



# BRUTALITY UNPUNISHED AND UNCHECKED

EGYPT'S MILITARY KILL AND TORTURE  
PROTESTERS WITH IMPUNITY

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**AMNESTY**  
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First published in 2012 by  
Amnesty International Ltd  
Peter Benenson House  
1 Easton Street  
London WC1X 0DW  
United Kingdom

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Index: MDE 12/017/2012 English  
Original language: English  
Printed by Amnesty International,  
International Secretariat, United Kingdom

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*Cover photo:* Egyptian soldiers beating a protester during clashes near the Cabinet Offices by Cairo's Tahrir Square on 16 December 2011. © MOHAMMED ABED/AFP/Getty Images

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# 1. INTRODUCTION

**‘With everything we did for the revolution to make the country better, how can they [SCAF] humiliate us like this and get away with it?’**

Islam Moustafa Abu Bakr, a 19-year-old protester and torture victim who is facing trial in relation to the Cabinet Offices protest violence of December 2011

During its 16 months as Egypt's caretaker government, the Supreme Council of the Armed Forces (SCAF) broke its promises to protect human rights and betrayed the people who made the "25 January Revolution". When it took power on 11 February 2011 after the uprising overthrew President Hosni Mubarak, SCAF pledged to respect the right to peaceful protest<sup>1</sup> and help the country transition to civilian rule. Instead, it unleashed violent repression against peaceful protesters and took steps to retain as much power as possible and remain beyond the reach of the law.

The army repeatedly used unnecessary and excessive force, including lethal force, to disperse peaceful demonstrations and sit-ins that escalated into clashes, killing dozens of protesters, assaulting bystanders in the process, and intimidating people simply for daring to protest. On some occasions, troops ostensibly stood back while pro-military "thugs" in civilian dress attacked protesters. At other times, military forces targeted women activists for abuse – including forced "virginity tests" – in what transpired to be futile attempts to intimidate them into not protesting. The armed forces also arbitrarily detained and tortured thousands of protesters – including women – many of whom then faced grossly unfair trials before military courts. Between January and August 2011, over 12,000 civilians were unfairly tried before such tribunals. Amnesty International opposes trials of civilians before military courts as such trials are not in line with international law and standards. All these serious human rights violations were committed with impunity by people who believed that they would never be punished for their crimes.

Meanwhile, SCAF used the transitional period to further entrench its power and position in the state and ensured their forces' immunity from prosecution. They also took steps to limit the powers of the soon-to-be elected President. A couple of days before the second round of presidential elections, the Constitutional Court ruled that parliament's electoral law was unconstitutional and SCAF ordered the dissolution of the elected People's Assembly, which was dominated by the Muslim Brotherhood's Freedom and Justice Party (FJP). The newly elected President Mohamed Morsi, former head of the FJP, subsequently overturned the dissolution order, but his decision was overruled by an administrative court.

In June 2012, shortly before the results of the presidential elections that would herald Egypt's first civilian head of state, SCAF amended the Constitutional Declaration (the provisional Constitution announced by SCAF in March 2011) to give itself legislative powers until the election of a new parliament, following the introduction of a new constitution. The amendments also gave SCAF constitutional protection for its actions until the new constitution is in place, in effect giving it unrestrained powers without civilian oversight. Furthermore, the amendments allowed SCAF to veto any provisions of the new constitution that it believes to be in conflict with the "higher interests" of Egypt, potentially allowing the army to keep its unrestrained powers; and permitted the President to ask the army to intervene in situations of "internal disturbances" if SCAF approves.<sup>2</sup> The SCAF amendments were a direct challenge to the powers of the newly elected civilian president.

In August 2012, a deadly attack by armed men on 16 army soldiers and officers at the Sinai borders put the security performance of SCAF under the spotlight. The military council was criticized as appearing to be too busy with politics to properly fulfil their security functions. The attack proved to be critical in SCAF's power struggle with the new President. Mohamed Morsi cancelled SCAF's constitutional amendments limiting the President's powers, issuing his own amendments to the Constitutional Declaration.<sup>3</sup> President Morsi also shuffled key military positions and "retired" key members of SCAF, including its head, Hussein Tantawi, as well as the commander of the military police force that had been involved in the Maspero protest killings (see below). However, the President announced that the retired generals would serve as "advisors", making any prospect of accountability elusive.

In addition, the President appointed as head of the presidential guard the commander of the paratroopers' forces, which had been involved in the Cabinet Offices protest killings (see below), and appointed as Minister of Defence the head of the Military Intelligence Department, Major General Abdel Fattah al-Sisi.<sup>4</sup> The changes reflected an attempt by the President to redefine the relationship with the military forces and, on the part of the army, a way to escape any form of accountability.

This report documents some of the grave human rights violations committed by the armed forces before President Morsi took office on 30 June 2012. It focuses on the violent dispersal by military forces, often helped by armed men in plain clothes (commonly referred to as "*baltagiya*" – "thugs"), of three significant protests in Cairo, and associated human rights violations:

- **the Maspero protest** of 9 October 2011, which left 27 mainly Coptic Christian protesters (and one soldier) dead, either killed by live ammunition or crushed by army armoured vehicles as military police clashed with protesters;
- **the Cabinet Offices events**, five days of violence between the military and protesters starting on 16 December 2011, during which 17 protesters were killed mainly by live ammunition as paratroopers (*mazalat*) clashed with protesters; and
- **the Abbaseya sit-in** from 28 April to 4 May 2012, during which up to 12 people were killed near the Ministry of Defence, most by live ammunition fired by men in plain clothes, and one soldier died after he was shot.<sup>5</sup>

Various branches of the military forces were involved in policing protests during SCAF's rule. The military police, wearing red berets, were frequently used. Their normal function is to police offences by staff of the military forces who are on duty. Most notably, military police were in charge during the Maspero protest on 9 October 2011. Paratroopers and commando forces (*saaqa*) – elite forces usually wearing camouflage uniform and who receive special training to be airborne or to operate behind enemy lines – were most notably in charge of securing the premises of the parliament building and clashed with protesters during the Cabinet Offices events in December 2011.

All governments, whether civilian or military in nature, have a duty to protect public safety including through the use of force when necessary and justified. However, it is clear that Egypt's security forces went far beyond what is allowed under international law, and even under Egyptian legislation, while SCAF were in power.

Many compelling videos show the sheer scale of the unjustified use of force by military forces when dispersing protests. Images of an attack by paratroopers on protesters in Cairo's Tahrir Square and Qasr El Einy Street on 17 December 2011, during the Cabinet Offices events, are particularly disturbing.<sup>6</sup> Troops charged at protesters with truncheons and what appeared to be stun batons (a type of electric shock weapon), and set fire to protesters' tents. Soldiers dragged women activists along the ground by their hair, in at least one instance dislodging the woman's headscarf. They also beat and pulled up the clothes of a woman protester wearing a headscarf and *abaya* (robe that covers the body), exposing her underwear – images that went viral on the internet and shocked the world. SCAF's apology to women appeared as nothing more than a token gesture; not a single person is known to have been held to account for the abuses of these women, even though many of the perpetrators were identified. Many of the women were themselves prosecuted on charges relating to the protests. A military court subsequently acquitted a military doctor charged in relation to forced "virginity tests" of activist Samira Ibrahim and other female protesters in March 2011.

Military forces used live ammunition to disperse protesters, and groups of soldiers singled out for beatings protesters who had become detached from the main group. Amnesty International documented numerous occasions where military forces arbitrarily arrested protesters before subjecting them to torture and other ill-treatment.

The state's response to these widely documented attacks was emblematic of the impunity enjoyed by the armed forces during SCAF's rule, and the victimization of peaceful protesters. Overall, SCAF's reaction was wholly inappropriate. Investigations were only launched under public pressure. The immediate reaction of SCAF was to investigate itself; it refused to be exposed to independent scrutiny. Virtually no investigation led to a member of the armed forces being held fully accountable. In practice, SCAF backtracked on its promises of accountability when it believed that public attention had shifted away from the issue.

Throughout SCAF's rule, state media and press conferences organized by SCAF spokespeople sought to portray protesters as troublemakers, criminals, "thugs" or simply as being irresponsible and serving those seeking to undermine the state or serving the interest of "foreign hands". This was a feeble attempt to justify or cover up serious human rights violations by armed forces. Such media campaigns were particularly apparent following the crackdown on the Maspero, Cabinet Offices and Abbaseya protests, the focus of this report.

After his election, President Morsi quickly established two fact-finding committees comprising officials and civil society representatives. One committee was mandated to gather information and evidence to identify the perpetrators of and accomplices to the killings and wounding of protesters between 25 January 2011 and 30 June 2012, and to report back to the President in two months, a work in progress at the time of writing in end of August. The committee was also to investigate "crimes against protesters not previously investigated", which could include torture and other ill-treatment less frequently investigated.<sup>7</sup> The other committee was mandated to review the cases of civilians tried by military courts, all detainees held by the Ministry of Interior, and "revolutionaries" imprisoned by the ordinary judiciary – and report back to the President in two weeks.<sup>8</sup> Thanks to its recommendations some 572 detainees were pardoned by the President on 19 July and released, while further releases were expected at the time of writing. In September the committee recommended to the President to issue a general amnesty for offences by "revolutionaries" who were tried or are on trial before civilian or military courts. Protesters in trials related to the Cabinet Offices or Abbaseya protests may benefit from such a general amnesty; however it would apparently not apply to others tried by military courts for other criminal offences during the same period. The establishment of the two fact-finding committees offers a great opportunity to establish the full truth about the 2011 uprising, to investigate human rights violations committed during the rule of SCAF, and to ensure that no one is above the law in Egypt.

Amnesty International issued an earlier report on the human rights record of SCAF between February and October 2011,<sup>9</sup> and presented its concerns to SCAF directly, including in a meeting with Major General Abdel Fattah al-Sisi in June 2011. SCAF also met other human rights organizations and "revolutionaries". However, the military council seemed more interested in public relations than ensuring that military forces were accountable.

Amnesty International also issued several statements in 2011 and 2012 condemning the excessive use of force by military forces and riot police, and called on arms supplying states to suspend and halt all transfers of tear gas; small arms, including shotguns and light weapons and related ammunition; and armoured vehicles, which were used unlawfully to disperse protests.<sup>10</sup>

This report is based on several research visits to Egypt between December 2011 and June 2012, during which witnesses to the three clashes – including activists, lawyers and medical doctors – and victims of abuses were interviewed. It illustrates patterns of human rights violations during the period of SCAF rule by focusing on the military's response to the three protests and through eight emblematic cases of unlawful killings and 12 cases of injuries, as well as 14 cases of torture and other ill-treatment, including sexual violence.

The report concludes that, in responding during the three incidents studied, the army used excessive force, and used lethal force against protesters in circumstances where it was not necessary. In some situations protesters threw stones and Molotov cocktails; however, the army's response, including its resort to live ammunition, charging with sticks at whole groups of demonstrators regardless of whether the individuals in question were involved in violence, and deliberately driving vehicles at groups of protestors at speed (in some cases running them over) was disproportionate to the threat faced and therefore unlawful. In addition, on several occasions the army failed to warn protesters of the imminent use of force, including live ammunition; did not attempt to use lesser measures to calm down the situation; and

failed to take any measures to protect protesters from attack by “thugs”.

The report also includes damning evidence and testimony of the torture methods used against male and female protesters, including severe beatings, electric shocks and sexual threats and abuse.

Finally, the report highlights that impunity for such violations appears likely to remain the norm. At the time of writing in August 2012, the only officials charged in relation to the Maspero events were three soldiers who faced trial for “involuntary homicide” for driving armoured vehicles at high speed into protesters. This extremely rare prosecution followed an international outcry over the killings of Copts staging a peaceful protest. However, lawyers for the victims have withdrawn from the case in protest at the court's procedures. No soldiers were investigated, let alone prosecuted, for other unjustified use of force and abuses against the protesters at Maspero including the use of live ammunition. Meanwhile, at least 30 male Coptic protesters were detained following the protests; all were eventually released although two face trial.

In relation to the Cabinet Offices events, legal investigations by investigative judges into the attacks against protesters are reportedly continuing. Even though many protesters and witnesses have said they can identify the perpetrators, some of whom appear in videos and photos holding guns or beating protesters to the ground, so far as is known no paratrooper has been charged with any criminal or disciplinary offence, and army commanders still maintain that there was no wrongdoing by troops during the protests. Meanwhile, 293 protesters – including 11 women – have been prosecuted in relation to violence during the protests and damage to public property. The first session of their trial was scheduled for 29 July 2012 and then postponed to October.

With regards to the Abbaseya events, no members of the security forces have been investigated, let alone charged, in relation to their actions, whereas over 300 protesters have been charged and face military trial for participating in the protests. Although the majority have been released in batches, scores remained in detention in early September 2012.

In short, the state's response to the three episodes of violence has left all the victims of human rights violations by military forces still waiting for an effective remedy. While hundreds of protesters face trial in relation to protest violence, no members of the military forces have been referred to trial before a civilian criminal court for the violations committed against protesters. Accountability before civilian courts is essential as the few cases where the behaviour of the army has been scrutinized by military courts have led to either acquittals or the families of those killed withdrawing in protest at the court's procedures.

In light of these findings, Amnesty International is calling on the Egyptian authorities, among other things, to:

- Conduct full, impartial and independent investigations into all cases of human rights violations by military forces during the period that SCAF controlled the state, especially excessive or unnecessary use of force, arbitrary detention and torture, including sexual and gender-based violence and other forms of ill-treatment.
- Ensure that no member of the armed forces against whom there is evidence of human



rights abuses benefits from amnesty measures or immunity from prosecution.

- Establish a vetting system to ensure that, pending investigation, members of the armed forces about whom there is evidence of ordering or committing serious human rights violations do not remain, or are not placed, in positions where they could repeat such violations.
- Provide the fact-finding committees established in July 2012 with the necessary resources, time, power to summon witnesses and access to information to enable them to collect evidence related to killings and injuries of protesters between 25 January 2011 and 30 June 2012, and make their reports public.
- Halt immediately all trials of civilians before military courts and either release them or transfer them to civilian courts for fair trial; and abolish permanently trials of civilians before military courts.
- Release all those detained solely for peacefully exercising their right to freedom of expression and assembly, including those convicted by military courts; and uphold the rights to freedom of assembly and freedom of expression.

## 2. MASPERO PROTESTS: ASSAULT OF COPTS

‘We were in a state of shock that the army which is supposed to protect us... attacked us.’

Wael Saber Bshay, whose brother Ayman was killed by the military during the Maspero protest on 9 October 2011

The violence linked to a protest at the Maspero television building by Coptic Christians and their supporters on 9 October 2011 left 28 people dead and hundreds injured. To date, the Egyptian authorities have failed to conduct a full, impartial and independent investigation into the circumstances of the violence and bring those responsible to account. They have also failed to address the demands of the Maspero protest or take effective steps to combat discrimination against Egypt's Coptic community.<sup>11</sup>

According to most accounts, at about 4pm on 9 October, a large group of peaceful protesters marched from the neighbourhood of Shubra – home to a large Christian community – to the Maspero television building in downtown Cairo, demanding accountability for an attack on a Coptic church in Aswan on 30 September and for equal rights for Egypt's Copts. Trouble flared up as protesters reached the Shubra Tunnel and later the 26 July Bridge, when unidentified assailants threw rocks and empty bottles at them, prompting some of the protesters to respond. Violence escalated when the first protesters were attacked by security forces after they approached the Maspero building around 6.15pm, joining other protesters who had gathered in front of the building earlier. Protesters did not appear to use violence before the army and riot police charged at them from the side of the Maspero building.

Hani El Gezeery, head of the Copts for Egypt movement, told Amnesty International that his group protested by Maspero and that as the number of protesters grew, military police attempted to disperse them, using batons and firing what initially seemed to be blank bullets into the air. Other protesters said tear gas was used and many recalled hearing guns being fired. What happened next not only left 26 Coptic protesters, one Muslim man and one member of the military police dead. It also left deep scars in Egypt's social fabric. Consistent testimonies by protesters, other witnesses and investigators, corroborated by video evidence, confirm that armoured personnel carriers (APCs) and cars drove recklessly and at high speed into protesters in an attempt to disperse the demonstration. Various statements to Egyptian media made by forensic officials initially indicated that between 12 and 14 people died after being run over. In late December 2011, three soldiers faced trial for the manslaughter of 14 individuals for “driving randomly”.<sup>12</sup>

**Mosaad Mehanna Mosaad** was among those crushed to death by an APC. His son George told

Amnesty International that his father had participated in the protest and the following day he found him at the morgue of the Coptic Hospital, where most casualties were taken. Mosaad died as a result of internal bleeding; his pelvis, lungs, rib cage and kidneys were crushed.

Mena Thabet, a member of the Egyptian Coalition for Minorities, told Amnesty International that he witnessed the APCs charging towards the protesters:

*“The vehicles drove off. We thought maybe they were leaving. In an instant, they turned around on the 6th of October Bridge side, and drove towards us... During this time, there was a lot of confusion, and the soldiers were hitting us.”*

Wael Saber Bshay, whose 40-year-old brother **Ayman Saber Bshay** was killed during the protest, told Amnesty International that he saw at least three APCs driving back and forth into protesters, convincing him that their actions were deliberate. He said that large numbers of military police exited from the Maspero building and started hitting protesters with batons. He said the military police were aided by men in plain clothes armed with knives. He described how his brother was crushed by an APC just after the two of them, along with other protesters, were thrown to the ground and beaten with batons by a group of military police near the Maspero building. Despite desperately calling an ambulance, Wael was unable to get his brother to a hospital for several hours, and eventually took him to the Coptic Hospital on the back of a motorcycle. Ayman did not survive. Wael Saber Bshay told Amnesty International:

*“We [protesters] were in a state of shock that the army which is supposed to protect us, which claimed that it is protecting the ‘25 January Revolution’, attacked us... If we were in a state of war with an enemy, I don’t think this would have happened.”*

Most of the other victims died as a result of gunshot wounds to the chest or head, and some died after being hit with blunt objects. Several protesters told Amnesty International that they saw members of the military police shooting, including into the air, but none could identify the perpetrators of the fatal gunshot wounds, or the direction from which the shots were fired. On some videos, sounds of gunshots are clearly audible when the army and riot police initially charged at the protesters who were running away in confusion. Other footage shows a soldier shooting at protesters from an APC driving in the middle of the crowded street. Protesters appear to have been unarmed, according to witnesses and videos of the events, and some kept chanting “peaceful, peaceful” while the army beat protesters on the ground.

One of those shot dead was 22-year-old **Mena Daniel**, a university student and member of Youth of Justice and Liberty. He had joined the “25 January Revolution” from the outset and was previously injured on 29 January 2011 during a protest in front of the Ministry of Interior. His sister Mary told Amnesty International that during the Maspero protest a bullet hit his shoulder and exited through his lower back, suggesting that he was shot from above. After his death, Egyptians reacted with incredulity when they discovered that the military prosecution had charged him with inciting violence.

Although unarmed, some protesters used stones and sticks in clashes with armed and security forces to try to stop the assaults. They also tried to stop the APCs by climbing on them. Some protesters used the wooden crosses they were carrying as makeshift weapons to

protect themselves or to hit back. Some clashed with people dressed in civilian clothes, believed to be supporters of SCAF. A video shows protesters angry at the crackdown setting fire to a military vehicle and beating two soldiers, and one protester throwing a large stone at a soldier in a military car. It is unclear if the soldier was injured.<sup>13</sup> The only soldier who was killed died from a gunshot wound, according to statements by forensic officials.

All accounts indicate that protesters only resorted to violence after being attacked by members of the armed forces, who used lethal force when it was not strictly necessary to protect life, and that the kinds or degrees of force were not justified in the circumstances. In particular, armed and security forces used excessive, including lethal, force against those not posing a threat to them or others.

Protesters said that men in civilian dress attacked them at Maspero as well as at the Coptic Hospital, using stones, Molotov cocktails, knives and other weapons. Mena Thabet, for instance, told Amnesty International that he witnessed a protester trying to stop a group of men in plain clothes who were threatening to throw a boy off a bridge into the Nile. When the group discovered that the man himself was a Copt, they assaulted him and pushed him into a rubbish bin. Mena Thabet described other instances of men in plain clothes attacking Copts with knives and glass bottles around the Maspero area, as well as at the Coptic Hospital. Relatives of those killed told Amnesty International that they were prevented from entering the Coptic Hospital by men in plain clothes who threatened to attack the hospital and visitors. Other relatives said that the hospital was pelted with rocks by unidentified men in plain clothes, who also used tear gas near the area. It appears that the men took to the street in reaction to inflammatory state media reports accusing Copts of killing army staff.

Following the clashes, several funeral processions, including that for Mena Daniel, were attacked by men in plain clothes. Security forces failed to intervene to protect the mourners.

## STATES' OBLIGATIONS WHEN POLICING PROTESTS

States must respect the right to freedom of assembly. According to the International Covenant on Civil and Political Rights (ICCPR), to which Egypt is a state party, no restrictions may be placed on the right to peaceful assembly other than those which are in accordance with the law and "necessary in a democratic society in the interests of national security or public safety, public order (*ordre public*), the protection of public health or morals, or the protection of the rights and freedoms of others".<sup>14</sup> Any such restrictions must be demonstrably necessary and proportionate to a specific need related to one of these grounds<sup>15</sup> and must be applied without discrimination, including on grounds of political opinion.<sup>16</sup> During the events described in this report, Egypt was under a state of emergency, which only expired on 31 May 2012. The Emergency Law, which had been in place in the country since 1981, had imposed sweeping restrictions on freedoms of expression and assembly.<sup>17</sup>

While relevant international human rights treaties only refer to "peaceful assemblies", an assembly does not automatically lose its peaceful character if there is sporadic or isolated violence, or other unlawful behaviours, by some within the crowd.<sup>18</sup>

Any use of force in the policing of demonstrations (including those the government regards as illegal or that have become violent) must be carried out in accordance with international law. The international community has adopted standards for the use of force and firearms by law enforcement officials. Such standards apply to the armed forces when they are exercising powers normally exercised by the police. The standards are intended

to ensure respect for the rights to life, liberty and security of person.<sup>19</sup> Under these instruments, the use of force is prohibited for law-enforcement officials, except as strictly necessary and to the extent required for the performance of their duty. Firearms may only be used as a last resort – when strictly necessary in defence of self or others against the imminent threat of death or serious injury. Intentional use of lethal force is permitted only when strictly unavoidable in order to protect life. In addition, when lethal or other possibly excessive force is used, the authorities must ensure that its use is fully and independently investigated and that any police or other officials responsible for misuse of force are held accountable.

The UN standards also address the policing of assemblies, stating that, “In the dispersal of assemblies that are unlawful but non-violent, law enforcement officials shall avoid the use of force or, where that is not practicable, shall restrict such force to the minimum extent necessary”. Similarly, the standards state that, “In the dispersal of violent assemblies, law enforcement officials may use firearms only when less dangerous means are not practicable and only to the minimum extent necessary” and in no case may they use firearms other than as described above.<sup>20</sup> The UN Special Rapporteur on extrajudicial, summary or arbitrary executions has specified, “In principle shooting indiscriminately into a crowd is not allowed” and that use of firearms (and presumably any other forms of potentially lethal force) “may only be targeted at the person or persons constituting the threat of death or serious injury” invoked to justify the use of force.<sup>21</sup>

Amnesty International considers that policing of assemblies should always be guided by human rights considerations. The fact that an assembly is illegal, or that minor violations of the law occur during a peaceful assembly, should not necessarily lead to a decision to disperse it. Similarly, where a small minority tries to turn a peaceful assembly into a violent one, police should ensure that those who are protesting peacefully are able to continue to do so, and not use the violent acts of a few as a pretext to restrict or impede the exercise of rights of a majority. Any decision to disperse an assembly should be taken only as a last resort and carefully in line with the principles of necessity and proportionality, i.e., only when there are no other means available to protect a legitimate aim and when the level of threat of violence outweighs the right of people to assemble. Police should prioritize peaceful settlement of disputes and the methods of persuasion, negotiation and mediation, both before and during assemblies, as a means of avoiding the escalation of disputes, recourse to restrictions or the use of force.

In policing protests, the Egyptian armed and security forces used unjustified force in violation of the right to life and the right to liberty and security of person.

From the outset, officials attempted to cover up the truth and blame the violence on protesters, sectarian tensions and “hidden elements”. Officials reached their conclusions prior to any independent investigation, and state television showed a lack of impartiality by claiming that Coptic protesters fired on the armed forces and killed three soldiers – a number that proved to be untrue – without mentioning the killing of protesters. Many in Egypt criticized what they saw as the inflammatory role played by state media during and after the protests. Meanwhile, independent reporting of the Maspero violence was suppressed; military police raided the studios of the 25 January TV and Al-Hurra Channel during their live coverage of the protests.<sup>22</sup>

Following the killings and the shockwaves it created in Egypt, SCAF promised that investigations would be carried out, although its spokespeople appeared to pre-empt these by repeatedly denying any wrongdoing by members of the armed forces. SCAF also dismissed criticism of its handling of the unrest as proof of the “attempts to drive a wedge between the army and the people”.<sup>23</sup>

At the time of writing 10 months after the violence, victims are still waiting for truth and justice. In practice, the supposed military investigations' remit and operating procedures have remained opaque. The investigations have also been marred by accusations of bias and intimidation of witnesses. SCAF has resisted calls by human rights organizations, victims' families and the National Council for Human Rights to refer the entire investigation to an independent body empowered to compel members of the armed and security forces to testify.

A fact-finding committee set up by the National Council for Human Rights issued its report into the Maspero killings on 2 November 2011. The report concluded that military vehicles driven at high speed crushed protesters. It accused "unidentified civilians" of shooting live ammunition at the protesters as well as at the military police. The report mentioned that some of the testimonies gathered implicated military police in this respect, but underlined the army's assertion that soldiers were only equipped with blank ammunition.<sup>24</sup>

So far, only three soldiers have been charged in connection with the crackdown. The military prosecution accused the three of involuntary manslaughter – "negligence and absence of caution, while they were driving armed forces armoured personnel carriers in an arbitrary fashion... leading to their striking the victims". Their trial started on 27 December 2011. The investigation into other killings was, however, referred to the civilian prosecution. In April 2012, victims' lawyers and human rights organizations involved in the case, such as the Egyptian Initiative for Personal Rights, withdrew in protest against what they considered to be unfair proceedings designed to absolve the military. The fact that the investigation was carried out by the military prosecution casts serious doubt over its impartiality and independence.<sup>25</sup> Members of the armed forces who face charges relating to human rights violations against civilians should always be tried before civilian courts rather than military courts precisely in order to prevent such concerns.<sup>26</sup>

The military prosecution initially detained at least 30 civilians, including prominent blogger **Alaa Abdel Fattah** and other activists, on accusations of inciting violence against armed forces and assaulting security forces during the 9 October protest. Other charges included stealing weapons and engaging in arson or other disorderly behaviour. They were all eventually released and in December SCAF referred the investigation to the civilian prosecution – first under the auspices of the emergency court, and later to an investigative judge. No members of the security or armed forces appear to have been questioned by the investigative judge in connection with the violence.

The civilian investigation headed by the investigative judge was closed in late April 2012 on the grounds that it could not identify the perpetrators, and all charges against the 30 civilians were dropped. The prosecution appealed and the investigation was eventually reopened. The investigative judge did, however, charge two Coptic men with stealing weapons in connection with the protests; their trial has been adjourned.

At the time of writing, the results of the investigation have not been made public and no military or security official has been brought to justice for unlawful use of force, unlawful killing of protesters, or beating or otherwise subjecting protesters to torture or other cruel, inhuman or degrading treatment.

Wael Saber Bshay, whose brother Ayman was killed (see above), told Amnesty International

that he was called to testify in front of both the military and the general prosecution. He said he was asked questions they knew he would not be able to answer, and complained that the military prosecutor intimidated witnesses, including by accusing them of “seeking to invade the [Maspero] building” and by “screaming at them”. Similar complaints were made by other witnesses and relatives of people killed at Maspero, who told Amnesty International that the military prosecution’s demeanour and types of questions shook their faith in the independence and impartiality of the investigation, and left them feeling like the accused rather than the victims.

**Hani El Gezeery** was among those accused of inciting violence because of his role in calling for protests in a public communiqué. His case, which was first heard in front of the military prosecution, was later referred to the civilian prosecution, but he has not been officially charged. He decided to disengage from the trial of the three soldiers accused of involuntary manslaughter as he believed that the case had been politicized.

Several relatives of those killed in Maspero received compensation of 30,000 Egyptian pounds (around US\$5,000), but have not been provided with any other form of reparation. Wael Saber Bshay told Amnesty International:

*“I am telling SCAF that I will not let my brother’s right be lost in vain, or for that matter the rights of all the martyrs of the Revolution. While you [SCAF] try to cover up all cases, like the case of our sister who was stripped and dragged in Tahrir, and the case of virginity tests, we will not stay quiet.”*

## 3. CRACKDOWN ON CABINET OFFICES SIT-IN

**‘An officer pointed at me and then walked towards me. I clearly saw his face as he shot me in the stomach.’**

Habi Anan Ali El Shahawy, describing what happened to him on 16 December 2011

Seventeen protesters were killed and 928 were wounded, according to the Ministry of Health, during five days of violence that began on Friday 16 December 2011 between military forces, including paratroopers and commandos units, and activists staging an open-ended sit-in outside the Cabinet Offices in central Cairo.<sup>27</sup> Unofficial sources reported a higher number of casualties. For example, one organization said that 1,919 people received treatment in Tahrir Square's makeshift hospitals.<sup>28</sup> Hundreds of protesters were arrested, many of whom were tortured or otherwise ill-treated, often in groups, and several women activists were subjected to sexual and gender-based violence by troops.

The sit-in by the gates of the Cabinet Offices and the People's Assembly (lower house of parliament) had begun three weeks earlier when SCAF appointed Kamal El Ganzouri as Prime Minister after mass protests in November 2011. The protesters at the sit-in, said to number around a thousand people living in tents, barred entry to the Cabinet Offices. They were calling on SCAF to transfer power immediately to a civilian authority instead of waiting until the presidential elections scheduled for mid-2012.

The clashes erupted after an activist at the sit-in, **Abboudi Ibrahim**, was taken by military forces into the parliament building in the early hours of 16 December and then released over an hour later with bruises on his face. According to some protesters, while Abboudi Ibrahim was being held, a small group of participants at the sit-in captured a man they believed was an army officer in plain clothes spying on them. They tortured him by beating him and cut him to make him reveal his identity. The protesters reportedly freed him in exchange for Abboudi Ibrahim's release.

Soon after, soldiers on the rooftops of the Cabinet Offices and parliament annex buildings threw stones, glass, marble chips, furniture and other heavy objects down onto protesters, who threw stones back at them. The situation escalated as the night progressed. Troops fired water cannon at the activists, beat them with batons and tried to end the sit-in by tearing down the protesters' tents and burning them. They carried out several baton charges in Qasr El Einy Street and Tahrir Square, some apparently targeting women activists with beatings,



verbal abuse or dragging them by the hair.

In a pattern seen frequently after President Mubarak was ousted, protesters regrouped in growing numbers as word of the use of force by the security forces spread, and soon around 10,000 people had gathered. Undaunted by the many television crews and others recording events, troops continued to use excessive force, including firearms, to disperse protesters who were either chanting or throwing stones at the army that morning.

**Habi Anan Ali El Shahawy**, a 30-year-old engineer and father of two, told Amnesty International that he went to Qasr El Einy Street at around 8am on 16 December to join the protesters. At about 10.30am, he said, paratroopers and soldiers with shields, masks and body armour stormed out of the parliament's gates and chased the protesters in both directions down Qasr El Einy Street. They then barred the street, leaving protesters on the side of Tahrir Square. Protesters and soldiers supported by "thugs" then threw stones at each other. Habi El Shahawy said that he saw two officers with guns standing with the troops and then suddenly, without warning, three protesters were shot in the legs. At about 11.30am, he said, while he was talking on his phone, an officer pointed at him then walked towards him. He could clearly see the officer's face as he shot him in the stomach. Protesters carried him to hospital along with other injured people. Habi El Shahawy's lawyer filed a police report, but Habi El Shahawy has yet to be questioned even though he recognized the officer who shot him from photos published in newspapers.<sup>29</sup>

**Abdel Moty El Sayed Abdel Moty Kassem**, a 26-year-old producer at TV 25, described the same sequence of events, only he was shot in the leg before being carried to a field hospital.<sup>30</sup>

Dr Ziad Fawzi Abdel Aziz, a volunteer medical doctor who was involved in negotiating truces between protesters and the head of the paratroopers, also described to Amnesty International how troops had suddenly charged into Qasr El Einy Street at 10.30am, dispersing and beating protesters and volunteer doctors with their sticks. It was at this point that several well-known activists, both male and female, were beaten and dragged into parliament buildings and ill-treated in military custody, including Dr Ghada Kamal, Mona Seif and Sanaa Seif, Nour Ayman Nour and Dr Farida El Hossy (see Chapter 5 and 6). After they were released, protesters were angered at their condition, and clashes with the army continued. In the afternoon, after troops had pulled back from the scene, plain-clothed and uniformed military forces on the roof of the parliament offices, Cabinet Offices and official buildings in Qasr El Einy Street, including the Egyptian Scientific Institute, hurled stones and concrete slabs down on the protesters.<sup>31</sup> Some in the crowd threw petrol bombs, setting alight part of the Cabinet Offices building. Soon, the area looked like a war zone. By the end of that first day, at least three protesters had been shot dead and several hundred injured, further escalating the clashes.

Among those killed was **Ahmed Mohamed Mansour Alkotb**, a 21-year-old media student and member of the 6 April Youth Movement, who was shot in the head.<sup>32</sup> His cousin said they met at around 4pm just off Tahrir Square at El Sheikh Rihan Street, when military forces as well as men in plain clothes were throwing objects and Molotov cocktails from the parliament's annex buildings onto protesters. Protesters were only throwing stones back but could not reach them. The cousin said that as the two of them reached Magless El Shaab

Street at around 4.30pm the army shot live ammunition at them. He saw a man being hit and carried away by others, so he ran to safety. He later learned that the man was his cousin, Ahmed Mohamed Mansour Alkotb. The family said the bullet wound suggested that he had been shot from above.<sup>33</sup>

**Emad Eldin Ahmed Effat Afifi** (known as Sheikh Emad Effat), a 53-year-old member of Dar Al-Iftaa Al-Masriyah (a religious edicts official body), also died that day – he was shot in the arm and chest during the evening. His forensic report suggests he was shot twice. The forensic report, dated 20 December 2011 and shown to Amnesty International by the family, concluded that death was caused by two gunshot injuries – one on his left arm and the other in his chest. The report said that the bullets were shot in a straight line from “the natural standing position” and from a “distance beyond close range”. The report also identified bruises on the right arm due to “impact from a solid object” as well as injuries to his face and hands caused by “friction with solid object or objects with rough surface”.

Doctors who had volunteered to help injured protesters were among those injured from 16 December, and some were arrested along with the injured in the field hospital in Omar Makram Mosque. **Alaa Abdel Hady**, a volunteer doctor and medical student from Ain Shams University, died on the evening of 16 December after he was shot in the head.

Among protesters injured by live ammunition on 16 December was **Simon Zaher Salib**, a 28-year-old engineer, from the Mena Daniel Movement (see Chapter 2). He told Amnesty International that he arrived at the scene at about 6pm. Protesters were throwing stones and sometimes petrol bombs at the army. He said he heard gunshots and then a protester beside him was hit in the head. He carried him to a nearby field hospital. He then saw and recognized an officer from Commando Team 777 – an elite anti-terror force in the army – on the top of one of the low buildings in Qasr El Einy Street, who shot another protester, injuring him. As Simon Zaher Salib bent down to help him, he was himself shot in the thigh. **Ashraf Sayed Abdel Moty**, a 50-year-old photography and printing technician employed by the state, said that he was in the same area at that time and also saw a man shot in the head. He said he was then shot in the shin while standing there.<sup>34</sup>

In none of the cases documented by Amnesty International did those who were fired upon represent an imminent threat to life, or any threat of serious injury to anyone. The use of firearms in the circumstances was therefore unjustified and in violation of the right to life.

By the end of 17 December, the death toll had reached 10, according to the Health Ministry.<sup>35</sup> The seven further casualties were killed by live ammunition mostly when the army chased away protesters who remained in Tahrir Square.

From the evening of 18 December until the morning of 20 December, the army again tried several times to chase protesters from Tahrir Square – at times with the support of riot police (the Central Security Forces) using tear gas and shotguns – apparently with the aim of erecting concrete walls to bar access to Qasr El Einy Street and the intersecting El Sheikh Rihan Street. The protesters fought back, hurling stones from Abdel Moneim Riyad Square, Talaat Harb Square and Qasr El Nil Bridge, all off Tahrir Square. Some protesters said that later that night they managed to catch army soldiers trying to retreat from Tahrir Square; the soldiers' movement was hindered by the partially built concrete walls. In all, at least seven

further protesters were killed during these clashes and hundreds were injured, mainly by live ammunition.

**Rami Hamdi Atteya** (known as Rami El Sharqawi), a 26-year-old computer science graduate, was shot dead at dawn on 20 December. The bullet went through his arm and chest, according to the forensic report. The forensic report, dated 21 December 2011 and seen by Amnesty International, concluded that his death was caused by a single bullet that hit his upper right arm and exited through the left side of his chest, injuring his lungs and heart. The forensic report again concluded that the bullet had been shot in a straight line from "the natural standing position" and from a "distance beyond close range". Abdel Rahman Abdallah Mohamed (see Chapter 6) told Amnesty International that he saw Rami shortly before he was shot and again when people carried him away. He said that at around 3.30am both the army and riot police had chased protesters from Tahrir Square to Talaat Harb Square, where he saw Rami alive, and that he had then headed towards Tahrir Square where he was himself shot. Mohannad Samir Moselhy (see Chapter 6) was reported to have said that he saw Rami, whom he knew, in Tahrir Square before he was shot. He said the riot police chased the protesters into Tahrir Square, where the army then attacked them with live ammunition. He was himself hit and Rami was fatally shot as he ran towards him.

Also among those injured was **Hazem Hatem El Khozamy**, aged 18, who was shot in the chest at around 5.30am on 19 December while he was protesting. He was operated on at Cairo University Hospitals, which issued a medical report confirming the injury.<sup>36</sup> A fellow protester, **Ahmed Youssef Said Youssef**, a 23-year-old law student, was shot in the knee at almost the same time that dawn.<sup>37</sup>

Dr Ahmed Hussein Abdel Salem, who works at the medical syndicate and has been a veteran of the field hospitals in Tahrir Square since early 2011, told Amnesty International that he saw the bodies of people shot dead by the army forces during the Cabinet Offices protests, and that most injuries were in the head or chest. He added that most of the victims he had seen were young men and boys, including a nine-year-old boy injured by a rubber bullet and a 13-year-old boy shot in the neck. Other victims whose condition he described were **Khaled Nasser**, left paralysed and mentally disabled after he was shot in the neck; **Ahmed Mohamed Hamed**, who was shot in the leg; and **Alaa Abdel Hady**, who was killed on 16 December (see above).

Dr Hani Mostafa, a General Practitioner at Kasr Alainy Hospital who volunteered at the field hospital inside Omar Makram Mosque, said that most people he dealt with had been injured by being hit with sharp objects such as mirror shards or marbles, or by being beaten with sticks or kicked. He said he saw several people who had been shot by live ammunition, two of whom died. He told Amnesty International that he had seen four snipers on top of the government complex building in Tahrir Square, and that while the army was evacuating the square in the afternoon of 18 December, a man holding an Egyptian flag was shot in the head right in front of him. Both doctors were arrested and tortured by the army early on 19 December (see Chapter 6).

Again, in none of the cases documented by Amnesty International did those who were fired upon represent an imminent threat to anyone's life, or any threat of serious injury to anyone. The use of firearms in the circumstances was therefore unjustified and in violation of the

right to life.

Over 300 people – including many women – were arrested in connection with the Cabinet Offices events. Well-known activists were usually released within hours, although some were beaten or harassed. Some detainees were prosecuted after being tortured and otherwise ill-treatment in detention, including sexual and gender-based violence, and are now standing trial (see Chapter 6).

## SCAF STATEMENTS ON THE CABINET OFFICES EVENTS

SCAF issued four statements and organized a press conference in relation to the clashes at the Cabinet Offices and subsequent demonstrations in Tahrir Square staged in solidarity with the women victims of army attacks. SCAF attempted to explain or justify SCAF's use of force as actions needed to protect public property and buildings from what it described as plans to cause "the downfall of the state".

The first statement, dated 17 December 2011, featured a video by SCAF.<sup>38</sup> The video shows what appear to be protesters in daylight, at the intersection of Magless El Shaab Street and Qasr El Einy Street, breaking the windows and gates of an annex building to the parliament while others are throwing stones. One of the men lights a torch and throws it through the window of the annex building. The gathering includes a large number of children and youth, but no army or security forces at all.

At a press conference on 19 December, a member of SCAF defended their use of force, arguing that it was not excessive as the protesters were not peaceful and were throwing stones and Molotov cocktails, and setting fire to buildings.<sup>39</sup> The SCAF member accused the media of bias in reporting events and seeking to "cause strife against the state". He added that the paratroopers and commando forces had come under extreme pressure by being insulted regularly by the protesters, and that they had shown self-restraint. He said that soldiers and police were injured in the clashes because of the "excessive use of force" by the protesters. However, he provided no explanation about the killing of the protesters and their ill-treatment in military custody. He said "all transgressions are being investigated", including the incident in which the veiled girl was beaten on the ground with her torn clothes. Further videos were then shown, including night footage of what appears to be protesters throwing Molotov cocktails at a Ministry of Transport building in Qasr El Einy Street. One video showed a soldier with cuts on his thigh. Another showed protesters throwing Molotov cocktails and fireworks at the army from above the cement wall at Qasr El Einy Street. Another showed the Scientific Institute in daylight on fire while fire-fighters extinguish it. Other videos showed young girls and boys confessing that they were paid to escalate the violence by making Molotov cocktails and attacking the army. Some of the children had facial injuries or appeared extremely distressed. One of the children was later reported to have said that he was coerced into accusing a well-known activist, Mohamed Hashem, of inciting him and others to participate in the violence.

The second statement, dated 20 December,<sup>40</sup> was an apology to "the great women of Egypt" for the "transgressions" during the Cabinet Offices events, and promised that legal steps would be taken to hold to account those responsible (see Chapter 5). The statement also called for a period of calm "to uncover the hidden thuggery and paid elements, which chiefly aim to tarnish the image of the revolutionary youth and Egypt's great youth, besides causing destruction and sabotage".

The third statement, dated 21 December,<sup>41</sup> came after activists called for a major protest in Tahrir Square on Friday 23 December 2011 to express solidarity with the women protesters beaten and ill-treated by the military during the Cabinet Offices events. The statement affirmed SCAF's respect for the right to peaceful protest and

called for the organizers to search the protesters as the army and police would not be present. The statement warned against “available information that warrants caution in the next period” namely “the continuation of the plan aiming at the fall and collapse of the state through escalation of sit-ins and protests and targeting the state’s vital utilities” and “keep the status quo in Tahrir Square for the longest period and escalate events with the objective of implicating SCAF and making use of its intervention each time it happens”.

The fourth statement, dated 22 December,<sup>42</sup> appeared to be a disclaimer in response to bold statements by some commentators to justify the army’s use of force against protesters. One high-ranking military official had reportedly criticized the media for “defending criminals” who he said should be “burned in Hitler’s ovens”.<sup>43</sup> SCAF’s statement called on everybody to consider the consequences of their statements on public opinion and the international community.

## 4. VIOLENT DISPERSAL OF ABBASEYA SIT-IN

### ‘We had gone to sit not to fight.’

Mohamed El Saket

The violent dispersal of a peaceful protest in the Abbaseya district of Cairo in late April/early May 2012, just three weeks before the first round of the presidential elections, was interpreted as a clear signal to protesters that SCAF would not allow them to derail its plans for the elections and that the army remained above the law. At least nine men participating in the sit-in near the Defence Ministry in Abbaseya were killed by men in plain clothes, while hundreds of protesters – including several women – were severely beaten in military custody and referred to military prosecution and trials on charges relating to the protest. Protesters wearing beards, seen as a sign of conservatism (and allegiance to the Salafists),<sup>44</sup> were apparently targeted by the armed men in plain clothes in a manner reminiscent of the attacks on Copts during the Maspero protest. None of the assailants or military personnel is known to have been held to account for their actions.

After 14 April 2012, when the Supreme Presidential Elections Commission (SPEC) disqualified from the elections a Salafi candidate, Hazem Salah Abu Ismail, his supporters organized protests to denounce the SPEC's decision.<sup>45</sup> Following a large protest in Tahrir Square on Friday 27 April, some of his supporters marched towards the Ministry of Defence to begin a sit-in there, accusing the SPEC of bias and calling for the removal of Article 28 of the Constitutional Declaration that stipulates that SPEC decisions cannot be challenged in court. As the army blocked their way near Abbaseya Square, protesters set up tents in El Khaleefa El Maamoon Street close to Ain Shams University and some distance from the Ministry.<sup>46</sup> The next day, people from different political backgrounds joined the sit-in, including members of the 6 April Youth Movement.<sup>47</sup>

According to several accounts, in the early hours of 28 April, groups of men in plain clothes armed with shotguns, knives and other weapons attacked the peaceful protesters. The protesters defended themselves using rocks and whatever else was at hand. According to SCAF, the subsequent clashes led to the death of at least one protester and the injury of over a hundred.<sup>48</sup>

Protesters generally believe that the attackers were “thugs” hired to attack them and supported by some local residents. While the men attacked the sit-in at night several times, with no intervention from security forces to protect them, they supported the army's dispersal

of the protest in Abbaseya in daylight on 4 May. This suggests the men acted at the army forces' behest or at the least with their acquiescence.

In the following days the number of protesters in Abbaseya decreased but the sit-in continued. In the early hours of 2 May, the protesters were again attacked by plain-clothed armed assailants, leading to deadly clashes. SCAF said that eight protesters were killed that day. Other sources put the death toll higher – the Egyptian National Council for Human Rights, for instance, said that 11 protesters and local residents were killed, possibly including people who attacked the protest.<sup>49</sup> The army did nothing to stop the violence and the next day SCAF held a press conference during which it blamed the clashes on protesters and Abbaseya residents who were supposedly angry because protesters were blocking roads.<sup>50</sup> At least one of the plain-clothed assailants died during the clashes; Amnesty International was unable to determine the cause or circumstances of the death. Egyptian human rights organizations condemned the failure of the state in its duty to protect people given the total absence of the police or the army during the nights of violence that culminated on 2 May.<sup>51</sup>

Mohamed El Saket, a 31-year-old owner of a furniture store, described to Amnesty International what happened on that fateful day. He said that he arrived from his home town of Mahalla at Abbaseya Square at 1am on 2 May and joined friends at the sit-in. He said that shortly after, plain-clothed groups of men began throwing firecrackers and shooting rubber bullets at the protesters, apparently trying to lure them out of the sit-in into a darker street in front of Al-Noor Mosque off Abbaseya Square, where a large fire was burning:

*“We were about 200-300 people not more. All we had was rocks. We had gone to sit not to fight. It was 3.30am, that was when the fighting got bad.”*

At that point, protesters who tried to put out the fire and chase the assailants away were met with rocks, shotgun and live ammunition.

Among the protesters who died was 33-year-old **Ahmed Ibrahim Bedir El Rifai**. His brother Waleed told Amnesty International that he found out about his brother's death when he called his mobile on the morning of 2 May and the person who answered told him that the owner of the phone had died. Waleed said that he learned from people at the protest that Ahmed had been shot at around 3am while he was trying to help an injured protester. He was killed by a bullet that entered his forehead and exited under his ear, indicating that he was shot from above.

**Atef Fathi El Gohary**, described by his peers as a protest leader from the January 2011 uprising, was also killed that night. A close friend of his told Amnesty International that he and Atef were trying to get protesters to move away from the attackers at around 3.30am when Atef was shot in the chest. Photos of his body show that he had also apparently been shot in the mouth.

**Tarek Ali Abdel Nabi**, a 42-year-old father of two from Mahalla, was injured. He told Amnesty International:

*“I saw the ‘thugs’ trying to attack three protesters. I ran to help them and we threw stones and the ‘thugs’ started to retreat. Then I realized I had been hit. I was hit in the stomach*

*from a high angle. [The bullet] got a bit of my intestines and broke my pelvis. I was hit from above from the surrounding buildings."*

The assailants also attacked injured protesters who had been taken to Dar El Shifaa Hospital in the Abbaseya area, targeting men who had beards. Tarek Ali Abdel Nabi told Amnesty International that on his arrival at the hospital he was attacked by plain-clothed men who chased him wielding knives, and then stabbed him. After his operation, he shaved his beard because, he said, "thugs" were walking through the hospital and attacking anyone with a beard. Tarek Ali Abdel Nabi said that police at the Dar El Shifaa Hospital refused to let him submit a complaint about the attacks on him there. His friend Ahmed Hassan Shazli, who had accompanied him in the ambulance, told Amnesty International that he too was chased by the armed men. He managed to escape, and a doctor led him to a safe room. He said:

*"After an hour and a half the doctor came with an electric razor and told me that I needed to shave my beard, that 'thugs' were searching the hospital and anyone they saw with a beard they were shooting."*

On Friday 4 May, large numbers of protesters marched from Tahrir Square to join the Abbaseya sit-in and to protest against the killings of protesters there and against military rule. They arrived in the afternoon and the protest was initially peaceful. At around 3.30pm, rocks were reportedly thrown by soldiers and protesters, who were separated by barbed wire on El Khaleefa El Maamoon Street. The soldiers then used water cannon and tear gas against the protesters, before military police and special forces from the army charged into the area and forcibly dispersed the protesters, announcing a curfew from 11pm that night until 7am the following morning. Some 373 protesters were injured and one soldier died, according to the Ministry of Health.<sup>52</sup> Amnesty International is not aware of any information on the causes of the soldier's death, nor of any investigation into it. Some media reported that he might have been shot and killed by a fellow member of the army.<sup>53</sup>

Some protesters were arrested in Al-Noor Mosque. The army justified the move by saying that an armed man was seen at the top of the minaret of the mosque and that weapons were stored there. Among those detained was **Aya Kamal**, a doctor who has spoken out publicly about her treatment in military custody in the Abbaseya protest.<sup>54</sup> She said that protesters had been herded into the mosque by unknown people who told them to hide there for safety and then locked them in. She said the army surrounded the mosque before entering in two waves. During the first wave, they arrested some of the people there. During the second wave, they randomly opened fire inside the mosque, and one of the bullets injured a woman in the arm.

On 10 May, a delegation from the National Council for Human Rights visited Mazraa Prison, Istikbal Prison and Cairo Prison, all in Tora in Cairo, to see the condition of detainees held in relation to the Abbaseya protests. Their report noted visible signs of injuries on many detainees and characterized the arrests as arbitrary in nature, finding that among those held were local residents who had not taken part in the protest.<sup>55</sup>

Over 300 protesters were arrested and referred to military prosecution following the Abbaseya events, including several women. At the time of writing, the majority had been released but still faced military prosecution or military trial, and scores remained in detention. Most have



been charged with “attacking and injuring members of the army”, “joining a group with the intention of disrupting public order”, “assembly and association in a public street and disrupting traffic” and “presence in a restricted military area”. As noted above, international standards prohibit all such trials of civilians by military courts.<sup>56</sup>

**Mahmoud Mohamed Amin**, an activist from Aswan, told Amnesty International that he joined the protest on 4 May after he found out about the death of his friend Atef Fathi El Gohary. He said he was caught by armed attackers in plain clothes close to the Al-Noor Mosque when he went to try to get his car to leave the area. Mahmoud Mohamed Amin had been previously injured by shotgun pellets in Tahrir Square on 25 January 2011, leaving him blind in his right eye and requiring surgery for a damaged facial nerve. He said he was badly beaten on his back and head by his attackers, causing cuts to his head, side and leg. He tried to appeal for help from a paratrooper who pushed him back. When he told his attackers he had an injury on his face, he said the armed men, along with the paratrooper, intentionally beat him on his head with batons. He was eventually taken to the military area (S28) where he was charged by the military prosecution in relation to the protest the following day, then transferred to Tora Prison where he was denied medical attention. He was released on 19 June but faced military prosecution at the time of writing.

A group of activists who protested in front of the office of the military prosecutor on 5 May were also arrested and referred to military trial.<sup>57</sup> Seven were charged with “using force against a public official” and “disrupting public order”. They were released, but face military prosecution.

Eight protesters in Suez also face military trial after they participated in a protest at Suez Governorate building on 4 May in solidarity with protesters in Abbaseya. According to the No to Military Trials for Civilians campaign, on 9 July, seven were sentenced to six months in prison for “assaulting the armed forces” and “obstructing the road”. One was sentenced to three years for “assaulting the armed forces” and “possession of explosives”. On 17 August they were released after the commander of the Third Army in Suez decided not to ratify their sentences.

Following the crackdown on protesters in Abbaseya, SCAF promised there would be investigations. Previously, in a press conference on 3 May and a televised statement on 4 May, SCAF denied any wrongdoing by the armed forces and said that the armed forces had the right to protect themselves and military institutions. So far, it appears that no investigations into alleged human rights violations have been carried out. Abbaseya was the last anti-SCAF protests where civilians were referred to military courts.

## 5. SEXUAL AND GENDER-BASED VIOLENCE AGAINST WOMEN ACTIVISTS

**‘We were beaten with sticks, electric prods and with verbal sexual abuse and touched, but most of all there were threats of rape.’**

Hadeer Farouk Abdel Aziz, who was detained by the military during the Cabinet Offices events in December 2011

On 9 March 2011, soldiers took 18 women into military detention after clearing Tahrir Square of protesters, just one day after International Women’s Day celebrations. Seventeen of them were held for four days, some of whom told Amnesty International that male soldiers had beaten and strip-searched them and given them electric shocks. The women were then forced to undergo highly invasive “virginity tests” – a form of torture when done by officials without permission – and threatened that they would be charged with prostitution (see Chapter 7).

The publicity and campaigning that followed these abuses brought wider attention to the particular forms of torture and other ill-treatment that women were suffering. Indeed, violence against women protesters by the security forces was a common feature of demonstrations under the rule of SCAF. The violence, often sexual in nature, appeared to be aimed at terrorizing women into staying at home and away from protests, an aim that failed. However, only a small minority of women subjected to sexual and gender-based violence spoke out and described their treatment or treatment of other women detainees with them. Most cases of sexual and other abuses of women by military forces and police were not reported by the victims, often because they feared reprisals by the state or condemnation by their families, so the patterns of gender-based violence were largely under-reported. Sexual harassment of protesters and journalists by security forces and private individuals has also been reported. Impunity for such violations gives a signal that sexual harassment or sexual violence against women in general is tolerated.

The hidden nature of the abuses changed somewhat at the end of 2011, when the world was shocked by footage taken on 17 December during the crackdown on the Cabinet Offices protest. It showed a woman protester being beaten on the ground by soldiers, tearing her *abaya* and revealing her bra. The woman chose not to speak about the abuse she faced, but three other protesters who witnessed the incident told Amnesty International what happened.

The attack was also captured on camera and widely circulated on-line.<sup>58</sup> **Hassan Shahin**, a 20-year-old journalist, said he was standing with her at around 11am when they saw troops charging into Tahrir Square. She fainted at the sight and he tried to carry her away, but they fell to the ground. The troops beat him with batons all over his body and he saw the soldiers dragging the woman out of her clothes, injuring her forehead in the process. Other protesters hurled stones at the troops in an attempt to rescue her and for a few seconds the troops withdrew. At this point **Azza Hilal Ahmed Suliman**, aged 49, known as the red-hooded woman on the video, accompanied by **Ihab Zarea Achaya**, tried to pull the woman away from the scene, but the troops charged and an officer fired a gun in their direction, as the video shows. Ihab Zarea Achaya told Amnesty International:

*"Azza saw the young woman on the ground undressed, so we ran back to her... With others, we started carrying her away, at which point the army men saw us and ran back towards us."*

Ihab Zarea Achaya said he was shot just above his knee and collapsed. Several soldiers then beat him and Azza Hilal Ahmed Suliman while they were on the ground, causing serious injuries.<sup>59</sup>

Azza Hilal Ahmad Suleiman woke in hospital, where doctors treated her for a fractured skull. Her bed sheets needed to be changed repeatedly because they were soaked with blood. Azza Hilal Ahmad Suleiman told Amnesty International she remembered screaming with pain, and she lost consciousness several times. Doctors told her family to prepare for the worst, but her condition stabilized. The next day, doctors transferred Azza Hilal Ahmad Suleiman to another hospital which was better equipped to care for her. She was finally discharged in January 2012. When Azza Hilal Ahmad Suleiman went to give her statement, the police told her that the complaint had already been sent to the Public Prosecutor. She gave her testimony to the Public Prosecution in February 2012.

Both Azza Hilal Ahmad Suleiman and Ihab Zarea Achaya submitted complaints to the South Cairo public prosecution office, but to date no one has been held to account for the abuses they suffered and it is unknown if any of the army forces were investigated. Hassan Shahin attempted to submit a complaint on 25 December to the investigative judge and office of the public prosecutor against the commander of the army forces who attacked him, and against the head of SCAF. However, the investigative judge said that he did not deal with individual complaints and the office of the public prosecutor said that the matter had been referred to the investigative judge. One of Hassan Shahin's lawyers said the investigative judge asked Hassan if he had agreed to allow people to film him while he was being beaten and if he knew the beatings were going to happen to him.

Videos of special forces dragging other female protesters by their hair also prompted fury, as did Dr Ghada Kamal's testimony on Egyptian television about her sexual harassment in custody and threat of rape by a middle ranking commander of the paratroopers.

**Dr Ghada Kamal**, a 28-year-old pharmacist, told Amnesty International that soldiers had sexually harassed her and other women on 16 December. She believes that she was targeted because of an argument she had with army officers in Tahrir Square who she said were threatening women protesters with sexual assault, making lewd gestures and unzipping their trousers. She said that she was sexually harassed while being dragged into the parliament

building, and beaten on her head and body with something like a black whip. She said that whenever she fell they would hit her and stamp on her chest and face with their boots. Inside the parliament building, soldiers were targeting women's breasts and genitals during beatings. She said that the sexual violence was "meant to terrorize them" as a middle ranking commander of the paratroopers also kept threatening her with rape. She added:

*"They were sexually harassing me with their hands and they deliberately hit women in their private parts. I was beaten on my breasts and in my private parts both in the front and the back... the officer kept insinuating that I would be sexually targeted that evening – 'you are mine; we will have a party over you tonight' ... Women would rather die than be undressed, raped or sexually harassed. They were very clever. They knew what mattered to the women. It was the limit."*

Dr Ghada Kamal sustained injuries to her face, head and back, and suffered a dislocated shoulder. She was freed a few hours after her assault and presented her testimony to the investigative judge.

On 17 December, other women activists were arrested and taken into military custody, where they too were threatened with rape. While some were released the same day, others remained in detention for longer and their injuries required hospital treatment.

**Hadeer Mekawy**, a 20-year-old journalism student who was active in the 6 April Youth Movement (Democratic Front) in Mansoura, told Amnesty International that at about 1.30pm on 17 December, as she was getting out of a taxi near Saad Zaghloul station in downtown Cairo, she was approached by several military officers and soldiers. She was wearing her Palestinian scarf as a veil. One of the officers held her by the elbow and took her to the Information and Decision Support Centre at the Cabinet Offices premises. An officer accused her of ruining the country and sleeping alongside men in Tahrir Square. Two soldiers held out electric tasers and threatened to give her shocks. She was told that she would be released if she admitted to being a prostitute. She was then threatened with transfer to the Military Prison "where they do virginity tests". She was released at about 10.30pm.

At least 11 other women protesters were arrested on 17 December – Abeer Saad Mohamed, Samar Mohamed Saad, Sara Ali Mohamed El Sayed, Marwa Said Seif Eldin, Yousra Salah Amin, Rasha Khalid Gad, Neama Ali Said, Hend Nafe Badawy, Hadeer Farouk Abdel Aziz, Shaymaa Saad Ahmed and Sarah Gamal El Sayed. All were held in military custody in the parliament or Cabinet Offices premises and all face trial on charges relating to the Cabinet Offices events.<sup>60</sup> Amnesty International was only able to interview one of them – **Hadeer Farouk Abdel Aziz**, a member of the People's Socialist Coalition Party and a mother of three children, who does voluntary legal work. She said that at the sit-in in Tahrir Square, the army raided her tent at around 7am and viciously beat and insulted those inside. Her wrist was broken and permanently damaged when she was beaten with an iron rod in military custody. She then described what happened after she was detained in the parliament building along with other women protesters:

*"We walked down a very long corridor and all the while they were sexually harassing us, using extremely foul language to insult us and all the time the beatings continued with the wooden sticks and metal bars. The Military Intelligence and investigators tried their best to see to it*

*that my clothes got torn off – for me it became a choice between being beaten or getting undressed – I chose to hold on to my clothes.”*

Hadeer Farouk Abdel Aziz said that the corridor was filled with other protesters and that while she was being beaten she lost consciousness. She was later taken to a room with two women and they were repeatedly beaten by army officers. She said that one of them seemed to take pleasure in beating them with sticks and electric prods, and that one of the women was touched on her genitals with an electric prod. Hadeer Farouk Abdel Aziz continued:

*“We were told that we were killers, had been paid off, were drug addicts and saboteurs. We would be asked what we were, and if we gave any other description than the above, we would be beaten... We were there for 12 hours – all the time we were beaten with sticks and electric rods, and subjected to verbal sexual abuse and touched, but most of all there were threats of rape. The girls were forced to say they were prostitutes; those refusing were beaten.”*

Hadeer Farouk Abdel Aziz said she was later transferred to Kobri El Koba Military Hospital along with two other female detainees. Hadeer Farouk Abdel Aziz said she went on hunger strike to protest against the lack of medical treatment for her broken wrist. Several human rights lawyers, through the Arabic Network for Human Rights Information, finally tracked down the three women in the hospital and asked the South Cairo Public Prosecution to visit them there to take their testimonies and report their injuries. Shortly after, Hadeer Farouk Abdel Aziz was presented to the South Cairo Public Prosecution office and released; the two other women detainees were transferred to Sayed Galal Hospital.

Basma Zahran, a lawyer from the Nadim Centre for the Management and Rehabilitation of Victims of Violence, said she spoke to six other women who had been at the South Cairo Public Prosecution office. She said they included a street-seller and a 15-year-old girl. Their injuries were obvious, she said, as they had cuts on different parts of their bodies, bruises around their eyes, and broken limbs. One had a broken hand. Basma Zahran said that during their interrogation the women were extremely distressed and frightened. They all said they had experienced sexual and gender-based violence, and reported being touched by the soldiers on their “sensitive parts”, verbally abused and threatened with rape. She visited the two women who had been taken at Sayed Galal Hospital – they were handcuffed to their beds in a separate room that was locked with security officers outside. They received no medical assistance until the lawyers complained.

The torture and ill-treatment of women detainees was described to Amnesty International by other people mentioned in this report. Dr Hani Moustafa, for instance, said that two fellow women volunteer doctors experienced sexual and gender-based violence and had their breasts groped while detained by the military in the Cabinet Offices, and that an officer told them that the women would be their “night-time treat”, implying that they would be raped.

Male protesters involved in the Cabinet Offices events also spoke of sexual violence during their detention by the army including by applying electric shocks to their genitals (see Chapter 6).

On 23 December, feminists and women’s rights activists as well as revolutionary groups and

political parties called for a million-person march to Tahrir Square under the slogan of “restoring the honour of free women”. Its aim was to show solidarity with the women victims of violence during the Cabinet Offices protests. A vast demonstration ensued, with many chanting against military rule. The Muslim Brotherhood and other conservative forces refused to join the march; some even publicly blamed the assaulted women protesters for what had happened to them, saying that they should not have participated in the Cabinet Offices protest or attacking the way they had dressed.

SCAF apologized for the violence against women and promised to investigate the many allegations.<sup>61</sup> However, survivors of the violence told Amnesty International that little has been done to bring their assailants to justice (see Chapter 7).

Sexual and gender-based abuse of women activists by soldiers was reported in subsequent protests. For example, Dr Aya Kamal said that after protesters were detained in Al-Noor Mosque on 4 May during the Abbaseya events, they were beaten, sworn at and experienced sexual and gender-based violence after soldiers touched their sensitive parts as they were forced to walk down the steps of the mosque and then driven away. She said that soldiers continuously threatened the women with sexual assault and that anyone who tried to defend other women was beaten. The women were then taken to Qanater Prison before being released a few days later. The female detainees were not prepared to testify about their treatment inside the prison.

In June 2012, a march organized by activists in Tahrir Square against sexual harassment was itself attacked as men in plain clothes subjected women to sexual and gender-based violence by touching intimate parts of their body.<sup>62</sup>

Discrimination on the basis of sex is prohibited by the ICCPR and the African Charter on Human and Peoples' Rights, which affirm “the equal right of men and women to the enjoyment of all civil and political rights”.<sup>63</sup> Egypt is also a party to the Convention on the Elimination of All Forms of Discrimination against Women, which provides among other things that states must “refrain from engaging in any act or practice of discrimination against women and to ensure that public authorities and institutions shall act in conformity with this obligation”.<sup>64</sup> Under the UN Convention against Torture and the ICCPR, sexual harassment or other gender-based violence or abuse perpetrated by or with the acquiescence of state authorities can constitute cruel, inhuman or degrading treatment or punishment, particularly when carried out against a person who is deprived of their liberty; indeed, if it involves the intentional infliction of “severe pain or suffering, whether physical or mental” it constitutes torture.<sup>65</sup>

Ironically, after it took office, SCAF amended the Penal Code to provide for more severe punishments for sexual harassment and assaults.<sup>66</sup> For sexual assault (*hatk 'ard*) by force or through threats or premeditation to commit either, it replaced the punishment of “imprisonment” with “heavy imprisonment”.<sup>67</sup> It also changed the punishment for making “indecent suggestions” (*khadsh hayaa*) to a woman verbally or by insinuation or actions in public from up to one month in prison to between six months and two years in prison and/or a fine.<sup>68</sup> The amendments changed the punishment for “non-consensual intercourse with a female” (rape) from life imprisonment to life imprisonment or the death penalty.<sup>69</sup>

Amnesty International does not necessarily consider these specific amendments to constitute an adequate criminal law framework for addressing sexual and gender-based violence against women or to be entirely consistent with respect for human rights. For instance, it opposes the death penalty in all circumstances. To the extent that the amendments were meant to send a signal that SCAF was taking seriously sexual abuses against women, this has so far proved to be a false dawn in practice.

## 6. TORTURE AND OTHER ILL-TREATMENT IN DETENTION

### 'From Friday until Monday the People's Assembly and Cabinet Offices were torture centres worse than State Security torture centres.'

Human rights lawyer Rami Ghanem, speaking to Amnesty International about the Cabinet Offices events in December 2011

Activists and protesters detained by military forces during the 16 months of SCAF's rule continued to face almost routine torture and ill-treatment, including sexual violence and other gender-based violence. This was most clear in relation to the Cabinet Offices events, when several unofficial places of detention, including the parliament building and Cabinet offices premises, were used to torture or ill-treat detainees.

Among the first to be detained was a group of protesters and activists, who were held for a few hours in military custody on the morning of 16 December and beaten. Dr Ghada Kamal (see Chapter 5), a member of the 6 April Youth Movement, was among them. She told Amnesty International:

*"While we were inside [the parliament premises] people were being beaten while they sat on their knees on the ground – it was like a torture detention centre... There was one man who was dying in front of me on the floor – but because the scene was so horrible you don't know what to do, it's a very difficult situation – severe beatings – you feel helpless and anything you say just leads to more beatings."*

She added that she was also sexually harassed and threatened with rape (see Chapter 5).

Over the next couple of days other protesters, male and female, were detained by the military and allegedly tortured and ill-treated to extract "confessions" and to humiliate them. Detainees transferred to Tora Prison said they were ill-treated there.

Dr Ziad Fawzi Abdel Aziz (see Chapter 3), who was in the premises of the People's Assembly at around noon on 16 December to negotiate the release of a group of activists, told Amnesty International that a corridor there was stained with blood, and at the end of it activists and protesters were detained. He said that some had visible facial injuries caused by beatings, including around 10 women and 20 men. Outside the building he saw rows of around 40



male detainees on their knees with their hands tied behind their back and bloodied faces.

## PROHIBITION OF TORTURE AND OTHER ILL-TREATMENT

The right to be free from torture and other cruel, inhuman, or degrading treatment or punishment, as provided for in Article 7 of the ICCPR and Article 5 of the African Charter, is absolute. Article 10 of the ICCPR further provides that anyone deprived of his or her liberty is to be “treated with humanity and with respect for the inherent dignity of the human person”, and article 5 of the African Charter also recognises “the right to the respect of the dignity inherent in a human being”. The Convention on the Rights of the Child reaffirms these rights and provides for further protections for children (meaning for the purposes of the Convention anyone under the age of eighteen) who have been deprived of liberty.<sup>70</sup>

Egypt is a party to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT). The Convention defines torture as “any act by which severe pain or suffering, whether physical or mental, is intentionally inflicted on a person for such purposes as obtaining from him or a third person information or a confession, punishing him for an act he or a third person has committed or is suspected of having committed, or intimidating or coercing him or a third person, or for any reason based on discrimination of any kind, when such pain or suffering is inflicted by or at the instigation of or with the consent or acquiescence of a public official or other person acting in an official capacity.”<sup>71</sup> The Convention requires that all persons responsible for acts of torture, attempted torture, or complicity or participation in torture, be brought to criminal justice;<sup>72</sup> the ICCPR requires the same in relation to similar cruel, inhuman or degrading treatment.<sup>73</sup> Both treaties also require that a prompt and impartial investigation be conducted whenever there is an allegation or other reason to believe that an act of torture or other cruel, inhuman or degrading treatment or punishment has taken place.<sup>74</sup> “No exceptional circumstances whatsoever, whether a state of war or a threat of war, internal political instability or any other public emergency, may be invoked as a justification of torture” and, “An order from a superior officer or a public authority may not be invoked as a justification of torture”.<sup>75</sup>

The CAT also requires states to take a range of measures for the better prevention of torture and other ill-treatment.<sup>76</sup>

The requirement that any information obtained by torture be excluded as evidence from any kind of proceeding is expressly recognised by Article 15 of the CAT, and the Human Rights Committee interprets the ICCPR as requiring in all circumstances the exclusion of information obtained by torture or other cruel, inhuman or degrading treatment.<sup>77</sup>

The CAT also requires that each state party “ensure in its legal system that the victim of an act of torture obtains redress and has an enforceable right to fair and adequate compensation, including the means for as full rehabilitation as possible”. In the event of the death of the victim as a result of an act of torture, the Convention provides that his or her dependants shall be entitled to compensation. These obligations have been held to apply as well in relation to other forms of cruel, inhuman or degrading treatment or punishment.<sup>78</sup>

Torture is defined under Articles 126 of Egypt's Penal Code and falls far short of the internationally recognized definition of torture as set out in the CAT. It punishes with imprisonment public servants “who ordered or committed torture to force an accused to make a confession” or, if the victim dies, with “the same sentence stated for intentional killing” (with the maximum punishment of the death penalty). Torture, including death threats, can be punished by imprisonment under other provisions, including Article 282 of the Penal Code. However, this only applies when the person tortured has been arrested unlawfully, as specified in Article 280 of the Penal Code, by someone purporting to be a police officer or wearing police uniform.

Egyptian law does contain some safeguards to protect detainees from torture and other ill-treatment. Article 36 of the Code of Criminal Procedure (CCP) stipulates that a detainee must be brought before a Public Prosecutor for questioning within 24 hours of arrest, after which the detention period can be extended or the detainee should be released within 24 hours. Article 40 of the CCP prohibits the “physical and moral harm” of detainees. In practice, however, these safeguards have proved inadequate to protect detainees from torture and other ill-treatment.

Under the state of emergency, in force at the time of the Cabinet Offices sit-in, security forces continued to benefit from sweeping powers to, in effect, arbitrarily arrest individuals and detain them without charge or trial and with limited judicial oversight.

Most of that group of detainees were quickly released, but dozens of others were arrested later that day and in the following days.

**Ihab Mahmoud Hamza Ahmed El Ghatas** (known as Ihab El Suesy), a 28-year-old technician who participated in the sit-in, told Amnesty International that on 17 December at around 7.45am, soldiers arrested him as he tried to protect a woman who was being beaten by a soldier near the metro station in Tahrir Square. He was taken into the gates of the Shura Council premises just outside the building, where he was forced to strip to his underwear and then lie face-down with other male detainees, all of whom had their hands and legs tied and were blindfolded. He said soldiers kicked and beat them with sticks, and paratroopers trampled on their backs. The troops also forced them to eat grass.

After about an hour and a half of beatings, an officer took them into a building where they were made to wait in a long corridor while other detainees were tortured in nearby rooms. Some 50 to 100 other protesters were later brought to the corridor. They remained in the building the whole day and every now and then officers would beat them and take them into a room where they were ill-treated and interrogated to make them “confess” on video that they were paid by well-known political activists to go to Tahrir Square. He said that 10 detainees who apparently made such “confessions” were not subject to further beatings. The next day, he said, the detainees were taken to the South Cairo Public Prosecution office in Zenhoun. Many of them were injured and one died; the victim was later identified as 26-year-old **Mohamed Mohy Hussein**.

Ihab El Ghatas was then taken with others to Tora Prison, where he says he and other men were tortured and interrogated again. He said prison staff blindfolded and beat them, and burned their chests and backs with a hot metallic device. They also threw water on them. He was put in a dark room with what he believes was a camera hidden behind a curtain. An officer showed him photos of political activists and asked if he was paid by anyone to protest. After interrogation, he was made to stand facing a wall and an officer hit him so hard that his head banged against the wall. He said he was also forced to sit on a plastic bottle for between three and four hours. He finally met human rights lawyers about a week later when his preventive detention order was being renewed at the court. On 12 January 2012 the Public Prosecution ordered his release, which only happened two days later. He faces trial on charges of deliberately setting fire to public buildings, including the Egyptian Scientific Institute, the People's Assembly and Cabinet Offices, and two cars, and throwing Molotov cocktails and rocks with the aim of causing disorder. Additionally, he faces charges of participating in a gathering of more than five people with the aim of committing crimes and using force against law enforcement officials on duty, disrupting traffic, and unauthorized

possession of objects used to attack people.

Ihab El Ghatas' testimony about the treatment of detainees during the Cabinet Offices protest is corroborated by many other accounts, including by detainees and by doctors and lawyers who saw the detainees before their release or at the South Cairo Public Prosecution office. Some said that detainees were further humiliated by being forced to lick the dust or the ground and to eat their own vomit while in military custody.

**Islam Moustafa Abu Bakr**, a 19-year-old student who joined the Cabinet Offices protest, told Amnesty International that he was arrested by the military forces at 8am on 17 December on Kasr El Nil Bridge along with others. He said he was taken inside what believes was the Cabinet Offices building and held there the whole day. He was tortured alone and as part of a group. He said the soldiers stripped him to his underwear and took his possessions. Then they severely beat him and others with a metal stick, including on his hands, and removed a fingernail. He said he also saw and heard women detainees being sexually abused. He said that the soldiers hit him on his head and gave him shocks with an electric baton, including on his genitals, to make him "confess" that he was paid to protest. Although the beatings resulted in broken bones in his leg and hands, he received no medical treatment despite his requests. He said that soldiers carelessly and without painkillers stitched the cuts of detainees who were bleeding.

That evening he was transferred with others to two detention places run by the military. In a military prison<sup>79</sup> soldiers took photos of them naked, and in the other prison<sup>80</sup> detainees spent several hours crammed into a small room. The next day the men were transferred to Tora Prison. There, he said, the security forces made detainees stand in line looking at the wall and then hit them on their backs and heads. He was given prison clothes and, with 14 others, put in a cell where the floor was covered with water. He said they were beaten every day and had insufficient drinking water. The South Cairo Public Prosecution ordered his preventive detention on the basis that he was suspected of damaging public property and killing or assaulting soldiers.

The day before the Public Prosecution ordered his release on 12 January 2012, prison guards gave detainees food and water, saying it had been brought in for them by a human rights organization. All were overcome with food poisoning and when they moaned in pain, the guards hit them with sticks to silence them. Islam Moustafa Abu Bakr was eventually released on 16 January and faces trial on charges relating to the Cabinet Offices events namely, deliberately setting light to public buildings, including the Scientific Institute, the People's Assembly and Cabinet Offices and two cars, and throwing Molotov cocktails and rocks with the aim of causing disorder. He is also charged with participating in a gathering of more than five people with the aim of committing crimes, use of force against law enforcement officials on duty, disrupting traffic, and unauthorized possession of objects used to attack people.

Human rights lawyers present during the investigations told Amnesty International how shocked they had been by the appalling condition of the 165 detainees under investigation, including six women, many of whom were bruised and cut while some had broken bones. Lawyers, including some from the Front to Defend Egypt Protesters, said that dozens of detainees were crammed in small rooms; all were bruised and had burns from electric

shocks. Lawyers said the Public Prosecution took note of the injuries but would not allow the detainees to sit down during investigation.

Dr Mona Mena, a veteran volunteer doctor from Kasr Alainy Hospital and a board member of the Doctors Syndicate, and four other medical doctors were called in by the lawyers to write a medical report on the state of the detainees, which they did. Dr Mona Mena told Amnesty International that the detainees appeared to have been beaten and had abrasions and bruises. The finger of one detainee was nearly severed and was bleeding heavily. Another detainee had low blood pressure and was in a state of shock, and his condition was deteriorating quickly. At least two detainees had broken bones in their leg or arm, and two had suspected broken ribs and breathing problems. The doctors advised that 29 detainees be transferred to hospital and they were. About 12 of those requiring hospital treatment were aged between 15 and 17.

Many other survivors and witnesses described to Amnesty International cases of torture. For example, **Abdel Raouf Khattab**, a 57-year-old engineer and member of Tagammu party, and **Osama Ibrahim Badra**, a 44-year-old political activist, were tortured after they were detained at an army checkpoint at Falaky Street at 12.45am on 16 December on their way to the Cabinet Offices sit-in, and during their detention over four days in Abdin police station and then Sayeda Zeinab police station. They also face trial in relation to the Cabinet Offices events. Both face trial on charges of setting on fire a car belonging to the Ministry of Health as well as gathering with the aim of assaulting officials on duty, disrupting traffic, unauthorized possession of objects used to attack people, throwing rocks and Molotov cocktails, and throwing balls of fire on buildings at the Cabinet Offices, People's Assembly and the Shura Council.

Osama Alaa, a lawyer, described how his mentally disabled brother **Tarek Alaa** had been ill-treated after arrest on 18 December, leaving him with injuries on his head, a broken shoulder and bruising on his legs, back and face.

Volunteer doctors appeared to have been specifically targeted during the Cabinet Offices events for arrest and torture in military custody. Two doctors spoke to Amnesty International of attacks on their field hospital and their detention and torture on 19 December. **Dr Ahmed Hussein Abdel Salam** was phoned at 4am by someone at the field hospital in Omar Makram Mosque, telling him that the army had surrounded the hospital as they chased protesters in Tahrir Square. He set off for the hospital to help, but was stopped by the army. After he said he was a doctor, he was beaten on the spot and arrested. He was taken to the Cabinet Offices building and held with others for up to 12 hours, during which he said he was beaten, given shocks with electric batons, kicked and burned with cigarettes. At one point he passed out and when he regained consciousness he was alone with two soldiers and an officer. The soldiers continued kicking him and swearing at him. The officer insulted him for treating people they described as "paid thugs" in reference to the protesters. Before releasing him, the officer threatened him with death if he spoke about what had happened to him. His medical report, dated 20 December 2011, stated that he had several circular burns on his back, his left shoulder and chest, bruising on his left elbow, left knee and stomach, and scratches down his back. Two days after he was released, he filed a complaint with the Public Prosecution against the head of SCAF, the head of the military police and the Minister of Interior.

**Dr Hani Moustafa**, a General Practitioner at Kasr Alainy Hospital and member of the 6 April Youth Movement (Democratic Front), was arrested at around 7am from the field hospital in Omar Makram Mosque after men in plain clothes and military police had attacked and then arrested all those at the field hospital – nine volunteer medics, seven men and two women, and 34 injured people. The military police took some of them to the Cabinet Offices where they stayed for up to seven hours, while others were taken to the People's Assembly. In the Cabinet Offices, Dr Hani Moustafa said the soldiers tore up his and the other doctors' syndicate cards. They then forced them to eat the torn cards. He said that a pharmacist was kicked in the stomach, which made him vomit. The assailant then forced the man to eat the vomit. Dr Hani Moustafa said an officer hit him in the chest using the butt of his gun; he still suffers back and chest pains as a result.

All nine medical workers were released together after news of their arrest spread and fellow doctors used their connections to get them out. Dr Hani Moustafa said that an officer said that if he saw them again in Tahrir Square or in the field hospital he would just shoot them immediately, not arrest them.<sup>81</sup>

Several protesters and volunteer medics were abducted by men in plain clothes before the dispersal of the Cabinet Offices sit-in or after it. They said they were driven to an unknown location, all apparently in north-east Cairo, and tortured to extract information about their involvement in protests. The abductions took place as the sit-in in front of the Cabinet Offices grew after the November clashes with riot police in Mohamed Mahmoud Street had died down and protesters moved away from Tahrir Square.

**Dr Ahmed Hussein Abdel Salam**, who volunteered at a field hospital near Tahrir Square, was abducted on 30 November at about 5.30pm. In his complaint to the Public Prosecutor, he said he was immobilized, blindfolded and put in a car that drove for about 40 minutes. He was taken to a room and for almost 24 hours was beaten, burned and verbally abused. Before his release, his captors threatened to hurt his relatives and friends, and hurt him even more, if he continued his activities. He said he was forced to sign a number of documents without reading them just before his release.

**Abdel Rahman Abdallah Mohamed**, a 19-year-old engineering student at Cairo University and activist, said that he was abducted from the street near his home in Old Cairo on 13 December at about 10pm. He told Amnesty International that three men in plain clothes beat him in the street and after they forced him into a car. They took him to an apartment where four men beat him on his legs, body and head, and gave him electric shocks. They released him at about 1.30am the next morning.<sup>82</sup>

**Ihab Mahmoud Hamza Ahmed El Ghatas** said he was abducted three days after his release on 17 January 2012 at around 10am near Ramses Square in Cairo. Men in plain clothes drove him in a Peugeot private car for about an hour until it reached a place where there were police cars. He spent a day in the custody of the men, during which he said he was tortured with electric shocks and sexually abused while being questioned about political activists and protest organizers.

On 19 January, **Mohannad Samir Moselhy**, a 19-year-old high school student who was shot in the leg during the Cabinet Offices protest, was arrested when he went to the Cairo Security

Directorate to look at photos to see if he could identify the officer who shot him. According to reports, he said that he was slapped by an officer after being shown a photo of himself holding bottles of soda (Molotov cocktails are most frequently made from soda bottles). He was then stripped to his underwear, handcuffed from behind, doused with water and given electric shocks. He was then forced to sign a statement he had not read. He remains in detention awaiting trial on charges relating to the Cabinet Offices events namely, deliberately setting on fire through use of Molotov cocktails and balls of fire a number of public buildings, including the Egyptian Scientific Institute, the People's Assembly and Cabinet Offices. Other charges he faces include damaging properties, setting fire to two cars and throwing Molotov cocktails and rocks with the aim of causing disorder.

The Front to Defend Egypt Protesters, a network of human rights lawyers and organizations, filed complaints with the Public Prosecutor about torture and unlawful detention of detainees by the military during the Cabinet Offices events, as well as the medical negligence of injured detainees at public hospitals who were handcuffed to beds. The complaints were referred to the investigative judge on 22 December 2011.

Torture and other ill-treatment of protesters were reported in subsequent months. Following the clashes at Abbaseya on 4 May, at least 300 people were randomly arrested by military police on the streets and from Al-Noor Mosque and Ain Shams Hospital. Some of those arrested told Amnesty International that they were severely beaten and ill-treated during their time in detention and prison.

**Abdel Haleem Hnesh**, a 24-year-old law student and activist, told Amnesty International he joined the Abbaseya protest on 4 May. At 3.30pm, just as he was leaving, he saw a friend who had been injured. He took him to Ain Shams Hospital. About 30 minutes later he saw tear gas and then soldiers and armoured cars pass by. The soldiers then returned, dragging protesters behind them. He tried to escape, but was stopped by the hospital security who handed him and another friend over to the military. The soldiers took the two men back into the hospital and put them in a room with other detainees. Abdel Haleem Hnesh told Amnesty International what happened next:

*"We were beaten badly and continuously with sticks and with electric batons at the same time. They beat us with sticks about 2m long and they hit everywhere at the same time so you couldn't protect yourself. I tried to take all the beating on one side and tried not to fall because those who fell were kicked and hit with gun butts."*

Abdel Haleem Hnesh was transported with around 40 others, 16 women and 24 men, to the military area known as S28, in north east Cairo. He described some of the arrests as arbitrary:

*"There were some who were detained who had nothing to do with the protest at all, some had been praying in the mosque, another man was in the hospital with his wife who was giving birth, there was a mentally disabled man and two Pakistanis."*

Some of the protesters were brought before the Military Prosecution the same day but because of the large number of protesters, Abdel Haleem Hnesh was taken the following day. The Military Prosecution extended their detention for 15 days for investigation and the men

were transported to Tora Prison. There, they were beaten upon arrival with hoses and sticks. Abdel Haleem Hnesh was released five days later along with six other students. He still faced military prosecution at the time of writing.

No one is known to have been held to account for the torture or other ill-treatment of people detained in connection with protests (see Chapter 7).

## 7. AN ARMY ABOVE THE LAW

As this report has shown, military forces committed grave human rights violations during the 16 months of SCAF's rule, and they did so with impunity. Both the ordinary and military judiciary failed to provide an effective remedy to the victims, so their suffering continues and the military forces remain confident that they are above the law.

SCAF attempted to remain above the law and preserve its unrestrained powers through different means, but its efforts to do so have been opposed by human rights organizations and have to some extent been challenged by President Morsi in the course of a power struggle between him and the military.

With respect to human rights violations, states are obliged to ensure that the truth is told, that justice is done and that reparation is provided to all the victims without discrimination (see box below).

On 17 June 2012, shortly before the presidential elections results, the head of SCAF amended the Constitutional Declaration to give the armed forces special status until a new constitution is in place. The amendments offered military forces a constitutional cover for all their actions as they gave SCAF authority over all matters related to the armed forces without civilian oversight. The SCAF amendments also gave SCAF legislative power until a new parliament is elected after the new constitution is in place. However, President Morsi cancelled the amendments through another constitutional declaration on 12 August, and decided to "retire" several key members of SCAF, including its head, hence asserting his civilian authority over the military forces.<sup>83</sup> To be truly meaningful, it is imperative that this step is accompanied by measures to ensure accountability. Anyone who alleges that he or she is a victim of human rights violation should have access to an effective and impartial means of adjudicating the claim. Anyone whose claim is upheld should receive a full and effective remedy. If Egypt is to turn the page on decades of abuse, the army should not remain beyond the reach of the law.

Giving itself a special status, SCAF's amendments gave it and the President, among others, the authority to object to articles of the draft constitution that they might consider contradictory to the "higher interests" of Egypt or the principles in previous constitutions. In addition, SCAF's amendments allowed the President to request the army's intervention in situations of "internal disturbances" if SCAF so approves. A law would define the army's mandate, powers of arrest and detention, use of force, jurisdiction and situations of non-liability. Although such a law has yet to be drafted, President Morsi said in one of his first speeches that he wanted the army to continue to protect internal security.

### RIGHT TO AN EFFECTIVE REMEDY FOR VICTIMS

The right to an effective remedy for victims is enshrined in Article 2(3) of the ICCPR and Article 7 of the African Charter, and is recognized in a number of other instruments, including Article 8 of the Universal Declaration of Human Rights, Article 14 of the Convention against Torture, Article 39 of the Convention on the Rights of the Child. Article 2(b) of the Convention on the Elimination of all forms of Discrimination against Women also guarantees the right to a remedy.<sup>84</sup>



The right to an effective remedy includes several elements, including:

- Truth: establishing the facts about violations of human rights.
- Justice: investigating alleged violations and, if sufficient admissible evidence is gathered, prosecuting the suspected perpetrators.
- Reparation: providing full and effective reparation to the victims and their families in its five forms: restitution, compensation, rehabilitation, satisfaction and guarantees of non-repetition.<sup>85</sup>

It is not enough that the legal system of a state is formally endowed with the appropriate remedy in theory; remedies must also function effectively in practice.<sup>86</sup>

SCAF had earlier unsuccessfully attempted to retain exceptional powers. On 4 June 2012, days after a 31-year state of emergency ended, the Ministry of Justice extended to the military police and intelligence officers the powers of judicial police to arrest and investigate civilians in relation to a wide range of offences. The offences include those related to national security, public order, "thuggery", obstruction of traffic, disobeying or insulting or attacking public servants, and directly implicated activities protected under international human rights law, such as freedom of expression, association and assembly and the right to strike.<sup>87</sup> Several human rights organizations appealed against the decision in front of an administrative court, which declared on 26 June that the Minister of Justice did not have the power to bestow judicial police powers to public servants unless such powers fall within their field of work.<sup>88</sup>

Only time will tell whether SCAF has been put under civilian control. In any case, this does not mean that victims of grave human rights violations will automatically be provided with justice and military officials held to account.

Indeed, while President Morsi managed to remove the former head of SCAF and his deputy, he also awarded them the highest Egyptian state medals and appointed them as his advisors. While he retired the head of military police, he also appointed the commander of the paratroopers' forces as commander of his presidential guards. The new Minister of Defence is the former head of the Military Intelligence Department, who also promoted the head of Military Judiciary in the military hierarchy to become one of his aides. The head of the Military Judiciary was responsible for overseeing the unfair trials of thousands of civilians before military courts.

Overall, the military forces appear to remain beyond the reach of justice. Unless President Morsi shows determination to tackle abuses by the armed forces, it is unlikely that they will ever be held accountable.

Under Military Justice Code (Law 25 of 1966), jurisdiction for crimes committed by military personnel lies with the military judiciary. This is the main legal obstacle to holding to account members of the armed forces for human rights violations. Military courts have been unwilling to provide justice in cases where people have been killed, injured or tortured by members of the armed forces, even in prominent cases where the victim or their family was able to bring a member of the army to trial. Members of the armed forces who face charges

relating to human rights violations against civilians should always be tried before civilian courts rather than military courts precisely in order to prevent such concerns.<sup>89</sup>

Investigations by civilian investigative judges have also failed to hold to account members of the military forces. Investigative judges looked into alleged violations during the Cabinet Offices protests and the November 2011 Mohamed Mahmoud Street protests (during which security forces again killed and injured protesters), as well as the use of live ammunition during the Maspero protest. This appeared to be in response to calls by human rights lawyers and others to conduct independent and impartial investigations in cases involving protests against the government. However, these investigations have not led to those responsible for violations being held to account nor to the victims receiving an effective remedy. Human rights lawyers and others expressed doubt to Amnesty International about the impartiality of the appointed judges.<sup>90</sup> Lawyers have also complained that they have been prevented from seeing the case files and investigation documents of the detainees on preventive detention to be able to argue for their release. They only accessed the full investigations when they were indicted and referred to trial. Summaries of the investigations were published in the press.

Cases of torture or other ill-treatment by the military forces have gone unpunished. This applied even in the prominent case of activist Samira Ibrahim, who was tortured along with other women, including by being forced to submit to a “virginity test” in military custody in March 2011. She actively campaigned with human rights organizations, in particular the Egyptian Initiative for Personal Rights, to bring a member of the army to trial, but the military court which examined the case acquitted the army doctor. Nobody was held to account for her abuse, although several members of SCAF admitted to the media and in private meetings, including between Amnesty International and the current Minister of Defence, that the women had indeed been subjected to “virginity tests”.<sup>91</sup> The acquittal of the doctor by a military court contrasted with the December administrative court ruling against the decision to carry out “virginity tests”, of which Samira Ibrahim was victim.

Investigations into the protest violence in the three incidents documented in this report have so far led to the trial of protesters either in front of military courts or civilian criminal courts. By contrast, no member of the military forces has been brought to a civilian trial in relation with crimes committed against protesters.

On 7 May 2012, an investigative judge who took over the investigation into the Cabinet Offices events from the South Cairo Public Prosecution office referred 258 male and 11 female protesters to criminal courts, and 24 children to juvenile courts. The first trial session for adults took place on 29 July 2012 and the second session is scheduled for October. They all face charges of “gathering that threatens public peace with the aim of assaulting the military and police forces” and other offences, including disruption of traffic, unauthorized possession of objects used to attack people, and throwing rocks and Molotov cocktails at public buildings. Many protesters whose torture testimonies are examined in this report now face trial. Some said they made “confessions” under torture. Amnesty International fears that convictions might be based on evidence tainted by torture allegations.

In relation to the Cabinet Offices events, a judicial source reportedly said in May that investigations into violations by the army against protesters were continuing. Investigative judges reportedly summonsed the Assistant Commander of Forces of the Central Area, who

denied the presence of his units at the time of the events; and the Assistant Commander of the paratroopers, who denied any wrongdoing or that the forces possessed firearms or attacked the protesters.<sup>92</sup> At the time of writing, no members of the military forces, including paratroopers and commando units, had been charged with any crime, despite killing at least 17 people and injuring around 1,000. Nor had anyone been charged for dragging women by their hair, sexually harassing or abusing women in custody, or torturing protesters in the parliament and Cabinet Offices buildings.

Several political activists and public figures who supported the 2011 uprising and protesters in anti-SCAF protests were, however, summonsed for investigations over incitement to violence in the Cabinet Offices events on the basis of a complaint by a single individual. These included **Nawara Negm**, an activist; **Mamdouh Hamza**, a prominent architect; **Mazhar Shahin**, an imam who often led prayers in Tahrir Square; **Tarek El Khouly** from the 6 April Youth Movement (Democratic Front); and **Ayman Nour**, a former presidential candidate. The investigations appear to have been politically motivated. None of those summonsed was eventually indicted.

While many damning videos of the clashes show violence by paratroopers who have not been held to account, other videos presented to the investigative judge have been used to order the preventive detention for weeks of activists **Ahmed Doma**, **Tareq Shams Eldin** and **Ayman Hegazy**. The first two were indicted and face trial. In addition to the charges faced by all protesters mentioned above, Ahmed Doma faces charges of participating in setting fire to the People's Assembly, while Tareq Shams Eldin faces the charges of encouraging others to set fire to an official transport building and preventing firefighters from extinguishing the blaze.

In relation to the Maspero protest, during which 27 protesters and one soldier were killed, three soldiers face trial in military court on the charge of "involuntary homicide" for running over protesters with their military armoured vehicles, but none has been prosecuted for firing live ammunition and killing protesters. Indeed, it was protesters who were charged with murdering protesters who had been killed by gunfire, with their cases initially heard by a military prosecutor, then by an emergency prosecutor,<sup>93</sup> and finally by an investigative judge. Among those charged was Mena Daniel who had been killed by live ammunition. In late April 2012, the investigative judge concluded his investigation without finding enough evidence to indict anyone for the killings. Parts of the investigation documents published in the press included investigations by military police and intelligence, which found that 29 detained protesters were responsible for the killings and injuries. This conclusion was, however, rejected by the investigative judge.<sup>94</sup> It is unclear if the investigative judge summonsed any military staff or questioned the military personnel who conducted the investigations or indeed investigated any members of the military forces at all.

Mary Daniel, the sister of Mena Daniel, told Amnesty International:

*"We haven't seen justice... the army cleared itself considering that it is the protesters who shot each other... we haven't done much to seek justice for Mena. When the revolution succeeds the state will run after us to honour us."*

In relation to the Abbaseya protests, the military prosecution has been investigating the protesters who were arrested. It is unknown if any of the men in plain clothes who allegedly

killed nine protesters were investigated, or any of the military forces who attacked the protesters or injured or ill-treated them during the dispersal of protests or in their custody.

## MILITARY TRIALS OF CIVILIANS

On 4 July 2012, the newly elected President Morsi established a committee to review the cases of civilians tried by military courts; all detainees held by the Ministry of Interior; and “revolutionaries” imprisoned by the ordinary judiciary. The committee is composed of 10 members, including officials from the Public Prosecutor’s office, the military judiciary, the Ministry of Interior and four human rights and civil society activists – Ahmed Seif El Islam, Mohamed Zarea, Ali Kamal Moustafa and Islam Lotfy Ali. The committee was given the authority to visit military and civilian prisons and “detention places”, as well as meeting and interviewing detainees and prisoners and to study their case files, and to give its opinion to the President. On 19 July, based on the recommendations of the committee, the President pardoned some 572 prisoners. The committee was continuing its work at the time of writing.

One of the hallmarks of the rule of SCAF was the sweeping use of military trials against civilians. In August 2011, the Military Judiciary said that 12,000 civilians had been tried in military courts. Although the exact number is unknown hundreds more are believed to have been tried in the following months until 30 June 2012. Not all those tried in military courts were imprisoned and many have already served their sentences and were released. This means the number of civilians currently imprisoned after a military court sentence is unknown except to the military judiciary itself. Others, like in the Abbaseya case, are still facing military prosecution or trials.

Amnesty International opposes the trials of civilians before military courts as such trials violate the right to a fair and public hearing before a competent, independent and impartial tribunal established by law, as guaranteed in Article 14 of the ICCPR. These courts lack independence and impartiality, and defendants are denied an effective opportunity to appeal against their conviction and sentence to a higher tribunal. Moreover, military trials generally have such accelerated proceedings as to undermine or deny defendants the means to exercise their full defence rights.

Military courts in Egypt are established under the Military Justice Code (Law 25 of 1966). The military justice system has jurisdiction over all military personnel, but civilians can be referred to it if they commit a crime in a military zone or against military interests or military personnel carrying out their duties. It can be applied to anyone who allegedly commits offences in or against any of the holdings, properties, establishments or industries owned by the armed forces. According to Article 48 of the Military Justice Code, the military judicial authorities have the sole prerogative to decide whether a crime falls under its jurisdiction or not.

The Egyptian Center for Economic and Social Rights (ECESR) appealed before an administrative court against the trial of protesters in March 2011 before a military court on the grounds of Article 48 defending that the article is in contravention with the Constitutional Declaration. In September 2011, the administrative court authorized the ECESR to refer Article 48 to the Constitutional Court for review, which has not ruled on the case.

In January 2012, members of the newly elected parliament, now dissolved, arrived at the inauguration session wearing a sash of the No to Military Trial for Civilians campaign. The campaign, along with the Hisham Mubarak Law Centre and other human rights groups, proposed that the parliament amend the Military Justice Code changing the jurisdiction of military courts, so that it cannot try civilians. In April 2012, the parliament failed to change the jurisdiction of military courts, and only made significant amendments to Article 6 of the Military Justice Code, stripping the President of his authority to refer civilians to military court.

## 8. CONCLUSIONS AND RECOMMENDATIONS

Many people in Egypt hoped that the election of a civilian President and the writing of a new constitution would begin to end the country's long and grim legacy of human rights violations, and provide victims of human rights violations with an effective remedy. Amnesty International submitted a memorandum to President Morsi in his first week in office outlining the steps needed for human rights reform and to challenge impunity.

It is clear that during SCAF's 16-month rule, military forces committed grave human rights violations against protesters with impunity, and that victims were not given an effective remedy. The numerous incidents in which armed forces used lethal and other force against protesters in circumstances and against individuals where such force was not justified resulted in unlawful killings and injuries. Even in those situations where protesters individually or in groups resorted to violence, the force used by troops in response was in many instances entirely out of proportion to the threat posed by the protesters. By contrast, when the security forces should have acted to protect protesters against attacks by armed men or "thugs", they stood by or vanished. Coptic protesters in Maspero, bearded Muslim conservative protesters in the Abbaseya sit-in, and women protesters at the Cabinet Offices protests were specifically targeted for violence by the army or by plain-clothed armed men.

The widespread use of torture, including the sexual and gender-based violence against detainees, and other cruel, inhuman or degrading treatment highlighted the impunity enjoyed by military forces. Their confidence to act outside the law was clear when they detained and tortured people in such places as the parliament and Cabinet Offices buildings, as well as military areas and locations.

Protesters were often forced to "confess" under duress, tried unfairly before military courts, and condemned on the basis of information extracted using torture. At the same time, the criminal justice system appears to have completely failed to investigate adequately, let alone bring to justice, those within the armed and security forces who were responsible for the criminal violations of human rights. Purported investigations by the armed forces into their own behaviour have been completely opaque and in effect have whitewashed abuses.

During the "25 January Revolution", protesters called for bread, freedom and social justice. Instead of delivering these demands, SCAF betrayed the hopes of the uprising, cracking down on dissent with an iron fist. Nowhere was this more evident than in the lethal crackdowns on protests and the sweeping use of military courts against civilians.

Today, SCAF is keen to give the impression that its forces have returned to their barracks after serving the country in its time of need. The reality is that SCAF leaves a legacy of serious human rights abuse, which cannot go unanswered or unpunished. It falls to President Morsi to challenge the long-standing impunity enjoyed by SCAF. One symbolic step would be to recognize the extent of the human rights violations and to offer an apology on behalf of the state.

In light of this, Amnesty International is making the following recommendations to the Egyptian authorities:

### **Redress for human rights violations**

- Ensure prompt, full, impartial and independent investigations into all cases of human rights violations by military forces, especially excessive use of force (lethal or otherwise), violations of freedom of assembly, torture and other ill-treatment, and arbitrary detention, including by providing the needed resources, time, powers to summon witnesses and full access to information for the fact-finding committees established in July 2012.
- Ensure that victims and families of those killed and their legal representatives have access to and are informed of all information related to investigations and are aware of mechanisms enabling them to present evidence, register their case and give testimony; and give particular attention to access to justice for women victims.
- Ensure that all those criminally responsible for unlawful killings and injuries in policing demonstrations or in prisons, or for torture or other similar cruel, inhuman or degrading treatment, including those who committed the violations and anyone who ordered others to commit them, are brought to justice in proceedings that meet international standards of fair trial and with no possibility of the death penalty.
- Ensure that only the ordinary civilian judiciary has the jurisdiction to prosecute and try military forces for crimes committed against civilians.
- Guarantee that no evidence of human rights abuses, including evidence of unlawful killings, is tampered with or destroyed and that investigations into all killings follow the methods set out in the UN Principles on the Effective Prevention and Investigation of Extra-legal, Arbitrary and Summary Executions.
- Ensure that everyone who provides information to investigations into human rights violations is adequately protected from reprisals or any other form of intimidation.
- Guarantee that families of those killed are provided with autopsy reports, medical certificates and any other evidence or information necessary to clarify the circumstances and causes of the death of their relatives.
- Provide all victims of human rights violations with compensation and other forms of reparation that are appropriate and proportional to the gravity of the violation, the harm suffered and the circumstances of their case, including the coverage of full medical costs to those injured during demonstrations as a result of excessive use of force or other abuses by members of the army and appropriate medical and other support to those subjected to sexual and gender-based violence.
- Ensure that all those injured as a result of human rights violations by the armed forces are rehabilitated to the fullest extent possible, including through medical treatment without incurring expenses, especially those who have been permanently disabled.

- Ensure that information and assistance is provided without discrimination for potential beneficiaries seeking to claim compensation or otherwise to access justice in relation to alleged human rights violations.
- Establish a vetting system to ensure that, pending investigation, members of the security forces against whom there is evidence of serious human rights violations do not remain or are not placed in positions where they could repeat such violations.

**Torture and other ill-treatment, including sexual and gender-based violence**

- Investigate all allegations of torture or other ill-treatment, including sexual and gender-based violence, whether by the military forces or the Ministry of Interior, in line with the Principles on the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, even when no official complaint has been made; bring all those responsible to justice; and provide full reparation to victims.
- Publicly condemn torture and other ill-treatment, including sexual and gender-based violence; ensure that these practices cease; and make clear to all officers involved in arrest, detention and interrogation that torture and other ill-treatment will not be tolerated under any circumstances.
- Establish a mechanism that provides for the mandatory conduct of independent, unrestricted and unannounced visits to any place where anyone may be deprived of their liberty (including the right to conduct confidential interviews with any detainees of the visiting body's choice without law enforcement officials present or otherwise listening), including any national security and military facilities or unlawful places of detention.
- Ensure that individuals are only held in publicly listed places of detention under the oversight of judicial authorities. In this respect, amend Article 1bis of Law 396 of 1956 (the Law on Prison Regulations), which states that people can also be held in places of detention defined by decree by the Minister of Interior. In practice, this has led to detainees being held in state security detention centres and military camps, premises that are not open to inspection by the Public Prosecutor or any other judicial authority, as required by Article 42 of the Code of Criminal Procedure and Article 85 of the Law on Prison Regulations.
- Bring the crime of torture in Egyptian law in conformity with the definition in Article 1(1) of the UN Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. Explicitly prohibit all forms of cruel, inhuman or degrading treatment or punishment. Make clear that the prohibition of torture and other cruel, inhuman or degrading treatment or punishment is absolute and applies in all circumstances, including during a state of war or other public emergency.
- Ensure that all allegations of torture or other ill-treatment, including sexual and gender-based violence such as "virginity testing" or sexual assaults or harassment of men and women detain detention, are investigated promptly, thoroughly and impartially, that officials responsible for such abuses are brought to justice, and that victims receive full reparation. Evidence obtained using torture or other ill-treatment must never be used in criminal trials or any other form of proceedings (except as evidence against a person accused of torture and

then only as evidence that the statement was made).

- Ratify the Optional Protocol on the UN Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, the International Convention for the Protection of all Persons from Enforced Disappearance and the Rome Statute of the International Criminal Court.
- Immediately facilitate the visit of the Special Rapporteur on torture and other cruel, inhuman or degrading treatment to Egypt, whose request to visit has been outstanding since 1996 and reiterated in 2007.

#### **Arbitrary detention**

- Release anyone who is imprisoned solely for peacefully exercising their right to freedom of expression and assembly, including where the imprisonment may have been the result of conviction by military or civilian courts.
- Ensure that the newly-established National Security Department does not have powers to arrest and detain people incommunicado and is firmly placed under judicial oversight.
- Immediately facilitate the visit of the UN Working Group on Arbitrary Detention, whose request to visit has been outstanding since 2008.

#### **Military trials**

- Abolish all trials of civilians before military courts. Halt immediately all trials of civilians before military courts and either release them or transfer them to civilian courts for fair trial.
- Ensure that civilian courts have the jurisdiction to try members of the military accused of committing human rights violations and that cases of military personnel suspected of human rights violations are transferred to civilian courts.
- Remove all articles in the Military Justice Code that give military courts jurisdiction to try civilians, including Article 48 which allows the military judiciary the discretion to decide if it has jurisdiction over a crime.

#### **Human rights safeguards and oversight of the armed forces**

- Ensure that the new constitution guarantees that military forces are subject to civilian oversight and can be held accountable for human rights violations.
- Unless mechanisms are put in place to ensure civilian oversight and accountability for abuses, ensure that military forces do not enjoy judicial police powers for offences in the Penal Code and that the decree of the June 2012 Minister of Justice giving them such powers is not restored.
- Ensure that any new legislation providing for the intervention of military forces in internal security matters, including in cases of "internal disturbances", does not give



unrestrained powers to the military without civilian oversight.

- Publish and disseminate in a form that is readily accessible to the public the rules and regulations on the use of force by the army.
- Ensure that security forces and any other state agencies that exercise law enforcement functions comply with the UN Code of Conduct for Law Enforcement Officials and the UN Basic Principles on the Use of Force and Firearms by Law Enforcement Officials, by giving clear instructions that force may only be used when strictly necessary and only to the extent required for performance of their duty, and that lethal force may only be used when strictly unavoidable in order to protect their lives or the lives of others.

Amnesty International is also making the following recommendation to arms supplying states:

- Suspend and halt all transfers of tear gas; small arms, including shotguns, and light weapons and related ammunition; as well as armoured vehicles until adequate safeguards are put in place by the Egyptian authorities to prevent further violations of international human rights law by security forces in policing protests.

# ENDNOTES

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- <sup>1</sup> SCAF statement of 17 February 2011, published on its official page on the social networking site Facebook.
- <sup>2</sup> Constitutional Declaration, dated 17 June 2012, signed Field Marshall Hussein Tantawi, head of SCAF.
- <sup>3</sup> Constitutional Declaration, dated 12 August 2012, signed President Mohamed Morsi. The move was challenged before an administrative court as inconsistent with Egyptian law
- <sup>4</sup> Presidential Decision 113 of 2012, dated 12 August 2012.
- <sup>5</sup> A separate Amnesty International report is to cover human rights violations in protests where riot police were the main security force involved, namely in the Mohamed Mahmoud Street protests in both November 2011 and February 2012.
- <sup>6</sup> See: [www.youtube.com/watch?v=HZkDG8ISfqQ&feature=related](http://www.youtube.com/watch?v=HZkDG8ISfqQ&feature=related); See also: [www.youtube.com/watch?v=-ZCog-bgXvU](http://www.youtube.com/watch?v=-ZCog-bgXvU)
- <sup>7</sup> Presidential decision number 10 of 2012, dated 5 July 2012.
- <sup>8</sup> Presidential decision number 5 of 2012, dated 4 July 2012.
- <sup>9</sup> Amnesty International, *Broken promises: Egypt's military rulers erode human rights*, 22 November 2011, available at: <http://www.amnesty.org/en/library/info/MDE12/053/2011/en>
- <sup>10</sup> Amnesty International, "Arms suppliers urged to halt transfers to the Egyptian army", 19 December 2011, available at: <http://www.amnesty.org/en/news/arms-suppliers-urged-halt-transfers-egyptian-army-2011-12-20>
- <sup>11</sup> *Ibid.*, pp.37-40.
- <sup>12</sup> Egyptian Initiative for Personal Rights, "Three Soldiers to Be Tried for 'Manslaughter' in The Maspero Military Attacks", 26 December 2011, available at: <http://www.eipr.org/en/pressrelease/2011/12/26/1337>
- <sup>13</sup> <http://www.youtube.com/watch?v=Cg-hh2rjntU>
- <sup>14</sup> International Covenant on Civil and Political Rights (ICCPR), 999 UNTS 171, in force since 23 March 1976, ratified by Egypt on 14 January 1982. See also article 11 of the African Charter on Human and Peoples' Rights, OAU Doc CAB/LEG/67/3 rev. 5, in force since 21 October 1986, ratified by Egypt on 20 March 1984.
- <sup>15</sup> See Human Rights Committee, General Comment no 34 on Freedoms of Opinion and Expression, UN Doc CCPR/C/GC/34 (12 September 2011), at paras 21-36 interpreting the parallel language in article 19(3) of the ICCPR.
- <sup>16</sup> See articles 2(1), 3 and 26 of the ICCPR and articles 2 and 3 of the African Charter; Human Rights Committee, General Comment no 34, at para 26, interpreting parallel language in article 19(3) of the ICCPR.

<sup>17</sup> The Emergency Law was used by former President Mubarak to crack down on demonstrations and opposition voices as it gave the authorities the power to “restrict people’s freedom of assembly, movement, residence, or passage in specific times and places, arrest suspects or [persons who are] dangerous to public security and order [and] detain them”. See also Article 4 of the ICCPR, General Comment No 29.

<sup>18</sup> Report of the UN Special Rapporteur on extrajudicial, summary or arbitrary executions, UN Doc A/HRC/17/28 (23 May 2011), para 42.

<sup>19</sup> The two primary standards are the UN Basic Principles on the Use of Force and Firearms by Law Enforcement Officials, adopted by the Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders, Havana, Cuba, 27 August to 7 September 1990 (“UN Basic Principles on the Use of Force”), and the UN Code of Conduct for Law Enforcement Officials, adopted by General Assembly resolution 34/169 of 17 December 1979, article 3. The right to life is protected by article 7 of the ICCPR and article 4 of the African Charter, the right to liberty and security of person by article 9 of the ICCPR and article 6 of the African Charter.

<sup>20</sup> Basic Principles on the Use of Force and Firearms, articles 12 to 14.

<sup>21</sup> Report of the UN Special Rapporteur on extrajudicial, summary or arbitrary executions, UN Doc A/HRC/17/28 (23 May 2011), para 61.

<sup>22</sup> See 25TV, “The truth behind 25 TV suspension”, 10 October 2011: [http://25online.tv/index.php?option=com\\_content&view=article&id=416%3A-25&catid=2%3Anewsticker&Itemid=39&lang=en](http://25online.tv/index.php?option=com_content&view=article&id=416%3A-25&catid=2%3Anewsticker&Itemid=39&lang=en). Footage of the moment Alhurra is raided can be found on-line. See: <http://www.youtube.com/watch?v=h62qdp8FKHo>

<sup>23</sup> Statement by SCAF dated 10 October 2011 available at: <http://www.youtube.com/watch?v=28T6XVoxoRk>

<sup>24</sup> National Council for Human Rights, *The Council’s report on the Maspero events* [original in Arabic], 2 November 2011, available at: [www.nchregypt.org/ar/index.php?option=com\\_content&view=article&id=500:2011-11-02-19-51-28&catid=43:2010-03-09-13-00-53&Itemid=55](http://www.nchregypt.org/ar/index.php?option=com_content&view=article&id=500:2011-11-02-19-51-28&catid=43:2010-03-09-13-00-53&Itemid=55)

<sup>25</sup> Egyptian Initiative for Personal Rights and others, “Withdrawal of human rights organizations and families of the Maspero martyrs from the military trial – we won’t serve as a cover for a fake trial not seeking to realize justice” [original in Arabic], 11 April 2012, available at: <http://eipr.org/pressrelease/2012/04/11/1402>

<sup>26</sup> See Inter-American Court of Human Rights, *Case of Cabrera Garcia and Montiel Flores v Mexico*, judgment of 26 November 2010, Series C No 220, paras 197-201 and the other cases cited therein; UN Subcommission on Human Rights (Rapporteur Emmanuel Decaux), Report on the Issue of the administration of justice through military tribunals, UN Doc E/CN.4/2006/58 (13 January 2006), “Draft Principles Governing the Administration of Justice through Military Tribunals”, Principle No 9 on the “Trial of persons accused of serious human rights violations”, which provides “In all circumstances, the jurisdiction of military courts should be set aside in favour of the jurisdiction of the ordinary courts to conduct inquiries into serious human rights violations such as extrajudicial executions, enforced disappearances and torture, and to prosecute and try persons accused of such crimes.”; Report to the General Assembly by the Special Rapporteur on the Independence of Judges and Lawyers, UN Doc A/61/384 (12 September 2006) para 68 [“In no case should military tribunals be competent to try

civilians or to try military personnel who have committed serious violations of human rights.”]

<sup>27</sup> EGYNews, “Health: Number of deaths in cabinet offices events reaches 17” [original in Arabic], 22 December 2011, available at: [www.egynews.net/wps/portal/news?params=152629](http://www.egynews.net/wps/portal/news?params=152629)

<sup>28</sup> Nahda and Islah League, “Exclusive Nahda and Islah League: Final report on number of injuries and martyrs in cabinet offices events in Tahrir field hospitals” [original in Arabic], 23 December 2011, available at the think-tank’s page: <http://www.nahdaislah.com/news/1672--.aspx>

<sup>29</sup> Habi al-Shahawy only managed to obtain his medical report after intervention from the government committee that cares for the “martyrs and injured of the revolution”.

<sup>30</sup> His medical report from the Cairo University Hospitals, dated 22 December 2011, states that the document cannot be used by the prosecution. He filed a complaint with the office of the Public Prosecutor, accusing the head of SCAF and the commander of the troops stationed at parliament of responsibility for his injuries.

<sup>31</sup> The Egyptian Scientific Institute was established in late 18<sup>th</sup> century and conserved thousands of historical books.

<sup>32</sup> The death certificate, seen by Amnesty International, confirms this injury.

<sup>33</sup> The hospital gave a medical report to the family and an autopsy was conducted the next day. His father filed a complaint at Sayeda Zaynab police station and the prosecution office, accusing military forces of the killing.

<sup>34</sup> Both men have medical reports confirming their injuries, and a prosecutor visited Simon Zaher Salib in Kasr Alainy Hospital and took his testimony.

<sup>35</sup> *Al-Ahram* newspaper, “Health: Death toll rises to 10 and 494 injured in Cabinet Offices events” [original in Arabic]. 17 December 2011, available at: <http://gate.ahram.org.eg/News/150115.aspx>; see also: Masrawy.com, “Health: Total 3 deaths and 255 injured in Cabinet Offices events” [original in Arabic], 17 December 2011, available: <http://www.masrawy.com/news/egypt/politics/2011/december/17/4678572.aspx>

<sup>36</sup> Hazem Hatem al-Khozamy filed a complaint at the Sayeda Zaynab police station in January 2012.

<sup>37</sup> A medical report from Cairo University Hospitals, dated 19 December, confirmed his injury but strangely states that the report is not valid in police stations, courts or prosecution offices. He did not file a complaint.

<sup>38</sup> SCAF statement number 90.

<sup>39</sup> Video of the press conference available at [www.youtube.com/watch?v=vOo--wv8ZQQ](http://www.youtube.com/watch?v=vOo--wv8ZQQ)

<sup>40</sup> SCAF statement number 91.

<sup>41</sup> SCAF statement number 92.

<sup>42</sup> SCAF statement number 93.

<sup>43</sup> *Al-Shorouk* newspaper, “Kato: Army violence in response to attempt to burn the parliament” [original in Arabic], 19 December 2011, available at: <http://www.shorouknews.com/news/view.aspx?cdate=19122011&id=23284b90-a7f5-443c-bfe2->

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<sup>44</sup> Salafists (from the Arabic word for ancestors) are Sunni Muslims who advocate a return to what they consider to be Islam's fundamental principles as practiced by the first Muslims. A small minority of Salafists advocate violence as a way of achieving their principles.

<sup>45</sup> The SPEC also disqualified Omar Suleiman, the General Intelligence director under former President Hosni Mubarak; and Khairat Shater, a leading member of the Muslim Brotherhood.

<sup>46</sup> The army frequently prevented marches from reaching Abbaseya Square with the support of local residents or armed men in plain clothes (often referred to as "thugs"). This happened, for example, on 23 July 2011, which coincided with Revolution Day, when people tried to march to the Ministry of Defence to protest against military rule.

<sup>47</sup> Begun as an on-line network on Facebook to support striking workers in the town of El-Mahalla El Kubra on 6 April 2008. Under Hosni Mubarak the 6 April Youth Movement was one of the most active protest movements calling for greater human rights and the end of the state of emergency. Its members participated prominently in the mass protests of the "25 January Revolution" and in following protests under SCAF. In mid-2011, the 6 April Youth Movement (Democratic Front) branched off from the original movement following differences over its governance and leadership.

<sup>48</sup> Press conference by the SCAF on 3 May 2012 available at: <http://www.youtube.com/watch?v=vr-n87mKAhI&feature=relmfu>

<sup>49</sup> National Council for Human Rights, "Report of visit by the National Council for Human Rights to Tora prison" [original in Arabic], May 2012, available at: <http://nchregypt.org/ar/images/files/-205%20%الانسان%20%لحقوق%القومي%المجلس%وفده%20%زيارة%20%تقرير%20%للسجن%20%طرة>

<sup>50</sup> Press conference by the SCAF on 3 May 2012 available at: <http://www.youtube.com/watch?v=vr-n87mKAhI&feature=relmfu>

<sup>51</sup> See Egyptian Initiative for Personal rights and others, "Abbaseya events: human rights organizations accuse state institutions of failing to fulfil its basic role in protecting citizen's lives and security hospitals" [original in Arabic], available at: <http://www.eipr.org/pressrelease/2012/05/02/1408>

<sup>52</sup> *Al-Masry al-Youm*, "Health: number of injuries rises to 373 and one dead" [original in Arabic], 4 May 2012, available at : <http://www.almasryalyoum.com/node/817941>

<sup>53</sup> Al-Sharq Portal, "Debate in Egypt around the death of a soldier in Abbaseya events" [original in Arabic], 6 May 2012, available at: [www.al-sharq.com/ArticleDetails.aspx?AID=30467&CatID=103](http://www.al-sharq.com/ArticleDetails.aspx?AID=30467&CatID=103)

<sup>54</sup> Aya Kamal's testimony available at: <http://www.youtube.com/watch?v=OZ2gnkRo54&feature=related>;

<sup>55</sup> See National Council for Human Rights, "Report of visit by the National Council for Human Rights to Tora prison" [original in Arabic], available at: <http://nchregypt.org/ar/images/files/-205%20%الانسان%20%لحقوق%القومي%المجلس%وفده%20%زيارة%20%تقرير%20%للسجن%20%طرة> ; See also: <http://nchregypt.org/ar/images/files/202%20%طرة%20%سجن%20%تقرير%20%للسجن%20%طرة>

<sup>56</sup> See for instance UN Subcommission on Human Rights (Rapporteur Emmanuel Decaux), Report on the Issue of the administration of justice through military tribunals, UN Doc E/CN.4/2006/58 (13 January 2006), "Draft Principles Governing the Administration of Justice through Military Tribunals", Principle no 5 on the "Jurisdiction of military courts to try civilians" which states "Military courts should, in

principle, have no jurisdiction to try civilians. In all circumstances, the State shall ensure that civilians accused of a criminal offence of any nature are tried by civilian courts.”; Report to the General Assembly by the Special Rapporteur on the Independence of Judges and Lawyers, UN Doc A/61/384 (12 September 2006) para 68 [“In no case should military tribunals be competent to try civilians or to try military personnel who have committed serious violations of human rights.”]; Human Rights Committee General Comment no 32 on Right to equality before courts and tribunals and to a fair trial (article 14 ICCPR), UN doc CCPR/C/GC/32 (23 August 2007), para 22.

<sup>57</sup> Front to Defend Egypt Protesters, “A military trial for activists showing solidarity with Abbaseya defendants” [original in Arabic], 29 May 2012, available at: [http://egyprotest-defense.blogspot.co.uk/2012/05/blog-post\\_22.html](http://egyprotest-defense.blogspot.co.uk/2012/05/blog-post_22.html)

<sup>58</sup> See for example: <http://www.youtube.com/watch?v=HZkDG8ISfqQ&feature=related>

<sup>59</sup> Azza Hilal Ahmed Suliman’s medical report from Kasr Alainy Hospital, dated 8 January 2012, states that an X-ray showed that her skull had been fractured and that she suffered concussion. She was hospitalized for three weeks and still suffers from memory problems. Ihab Zarea Achaya’s medical report from Kasr Alainy Hospital, dated 4 January 2012, states that he suffered from a gunshot wound to his left knee.

<sup>60</sup> They are charged with gathering with more than five people with the aim of committing crimes, use of force and violence against law enforcement officials on duty, disrupting traffic, unauthorized possession of objects used to attack people, throwing rocks and Molotov cocktails at security forces securing the Cabinet Offices, People’s Assembly and Shura Council. Shaymaa Saad Ahmed and Sarah Gamal El Sayed face additional charges of setting fire to the Scientific Institute and two cars. All of them were presented to the prosecution office.

<sup>61</sup> In its statement of 20 December 2011, SCAF said: “The Supreme Council of the Armed Forces presents its sincerest apologies to the great women of Egypt for the transgressions committed during the recent events at the Cabinet Offices and parliament protests, and confirms its total esteem and respect for the women of Egypt and their right to protest and active and positive participation in the political life through the democratic process that is being witnessed by Egypt; while taking into account that all legal measures have been taken to bring to account those responsible for the transgressions.”

<sup>62</sup> Amnesty International, “Egypt: Investigate attacks on women protesters”, 11 June 2012, available at: <http://www.amnesty.org/en/news/egypt-investigate-attacks-women-protesters-2012-06-11>

<sup>63</sup> See ICCPR articles 2, 3 and 26; African Charter articles 2, 3 and 18(3).

<sup>64</sup> Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), 1249 UNTS 13, in force 3 September 1981, ratified by Egypt 18 Sep 1981, article 2(d).

<sup>65</sup> Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (UNCAT), 1465 UNTS 85, in force 26 June 1987, acceded to by Egypt 25 Jun 1986, articles 2 and 16. Among the purposes that are listed in the definition of torture in article 2 of the UN Convention against Torture is “any reason based on discrimination of any kind”. See also article 7 and 10 of the ICCPR and article 5 of the African Charter.

<sup>66</sup> The amendments were introduced on 22 March 2011.

<sup>67</sup> Article 268.

<sup>68</sup> Article 306 bis.

<sup>69</sup> Article 267.

<sup>70</sup> Convention on the Rights of the Child, 1577 UNTS 3, in force since 2 September 1990, ratified by Egypt on 6 July 1990, articles 1, 3(1), 19(1), 37, 40.

<sup>71</sup> Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (UNCAT), 1465 UNTS 85, in force 26 June 1987, acceded to by Egypt 25 Jun 1986, article 1(1). While the article excludes “pain or suffering arising only from, inherent in or incidental to lawful sanctions” this is generally understood to encompass only any pain or suffering inherent in the very fact of detention of a person in conditions that fully comply with international standards, including the UN Standard Minimum Rules for the Treatment of Prisoners [See e.g. the precedent language in the UN Declaration on the Protection of All Persons from Being Subjected to Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, adopted by General Assembly resolution 3452 (XXX) of 9 December 1975, article 1(1)]. The “lawful sanctions” clause therefore has no application to any of the incidents covered by this report.

<sup>72</sup> UNCAT articles 4-7.

<sup>73</sup> Human Rights Committee, General Comment no 31 on The Nature of the General Legal Obligation Imposed on States Parties to the Covenant, UN Doc CCPR/C/21/Rev.1/Add.13 (26 May 2004), para 18.

<sup>74</sup> UNCAT articles 12, 13 and 16; Human Rights Committee, General Comment no 31 on The Nature of the General Legal Obligation Imposed on States Parties to the Covenant, UN Doc CCPR/C/21/Rev.1/Add.13 (26 May 2004), para 15.

<sup>75</sup> UNCAT article 2; Human Rights Committee, General Comment no 31 on The Nature of the General Legal Obligation Imposed on States Parties to the Covenant, UN Doc CCPR/C/21/Rev.1/Add.13 (26 May 2004), para 18; Human Rights Committee, General Comment no 20 on the Prohibition of torture and cruel treatment or punishment, 3 October 1992, para 3.

<sup>76</sup> See UNCAT articles 2 and 16 and Committee against Torture, General Comment no 2 on Implementation of article 2 by States parties, UN Doc CAT/C/GC/2 (24 January 2008).

<sup>77</sup> UNCAT article 15; Human Rights Committee, General Comment no 32 on Right to equality before courts and tribunals and to a fair trial (article 14 ICCPR), UN doc CCPR/C/GC/32 (23 August 2007), para 6, interpreting ICCPR articles 7 (prohibition of torture and other ill-treatment) and 14 (fair trial).

<sup>78</sup> UNCAT article 14; Committee against Torture, General Comment no 2 on Implementation of article 2 by States partes, UN Doc CAT/C/GC/2 (24 January 2008), para 3. See also ICCPR article 2(3) and Human Rights Committee, General Comment no 31 on The Nature of the General Legal Obligation Imposed on States Parties to the Covenant, UN Doc CCPR/C/21/Rev.1/Add.13 (26 May 2004), para 16.

<sup>79</sup> A military detention area called S28.

<sup>80</sup> A military detention area called S5.

<sup>81</sup> Dr Hani Moustafa said he submitted a complaint to the Public Prosecutor and with the Doctors' Syndicate.

<sup>82</sup> Abdel Rahman Abdallah Mohamed said that he submitted a complaint to the Public Prosecution.

<sup>83</sup> At the time of writing, the situation is fluid and it is unclear if SCAF's amendments will ever be restored, and for how long, if the appeals lodged before administrative courts are successful. A new constitution is expected to be in place before the end of 2012. If the current Constituent Assembly drafting the constitution was to be dissolved by administrative court on the grounds that it was illegally established by the now dissolved parliament, President Morsi's amendments stipulate that he would establish a new Constituent Assembly, whereas SCAF's amendments stipulated it would be the authority to do so.

<sup>84</sup> Committee on the Elimination of Discrimination against Women, General recommendation No. 28 on the core obligations of States parties under article 2 of the Convention on the Elimination of All Forms of Discrimination against Women, UN Doc CEDAW/C/GC/28 (16 December 2010), para 32.

<sup>85</sup> See, for example, Human Rights Committee, General Comment no 31 on The Nature of the General Legal Obligation Imposed on States Parties to the Covenant, UN Doc CCPR/C/21/Rev.1/Add.13 (26 May 2004), paras 15-19; Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law (Basic Principles on the Right to a Remedy and Reparation), adopted and proclaimed by UN General Assembly Resolution 60/147 of 16 December 2005 (UN Doc. A/RES/60/147).

<sup>86</sup> See, for example, Human Rights Committee, General Comment no 31 on The Nature of the General Legal Obligation Imposed on States Parties to the Covenant, UN Doc CCPR/C/21/Rev.1/Add.13 (26 May 2004), para 20.

<sup>87</sup> Minister of Justice decision 4991 of 2011, dated 4 June 2012.

<sup>88</sup> The court referred to Article 23 of the Code of Criminal Procedures.

<sup>89</sup> See Inter-American Court of Human Rights, *Case of Cabrera Garcia and Montiel Flores v Mexico*, judgment of 26 November 2010, Series C No 220, paras 197-201 and the other cases cited therein; UN Subcommission on Human Rights (Rapporteur Emmanuel Decaux), Report on the Issue of the administration of justice through military tribunals, UN Doc E/CN.4/2006/58 (13 January 2006), "Draft Principles Governing the Administration of Justice through Military Tribunals", Principle no 9 on the "Trial of persons accused of serious human rights violations", which provides "In all circumstances, the jurisdiction of military courts should be set aside in favour of the jurisdiction of the ordinary courts to conduct inquiries into serious human rights violations such as extrajudicial executions, enforced disappearances and torture, and to prosecute and try persons accused of such crimes."; Report to the General Assembly by the Special Rapporteur on the Independence of Judges and Lawyers, UN Doc A/61/384 (12 September 2006) para 68 ["In no case should military tribunals be competent to try civilians or to try military personnel who have committed serious violations of human rights."]

<sup>90</sup> They were appointed by the President of the Cairo Appeals Court and the President of the General Assembly of the Appeals Court, who had previously been accused by other judges of interfering with their cases, as was the case with the unfair trial of foreign NGOs in Egypt in 2012.

<sup>91</sup> Amnesty International, "Egypt: Military pledges to stop forced 'virginity tests'", 27 June 2011, available at: [www.amnesty.org/en/news-and-updates/egypt-military-pledges-stop-forced-virginity-tests-2011-06-27](http://www.amnesty.org/en/news-and-updates/egypt-military-pledges-stop-forced-virginity-tests-2011-06-27)

<sup>92</sup> *Al-Shorouk* newspaper, "Al-Shorouk publishes the investigations into Cabinet Offices events (2-2)" [original in Arabic], 16 May 2012, available at: <http://www.shorouknews.com/news/view.aspx?cdate=16052012&id=cd848a18-4d3a-4a72-a2e7->



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<sup>93</sup> Emergency Prosecutors are civilian Public Prosecutors acting in the framework of the Emergency Law, which allows them to detain suspects for longer periods of pre-trial detention and refer them to special emergency courts. Amnesty International has repeatedly criticized such special powers as falling short of international standards for fair trial.

<sup>94</sup> *Al-Shorouk* newspaper, "Al-Shorouk publishes the investigations into Maspero events (1)" [original in Arabic], 18 May 2012, available at:  
<http://shorouknews.com/news/view.aspx?cdate=18052012&id=0f251268-36f4-4e54-b523-004172a85716>



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## **BRUTALITY UNPUNISHED AND UNCHECKED** **EGYPT'S MILITARY KILL AND TORTURE PROTESTERS** **WITH IMPUNITY**

The violent dispersal by military forces of a peaceful sit-in at the Cabinet Offices in Cairo on 16 December 2011 ignited a week of clashes that led to the killing of at least 17 protesters. Images of soldiers beating people and ripping the clothes off a veiled woman captured the brutality of the crackdown and shocked public opinion. Many of those arrested said they were tortured in military custody, and nearly 300 were put on trial. Not a single member of the military was prosecuted for killing, injuring or torturing protesters.

This report shows how Egypt's armed forces committed with impunity grave human rights violations in response to other initially peaceful protests in Cairo during the transitional period of military rule between the "25 January Revolution" in early 2011 and the election of President Mohamed Morsi in June 2012. In addition to the Cabinet Offices events, the report looks at the army's response to a protest by Coptic Christians at Maspero in October 2011 and a sit-in in Abbaseya in early May 2012, which in both cases led to unlawful killings and other abuses.

Amnesty International is calling on the authorities to bring to justice the perpetrators after holding thorough, independent and impartial investigations into the serious abuses by military forces, and to refrain from passing laws that would grant military forces immunity from prosecution.

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Index: MDE 12/017/2012  
October 2012

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