

# THE DEATH PENALTY

#To\_The\_Public

#To\_Decision\_Makers

#Stop\_Executions\_in\_Egypt

## ARAB REPUBLIC OF EGYPT

February 2018



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Case no. 16850/2014, Mansoura Criminal Court



Basem Mohsen



Ibrahim Azab



Ahmed Al-Walid



Mahmoud Wehbe



Khaled Askar



Abdurrahman Attia

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Library of Alexandria



Yasser Abasiri



Yasser Shukr

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Case no. 1200/2014, Mansoura Court



Abdul Hamid Metwally



Ahmed Maher



Mu'taz Bellah Ghanem

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Qatar Espionage Case



Ahmed Adel Afifi



Mohamed Adel Kilani



Ahmed Ismail Thabet

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Sidi Bishr Events Case



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## INTRODUCTION

In the wake of the events of July 3, 2013, following the forceful removal of elected Egyptian President Mohamed Morsi by the Egyptian army, Egyptian authorities launched an intense crackdown on dissidents, with tens of thousands of people arrested and imprisoned and charged with criminal offences. The arrests were followed by a series of mass trials that lacked the basic minimum standards of a criminal justice system and which issued harsh sentences against the detainees.

The most serious of these sentences were death sentences, which have been issued against hundreds of defendants. These sentences were met with escalated campaigns of incitement by officials, politicians and Egyptian media to implement these sentences quickly and urgently, and without the need to undergo appeal, contrary to what is prescribed by law, leading to calls of liquidating the opponents extra-judicially.

This brief report highlights the status of the death penalty in Egypt since July 3, 2013, aiming to inform decision-makers worldwide of the status quo in Egypt, in the hope that they take the necessary action to stop this brutal punishment which the regime is imposing on a large-scale to eliminate any opposition.

## STATISTICS ON DEATH SENTENCES IN THE PAST FOUR YEARS

Since July 3, 2013, in an unprecedented move, the Egyptian civil and military judiciary has referred the documents of 2060 persons to the Mufti, a mandatory step prior to the issuance of death sentence according to the provisions of Egyptian law. The death sentences of 965 of them were ratified in 70 different cases, of which ten cases were presented in military trials, with 111 civilians were sent to death on these trials.



All cases were related to the defendants 'opposition to the authorities', but the charges were presented as criminal in nature to prevent international criticism. Of these sentences, 57 have failed in their appeal, with the Egyptian authorities executing 27 to date, and 30 people are currently threatened after their death sentences were ratified and all routes of appeal were exhausted, with all paths of justice reaching a dead end





The first execution was carried out against Mahmoud Ramadan on March 7, 2015; while the second sentence was implemented on six persons in the military case known as the ‘Arab Sharkas case’ on May 17, 2015; and the third execution was carried out against Adel Mohammed Ibrahim on December 15, 2016, the forth execution was implemented on 15 persons in the military case known as “Safa 3 ambush” on 26 December 2017; and the fifth execution was carried out against four civilians in the military case known as ‘The Kafr Elshaikh Stadium’ on 2<sup>nd</sup> January 2018.

## **EVIDENCE ON WHICH ISSUANCE OF DEATH SENTENCES WERE BASED**

The afore-mentioned death sentences were based on scanty and legally-invalid evidence, mainly confessions which defendants later testified before the court and prosecution that they had been extracted under torture. The Public Prosecution and the courts ignored these torture allegations and did not investigate any of the complaints, and considered the defendants' confessions as valid.

Another evidence on which these sentences were based, are the security service investigations, which are secret and classified by the National Security Service. In such cases, the security service present the incident against the accused as accurate and unamendable; no new evidence can be added to the statements of the officers who arrested the accused, despite there being no material evidence condemning the accused. In such cases, any evidence provided by the defendants' lawyers for acquittal of the charges is ignored. Allegations into the falsification of the records by security authorities, as well as crimes of enforced disappearance and torture, are all ignored.

## **PRE-TRIAL CONVICTIONS**

Many of those sentenced to death were convicted before any trial commenced. The defendants were filmed in deplorable conditions, with the effects of torture clearly visible on them. A scenario of their alleged conviction is displayed in front of cameras and these recordings are aired on state-controlled satellite channels,

as a justification for imposing harsh penalties on them. Moreover, the defendants are labelled with abhorrent convicting terms such as ‘terrorist cells’, ‘involved in communications with al-Qaida terrorist organisations’, ‘incursions on police stations’ or ‘vandalism of public property’ before they are formally tried and convicted. Such labels are used by the judges themselves in their judgment of these persons.

## **SELECTED DOMAINS FOR TRYING OPPONENTS**

The majority of the sentences are issued by judicial domains which are specifically selected to carry out the regime's will in convicting the defendants. On January 1, 2014, specialised terrorism courts were established. Egyptian authorities justified their establishment after numerous judges refused to consider cases involving dissidents.

## **EGYPTIAN LAW AND THE ISSUANCE OF THE DEATH PENALTY**

Egyptian law in its punitive structure contains catastrophic bands that open the door to the judiciary in issuing death sentences in large numbers. This is due to the current systematic collapse and politicisation of the judicial authority in Egypt today.

Specifications of the Egyptian penal legislation, whether related to the Penal Code or Military Law or the Weapons and Ammunition Law or specialised criminal laws, have been used to issue the punishment of the death sentence for more than 105 crimes. Most of these crimes are vague and loosely defined, allowing the authorities to expand their interpretation to all opponents.

## **THE TRIAL OF CIVILIANS BEFORE MILITARY COURTS**

Egyptian authorities have not only misconstrued Egyptian law, but have enacted a handful of new laws that target the opposition and encourage the death penalty. The Egyptian President issued a law decree No. 136 of 2014 on 27/10/2014 which granted the military the authority to protect public and state facilities for two years, along with the police. The law stipulates that military courts are granted jurisdiction over any alleged crime occurring on public land and all public facilities, with the participation of the authorities. In accordance with this law, hundreds of detainees were tried in military courts.

According to the legal provisions stipulated in Egyptian law, the military judiciary lacks the characteristic of impartiality and independence. Indeed, the law instructs the subordination to the Minister of Defence (Supreme Commander), and obedience to his orders and instructions. Military rule is worthless unless it is with the approval of the Supreme Commander of the Armed Forces, who has the power to change a sentence or cancel it without trial. This indicates that military justice is only a reflection of the will of the army leadership, not according to what has been derived from case investigation or what is provided by the defence in court.





Over the past four years, 113 individuals have been sentenced to death by military courts. What is particularly alarming regarding these sentences is that all cases brought before the Supreme Military Court of Appeals have been fully ratified for 10 of accused, with six of them having their sentence enacted so far. It is clear that the Egyptian regime is unwilling to achieve justice and that military trials are but a means of legitimising administrative orders issued by the regime to suppress dissidents.

## **THE COUNTER-TERRORISM LAW**

In August 2015, the Egyptian government enacted the Counter-Terrorism Law. This law includes catastrophic provisions that allow security services, investigating entities and prosecution to entrench and exceed the standards of a fair trial. It gives them greater power to detain suspects without judicial review and order wide-ranging and potentially indefinite surveillance of suspects without a court order, thus abating all rights of the accused. This law also expands the sphere of criminalisation to include anyone who utters a word that is not in accordance with the Egyptian regime. Furthermore, the law allows security services to kill and expose individuals to enforced disappearance, while fully ensuring their impunity.



## BRIEF DESCRIPTION OF RECENT DEATH SENTENCES

### Implemented sentences:

#### ➤ **Mahmoud Ramadan**

On May 19, 2014, the detainee Mahmoud Hassan Ramadan Abdel Nabi was sentenced to death in case No. 201/15663/1442 of the Sidi Gaber criminal section on charges of demonstrating and murder. On February 10, 2015, the Court of Cassation ruled against the appeal filed by the accused, and the sentence was implemented on March 7, 2015.



Ramadan was subjected to a campaign of severe media defamation leading up to his execution. This included a videotape of him confessing to fabricated allegations under threat, to become the first detainee executed by the death penalty. The case papers were exempt of any material evidence that was sufficient for him to be charged with intentional murder, and the case had no reference to investigations undertaken on the demonstrators who were killed by security forces at the same demonstration

## ➤ Arab Sharkas Cell Case

On October 21, 2014, the military court handed down its judgment in case No. 43 of military crimes against nine defendants. Seven were sentenced to death, one

in absentia, and a life sentence was given to two. On March 24, 2015, the defendants' appeal was rejected by the Supreme Court of Military Appeals, and on May 17, 2015, Mohammed Bakri Harun, Hani Mustafa Ameen Amer, Mohammed Ali Afifi, Abdul Rahman Sayed Rizk, Khalid Faraj Mohammed Mohammed Ali and Islam Sayed Ahmed were executed.

The military prosecutor charged the men with the murder of two security officers at the Arab Sharkas store on March 19, 2014, when they were arrested, as claimed by the Military Prosecution who accused them of terrorist acts in March 2014.

According to documents submitted to the court and the Military Prosecution, security forces arrested three of the convicts before the actual crime that was referred to was committed by months. They were subjected to enforced disappearance in al-Azouli Prison in Ismailia. This is evidenced by official transcripts which are dated prior to the crimes taking place. However, none of the courts that considered the case looked at this fact.



## Adel Mohamed Ibrahim

Adel Mohammed Ibrahim, 41, was executed on December 15, 2016, after the Court of Cassation upheld his death sentence on December 10, 2016. He was charged, among others, with the murder of 25 members of the Central Security Agency in August 2013.



The court based its judgement on vague and legally invalid evidences, namely confessions, that the accused later admitted in court, were extracted under torture. As well as the fabricated confessions, there were secret unspecified interrogations by security services that contained many contradictions and illogical claims, and an audio recording that contained no evidence of the perpetrator's involvement.

### ➤ **Safa 3 ambush**

The Egyptian Supreme Military Court of Appeals ruled on Monday, November 13, 2017, rejecting the appeals filed by defendants in case number 45/2013,

Partial Military Offences in North Sinai, attached to case number 411/2013, Military crimes in Ismailia. All 16 defendants are civilians. They were sentenced to death on June 16, 2015, and now, following the rejection of their appeal, they await their execution which is enforceable at any time.

The defendants who are sentenced to death are: Ahmad Azmi Hassan Mohamed Abdo, AbdulRahman Salaama Salem Salaama Abu Eita, Alaa Kamel Saleem Salaama, Mas'ad Hamdan Salem Salaama, Musa Mohamed Omar Haraz, Haleem Awad Suleiman, Ibrahim Salem Hamad Mohamed, Ismail Abdullah Hamdan Qaisawi, Hassan Salaama Jumua Muslim, Dahab Awad Sulaiman, Yousef Ayad Sulaiman Awad, Mohamad Ayyash Ghannam, Salaama Saber Saleem Salaama, Fouad Salaama Jumaa, Mohamed Salaama Talal Sulaiman and Ahmed Salaama Talal Sulaiman.

By investigating the case papers and the referral order of the accused, the entire case appears to have been built in a farcical manner: the charges were apprehended after the defendants were arbitrarily arrested without the permission of the Public Prosecution. In the records of arrest, it is recorded that the officer patrolling the area of Abu Eita in al-Arish searched the area and arrested the second suspect, AbdulRahman Salaama Salem Salaama Abu Eita on grounds of suspicion. The members of the patrol accompanying the officer arrested the fourth suspect, Mas'ad Hamdan Salem Salaama, after an alleged exchange of gunfire, without any physical evidence to prove this.





Whilst conducting another patrol on the Circular Road in al-Arish, the eighteenth and nineteenth defendants Mohamed Salaama Talal Sulaiman and Ahmed Salaama Talal Sulaiman were

arrested. The arrests were carried out without prior arrangement or trace to the accused, but were done arbitrarily on the grounds of suspicion and without being suspected in a specific case; they were only charged after their arrest.

### ➤ **The Kafr el-Sheikh stadium case**

The Egyptian Supreme Military Court of Appeals ruled on June 19, 2017, rejecting the appeals filed by the defendants in case No. 22/2015 military crimes Tanta, and case No. 325/2015 Alexandria military crimes. The incident in which the accused were charged was a bomb blast near the Kafr el-Sheikh stadium which took the lives of three military academy students, in April 2015.

There were 16 defendants. Seven defendants had their death sentence ratified, of whom three were sentenced in absentia. Five defendants were sentenced to life in prison, two to 15 years in prison, and two others to three years in prison. The sixteen defendants are all civilians and were put on trial for charges of murder, committing acts of terror, and for belonging to a banned group. The court had confirmed their convictions in March 2016.



These sentences were based on confessions extracted from one of the accused under torture. Furthermore, the investigations undergone by security authorities had clear contradictions in the dates of detaining the defendants and the date of the crime in which they are charged. The defendants were denied the right to appear before a neutral judge and the opportunity to present their arguments in the proper rightful manner.

Following the verdict in the case, members of the defence team of the defendants on death row appealed to the Attorney General to re-open the investigations after the emergence of new evidence that would absolve the defendants of the charges against them. It was discovered by defence team in case 9170/2017 Talabiyya crimes, which is connected to case 832/2016 of State Security, that one of the accused stated that they knew the identity of the bomber of the Kafr el-Sheikh stadium. The latter mentioned the bomber's name and details of the incident. However, the court refused to reopen the investigation.

## **Sentences pending implementation:**

### ➤ **The Port Said stadium case**

The Port Said case, which no. is no. 427/2012, dates back to 1 February 2012, when 70 Al-Ahly soccer fans were killed following a game between Al-Masry and Al-Ahly clubs. Thousands of El-Masry spectators stormed the stadium stands and violently



attacked Al-Ahly fans. Stadium officials responded by switching off the lights while security forces stood back and refrained from interfering to stop the attacks. Gates leading to Al-Ahly fans sitting area were locked upon the orders of security forces.

On 1 March 2017, the Court of Cassation had rejected an appeal by 52 defendants including 10 who have been sentenced to death. The ten Egyptians are: Mohammed Rifaat Al-Dinf, Mohammed Mohammed Rashad, Mohammed Assayed Mustapha, Mohammed Khalf, Mohammed Adel Shihata, Ahmed Fathi Al-Mazrou', Mohammed Al-Baghdadi, Fouad Al-Tabi', Hassan Mohammed Hassan Al-Majdi, and Abdelazeem Ghareeb Bahloul.

The convictions rely heavily on investigations carried out by security forces who lack integrity and independence. Forced disappearances and torture are also rampant, leading to many false confessions extracted under duress from innocent detainees.

### ➤ **Case 16850/2014 Mansoura Criminal Court**

The Egyptian Court of Cassation rejected on June 7, 2017, the appeal of the appellants Khaled Refaat Jad Askar, Ibrahim Yahya Abdel-Fattah Azab, Ahmed Al-Walid Al-Sayed Al-Shab, Abdurrahman Mohamed Abdo Attia, Basem Mohsen Khreibi and Mahmoud Mamdouh Wehbe. Their execution now stands enforceable after the exhaustion of all ordinary channels of appeal.



The file of the case, like other cases addressed to defendants due to their opposition of the authorities, was mainly based on investigations by the National Security Services, and the confessions of the accused were extracted under torture. While the court relied on the evidence as sufficient to issue a death sentence, the court did not deal with the crimes committed against the accused, such as torture and enforced disappearance which the accused were subjected to



for varying periods since their arrest in February and March 2014. They were detained from various locations and taken to security headquarters without being

allowed to communicate with their relatives or lawyers, nor were they presented to any judicial bodies as stated in communications submitted by the defendants' families to Public Prosecution. The defendants verified their family's statements when they were subsequently brought before the court, informing the court that they were forced to sign fabricated charges and record confessions before the cameras under torture. These confessions were presented on March 12, 2014, and were broadcast by Egyptian media under instruction of the Ministry of Interior, with signs of torture clearly visible on the accused.

Further proof of the fabrication of the charges is evidenced during the confessions made by the defendants during official proceedings. The weapons which appeared in front of the accused in the video recorded by the Ministry of the Interior was a sewage pipe and an old unused shotgun which had no bullets.



### ➤ **Fadel al-Mawla Housney**

The Court of Cassation in Alexandria on April 24, 2017, rejected the appeals by 17 defendants against their convictions for charges in the case No. 27868/2014 Muntaza Crimes department. The sentences included the death sentence of the 52-year old detainee Fadl al-Mawla Husni Ahmed Ismail, who was accused of protesting and murder. The rejection of his appeal means that the sentence will be carried out, despite the absence of any physical evidence of him committing the crime, and despite defence producing evidence that the accused was not even present at the time of the alleged incident.



### ➤ **Library of Alexandria**

On July 3, 2017, the Egyptian Court of Cassation rejected the appeals filed by some of the defendants in case No. 20091 for the year 2013/Bab Sharq, which took place after the cessation of sit-ins in Rabia Adawiya and Nahda in 2013. The prosecution charged the accused with murdering citizens and police officers. The first instance verdict was issued on September 28, 2015 by the 10th Criminal Circuit of Alexandria under the chairmanship of Counselor Gamal Akrab, with the execution of Yasser Abdel Samad Mohamed Abdel Fattah and Yasser Abasiri Abdel Naim, and there was a third accused sent to death but in absentia, called Walid Habib.



### ➤ Qatar espionage' case

The Egyptian Court of Cassation on September 16, 2017, upheld the death sentences of three defendants and the life imprisonment of four others, headed by former Egyptian President Mohamed Morsi. The defendants were charged with communicating with a foreign country, namely Qatar, in case No. 10154/2014, connected to case No. 315/2014 of the Supreme State Security.



The death sentence was ratified for: Ahmed Adel Abdu Afifi, documentary film producer; Mohamed Adel Hamid Kilani, Air Host at EgyptAir; and Ahmed Ismail Thabet, Teaching Assistant at the Egyptian University of Science and

Technology. The ruling was purely and distinctly political in nature, lacking any of the proceedings in accordance with the standards of criminal justice. The verdict reflected the regime's desire to condemn the State of Qatar as well as add another conviction to the record of former President Morsi.

### ➤ **Case 200/2014 Mansoura Criminal Court**

On 14 December 2017, the Egyptian Court of Cassation upheld the death sentences of five defendants in case No. 200/2014 Mansoura, two of them in absentia.

The defendants were charged with killing the Egyptian citizen Mohammed Mahmoud Essayed, the son of the Judge Mahmoud Essayed Elmorly on 19 June 2015.

The death sentence in presentia was ratified for: Abdul Hamid Abdulfatah, Ahmed Maher Hindawy, and Mu'taz Bellah Mohammed Ghanem.

The file of the case, like other cases addressed to defendants due to their opposition of the authorities, was mainly based on investigations by the National Security Services, and the confessions of the accused were extracted under torture.



➤ **Case 938/2014 Kerdasa Criminal Court**

On 20 January 2018, the Court of Cassation upheld the death sentences of three defendants in case No. 938/2014 Kerdasa, the defendants were charged with killing Major General Nabil Farraj in August 2013 in Kerdasa police station.

The death sentence was ratified for: Mohamed Said Faraj Saad, Mohamed Abdel Samieh and Hamida and Salah Fathi Hassan Al-Nahhas.

The file of the case, like other cases addressed to defendants due to their opposition of the authorities, was mainly based on investigations by the National Security Services, and the confessions of the accused were extracted under torture. While the court relied on the evidence as sufficient to issue a death sentence, the court did not deal with the crimes committed against the accused, such as torture and enforced disappearance which the accused were subjected to for varying periods since their arrest.



## ➤ **Al Goura ambush**

The Egyptian Supreme Military Court of Appeals ruled on 06 February 2018, rejecting the appeals filed by two defendants in case No. 382/2013 military crimes North Sinai, the two defendants are civilians.

They were sentenced to death on 24 February 2015, and now, following the rejection of their appeal, they await their execution which is enforceable at any time.

The incident in which the accused were charged was a murder of two police men on 5 July 2013.

The defendants who are sentenced to death are: Soliman Muslim Eid Garabi and Rabhi Guma'a Hussain Hassan.

By investigating the case papers and the referral order of the accused, the entire case appears to have been built in a farcical manner, and the sentence was mainly based on investigations by the National Security Services.

There were 7 defendants have been accused in this case, five of them were acquitted, although the case file lacks any physical evidence of any of the defendants committing the crime, however, the court sent to of them to death, which reflects the absurdity of the verdicts.





## ➤ THE LEGAL FRAMEWORK

The right to life is a sacred right, safeguarded with both local and international laws. Therefore, all international legislations specifically state this obvious right in all their various international conventions and treaties, foremost of which is the 1948 Universal Declaration of Human Rights. Article 3 of this declaration states: “Everyone has the right to life.” This right was affirmed in Article 6 of the 1966 International Covenant on Civil and Political Rights. All international organisations such as the Arab League, the European Union and the African Union followed the same approach.

The death penalties that are being issued by courts that follow the whims of dictatorial regimes who seek to eliminate all those who oppose their rule, is not different from the crime of shooting to kill protesters at a demonstration or during a peaceful assembly. The result is the same.

For decades, the United Nations has sought to abolish the death penalty worldwide to deter authoritarian regimes from using this instrument. For those states which have not abolished the death penalty, several international guarantees and obligations have been placed on them. In 1984, the United Nations Economic and Social Council adopted resolution 1984/50 on January 25, 1984, which sets out safeguards guaranteeing the protection of the rights of those facing the death penalty. The resolution called on the governments of states that have not abolished the death penalty to ensure basic guarantees, most importantly, that such punishment may only be imposed for the most serious of crimes. Moreover, it is not permissible to impose the punishment unless the charge against the accused is based on clear and convincing evidence, leaving no room for any other explanation of the facts.



The same resolution also determined that the death penalty may only be imposed by a judgment of a competent court after full legal proceedings that guarantee all possible undertakings of a fair trial, at least comparable to the guarantees contained in Article 14 of the International Covenant on Civil and Political Rights.



## ➤ CONCLUSION AND RECOMMENDATIONS

- Death sentences in Egypt are political decisions issued by the regime using civil and military courts that have been fully politicised.
- Egyptian security services fabricated the charges against many people, and have built fabricated cases after conducting contrived investigations and extracting the confessions of the accused under torture, following enforced disappearance for long periods of time.
- Many Egyptian media outlets participate in the crimes of the regime, from incitement of repression and killing of opponents, to presenting humiliating videos of the accused, appearing disarrayed, making fabricated confessions following the subjugation of torture. The videos are then presented to the judiciary, and upon which, harsh sentences are issued.
- The defective laws which are issued by Egyptian authorities' daily aim to create an official killing machine for dissidents, giving no opportunity to those unjustly sentenced to legal redress or the opportunity to seek their basic rights.
- The lives of 30 defendants currently on death row is in danger, following the rejection of their appeals which leaves their death sentences pending, with all means of appeals exhausted and no means for justice.
- The United Nations, the international community and the world's decision-makers have the means to stop the multi-faceted killing machine used by the Egyptian regime to crush dissidents. These methods are still deliberately disrupted, but will they operate now to save lives?