



Egypt

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- 1. Context**
- 2. Laws violating the commitments of Egypt**
- 3. Arrests / arbitrary detentions and enforced disappearances**
- 4. Torture**
- 5. Recommendations**

Alkarama recalls that it concentrates its work on four priority areas; arbitrary detention, enforced and involuntary disappearances, torture, and extrajudicial executions. We base our work primarily on the documented individual cases we submit to UN Special Procedures and Treaty Bodies, as well as our contacts with local actors including victims, their families, lawyers and human rights defenders.

Egypt

1. Context

Government policy is challenged in general by various factions (opposition parties, unions, media and NGOs), though the opposition is dominated by the Muslim Brotherhood, which remains to this day a banned political party, although many independent members are affiliated with it. The government refused the legalization of 12 political parties that filed formal requests for approval.

Universal suffrage was introduced in the last presidential elections in 2005. Despite this sign of progress in the political field, President Hosni Mubarak was reelected for the fifth consecutive time, in a ballot marked by fraud and massive manipulation, according to most independent observers.

During the 2005 parliamentary elections, the Muslim Brotherhood emerged as the main opposition party, winning 88 of 454 seats to be filled.

Since then, the political field has continued to be reduced. A wide campaign of arrests of members of the Muslim Brotherhood took place before the last municipal elections on 8 April 2008. From 14 February to 15 March 2008, 831 leading members or sympathizers of the movement were arrested in all parts of the country (Cairo, Alexandria, al-Buheira, al-Qalyubia, al-Gharbiya, Kafr al-Sheikh, Assiut, Dakahliya, Bani Suwayf al-Sharqiya, Damietta, Giza, al-Fayyum etc.), most of those arrested were candidates in the upcoming elections.

In the past, Egypt has faced many attacks by armed groups, mainly the Islamic Group (al-Gama'a al-Islamiyya). This group did, however, in late 1997, publicly renounce armed struggle.

The State of Emergency introduced in October 1981 after the assassination of President Anwar Al-Sadat was renewed for two years in 2008. Confrontation with an armed opposition was always the justification for its extension in order to fight terrorism. It gives the security forces, particularly the State Security Investigative branch (SSI), attached to the Ministry of Interior, excessive authority.

The **anti-terrorism law** enacted in 1992 contains a very broad definition of terrorism which allows the criminalisation of the legitimate exercising of one's freedom of expression. A new anti-terror law was announced in 2007. To date, it has not yet been enacted, but it is feared it would only serve to "legalize the exception" by further restricting freedoms of expression and of association as well as union rights.

On 19 March 2007 in the absence of the opposition parties, the parliament voted on amendments to 34 articles of the **Constitution**, including provisions of the state of emergency that allow serious violations of human rights, particularly arrest, arbitrary detention and torture, already common practice in Egypt.

As part of the international fight against terrorism, there was intense cooperation with the West and particularly the United States. Dozens of suspects have been unlawfully transferred to Egypt where they have suffered serious abuse.

Egypt, as a **member of the Human Rights Council**, has undertaken in its letter of declaration of intent¹ to collaborate actively within this framework and to strengthen the system of special procedures during their term of three years.

The representative of the Permanent Mission of Egypt to the United Nations has expressed the intention of his Government to promote human rights including a commitment to provide an objective and credible response to complaints, communications and requests from international mechanisms and cooperation with them. Alkarama regrets that, in practice and to this day, the Egyptian authorities cooperate in an inadequate manner with the mechanisms of the United Nations for protecting human rights. Of the cases of arbitrary detention submitted by our organization to the Working Group, the authorities have rarely responded to questions raised by the latter.

The Egyptian state submitted its latest periodic report to the Committee Against Torture and Human Rights Committee in 2001 and 2002 respectively.

¹ Note verbale dated 18 April 2007 from the Permanent Mission of Egypt to the United Nations addressed to the President of the General Assembly (A/61/878)

2. Laws violating Egypt's commitments

Article 151 of the Egyptian Constitution stipulates that international treaties ratified by Egypt are considered as an integral part of domestic law. Thus, their provisions may be invoked before all legislative, executive and judicial authorities of the State. In practice, the fundamental principles of the Covenants are not respected. Exceptions remain the norm and are regularly renewed without review of their compliance with international law, including the principles of the ICCPR.

According to the Egyptian press, the anti-terrorism legislation² being drafted would extend the notion of "terrorism" to include any "disturbance of public order" and behaviour "likely to affect the national economy and the country's image." It is expected to qualify the incitement of terrorism, whether implicit or explicit, as a crime in its own right, carrying the same sentence - the death penalty or life imprisonment - as "the act" of terrorism itself.

The amendment of the Constitution in March 2007 modified section 179 so that emergency powers are granted to security services as part of the fight against terrorism, allowing them to carry out arrests, prolonged detentions, searches and wiretaps without a warrant. The same article provides that "the President has the right to refer any crime of terrorism to any judicial authority under the Constitution or the law."³ This means that suspects can be tried before military courts and jurisdictions where decisions cannot be appealed.

Article 3 of the Law on the state of emergency allows the interior minister to order an administrative detention and prolonged detention without charge or trial of any person suspected of "threatening public order or national security". Legitimized as a tool in the fight against terrorism, this law is increasingly used to repress social movements, as was the case in 2008, when it was used against workers and trade unionists involved in peaceful demonstrations and strikes about rising commodity prices.⁴

The administrative detention order can be given orally and must be confirmed in writing within 8 days. This administrative detention, renewable *sine die*, can be challenged by the detainee but the appeals process is complex and generally the authorities do not respect court decisions ordering the release of prisoners. Thousands of people are kept in prison without charge or trial for many years, many of them for more than ten years. People who have served their sentence are also sometimes kept in administrative detention under the same conditions.

The law on the state of emergency also allows the President to refer any criminal case to a special court. It may also appoint military judges as members of these special courts. He is empowered to refer the case to a military court. The trials that take place lack the basic characteristics of a fair trial. The court is not independent, the right to defense is not guaranteed and the right of appeal ignored. Its convictions are final and can only be reviewed by the President.

The law considers torture as a crime only if it is practiced as part of an unlawful arrest by a person presenting himself as an agent of the state.

3. Arrests / arbitrary detentions and enforced disappearances

According to various estimates, 18 000 to 20 000 people are detained without charge or trial, by order of the Ministry of Interior. Alkarama is regularly informed of cases of arbitrary detention, including administrative and / or secret detention. The three following examples illustrate the various forms of this practice. All these cases were submitted by Alkarama to the Working Group on Arbitrary Detention.

26 leading members of the Muslim Brotherhood were arrested in three raids on the nights of 14 and 24 December 2006 and 17 January 2007 without judicial warrants and without being informed

² The independent newspaper Al-Masri al-Youm, declared in mid-February 2008 that a copy was in their possession

³ <http://constitution.sis.gov.eg/fr/html/link0845.htm>

⁴ Jeune Afrique, 10 septembre 2008, http://www.jeuneafrique.com/Article/LIN08068loidueminec0/Index_Dossiers

of the reasons for these arrests⁵. On 29 January 2007, they were brought before the civilian criminal court in Cairo, accused of "belonging to a banned organization, to have supplied arms and military training to students." The ordinary criminal court acquitted them and ordered their immediate release. The security forces present at the hearing immediately arrested them, and on 4 February 2007, President Hosni Mubarak personally ordered that this matter be brought before the Supreme Military Court of Haikstep to be tried again. The defense lawyers were not informed of the trial date and, in protest, decided to boycott the session. The defendants were indicted by a panel of three military judges for the same accusations of which they had been previously acquitted. They were finally sentenced on 15 April 2008 to prison terms ranging from 3 to 7 years for 14 of them. The United Nations Working Group on Arbitrary Detention rendered an opinion saying that the deprivation of liberty of these persons was arbitrary⁶, but the Government took no action following the issuing of this opinion.

A communication dated 18 October 2006 regarding **19 persons arrested in 1996** and detained ever since simply under administrative decisions. The Working Group found that their detention was arbitrary⁷. All these men were tortured by the SSI. Only after their secret detention, which lasted 1 to 3 months, were they orally notified that they would be incarcerated based on the decision of the Minister of Interior without being presented before any court whatsoever.

All have challenged their detention before the competent courts, which ordered their release due to the absence of any legal action against them. But the administration of the Ministry of the Interior has used its power of veto and issued administrative decisions for continued detention thus proving the remedies provided by the law on the state of emergency are complete illusions and absolutely inefficient.

The Egyptian government has informed the Working Group of the release of 19 persons on 23 July 2007. Though 15 of them have actually been released, Sha'aban Al-Dib, Yasser Essayed, Aymen Jaballah Said Attiya, Assadaq Mohamed Gamal Mohamed Assadaq and Asseyed Ali Salim have never been set free. Indeed, the 15 people released had been detained without trial or legal proceedings for 11 years. The government asserts in its reply that they were released only after the authorities "were ensured of the moderation of their ideas and, consequently, their lack of criminal dangerousness." The Government has therefore explicitly admitted to the criminalization of the freedoms of thought and belief.

Mr Tarek Abdul Mujood Al-Zumer, now aged 49, was arrested in October 1981 and accused of conspiracy in the case of the assassination of President Anwar Al-Sadat. He was sentenced in 1982 by the High Court of State Security to 15 years imprisonment. He was sentenced to another penalty of 7 years imprisonment based on the same facts, both sentences were cumulative. However, based on an administrative decision by the Minister of the Interior, he was not been released in October 2003 as scheduled. On 18 May 2004, the High Administrative Court ordered his release, but again, the Ministry of Interior overturned the decisions by power of veto.

Many people have also been disappeared, usually after having been arrested by agents of the State Security Intelligence Services (SSI). Alkarama submitted to the Working Group on Enforced and Involuntary Disappearances a list of 17 persons arrested between 1992 and 1997. Some of these were arrested with other people who were later released. The missing people were last seen at the headquarters of the SSI investigative bureau in Lazoghli, Cairo. Despite their efforts, their families have never managed to get an update.⁸

⁵ See Alkarama.org, communiqué of 12 January 2009, http://en.alkarama.org/index.php?option=com_content&view=article&id=173

⁶ See the Working Group's opinion: http://fr.alkarama.org/index.php?option=com_docman&task=doc_download&gid=204&Itemid=70

⁷ See the Working Group's opinion: http://fr.alkarama.org/index.php?option=com_docman&task=doc_download&gid=125&Itemid=70

⁸ http://en.alkarama.org/index.php?option=com_content&view=article&id=234

4. Torture

Egypt has a legal system which should enable it to effectively fight the practice of torture; the Egyptian Constitution and the Penal Code prohibit its practice.

It is worth noting however, that this phenomenon, far from disappearing, is worsening. Torture has become routine, especially against those accused of terrorism or arrested for political reasons. Egyptian citizens returned from abroad in the framework of the fight against terrorism, are also concerned by this problem.

Many prisoners of conscience have passed through the SSI's center located in Lazoghli, Cairo where they claim to have been severely tortured while in custody. Torture is practiced in all sectors of the security forces, police and intelligence services as well as in prisons. Despite the victims' official filing of complaints, the procedures are very long and, in fact, no proper investigation is ever conducted nor are torturers prosecuted.

The **methods of torture** used include: beatings, prolonged suspension by the wrists or ankles, electric shocks to all body parts, rape, other sexual abuse and death threats. Many torture victims have died under torture.

Mr Ali Eid Al-Tabi'i Serraj, a civil servant aged 48, was arrested in 1993 by members of the security services and detained incommunicado for several months at their headquarters in Port Saïd. He suffered very severe torture that seriously affected him. He was jailed under a simple administrative decision by the Minister of Interior. His mental health has steadily deteriorated. He lost all autonomy and survived only thanks to his fellow inmates who assist him in even the most basic needs of daily life. Despite several decisions made by civilian courts for his liberation, he has never been released.⁹

Deaths under torture or from its effects are common. Security forces generally justify these deaths by invoking suicide; investigations ordered get bogged down and never establish the truth.

On 22 February 2009, Alkarama submitted to the Special Rapporteur on Torture¹⁰ several cases of violation on the right to life. **Mr Abdessadek Zahran Chahine**, aged 54, resident of Tanta, was arrested outside his home during the wedding ceremony of his daughter on 5 February 2009. The police who took part in the operation violently beat him in the presence of many witnesses. Having lost consciousness, he was transported to hospital where doctors could do nothing but verify his death. According to the authorities questioned by his family, an autopsy was intended to be performed, but to date no information has been provided.

On 5 November 2006, **Mr. Ahmed Hassan Fouad**, a 35-year-old salesman living in Alexandria, was arrested by police in Mina Al-Bassal and taken to the police station where he was detained incommunicado. According to his sister who was able to visit him, he bore signs of aggression on the face and informed her that he was tortured daily. A few days later, his family learned "that he had committed suicide" by hanging. She expressed doubts about the reality of these claims and notified the Prosecutor General to request an autopsy and investigation. To date she has not received a response.

Mohamed Abdul Hafid Neboua, 24, was arrested on 10 July 2007 at his home in Giza by police and taken to Wassim police station. Witnesses reported to his family that he had been brutally tortured. A few days after his arrest, police informed his family that he had committed suicide by jumping from fourth floor of the police station. No autopsy or investigation has been ordered by the Attorney General despite requests by the family.

Alkarama plans to submit the case of **Mr Magdi Anwar Mar'i**, 43, residing in Arimoune, Al-Mahmudiyah (Al-Buheira), who was arrested on 11 July 2009 at his home by police for protesting against the destruction with without any judicial authority of his barn by local police. He was taken

⁹ http://fr.alkarama.org/index.php?option=com_content&view=article&id=186

¹⁰ http://en.alkarama.org/index.php?option=com_content&view=article&id=190

in a minibus and tortured along the way before being thrown out of the rolling car, dead onto the road in front of numerous witnesses.

The situation in the **Egyptian prisons** is dramatic. The members of the Muslim Brotherhood detained in Torah prison, are held in particularly inhumane conditions of detention, which can be seen as torture; the ill suffer from the almost total lack of care. In 2007 Alkarama appealed to the Red Cross¹¹, which is, however, not allowed to visit people deprived of freedom in Egypt. In the framework of **international cooperation in the fight against terrorism**, dozens of suspects have been unlawfully transferred to Egypt. These people, whether Egyptian or foreign nationals were detained in the detention centers of the General Information Services and the SSI where they were systematically tortured during long periods of detention. One of the most emblematic cases is that of Abu Omar, Usama Mostafa Hassan Nasr, who was kidnapped by CIA agents in February 2003 in Milan and transferred to Cairo aboard a plane chartered by the U.S. agency. Having been disappeared for 14 months, he was released but arrested 23 days later because he had reported by telephone that he had been tortured at the headquarters of the Intelligence Service.¹² He was finally released on 11 February 2007 without any charges having been brought against him.

Article 3 of the Convention against Torture, which prohibits the return of persons to a country where they risk torture, is systematically violated. Hundreds of Eritreans are detained in camps; others are indicted for illegal entry into Egypt and are administratively detained on the orders of Minister of Interior under the Law on the State of Emergency.

5. Recommendations

1. Abolish the state of emergency in force since 1981 and repeal all provisions of the emergency legislation that promote the human rights violations that have been incorporated into domestic law.
2. End the use of administrative detention and release immediately all those detained without trial.
3. Prohibit detentions on the premises of State Security Investigative Branch and all other detention centers. Institute a system of independent control over all places of detention in the country.
4. Establish independent investigations into allegations of torture, to prosecute and convict those responsible and compensate victims and/or their families.
5. Incorporate into domestic law the crime of torture as defined by Article 1 of the Convention and impose appropriate sentences to punish its practice.
6. Ensure that the composition of the judiciary is fully consistent with the Basic Principles on the Independence of the Judiciary by devoting particularly the principle of immovability of judges; work to completely remove the interference of executive power in justice.
7. Respect the right to a fair trial and the rights of defense in particular by abolishing, for example, the competence of military courts to try civilians.

¹¹ http://fr.alkarama.org/index.php?option=com_content&view=article&id=181

¹² See Stephen Grey, *Ghost Plane. The True Story of the CIA Torture Program*, New York, 2006.