry of the Interior noted that the security forces fired buckshot in an attempt to calm down the situation. Amnesty International fears that Muhammad 'Ali al-Sayid al-Saqqa died after being shot by buckshot fired by a member of the security forces in circumstances where the safeguards required under the UN Basic Principles on the Use of Force and Firearms by Law Enforcement Officials were not adhered to.

Human rights violations in the context of demonstrations form part of an ongoing pattern of excessive use of force by law enforcement officials when policing demonstrations. Serious violations took place during the three rounds of voting in the Egyptian parliamentary elections, held at the end of 2000, which were marked by increasing violence. Excessive use of force by security forces during demonstrations protesting at restricted access to polling stations led to deaths and injuries. Security forces reportedly killed at least 10 people and injured dozens, including children, mainly in constituencies where Islamist candidates were running. No investigations are known to having been carried out into these events.

During the parliamentary elections in November 2000 an Amnesty International delegate was beaten and kicked in front of a polling station in the Shubra al-Khaima district of Cairo. He was assaulted by several men who were acting under the orders of or in collusion with security forces. Several journalists covering the elections were ill-treated in similar circumstances.

Article 22

On 26 May 1999 the Law on Civil Associations and Institutions (Law 153 of 1999) was passed by the Egyptian parliament which Egyptian and international human rights organizations sharply criticized for imposing restrictive conditions on civil society institutions in violation of international human rights standards.

In May 2000 the UN Committee on Economic, Social and Cultural Rights called for the amendment or repeal of the NGO Law in order to conform with Egypt's international obligations and national legislation. The Committee expressed concern that the law "gives the government control over the rights of NGOs to manage their own activities, including seeking external funding".

On 3 June 2000, a couple of days after the deadline for NGOs to register under the new law expired, the Constitutional Court found that the law was unconstitutional on procedural grounds⁵⁵. The Egyptian authorities announced that while Law 153 of 1999 is suspended, its predecessor Law 32 of 1964 applies, which in many respects imposes even more restrictive conditions on the operation of NGOs. In May 2002 an amended version of the Law on Civil Associations and Institutions was presented to Shura Council, the Egyptian Upper House, and Parliament. However, Egyptian NGOs, in particular human rights organizations, have expressed that this draft law in comparison with Law 153 of 1999 even increases restrictions on freedom of association. The Egyptian Organization for Human Rights (EOHR) pointed out that draft law includes amendments to Article 42 which will enable the Ministry of Social Affairs to dissolve associations by administrative decree.

The Egyptian authorities have also criminalized certain NGO activities through Military Decree No. 4 of 1992, which carries a minimum of seven years' imprisonment for receiving funding without permission from the authorities. In May 2001 the Supreme State Security Court sentenced Saad Eddin Ibrahim following conviction on several charges, including receiving funding without authorization, to seven years' imprisonment.⁵⁶

⁵⁵ The Court found that the law should have been presented to the *Maglis al-Shura*, the Egyptian Upper House, and further commented that disputes between NGOs and authorities should be referred to administrative courts rather than criminal courts of first instance.

⁵⁶ See Amnesty International: Egypt: Imprisonment of human rights defenders (AI Index: 12/016/2001).

Article 24

With regard to the rights of children, the Committee on the Elimination of Discrimination against Women expressed the following concerns:

“The Committee is concerned that the Egyptian nationality law prevents an Egyptian woman from passing on her nationality to her children if her husband is not Egyptian, while Egyptian men married to non-Egyptians may do so. It is concerned by the hardship faced by the children of Egyptian women married to non-Egyptian men, including financial hardship with regard to education. The Committee considers this limitation on the rights of women to be inconsistent with the Convention. The Committee calls on the State party to revise the legislation governing nationality in order to make it consistent with the provisions of the Convention.”⁵⁷

Article 26

Gay people in Egypt suffer discrimination, persecution and violence simply for being who they are. Those who are detained because their actual or perceived sexual orientation is deemed to threaten socially accepted norms are at particular risk of torture and ill-treatment and other human rights violations.

In Egypt in 2001 alone, dozens of men, including at least one juvenile, have been held for months in detention solely on the grounds of their actual or perceived sexual orientation. The effective criminalization of consensual sexual relations between adults of the same sex is discriminatory and violates international human rights standards, as affirmed by the Human Rights Committee in *Toonen v. Australia*, which held that such criminalization violates Article 17 (1) in conjunction with Article 2 (1) of the ICCPR, adding that the prohibition of discrimination on grounds of “sex” in Articles 2 and 26 of the ICCPR is to be taken as including sexual orientation.

On the basis of a presidential decree of 28 June 2001, 52 alleged gays were tried before the (Emergency) State Security Court for Misdemeanours in Cairo. On 14 November 2001, 23 men were sentenced to prison terms of between one and five years; 29 others in the same trial were acquitted. Twenty-one men were convicted of “habitual debauchery”, one of “contempt of religion” and another of both charges. Amnesty International has adopted 22 of the 23 men as prisoners of conscience, as it

⁵⁷ CEDAW/C/2001/II/Add.2., paras. 19-20.

believes they were imprisoned solely on grounds of their real or perceived sexual orientation. The case of the twenty-third is still under consideration by the organization.

On 23 May 2002 President Mubarak annulled the verdict in the case of 50 of the 52 alleged gays.⁵⁸ On 29 May 2002, 21 of the 23 men sentenced to imprisonment in November 2001 were released on bail. However, the annulment of the verdict does not include two of the defendants, Sherif Hasan Mursi Farahat and Mahmud Ahmad 'Allam Daqla, whose convictions were both based on the charge of "contempt of religion".

In a related case, on 19 September 2001, Cairo Juvenile Court handed down a three-year prison term for "habitual debauchery" to a juvenile. This was subsequently reduced by the Cairo Juvenile Appeal Court for Misdemeanours to a six-month prison sentence on 19 December 2001.

In January 2002 eight men were detained in the northern province of Buhaira in connection with their actual or perceived sexual orientation. Five of them were sentenced for "habitual debauchery" to three years' imprisonment by Damanhour Criminal Court but acquitted in April 2002 on appeal.⁵⁹

In February 2002 four men, charged with "habitual debauchery", were sentenced by the Criminal Court of the Bulaq district of Cairo to three years imprisonment and their sentences were upheld on appeal in March 2002.

Law 10 of 1961 on Combating Prostitution defines "habitual debauchery" (arabic: fugur) as male prostitution. Article 9 (c) stipulates prison sentences of between three months and three years for those who "habitually practice debauchery". Article 15 allows for police supervision to be imposed, for a period up to the equivalent of their prison sentence, on release from detention.

⁵⁸ Under Egyptian emergency legislation, the President is entitled to annul the verdicts of exceptional courts, such as the (Emergency) State Security Court for Misdemeanours. The case has been returned to the Public Prosecution which may decide to resume prosecution or drop the charges.

⁵⁹ For further details see Urgent Action (AI Index: MDE 12/004/2002, 24 January 2002) and follow ups (AI Index: MDE 12/011/2002, 27 March 2002 and MDE 12/011/2002, 27 March 2002) on the case.

Although there is no explicit reference to homosexuality within Egyptian legislation, the term “debauchery” is applied not only to same sex relations in the context of prostitution of men but also to private and consensual sexual relations between men.

3. Conclusion

Following its examination of Egypt’s second periodic report in 1993, the Human Rights Committee recommended the adoption of legal and practical measures to ensure effective implementation of the ICCPR and expressed numerous concerns, in particular with regard to Articles 4, 6, 7, 9, 14, 18, 19, 21 and 22. Since its last examination before the Committee, Egypt has done little to improve its human rights record. Violations of Egypt’s obligations under the ICCPR continue to prevail. The death penalty has been used increasingly, torture is practised systematically, thousands of political detainees continue to be held in administrative detention under emergency legislation and people are tried before exceptional courts which violate international standards of fair trial. Restrictive legal provisions to freedom of thought, conscience, religion, assembly and association remain in place and prisoners of conscience continue to be imprisoned. The principle of non-discrimination continues to be violated, including imprisonment of people for their actual or perceived sexual orientation.

4. Appendix

Suggested questions which the Human Rights Committee may consider putting to the Government of the Arab Republic of Egypt on the occasion of the Committee's consideration of Egypt's third and fourth periodic report

Re: Emergency Legislation (Article 4)

Does Egypt consider to end the state of emergency? What steps has it taken to ensure that legislation and policies adopted in the context of the state of emergency conform to its obligations as outlined by the Human Rights Committee in General Comment 29.

The state of emergency, which in 2000 was extended until 31 May 2003, imposes serious restrictions on human rights as guaranteed under the International Covenant on Civil and Political Rights (ICCPR).

Re: Death Penalty (Article 6)

Is Egypt considering a moratorium on executions? Regarding the use of the death penalty, the Committee should express serious concerns that death sentences are pronounced by exceptional courts (military and emergency state security courts) which violate international human rights law, including the right to have the conviction and sentence reviewed before a higher court. In addition, death sentences before criminal courts allow appeal only on limited grounds.

Could Egypt provide detailed data on the death sentences and executions in Egypt over the past ten years? This should include in all cases of final verdicts and for each year, the name of the court and the date of the verdict, the offence or offences for which the death penalty was given, the gender of the person sentenced to death, the date of ratification of final verdicts and the date and place of executions.

Re: Torture and ill-treatment (Article 7)

What measures will be taken to eradicate torture and ill-treatment in detention centres in Egypt?

Does Egypt envisage to improve safeguards for particular vulnerable people, namely women and children, in detention? Is Egypt envisaging to employ woman police officers at all detention centers where women maybe detained in order to ensure that only women staff supervise the detention of women? Are all detention centres in Egypt where juveniles and women maybe detained, including police stations, equipped to hold male adults, women and juveniles separately from each other?

Which safeguards will be implemented to protect juveniles from torture and ill-treatment in detention?

Over the past ten years how many complaints against torture and ill-treatment in departments of the State Security Intelligence (SSI) have been made? How many have been investigated and what were the findings? How many agents of the SSI have been prosecuted and referred to a criminal courts? Are the Egyptian authorities going to publish their findings into the death in custody of lawyer ‘Abd al-Harith Madani in 1994?

Are torture allegations made by people standing trial always examined? What were the findings into torture allegations of defendants in the so-called “Returnees from Albania Trial”? (The records of the investigating prosecution noted torture allegations by dozens of defendants. On 19 April 1999 the Supreme Military Court pronounced its verdict in the case.) What were the findings into torture allegations of defendants in the so-called “Trial of the Tanzim al-Wa‘ad (Organization of Promise) where a verdict is scheduled to be pronounced by the Supreme Military Court on 16 June 2002?

Have Egyptian authorities provided protection for victims of human rights violations or their relatives who have faced harassment after accusing a members of the security forces of such violations and filing a complaint?

Re: Arbitrary Detention (Article 9)

How many people are held in administrative detention under the emergency legislation?

Will Egypt abolish the practice of indefinite detention under emergency legislation?

Re: Unfair trial (Article 14)

Will Egypt end the referral of civilians to military courts, which violate international standards of fair trial?

Does Egypt consider abolishing exceptional courts under the emergency legislation, namely emergency state security courts which violate international standards for fair trial?

What steps has Egypt taken to comply with its obligations under Article 14.5: “Everyone convicted of a crime shall have the right to his conviction being reviewed by a higher tribunal according to law”?

Re: Prisoners of conscience (Art 18,19, 21)

In May 2002 there were at least 46 prisoners of conscience imprisoned (possibly update on 26 May) solely for the non-violent expression of their opinion or beliefs. They should be

immediately released. The majority of prisoners of conscience have been convicted in unfair trials before exceptional courts.

Does Egypt consider to review or abolish legislation under which people have been imprisoned solely for the non-violent expression of their opinion or beliefs.

Re: Non-Discrimination (Article 26)

Does Egypt consider to review or abolish legislation under which people have been imprisoned for private and consensual sexual relations between men?

Following the release of 21 men in May 2002 who had been imprisoned under charges of “habitual debauchery”, will all prisoners imprisoned for their actual or perceived sexual orientation be released ?