



IN THE NAME OF THE PEOPLE

Third Annual Report on the Death Penalty in Egypt

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Third Annual Report on the Death Penalty in Egypt (2019)

2022

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Executive Summary

This report presents and documents death penalty sentences issued in Egypt in 2019 in cases that the research team was able to gain access to. Further, it attempts to provide an analysis on patterns regarding the use of the death penalty in Egyptian courts and the qualitative and quantitative changes with regards to resorting to this most severe penalty under Egyptian criminal law. The report also monitors any legislative amendments or changes that have occurred in its time frame.

In its first chapter, the report monitors death sentences issued in 2019 on the basis of case files and court documents that the research team was able to obtain. These include verdicts issued by first instance criminal courts at the first degree of litigation, final verdicts issued by the Court of Cassation and cases in which executions were carried out on defendants, whether they were issued by a civilian or military courts. The cases are included in a chronological order according to the dates in which the death sentences were issued. The chapter reviews the details of three cases, in which executions were carried out by prison authorities, two cases in which the Court of Cassation upheld the death sentences and one case in which the death penalty was handed out by a first instance criminal court. In addition, the chapter reviews one military case, in which an execution was carried out and three other military cases, in which the Supreme Court of Military Appeals upheld death sentences against civilians.

The second chapter monitors patterns of violations that some of the defendants that were sentenced to death in person were subjected to during the course of the case, including the pre-trial investigation period. In our view, these violations raise questions on the integrity of the investigations and verdicts of those cases. At least 33 defendants in nine cases were subjected to enforced disappearance, while the Prosecution initiated the questioning of at least 46 defendants despite their own lawyers' absence at the pre-trial investigation periods. At least 30 defendants who had been sentenced to death retracted their confessions on the basis of them having been extracted under torture. At least 49 defendants requested to be referred to a forensic medical examination in order to document injuries and marks of torture. The investigative authorities either ignored or at a minimum stalled 44 of those requests. The Ministry of Interior has filmed and published videos showing at least

5 defendants giving confessions during the investigation period, which is a grave breach of fair trial procedures. The court sentenced these defendants to death.

In its final chapter, the report proposes a number of recommendations concerning the death penalty and its use in criminal law with the aim of slowing down this rapid escalation in resorting to the most severe punishment in Egyptian criminal law, one that is irreversible once implemented.

About the annual reports on the state of the death penalty in Egypt

This series of reports aims to shed light on death penalty sentences and provide a reference for basic information on this penalty in Egypt in light of the relative scarcity of this information or its lack of verifiability sometimes. These reports are produced with the aim of supporting efforts to suspend the death penalty in Egypt given the deteriorating state of the current criminal justice institutions and the absence of minimum fair trial guarantees, or at least until a wide-ranging societal dialogue on the use of the death penalty in criminal law takes place. This is the same position that the Egyptian authorities called for at the UN Human Rights Council in its 36th session.¹

These reports also monitor patterns of human rights violations in some of the cases, in which death sentences were issued during the year, to shed more light on the violations accompanying the penalty, which are in themselves a violation of the right to life. In doing so, these reports document the state of the death penalty, the expansion of its use as well as the systemic problems associated with courts resorting to it over the years in Egypt, pointing to the shared social responsibility in issuing death sentences against people in the name of all of us: “in the name of the people”.

1- The thirty-sixth session of the United Nations Human Rights Council was held in September 2017, and during the discussion of the death penalty, the Egyptian mission pushed towards implementing a temporary suspension on the penalty and conducting a broad societal dialogue on the punishment and studies on its ability to deter and prevent the recurrence of crimes, according to the report of the Human Rights Council on the session held between September 11-29, 2017, available at: <https://daccess-ods.un.org/tmp/9470072.38864899.html>

Methodology

The team working on this report monitored the state of death penalties in Egypt in 2019. These include first degree death sentences issued by first instance criminal and military courts, final death sentences issued by the Court of Cassation or the Supreme Court of Military Appeals as well as executions that were carried out during this year. This has all been according to information the research team was able to collect from the media, communications with lawyers or through complaints that were submitted directly to EIPR during the monitoring period.

The second part of the report, which provides an analysis of patterns of human rights violations that accompany the death penalty, is based on reviewing a number of case files in which preliminary or final death sentences were issued in addition to cases where the sentence was actually carried out. Case files include: interrogation minutes, referral orders, court hearing minutes, forensic medical reports, defense memoranda and verdicts with their merits. In addition to the case files, the research team also reviewed some of the recorded interviews with the defendants, in which they gave statements about the violations they were subjected to. The research team also reviewed some letters and correspondence exchanged between the accused or defendants and their families. The 2019 report was based on a detailed and analytical study of the files of nine cases in which death sentences were issued or carried out during the year 2019. The details of these cases are as follows:

First: *Cases before civilian courts*

1. Case No. 11877 of 2014 / Giza Precinct felonies, known in the media as the “Tanzim Ajnad Misr” case.
2. Case No. 250 of 2014 / Supreme State Security Criminal Court, known in the media as the “Giza Cell” case.
3. Case No. 17086 of 2015 / Abo El Matamir Criminal Court, known in the media as the “Abo El Matamir” case
4. Case No. 938 of 2014 / Kerdasa Criminal Court, registered under case No. 9 of 2014 / North Giza Criminal Court, and registered under case No. 375 of 2013 / Supreme State Security Prosecution, known in the media as the “Murder of Major General Nabil Farrag”

5. Case No. 81 of 2016 / Supreme State Security Criminal Court, known in the media as the “Assassination of the Public Prosecutor” case.
6. Case No. 17583 / State Security Criminal Court, known in the media as the “Murder of the son of judge Mahmoud El Sayed El Murli” case.

Second: *Cases before the military courts*

1. Case No. 288 of 2015 / North Cairo Military Criminal Court, known in the media as the “Assassination of Colonel Wael Tahoun” case.
2. Case No. 165 of 2017 / Alexandria Military Criminal Court, known in the media as the “Churches bombing” case.
3. Case No. 108 of 2015 / Alexandria Military Criminal Court, known in the media as the “IED Planting Cell.”

Research Difficulties

Since the first version of this report was, there have been several obstacles facing the team in terms of research and documentation, relating mainly to the lack of free circulation of information. Among these obstacles is that the Egyptian Dar al-Ifta has stopped publishing its annual report since 2012, which used to entail its correspondence with the criminal courts and the number of cases in which the Grand Mufti of the Republic approved the execution of defendants and the cases in which he denied his ratification. The team also faces great difficulties in accessing investigation files until after the verdicts are issued in most cases, as defense lawyers in cases investigated by the State Security Prosecution are not allowed to photocopy the case files. This in itself is a serious violation of the right to legal representation but has been one of many practices that have become normalized to the extent of becoming non-negotiable. The research team also faces significantly increasing difficulties every year in reaching cases or the relatives of the defendants in cases, in which death sentences may be issued, given the increasing danger to the families, if they try to communicate with civil society, journalists or media outlets.

Key Terminologies

The difference between the jurisdiction of civilian and military courts

On 27 October 2014, President Abdel Fattah El-Sisi issued Law No. 136 of 2014, which expanded the jurisdiction of military courts to include crimes of assault on public establishments and facilities. Thus, the provisions of this law allowed the trial of any civilian accused of vandalizing public property referred to in the law, or blocking public roads, before a military court. Because military courts are subject to the authority of the Minister of Defense, and all military judges and prosecutors are military personnel of different ranks and are subject to all the regulations of control and linkage set forth in the military service laws, they do not enjoy the same degree of independence as judges of regular civilian courts. Despite the introduction of the right to appeal in misdemeanor cases and cassation for felony cases with the amendment of the Code of Military Justice in February 2014, procedures of military justice, which allow the trial of civilians and do not only apply to the military, still ignore the basic guarantees of fair trials before an independent and impartial tribunal in accordance with international human rights standards. Therefore it is useful to distinguish between the two judicial institutions when reviewing cases.

The difference between criminal cases and cases with a political background

Naturally, there is no official definition of cases of a political nature or that have a “political background”. However, such cases can be defined by detailing some consistent patterns and characteristics that distinguish them from ordinary criminal cases. For example, while criminal cases involve a small number of defendants, in cases of a political nature a relatively larger number is typically prosecuted. These defendants are also usually tried on several specific charges, including founding, leading, or joining a “group established in violation of the provisions of the law, the purpose of which is to call for the suspension of the provisions of the constitution and laws; preventing state institutions and public authorities from carrying out their work; assaulting the personal freedoms of citizens; disturbing public order; threatening the safety and security of the society; and this group has resorted to terrorism as a means to carry out its purposes, as well as the possession of firearms

and ammunition.” It is rare that none of these charges appear in the indictment memo in any of the cases we describe here as a case of a political nature.

As for the cases that we define in this report as ordinary criminal cases, and differentiate between them and the former type of cases, the nature of the charges in them usually relate to drug crimes, murder, thuggery and display of power that have nothing to do with any political events, and it is impossible, or at least highly unlikely to be able to infer from the nature of the accusations any attempt by the defendants to achieve a political gain by using violence for example (regardless of how accurate or true the accusation is). In addition, these cases, which we call ordinary cases or sometimes cases of a criminal nature, rarely contain the suspicion of persecuting the defendant because of their political motives and activities, which is another important factor that characterizes many of the cases with a political background.

Death row

The term «death row» refers to an area inside the prison, where inmates who are sentenced to death are held. These prisoners are placed in this designated space from the moment they are sentenced to death at the first degree of the litigation process until they are either executed, their sentences are commuted or until they are released in the event of their acquittal. This includes the period in which the sentence is being appealed.

Enforced disappearance

Enforced disappearance, as stated in Article 2 of the International Convention for the Protection of All Persons from Enforced Disappearance, means “arrest, detention, abduction or any other form of deprivation of liberty by agents of the State or by persons or groups of persons acting with the authorization, support or acquiescence of the State, followed by a refusal to acknowledge the deprivation of liberty or by concealment of the fate or whereabouts of the disappeared person, which place such a person outside the protection of the law.”

Litigation stages for death penalty cases before civil courts

Based on the Prosecution's investigations, the case is referred to a criminal court (of felonies) composed of three judges. If the court convicts the defendants and moves to sentence them to death, it issues a decision to refer their files to the Grand Mufti soliciting his opinion.

Referral to the Grand Mufti

According to the second paragraph of Article 381 of the Code of Criminal Procedures, "criminal courts may only issue a death sentence by the unanimous decision of all the members of said court, and prior to issuing such a sentence the court must solicit the opinion of the Grand Mufti of the Republic after sending the said case file to him. If the opinion of the Grand Mufti is not received by the court within ten days following his receiving of the case file, the court shall move to decide on the case. In the event of the absence of the Grand Mufti or the vacancy of his post, or any other hindrance, the Minister of Justice shall commission a person by decree to act on behalf of the Grand Mufti." It is noted here that the opinion of the Grand Mufti is advisory and not binding on the judge.

Preliminary death sentences issued by first instance criminal courts

After the defendants' papers are referred to the Grand Mufti, and if he ratifies or does not object to the verdict referred to him, the court, by unanimous votes of its members, issues a verdict to uphold or commute the sentence (if the Mufti's opinion is to reduce the sentence). The final decision ultimately rests with the court and once issued is considered preliminary or a first instance verdict.

The Court of Cassation

After a death sentence is issued by a criminal court, defendants can file an appeal for cassation within 60 days. The Court of Cassation considers the case and decides on it: either by approving the death sentence issued against the defendant, or by exam-

ining the same case and issuing a new verdict that in this case is final and cannot be appealed. Before the amendment of the Code of Criminal Procedures in 2017, the Court of Cassation had to annul the verdict and order retrial in full before a new circuit, which meant that the degrees of litigation and appeal available to convicts have decreased sharply since 2017.

Litigation stages for death penalty cases before the military criminal court

Military Public Prosecution

Based on the investigations of the Military Public Prosecution, a case is referred to the Military Criminal Court, which is composed of several circuits. Each circuit consists of three military judges headed by their most senior, provided that his rank is a colonel at a minimum, and in the presence of a representative of the Military Prosecution. These circuits are specialized in handling criminal cases.

The Military Criminal Court

If the court finds that a defendant is guilty of the crime(s) presented by the Military Prosecution and has issued a verdict against him/her, the verdict then is pending ratification by the President of the Republic, or the officer authorized to ratify. The ratifying authority may reduce the penalty, repeal it in total or partially, suspend its implementation, or demand a retrial. There is a possibility to petition the verdict while awaiting ratification. If the death penalty verdict is ratified, a decision is issued by the military criminal court to refer the defendant's papers to the Grand Mufti, as it is the case with verdicts of civilian first instance courts.

Supreme Court of Military Appeals

Appeals of military criminal court verdicts of the first degree are heard before the Supreme Court of Military Appeals within 60 days from the date in which the ratification of the first-degree verdict is announced. If the appeal is rejected and the verdict is ratified, the defendant still has the possibility to file a petition for recon-

sideration within 15 days from the date of the verdict and its ratification in order to halt the execution in the event of a death penalty verdict (albeit the rate of such petition being considered or accepted is minimal).

Death Penalty cases before Emergency State Security Courts

These courts have been reinstated in accordance with the Prime Minister's decree in the context of the state of emergency that has been imposed since 2017 and on which the jurisdiction and authority of these courts are based. Verdicts issued by these courts are non-appealable and only the President of the Republic has the authority to commute the sentence. This violates an essential guarantee for those sentenced to death (or anyone convicted and sentenced to any penalty) to be given another – legal – chance of having their verdict reconsidered at another degree of litigation before it is carried out. A death sentence was actually issued by this court for the first time on 12 May 2019 in Case No. 2278 / Emergency Supreme State Security Criminal Court, known in the media as “the case of the attack on the Mar Mina Church in Helwan.” Two defendants were sentenced to death and their verdict is not subject to appeal.

Introduction

The Egyptian criminal justice system has expanded its use of the death penalty since the establishment of the current political regime in July 2013. This expansion was made possible by issuing new criminal legislation within the Code of Criminal Procedures and the Penal Code in 2017 and 2018. These legislative amendments led to an increase in the number of crimes that are punishable by death, as well as a decrease in the available degrees of litigation before an execution could be carried out (due to the amendments introduced to the mandate of the Court of Cassation). Over and above there was a judicial expansion in death sentences issued against a large number of defendants in comparison to not only previous years, but to most of Egypt's modern history since the establishment of the republic in 1952.

In recent years, Egypt has continued to pass amendments to some articles of the Code of Criminal Procedures related to procedures of litigation, according to which the litigation degrees available to those accused of many crimes, including crimes that may lead to the death penalty, have been reduced. Until April 27, 2017, the Court of Cassation was able to overturn a verdict from a criminal court and order a retrial for the defendant before another criminal circuit. After a new verdict was issued by a new circuit of the criminal courts, the defendants could still appeal for the second time before the Court of Cassation. At this stage, the Court of Cassation would address the merits of the case and its verdict would be final. This process used to grant defendants the opportunity to appeal twice before the Court of Cassation. However, this has now changed, and the degrees of litigation have been reduced exactly to half of what they originally were.

Amendments to the Penal Code were also passed in January 2018, under Law No. 5 of 2018, which included assigning the death penalty for kidnapping children if the crime was accompanied by another felony or by indecent assault. Also, on March 6th of the same year, the House of Representatives approved by a majority the amendment of Law No. 21 of 2018, which stiffened penalties for anyone who possesses, imports, or manufactures explosives or explosive materials. The law also introduced the death penalty for these crimes within the provisions of the Penal Code. At the time, EIPR issued a press release regarding this amendment and the expansive use of the most severe penalty in the Egyptian Penal Code.

It is worth noting that Egypt's civilian legislation contains over a hundred crimes punishable by death, including 35 crimes stipulated in the Penal Code, related to threatening state security internally or externally and inflicting damage on individuals, and ten crimes in anti-drug laws. The biggest amount of offences punishable by death are found in the Code of Military Justice, which provides for at least 41 offences that carry the death penalty. The Anti-Terrorism Law, passed in 2015, also punishes the perpetrators of at least 15 other crimes with the death penalty.

The death penalty represents an ineffective deterrent with a disproportionately harmful impact on individuals and their societies

There is a common belief that the death penalty automatically deters people from committing future crimes. Recent legislative developments in 2019 have shown that there is a firm belief among some Members of Parliament that the death penalty is the easy solution to many problems facing society. A clear example was following the Cairo Central Station accident in February 2019, which killed 25 people as a result of an error or negligence that had led to an explosion inside the station. Following the incident, an MP submitted a motion to increase the penalty for gross negligence to life imprisonment or the death penalty. If the motion had passed, it would have resulted in a penalty that is highly uncommon in comparison to penalties for similar crimes in most modern criminal justice systems. Similarly, in November of the same year, as the case of Mahmoud Al-Banna (known in the media as the «Martyr of Bravery» case) became a matter of public opinion, some MPs suggested amending the Child Law to allow the execution of minors. In both cases, the proposed amendments were not passed.

Contrary to this common belief, modern criminal justice systems do not necessarily rely on harsh penalties to deter crimes (such penalties can get increasingly and aimlessly more severe every time the legislator finds that the previous escalation in severity did not result in tangible deterrence of crime). Rather, criminal justice systems work on elevating the efficiency and accuracy of investigation techniques and methods and on activating accountability procedures to ensure that these crimes are not repeated in the future. That is, the greater deterrent is the implementation of the law and applying penalties to the largest number of perpetrators, rather than

applying severe penalties to a small sample of perpetrators, which is usually the result of applying the most severe penalties in criminal law. This is mainly because the sense of easiness of getting away with crimes is the biggest guarantor of their recurrence and not the severity of their penalties per se.

The expansive use of the death penalty trend continues in 2019

According to the information on death penalty cases in 2019 that the research team was able to collect from the media, the Court of Cassation issued final death penalty verdicts against at least 34 people in 11 cases that varied between cases of a political nature and ordinary criminal cases. The execution of those convicted is hence enforceable after they have exhausted all litigation degrees.

At least 42 other defendants were sentenced to death in 12 cases of a political nature that were heard before the various civilian criminal courts. At least 344 others were sentenced to death in 193 non-political criminal cases. Accordingly, civilian criminal courts of first instance have sentenced 386 defendants to death in 2019 in 205 different cases. This is in addition to 428 defendants in 194 cases, whose files have been referred to the Grand Mufti. This is an indicator that the excessive use of the death penalty has affected ordinary criminal courts and cases concerned with ordinary crimes and is no longer limited to crimes of combating terrorism or crimes that compromise state security. This is what EIPR has been warning about since the beginning of 2017 and 2018, until it became a reality today.

As for death sentences issued by military courts in 2019, according to the team's media monitoring, the Supreme Court of Military Appeals upheld the death sentences for 21 civilian defendants imprisoned in at least 3 cases, making their executions enforceable. First instance military criminal courts sentenced at least 7 civilians to death in 3 cases of a political nature. All defendants are imprisoned.

The Prison Authority executed at least 35 people involved in 13 cases, including two persons involved in two military cases. Four of the 35 were executed in Minya High Security Prison and 10 were executed in Cairo's Appeals Prison, in addition to 21, whose place of execution was not disclosed to the available media sources.

The frequency of referrals to the Mufti increased in 2019 for both types of cases, but particularly so for ordinary criminal cases compared to 2018. Taking 2018 as a reference, which is a year that also witnessed an increase in death sentences in ordinary criminal cases compared to the preceding one, we find that the files of 350 defendants were referred to the Mufti in 185 cases in 2018, while 428 defendants were referred to the Mufti in 194 cases in 2019.

According to the media monitoring carried out by EIPR researchers, the rates of issuing death sentences in the first degree decreased in 2019 compared to 2018. At least 385 defendants were sentenced to death in 205 cases at the first degree of litigation in 2019. Of those, 12 cases were of a political nature and 193 were ordinary criminal cases. In 2018, 543 defendants were sentenced to death in 205 cases at the first degree of litigation. During the year 2019, the Court of Cassation upheld the death penalty against 34 defendants in 11 cases, compared to 59 defendants in 16 cases in 2018.

For its part, the military criminal courts sentenced at least 7 civilians to death in 3 cases in 2019, while they sentenced 52 civilians to death in 6 cases in 2018. The Supreme Court of Military Appeals' upholding of death sentences increased however in 2019 as it upheld the penalty for at least 21 civilians in 3 cases, compared to two civilians in two cases in 2018.

The Prison authorities executed at least 35 people in 13 cases, two of which were military cases.

A comparison between death sentences and executions in the years 2018 and 2019

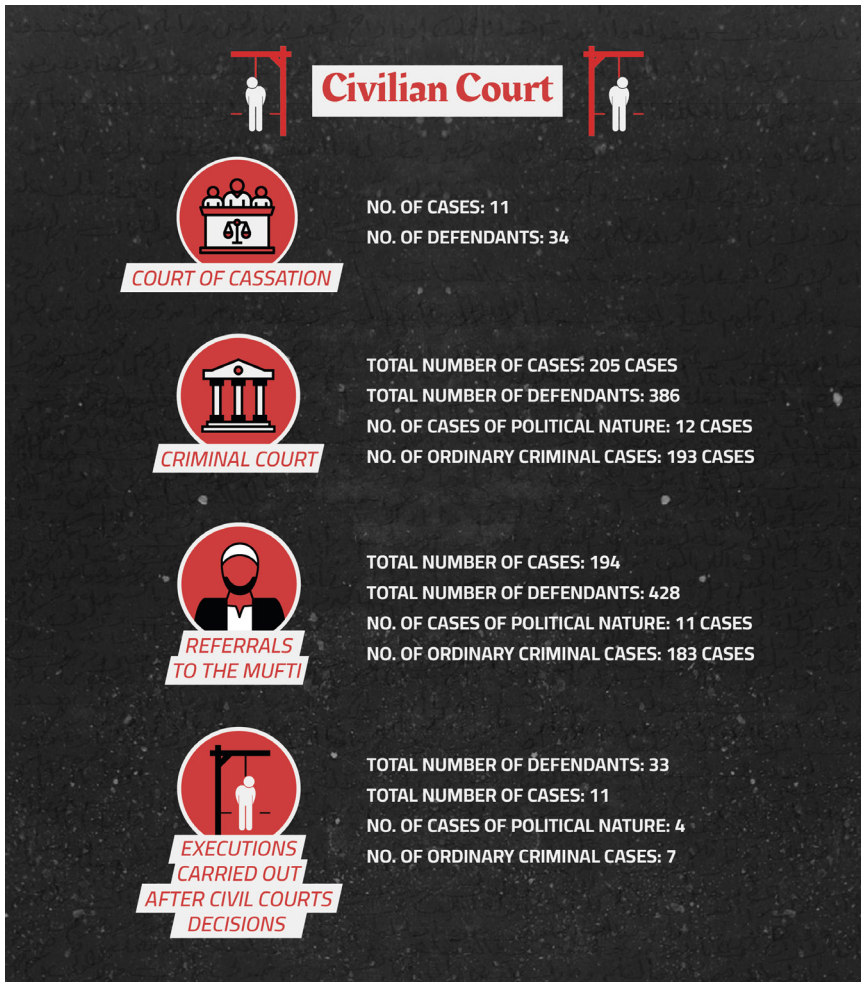
Total number of referrals to the Mufti in 2018: 350 defendants in 185 cases (Two cases of a political nature and 183 ordinary criminal cases)	Total number of referrals to the Mufti in 2019: 428 defendants in 194 cases (11 cases of a political nature and 183 ordinary criminal cases)
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<p>Civilian courts 2018 First instance criminal courts: 543 defendants in 205 cases (182 ordinary criminal cases and 23 cases of a political nature) Court of Cassation: 59 defendants in 16 cases</p>	<p>Civilian courts 2019 First instance criminal courts: 386 defendants in 205 cases (including 193 ordinary criminal cases and 12 cases of a political nature) Court of Cassation: 34 defendants in 11 cases</p>
<p>Military courts 2018 Military criminal courts: 52 defendants in 6 cases Supreme Court of Military Appeals: Two defendants in two cases</p>	<p>military courts 2019 Military criminal courts: 7 defendants in 3 cases Supreme Court of Military Appeals: 21 defendants in 3 cases</p>
<p>Executions in 2018: 43 people were executed in 23 cases, including 6 military cases.</p>	<p>Executions in 2019: 35 people were executed in 13 cases, including two military cases.</p>

Chapter 1

Death sentences issued in 2019

This chapter presents the facts of some of the cases in which death sentences were issued in various criminal courts and upheld by the Court of Cassation. The chapter is divided according to the judicial body that issued the sentence, and each part begins by reviewing cases according to the chronological order of the death sentences, beginning with the final verdicts issued by the Court of Cassation and the Supreme Court of Military Appeals. The chapter then moves to present the cases in which preliminary death sentences were issued by the various first instance criminal courts, where the research team was able to obtain and study their casefiles.



1- Civilian Courts

Verdicts of the Court of Cassation

Case No. 250 of 2014 / Supreme State Security Prosecution, known in the media as the “Giza Cell” case

On 20 January 2019, the Court of Cassation, headed by Judge Samir Mustafa, and with the membership of judges Saeed Fangari, Sayed Al Dalil, Muhammad Qatl and Hamza Ibrahim, upheld the death sentence against 5 of the 11 defendants, and commuted the death sentence to life imprisonment for the remaining 6 defendants in Case No. 250 of 2014 / Supreme State Security Prosecution, known in the media as the “Giza Cell” case. The court also upheld the life sentence for 14 defendants and the 10-year sentence for a juvenile defendant.

On 22 October 2018, the Giza Criminal Court, headed by Judge Mohamed Nagui Shehata, sentenced 11 defendants to death, handed life sentences to 14 others and sentenced juvenile Mahmoud Mohamed in absentia to 10 years in prison. The prosecution had charged the defendants with crimes related to establishing a group in violation of the law, the purpose of which is to call for the suspension of the provisions of the constitution and laws; preventing state institutions and public authorities from carrying out their work; assaulting the personal freedoms of citizens and provide the illegal group with financial assistance. The prosecution also charged them with participating in an assembly with the purpose of committing the felony of murder, vandalizing public property, and attempting to murder an officer in the general administration of the security forces.

Case No. 11877 of 2014 / Giza Precinct Felonies, known in the media as the case of the “Tanzeem Ajnad Misr”

On 7 May 2019, the Court of Cassation upheld the death sentence against 13 defendants in Case No. 11877 of 2014 Giza Precinct Felonies, known in the media as the “Tanzeem Ajnad Misr” case. The court also upheld life sentences for 17 defendants, 15 years imprisonment for two defendants, 5 years imprisonment for 7 defendants and the acquittal of 5 others.

On 7 December 2017 The Giza Criminal Court headed by Judge Moataz Khafagy and with the membership of judges Sameh Soliman and Mohamed Ammar, had issued its first verdict sentencing 13 defendants in person to death, out of 45 defendants whom the Public Prosecution had charged with more than 11 separate charges. Among the charges were taking on and joining a group established in violation of the provisions of the law, premeditated murder, attempted murder and participation in it, in addition to sabotaging public property, possession and use of explosives, weapons and ammunition, and coercive theft. The prosecution also charged the defendants with joining terrorist groups based outside the country and receiving Military training from them.

The events of the case go back to several incidents that took place between 2013 and 2015, including the bombings of the Talbiya Police station and the Bohooth metro station in 2014 as well as the bombs that exploded in the vicinity of Cairo University and the Supreme Judicial Council in March 2015. In total, these bombings resulted in the injury of 23 civilians and policemen, in addition to the killing of one person.

The defendants sentenced to death in person in the final verdict are:

Belal Ibrahim Sobhi Farhat, Mohamed Saber Ramadan Nasr, Gamal Zaki Abdel Rehim Saad, Abdallah al-Sayed Mohamed al-Sayed, Yasser Mohamed Ahmed Mohamed Khodeir, Saad Abdel Raouf Saad Mohamed, Mohamed Ahmed Tawfiq Hassan, Mahmoud Saber Ramadan Nasr, Samir Ibrahim Saad Mostafa, Islam Shaaban Shehata Soliman, Mohamed Adel Abdel Hamid Hassan, Mohamed Hassan Ezzeldin Mohamed Hassan, and Tag el-Din Mo'nes Mohamed Sameda.

Verdicts issued by first instance criminal courts (subject to appeal)

Case No. 17086 of 2015 / Abu al-Matamir Criminal Court, known in the media as the "Gunfire at Abu al-Matamir Police Station"

On 20 February 2019, the Court of Cassation accepted the appeal submitted by three defendants and commuted the death penalty to life imprisonment in Case

No. 17086 of 2015 / Abu al-Matamir Criminal Court, known in the media as the “Gunfire at Abu al-Matamir Police Station.”

The three defendants are:

Gamil Khamis Saad Heneish, Mohamed Youssef Abdellah Al Sabea, and Mohamed Khaled Abdel Aaty El Fayoumi.

The same case continued to include two others, Ahmed Nasr Obeid Shaaban and Mohamed Zayed Wa’er Mahmoud, who were sentenced to death in absentia because they were imprisoned pending another case (No. 1171 of 2016 / Wadi al-Natrun Criminal Court), in which they were sentenced to death after their files were referred to the Mufti on 20 August 2019. On 19 June 2019, the Damanhour Criminal Court, headed by Judge Hassan Moawad Al-Bahi and with member judges Ihab Al-Saadani and Rami Saeed Mohamed, sentenced two additional defendants in person to death, Ahmed Nasr Shaaban and Mohamed Zayed and Wa’er Mahmoud, after referring their case files to the Mufti on 16 April 2019. This is in addition to sentencing three other defendants to 10 years imprisonment and two other to three years imprisonment.

The Public Prosecution had charged the two defendants with more than nine separate charges in the Abu al-Matamir Police Station case, most significantly the attempted murder of a police sergeant and seven others at the Abu al-Matamir police station, participation in the murder, possession of explosives and a blade weapon and participation in a criminal agreement with the intention of vandalizing public buildings and properties, in addition to assuming the leadership of a group established in violation of the law, joining it and providing it with material and financial assistance.

The facts of the case date back to the shooting incident at Abu El Matamir Police Station on 5 April 2016. The Damanhour Criminal Court, headed by Judge Abdallah Abdel Samie’ Khattab and with its member Judges Amr Mohamed Al-Qouni and Khaled Abdel Salam Khalaf,

referred the documents of the eight defendants to the Mufti on the 18 May 2017 session, before sentencing eight out of 20 defendants to death on 17 July 2017.

It is worth noting that among the defendants sentenced to death in absentia at the July 17th session was Helmy Saad Masri Muharib Kashik, who had been killed extrajudicially, and the Ministry of Interior had announced his death on 8 May 2017 – seventy days before the death sentence was issued.

Implementation of death sentences issued by civilian courts

Case No. 200 of 2014 / South Mansoura Criminal Court, known in the media as the «murder of the son of Judge Mahmoud al-Sayed al-Murli” case.

On 7 February 2019, the prison authorities executed three defendants in Case No. 200 of 2014, known in the media as the “murder of the son of judge Mahmoud El Sayed El Murli,” after the Court of Cassation, headed by Judge Omar Breik, upheld the death sentence against three defendants on 14 December 2017. The Mansoura Criminal Court had sentenced five defendants to death (three in person and two in absentia) after referring their files to the Mufti on 22 May 2016.

The following three defendants were executed:

Ahmed Maher Al-Hindawi, Al-Moataz Billah Ghanem, and Abdel Hamid Abdel Fattah Metwally.

The events of the case date back to 10 September 2014, when unidentified individuals shot the son of Judge Mahmoud Al-Sayed Al-Murli, Vice President of the Cairo Court of Appeal, in front of his home in the city of Mansoura in the governorate of Dakahliyya. The Public Prosecution began its investigation on the case and charged the defendants with the premeditated murder of the judge’s son. The prosecution also charged the defendants with forming a terrorist group in violation of the law and the possession of firearms and ammunition without a license.

Case No. 938 of 2014 / Kerdasa Criminal Court, registered as case No. 9 of 2014 / North Giza Criminal Court, known in the media as the “murder of Major General Nabil Farrag” case

On 13 February 2019, the Prison Authority executed three defendants in Case No.

938 of 2014 / Kerdasa Criminal Court, registered as case No. 9 of 2014 / North Giza, and as Criminal Court case No. 375 of 2013 / Supreme State Security Prosecution and known in the media as the “murder of Major General Nabil Farrag.” On 20 January 2018 the Court of Cassation had upheld the death sentence issued against three defendants and commuted the sentence for four others from the death penalty to life imprisonment. The Court of Cassation also upheld the 10-year rigorous prison sentence against five others. In September 2016, the Cairo Criminal Court, headed by Judge Hussein Kandil, had sentenced in the first instance 7 defendants to death, five others to ten years in prison, and had acquitted one defendant.

The death sentence was carried out on the three following defendants:

Mohamed Saeed Farag Saad, known as “Mohamed Al-Qaffas”, Mohamed Abdel Samie Hemeida, known as “Abu Sumayya” and Salah Fathi Hassan Al-Nahas.

The events of the case date back to 19 September 2013, when the Public Prosecutor’s office charged the defendants with the premeditated murder of Major General Nabil Farraj and the attempted murder of officers and policemen. This is in addition to obtaining and manufacturing firearms, ammunition and explosives, resisting the authorities, and possessing communications equipment without a permit for a use that compromises the national security of the country. The defendants were also charged with committing and financing crimes of terrorism, establishing and managing a group in violation of the provisions of the law, the purpose of which is to prevent state institutions and authorities from carrying out their work, assaulting the personal freedom of citizens, harming national unity, targeting public facilities with the aim of disturbing public order, and using terrorism to realize these aims.

Case No. 81 of the year 2016 Supreme State Security Criminal Court, known in the media as the “Assassination of the Public Prosecutor” case.

On 20 February 2019, The Cairo Appeal Prison executed nine people convicted in Case No. 81 of 2016 / Supreme State Security Criminal Court, known in the media as the “assassination of the Public Prosecutor” case following the Court of Cassation’s ruling on Sunday 25 November, 2018. The verdict upheld the death sentence against nine defendants and commuted the death penalty sentence to life impris-

onment for 6 others. The verdict also reduced the sentence against four defendants from life imprisonment to 15 years and to three years rigorous imprisonment for the defendant Ibrahim Abdel Moneim Ali Ahmed. Finally, the court acquitted five defendants, after the Cairo Criminal Court of first instance had convicted 28 defendants and sentenced them to death for the assassination of Attorney General Hisham Barakat.

Nine people were executed on 20 February 2019. They are:

Ahmed Mohamed Taha Wahdan, Abu al-Qasim Ahmed Ali Youssef, Ahmed Jamal Ahmed Mahmoud Hegazy, Mahmoud al-Ahmadi Abdel Rahman Ali Wahdan, Abu Bakr Al Sayed Abdel Meguid Ali, Abdel Rahman Soliman Kahoush, Ahmed Mohamed El Degwy, Ahmed Mahrous Sayed Abdel Rahman, and Islam Mohamed Ahmed Mekawi.

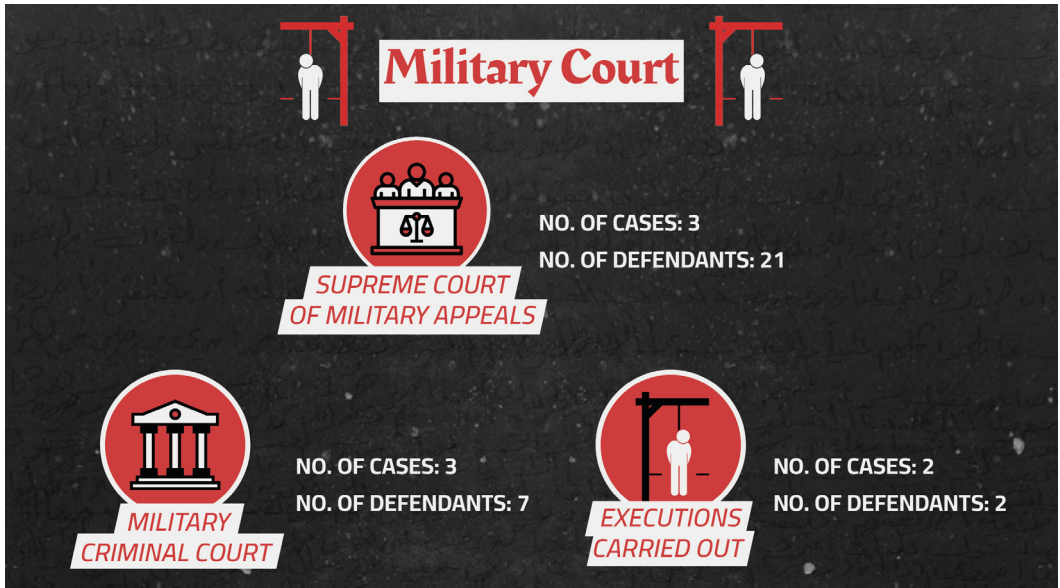
The events of the case date back to the assassination of former Attorney General Hisham Barakat on 29 June 2015, when a car bomb exploded in the Nozha area, while the Attorney General's convoy was passing through. The bombing killed the Attorney General and left a number of his guards and some passersby injured. In addition the explosion resulted in damage to a number of cars and buildings in the area.

In addition to the three aforementioned cases, the team monitored the following executions in 2019

- On 3 August 2019, according to information gathered from the media, the Prison Authority executed five defendants in a criminal case for killing a 4-year-old girl after kidnapping her for ransom. The team was unable to obtain the case number.
- On 21 August 2019, the Prison Authority executed three defendants in a criminal case where defendants were accused of premeditated murder for the purpose of theft in Al Sharkiya governorate.
- On 8 December 2019, the Prison Authority executed two defendants in two cases of a political nature. Abdel Rahman Abdel Rahim was executed in the "Welayet Sinai Organization" case and Ibrahim Ismail was executed in case No.

2278 of 2018 / Emergency Supreme State Security Criminal Court known in the media as the case of «Mar Mina Church in Helwan».

- On 10 December 2019, the Minya Maximum Security Prison administration executed four defendants in a criminal case whose number the research team could not obtain.
- On 11 December 2019, The Prison Authority executed at least six defendants in four separate criminal cases. One of them was a defendant in Case No. 8130 of 2017/ Belqas Precinct felonies, known as the “Pampers Girl” case. Two defendants were executed in Case No. 6920 of 2013 and three other defendants in two criminal cases whose numbers the research team was unable to obtain.



2. Military Courts

Verdicts of the Supreme Court of Military Appeals

Case No. 288 of 2015 / North Cairo Military Criminal Court, known in the media as the “Assassination of Colonel Wael Tahoun”

On 1 April 2019, the Supreme Court of Military Appeals upheld the death sentence issued against three defendants, Muhammad Bahey El Din Shamroukh, Khaled

Salah El Din Nofal and Osama Abdallah Mansour, and commuted the death sentence to life imprisonment for one other defendant in military case No. 288 of 2015 known in the media as the case of the «assassination of Colonel Wael Tahoun».

On 17 January 2018, the North Cairo Military Criminal Court issued its death sentence verdict against eight defendants (four of them in absentia). The military prosecutor had charged the defendants with joining a group established in violation of the provisions of the law, the purpose of which is to call for the suspension of the provisions of the constitution and laws; preventing state institutions and public authorities from carrying out their work, assaulting the personal freedom and rights of citizens guaranteed by the constitution and the law, and assaulting police personnel and facilities with the aim of disturbing public order and endangering the safety and security of society, while terrorism was one of the means used in carrying out these crimes. The events of the case date back to 21 April 2015, when unidentified individuals killed «Wael Atef Tahoun», a general security officer, a police conscript and one other person.

Case No. 108 of 2015 / Alexandria Military Criminal Court, known in the media as “the IED Planting Cell”

On 9 April 2019, the Supreme Court of Military Appeals decided to temporarily suspend considering an appeal submitted regarding the verdicts issued in Case No. 108 of 2015 / Alexandria Military Criminal Court, known in the media as the “IED Cell Planting Cell” case, pending a ruling on the case before the Supreme Constitutional Court, which demands a retrial before a civilian court, and the annulment of verdicts issued by the military court.

On 11 August 2018, the Commander-in-Chief of the Armed Forces and Minister of Defense and Military Production, Lieutenant-General Mohamed Zaki, had ratified the verdict issued by the military court in Alexandria on 17 December 2017. The court had handed down death sentences to 14 defendants, 10 of whom were sentenced in attendance, life sentences for 37 others, 24 of whom in their presence and 15 years imprisonment for five other defendants. Two defendants were acquitted, and the case against one defendant was closed due to his death.

The referral order issued against 59 defendants by the Alexandria Military Prosecution lists 27 charges, including joining an illegal group, participating in a criminal agreement, possession of explosives, Molotov cocktails and firearms, display and threat of the use force, and planting a number of explosive devices in front of a number of public facilities in Alexandria, including a few banks and governmental entities. This in addition to the charge of firing gunshots and setting fire to cars belonging to the Ministry of Justice, in addition to the charge of planting an explosive device before the Maritime Court in Alexandria. The Military Prosecutor also charged the defendants with the murder of police officer Daif Abd Rabbo Youssef Ismail, Policeman Salah Saeed Mostafa and Sarah Rizk Ahmed Ali. The defendants were also charged with attempted murder as a result of planting an explosive device.

The events of the case date back to the period between 2014 and 2015, and it is a case that deals with 27 different incidents in Alexandria.

Those sentenced to death are 14 defendants, 10 of whom were sentenced in their presence: Ahmed Mohamed Abdel Aal El-Deib, Essam Mohamed Mahmoud Aql, Taher Ahmed Ismail Ahmed Ahmed, Azzam Ali Shehata Ahmed Amr, Badr El Din Mohamed Mahmoud El Gamal, Samir Mohamed Bedewi, Ahmed Mohamed Mohamed El Sherbiny, Mahmoud Ismail Ali Ismail, Abdel Rahman Mohamed Mohamed Saleh, Mahmoud Islam Mohamed Salem Hanafi Eleimi.

Four defendants were sentenced to death in absentia: Mohamed el Sayed Mohamed el Sayed Shehata, Ahmed Hassan Saad Mohamed Ibrahim, Al Sayed Ibrahim Hassan El Seheimi, and Khaled Hassan Hanafi Shehata.

Case No. 165 of 2017/ Alexandria Military Criminal Court, known in the media as the “bombings of the three churches” case

On 28 May 2019, the Supreme Court of Military Appeals upheld the death sentence against 17 defendants. It also upheld life imprisonment sentences against 19 defendants, 15 years rigorous prison sentences for 8 defendants, including one child, and 10 years rigorous imprisonment for one defendant in Case No. 165 of 2017 / Alexandria military Criminal Court, known in the media as the “bombings

of the three churches” case (the St Peter Church in Abbaseyya, St. Mark’s Cathedral in Alexandria, and St. George’s Church in Tanta).

On 11 October 2018, the Military Court in Alexandria sentenced 17 defendants to death and 19 others to life imprisonment. It also handed down 15 years of rigorous imprisonment to one defendant, 15 years of imprisonment to eight defendants, and 10 years of rigorous imprisonment to one defendant, while the case expired for two defendants due their death.

The Military Prosecution had charged the defendants with the following: Murder and attempted murder of the three churches’ attendees and security forces; Ambushing and attacking the Naqb checkpoint, killing a number of the police force in charge of it while attempting to kill the rest and seizing their weapons; manufacturing and possessing explosive vests, firearms and ammunition; joining a terrorist organization outside the country; and receiving military training in ISIS camps in Libya and Syria.

The seventeen defendants sentenced to death in the final verdict are:

- 1- Ezzat Mohamed Hassan Hussein.
- 2- Mohab Mostafa el Sayed Qassem.
- 3- Amr Saad Abbas Ibrahim.
- 4- Waleed Abul Magd Abdallah Abdel Aziz
- 5- Mostafa Omar Abu Bakr Mohamed.
- 6- Mostafa Abdo Mohamed Hussein Saeed.
- 7- Hamada Gomaa Mohamed Ma’edawy.
- 8- Mohamed Mobarak Abdel Salam Metwally.
- 9- Salama Ahmed Salama Mohammad Qasem.
- 10- Mostafa Ahmed Mohamed Abu Zeid.
- 11- Ali Shehata Hussein Mohamed Shehata.
- 12- Ali Mahmoud Mohamed Hassan.
- 13- Mostafa Sayed Mohamed Ali.
- 14- Abdel Rahman Kamal el Din Ali Hussein.
- 15- Rifai Ali Ahmed Mohamed.
- 16- Hossam Nabil Badawi Hamed.
- 17- Rami Mohamed Abdel Hamid Abdel Ghany.

Executions carried out after military courts decisions

Case No. 268 of 2015/West Military Criminal Court, known in the media as the “Attack on the Embassy of Niger” case.

On 8 December 2019, the Prisons Authority executed one defendant, «Mohamed Gamal Hindawi» in Case No. 268 of 2015 / West Military Criminal Court, known in the media as the «Attack on the Embassy of Niger» case, after the Supreme Court of Military Appeals’ verdict on 10 June 2019 to uphold the death penalty sentence against one defendant and the prison sentences ranging between three and 10 years against six other defendants. On 1 January 2018, the Military Criminal Court, in the first instance, sentenced the defendant Mohamed Gamal Hindawi to death after referring his papers to the Mufti on 16 December 2017.

The military prosecution had charged the defendants with several charges, including targeting the embassy of Niger on Al Haram Street, joining a terrorist group established in violation of the provisions of the law and the constitution, possessing weapons, targeting public facilities, and planning to target embassies and diplomatic entities.

Chapter Two:

Patterns of Documented Human Rights Violations Accompanying the Death Penalty

The second chapter of this report reviews patterns of violations that a number of defendants, who were sentenced to death in 2019, have been subjected to during the course of their trials. The chapter also reviews some of the documented violations that occurred while implementing death sentences, according to the information that the research team was able to obtain and document.

The team categorized and analyzed these violations by reviewing the case files of a number of cases with a political background. Case documents included arrest warrants, prosecution investigation files, court session minutes, and the merits of court rulings. In addition, the team reviewed a few letters written by the defendants.

The violations in these cases were divided into six: enforced disappearance for varying periods before official interrogation sessions of the investigative authorities; allegations of torture and other cruel inhumane or degrading treatment; refusal to refer defendants to a forensic medical examination to document violations, or intentionally delaying this referral; multiple violations of the right to defense and legal representation; reliance on anonymous preliminary inquiries as a basis for charges; filming and publishing confessions obtained from the defendants before and during the trial stages; and finally violations of the basic rights of convicts after a death sentence is issued.

Enforced Disappearance

On the basis examining documents of cases in which death sentences were issued in 2019, or those cases in which executions were carried out in 2019, we find that an accused's disappearance for a varying period of time after his/ her arrest and before being presented to the prosecution is a not only a frequent practice, but rather the norm, which contributes to extracting confessions from the defendants before the official investigation. The period of enforced disappearance is calculated by comparing the statements of the defendant in the investigation files with the dates of arrest

in their own statements. In the latter the defendants usually also provide additional details about their illegal places of detention. Another way of assessing the period of enforced disappearance is to compare the dates documented on official telegrams sent by defendants' families to the Public Prosecutor when their relatives disappear or when they are arrested from their homes, with the official date of arrest documented in the arrest order. It should be noted that in most cases, the prosecution ignored statements by the defendants where they mentioned that they were subjected to enforced disappearance at the hands of the National Security Agency, failed to take the necessary legal action concerning this violation or even attempt to investigate the incident. Instead, the prosecution moves forward with filing charges against the defendants, without starting a separate investigation in which the defendants are victims, and without paying attention to the fact that these periods of disappearance cast a lot of doubt on the legitimacy and validity of the confessions on which the charges are based in most cases.

From the examination of the official case files, a total of at least 33 defendants (who were sentenced to death in 9 different cases) were subjected to enforced disappearance as will be detailed below.

Allegations of torture

The Egyptian Constitution categorically criminalizes torture, as its Article 52 states: "Torture, in all its forms and manifestations, is a crime with no statute of limitations." Article 55 provides that "all those who are apprehended, detained or have their freedom restricted shall be treated in a way that preserves their dignity. They may not be tortured, terrorized, or coerced. They may not be physically or mentally harmed (...). Any statement that is proven to have been given by the detainee under pressure of any of that which is stated above, or the threat of such, shall be considered null and void." In addition to the constitution, Article 14 ICCPR states that one of the basic rights of a person accused of a crime is: "not to be compelled to testify against himself or to confess guilt" (Article 14(3)g.). Many defendants on death row have indicated that they were subjected to torture with the aim of coercing them to confess to the crimes that subsequently led to their death sentence.

This is a frequent practice during the investigation of criminal offenses in Egypt. At least 30 defendants in the investigations carried out by the prosecution, that the team reviewed, retracted their confessions because they came as a result of torture, as detailed below.

Prohibiting or delaying the referral to forensic medical examinations

At least 44 defendants requested to be referred to a forensic medical examination in order to officially document injuries and marks of torture on their bodies. The prosecution delayed at least 11 of those requests and ignored the rest.

Violation of the right to defense: conducting interrogations without the presence of a real defense attorney.

Article 54 of the constitution states that the accused has the right to be allowed to immediately contact their family and lawyer (...) Questioning of the person may only begin once his lawyer is present.” Article 14, paragraph 3b of ICCPR guarantees the right of the accused to a fair trial before an independent and impartial court, and “to have adequate time and facilities for the preparation of his defense and to communicate with counsel of his own choosing.” The Public Prosecutor’s Office has started interrogating at least 46 defendants in eight reviewed cases despite the absence of their lawyers.

Relying on anonymous preliminary inquiries

The Safeguards guaranteeing protection of the rights of persons facing the death penalty² provide that “capital punishment may be imposed only when the guilt of the person charged is based upon clear and convincing evidence leaving no room for an alternative explanation of the facts.” Verdicts of the Egyptian Court of Cassation have repeatedly affirmed that it is not permissible to rely on preliminary

2- Adopted by the Economic and Social Council as on 25 May 1984 as Resolution 1984/50

inquiries as a source of judgment or evidence of the fact. An example is the court's decision in Case No. 15158 / 86, session 18/3/2017, which stated in its merits that

“although the court may rely on the preliminary inquiries to form its conviction as they represent a presumption that supports the evidence presented, by themselves they do not amount to evidence as such or to independent presumption to prove the charge. Accordingly preliminary inquiries represent no more than their owner's opinion subject to the possibilities of validity or misrepresentation, truthfulness or falsehood, until their source is disclosed and specified, for the judge himself to verify this source and can have the full view over the evidence and assess its legal value in proof.”

Nevertheless, the court, when issuing its verdict in at least three cases where death sentences were issued, did rely mainly on preliminary inquiries of an anonymous source. In addition, the prosecution accepted the testimony of the officer who conducted the preliminary investigations without attempting to reach the source or verify if the information provided was true or false.

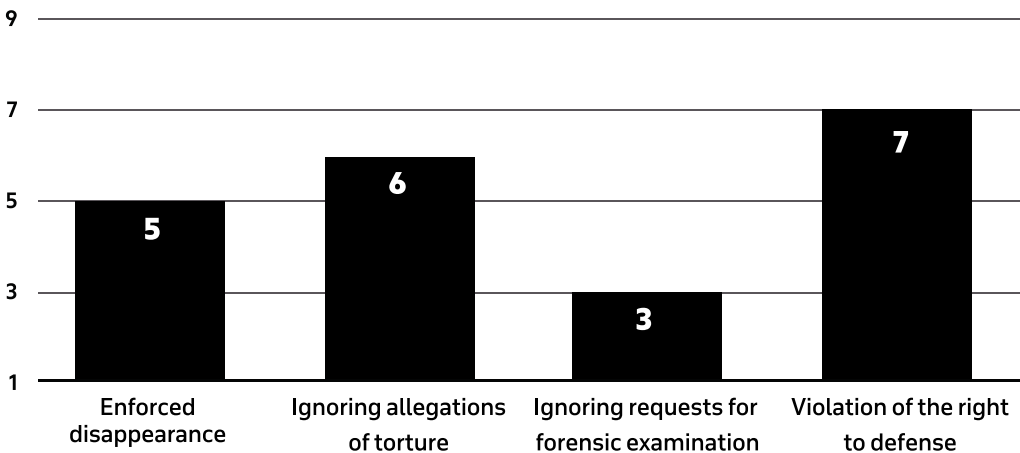
Among those cases is Case No. 200 of 2014 / South Mansoura Criminal Court, known in the media as the «murder of the son of Judge Mahmoud Al Sayed Al Murli». On 15 February 2015, when the National Security Officer was questioned about the source for the information in the preliminary inquiries, he kept it anonymous. He stated that his sources are confidential, and that he refrains to reveal their identity to protect public security. Similarly in Case No. 108 of 2015 / Alexandria Military Criminal Court, known in the media as the “IED Detonation Cell”, the National Security Officer was not asked why his sources were anonymous during his questioning on 21 February 2015. The matter was also repeated in Case No. 938 of 2014 / Kerdasa Criminal Court, known in the media as «the murder of Major General Nabil Farrag». On 3 October 2015, the National Security Officer who had provided the preliminary inquiries was questioned and the Public Prosecution did not perform the minimum standards of supervision or verification by enquiring about why the former kept his sources anonymous.

Filming and broadcasting confessions

Article (96) of the Egyptian Constitution provides that “the accused is innocent until proven guilty in a fair court of law, which provides guarantees for him to defend himself. (...) The state shall provide protection to the victims, witnesses, accused and informants as necessary and in accordance with the law.” ICCPR also stipulates in its Article 14 (2) that “Everyone charged with a criminal offence shall have the right to be presumed innocent until proven guilty according to law.” However, the Ministry of Interior on more than an occasion broadcast video confessions of a number of detainees before their interrogation by the competent prosecution or during the investigation period. This is equivalent to issuing prior judgments and preemptively mobilizes public opinion against them, while the case is still in its investigation or trial stage, which means no verdict has been yet issued against these defendants. In many cases, this takes place even before any official charges had been filed by the investigative authorities. The Ministry of Interior filmed and showed videos showing at least five defendants in two of the cases under review, in which defendants made confessions during the investigation period, as is detailed below.

Documented examples of recurring patterns of violations that contradict best practices in criminal justice

I. Case No. 250 of 2014 / Supreme State Security Prosecution, known in the media as the “Giza Cell” case.



Enforced Disappearance: At least 5 of the defendants sentenced to death at the first degree of litigation had been subjected to enforced disappearance.

According to the official documents, Ahmed Sherif Ahmed Leithy El Shafei was arrested three days prior to the officially documented date of arrest. Rifaat Talaat Tamer Abdel-Gaber was also arrested four days prior to the documented date of arrest. Likewise, Abdel Rahman Mohamed Hassan was arrested four days prior to his officially documented date of arrest. Two were able to specify the location of their detention during the periods of their enforced disappearance, namely in Bou-laq al-Dakrour Police Station and the State Security headquarters in Sheikh Zayed.

Allegations of torture: At least 6 defendants among those sentenced to death in the first instance alleged being subjected to physical and psychological torture.

Six of the defendants retracted their statements in the investigation records, claiming that their statements were primarily the result of torture during their disappearance. On 22 April 2014, Rifaat Talaat Tamer Abdel-Gaber reported that he had been subjected to torture, according to investigation files:

«I will change my statement and I want to add that I was tortured and all the words I said during the last session were dictated to me. The torture left both of my hands wounded... and I had said that my injury was a result of me falling while being arrested, but what really happened is that they hung me and kept hitting me in the shoulders with their hands and feet.»

On 21 February 2015, Abdel Rahman Mohamed El Sayed Mostafa and Ihab Mohamed Abdel Meguid Tayel retracted their confessions as they recounted the physical and psychological torture they had been subjected to, as documented in their statements before the prosecution:

Abdel Rahman Mohamed El Sayed Mostafa: *“My statement was a result of torture. I was subjected to physical torture by those in charge of arresting me, and I was threatened that my family would be harmed.”*

Ihab Mohamed Abdel Meguid Tayel: *«I said this because of what I was subjected to in terms of beating from the police and physical and psychological coercion.»*

Khaled Omar El Sayed Ahmed Khattab also stated that he was subjected to electric shocks and beatings during his disappearance. According to the investigation records, he stated before the Public Prosecutor's Office that:

“They put a big stick between my feet while I was undressed and they tied my hands to my feet and hung me like a slaughtered sheep, and took turns beating and electrocuting me.”

Prohibiting or stalling the referral of defendants to forensic medical examinations: The requests of three out of six defendants to be referred to Forensics were ignored.

When at least six of the defendants requested to be presented to forensic medicine or to the prison hospital to document marks of torture, the requests of three of them were completely ignored, while the Public Prosecution referred the three others to forensic medicine or to the prison hospital.

The examination of Mohamed Nour El-Din Ahmed Mahmoud concluded that there were

“wounds on the nose, a bruise in the left eye, an abrasion on top of the left eye, as well as an abrasion on the left knee. It was also noticeable that there were traces of blood on his clothes, and when asked he stated that they occurred from the police force while arresting him.”

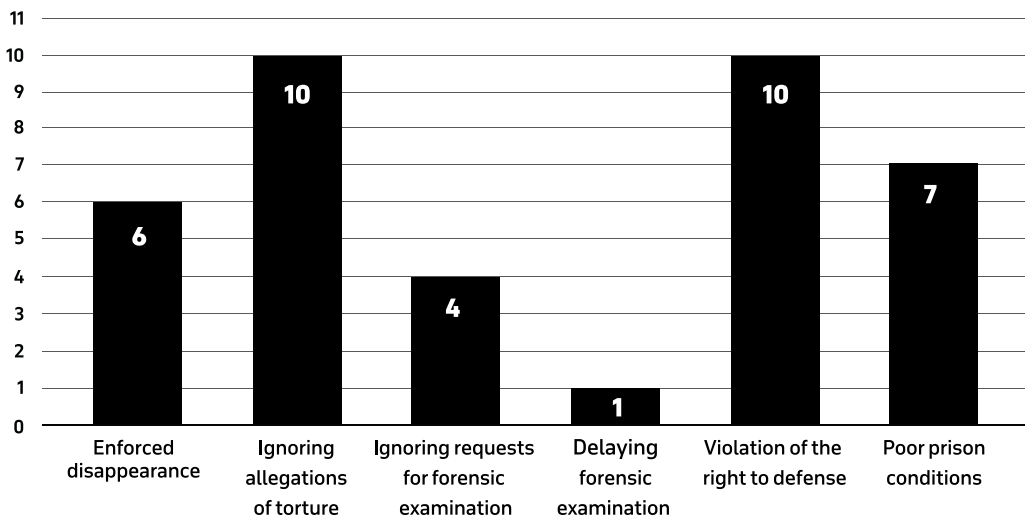
The examination of Ihab Mohamed Abdel Meguid Tayel revealed that *«there was an injury to the forehead on the left side, showing redness, and another injury to the middle of the forehead caused by policemen's assault.»*

Violation of the right to defense: The Public Prosecution initiated the questioning of at least 7 defendants in the absence of a lawyer of their choosing.

The Public Prosecution initiated the interrogation of at least 6 defendants, despite the absence of their lawyer, under the pretext of “unavailability of lawyers to ap-

point” and due to “fear of losing evidence.” At other times, the Public Prosecution did not mention a specific reason for starting the interrogation in the absence of a lawyer. The prosecution also assigned a court appointed lawyer for one defendant. Accordingly, the interrogation of at least seven defendants begun in the absence of a lawyer of their choosing.

II. Case No. 11877 of 2014 / Giza Precinct Felonies, known in the media as “Tanzeem Ajnad Misr”



Enforced disappearance: At least 6 of the 13 defendants sentenced to death were subjected to enforced disappearance for varying periods.

The statements of at least six defendants before court provide that they were subjected to enforced disappearance for periods ranging between 28 days in the case of Bilal Ibrahim Sobhi to 104 and 105 days in the cases of the two brothers, Mohamed Saber Ramadan and Mahmoud Saber Ramadan. Another defendant’s disappearance, Samir Ibrahim Saad Mostafa, lasted for 74 days. The six defendants were able to identify their places of detention and reported having been moved between more than one illegal place of detention. They were able to identify their presence in the State Security Camp in 6 October City and then in Al-Azouli Prison during the period of their disappearance.

Allegations of torture: At least 10 of the 13 defendants sentenced to death alleged having been subjected to physical and/ or psychological torture.

All the defendants retracted their statements, claiming that the latter came as a result of torture by officers at State Security premises. Torture was detailed in the statements of at least 10 of the 13 defendants who were sentenced to death.

Among them is Abdallah El Sayed Mohamed El Sayed, whose interrogation papers that the research team reviewed document him asking the investigator if he would return to Al-Azouli Prison after giving his statement and the investigator responds in the affirmative. Accordingly, Abdallah stated the confessions as dictated to him by the officers so that he would not be subjected to physical torture again upon returning to Al-Azouli Prison. He confirms this in his later statement in the investigation files:

«I retract my confessions. I was in al-Azouli and before that I was at a State Security premise and I was physically tortured and electrocuted. Moreover, when I came to the prosecutor and asked the interrogator if I was going to be sent back to Al Azouli again, he said that I might be taken back.»³

The defendants recounted some of the details of their torture.

Yasser Mohamed Ahmed Mohamed Khodeir stated the following details:

«They stripped me of all my clothes and punched me in my chest, stomach and teeth. They beat me in the face frequently and threatened to electrocute me if I changed my statements.»⁴

Mohamed Adel Hamed Kilani described being tortured in the following manner:

«I don't know the tool I was beaten with. It was a solid tool and I still have pain in my shoulder. I was electrocuted all over my body.»⁵

3- Investigation documents for case Nr. 11877 of the year 2014 / Giza Precinct Felonies – Statement of Defendant Abdallah El Sayed Mohamed El Sayed.

4- Investigation documents for case Nr. 11877 of the year 2014 / Giza Precinct Felonies – Statement of Defendant Yasser Mohamed Ahmed Mohamed Khodeir.

5- Investigation documents for case Nr. 11877 of the year 2014 / Giza Precinct Felonies – Statement of Defendant Mohamed Adel Hamed Kilani

In addition to the psychological torture resulting from hearing the screams of his brother that Mohamed Saber Ramadan Nasr recalled, he also detailed the following:

“I was assaulted for three days where they tore off my clothes, electrocuted me in my private parts, and hung and dragged me by the feet. There was also the psychological torture of hearing my brother’s screams while he was being electrocuted. After that I was in solitary confinement for 70 days tied by the hands and feet and the officers would walk in everyday and beat me.”⁶

Belal Ibrahim Sobhi Farahat’s statement details the following:

«I remained in this place [State Security premise in 6 October City] for three days. I was tortured and beaten, and I was wounded in the right eye. On the fourth day, I was taken to a place in Ismailia that belongs to the army, and I got to know that its name was Al-Azouli. I stayed there until I came here, and for the whole time I was subjected to torture, hanging, beatings and electrocution.»⁷

Mohamed Saber Ramadan Nasr’s statement to prosecution also details the following:

“They were torturing me in Al Galaa camp by hanging me from the back and the front, and they used to beat me with a stick. They electrocuted me on my arms and legs, and they punched me and kicked me in every part of my body.”⁸

During the viewing of at least four defendants, the court confirmed the visible marks of the torture they were subjected to, as it confirmed the presence of “bruises in the shoulders and bruises in the left knee” for Muhammad Adel Abdel Hamid, and traces of torture on Yasser Muhammad Ahmad: “Injuries comprising of scratches on the left part of the neck, as well as open wounds and other irregularly shaped ones on the right forearm. This is in addition to some scratches on the left forearm, as well as the presence of a small, healed wound on the front of the shin of the left leg and a healed scratch on the joint of the left foot.”

6- Investigation documents for case Nr. 11877 of the year 2014 / Giza Precinct Felonies – Statement of Defendant Mohamed Saber Ramadan Nasr.

7- Investigation documents for case Nr. 11877 of the year 2014 / Giza Precinct Felonies – Statement of Defendant Belal Ibrahim Sobhi.

8- Investigation documents for case Nr. 11877 of the year 2014 / Giza Precinct Felonies – Statement of Defendant Mohamed Saber Ramadan Nasr.

When viewing Mohamed Saber, whose screams were used as a torture method against his brother, the court found “*traces of redness around the wrist area of the right and left hands, as well as traces of discoloration in the skin on the right forearm. When the defendant was asked about about these injuries, he stated that the first of them was the result his handcuffing and that the rest of the marks were the result of his torture after his arrest.*” The court also viewed «injuries» on Abdallah El Sayed, who reported that they had occurred as a result of various methods of physical torture, and as a result of being subjected to electric shocks while being held at Al-Azouli prison.

Prohibiting or stalling the referral of defendants to forensic medical examinations: The requests of four out of seven defendants to be referred to Forensics were ignored and the request of one defendant was delayed.

When at least seven of the defendants requested to be presented to the forensic medicine authority to document the marks of their torture, the court ignored the requests of three of the defendants and referred a fourth defendant to the forensic medicine authority after ignoring his request for a month. It referred a fifth defendant to the prison hospital and not to the Forensic Medicine Authority.

Violation of the right to defense: The Public Prosecution initiated the interrogation of at least 10 defendants in the absence of a lawyer of their choosing.

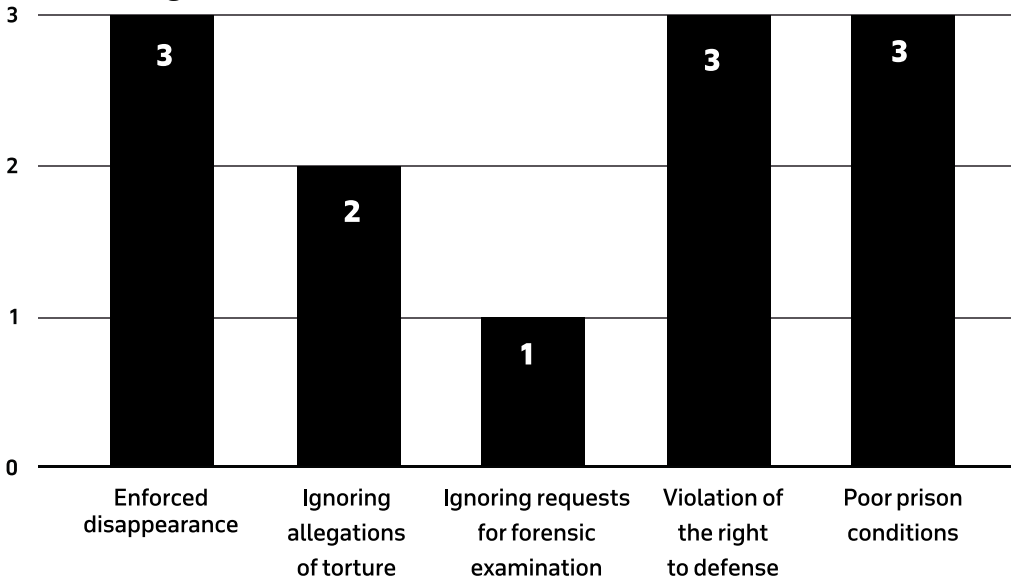
The Public Prosecutor’s Office began interrogating at least six defendants, five times, despite the absence of their lawyer, under the pretext of “a state of necessity” and “fear of losing evidence.” The prosecution also assigned a lawyer to four others. Thus, interrogation sessions with at least 10 defendants have started in the absence of a lawyer of their choosing.

Poor conditions inside prisons: 7 defendants complained about poor conditions inside their prisons

At least seven defendants complained about the poor conditions in their places of detention, to the extent that Yasser Mohamed Ahmed refused to appear before the

prosecution in protest against the ill-treatment in prison. Saad Abdel-Raouf Saad said that he went on hunger strike three times because officers beat him. Two other defendants complained of being beaten, including Mahmoud Saber Ramadan, who was kept in solitary confinement for 70 days. Three other defendants also complained about the lack of water and electricity inside the prison. One of these three, Samir Ibrahim Saad, repeatedly complained to prosecution about the spread of scabies where he was detained. The statements of Islam Shaaban Shehata and Mohamed Ahmed Tawfiq also reveal that they were prohibited from receiving visits.

III. Case No. 17086 of 2015 Abu al-Matamir Criminal Court, known in the media as the “Shooting at Abu al-Matamir Police Station.”



Enforced Disappearance: The three defendants who were sentenced to death were subjected to enforced disappearance for varying periods before being brought to Prosecution.

According to the official records, Mohamed Youssef Abdallah was actually arrested eight days prior to his officially recognized arrest date. Gamil Khamis Saad was also arrested 14 days before the officially recognized date of his arrest. Mohamed

Khaled Abdel Aaty, too, was arrested 12 days before his officially recognized arrest date. Mohamed Youssef and Jamil Saad were able to specify their detention location during the periods of their enforced disappearance, which was a Security camp in Beheira.

Allegations of torture: At least two of the three defendants sentenced to death have alleged being subjected to physical and psychological torture

The investigative authorities' records include statements of defendants Gamil Saad and Mohamed Youssef about having been tortured during the period of their disappearance. Mohamed Youssef stated that he was subjected to electric shocks by connecting electric wires to his fingers. Gamil Saad's testimony in court details him being subjected to electric shocks as well as being beaten and kicked using hands, feet and sticks all over his body.

Also, when the court observed Mohamed Youssef it noted *«the presence of an injury to the nose, an injury to both his right and left elbows, as well as an injury in the area around the right knee.»*⁹

Prohibiting or delaying forensic medical examinations: At least one defendant's request was ignored.

When Gamil Saad requested that the court refers him to a forensic medical examination in April 2015, in order to officially document the injuries on his body, this referral was delayed until a forensics report was issued on 30 August 2015, 131 days after his request. Despite the length of the delay period, the report stated that the injuries observed on his body *“may arise from the collision with a solid, contented object, whatever it may be, and it is possible to have occurred from a stick.”* The report further stated that despite the change in the features of the injury to the right elbow *“there are no grounds to exclude the possibility of the injury to have resulted from electrocution.”*¹⁰

9- Minutes of court sessions in case 17086 of the year 2015 / Abu El Matamir Criminal Court.

10- Minutes of court sessions in case 17086 of 2015 / Abu El Matamir Criminal Court.

Violation of the right to defense: The Public Prosecution initiated the questioning of at least 3 defendants in the absence of a lawyer of their choosing.

According to the investigation documents, the Public Prosecutor's Office began interrogating at least three defendants, despite the absence of their lawyer, under the pretext of "a state of necessity" and "fear of losing evidence." The Public Prosecution also assigned a lawyer for one defendant. Accordingly, the interrogations have begun with at least three defendants in the absence of a lawyer of their choosing.

Poor prison conditions: Three defendants complained about the poor conditions of their confinement

The three defendants complained about the poor conditions in their cells at El Aba'adeya Prison. EIPR issued a press release in November 2017, after a lawyer had submitted a request to inspect the death row ward in El Aba'adeya prison due to multiple and recurring complaints about the inhumane living conditions. Among these is what the defendants described as ill-treatment that is "unbecoming of a human being". This entailed medical negligence regarding the infection of defendants with contagious diseases, including skin, chest, stomach and eye diseases (such as conjunctivitis), as well as the prison administration's failure to allow for medical examinations by doctors. The defendants also complained about being all placed in a cell that is designed to accommodate one person only, the size of which does not exceed two meters in length and a meter and a half in width. They described the cell as "grave like" in which there is no toilet and they were given a single bucket instead for all the detainees in the cell to use as a toilet. The defendants also complained about the obstinacy in allowing family visits and often not permitting them to receive medication and clothes brought by their families during visits. In addition they complained about reducing the period of exercise outside the cell to only 15 minutes per day and about the poor quality of prison food, which is "too little and unsuitable even for an animal," as they described in their letter written on

a handkerchief that they were able to give to their families during a family visit.¹¹

IV. Case No. 200 of 2014 / South Mansoura Criminal Court, known in the media as the «murder of the son of judge Mahmoud el Sayed el Murli»

Enforced Disappearance: At least one of the three defendants that were executed was subjected to enforced disappearance.

At least one of the defendants executed had been subjected to enforced disappearance. According to the investigation records, defendant Al-Moataz Billah Mohamed Ghanem Ramadan Al Attar was arrested 25 days before his officially acknowledged arrest date.

According to the investigation files, the Public Prosecution began interrogating the three defendants despite the absence of their lawyers, under the pretext of “a state of necessity” and “the unavailability of lawyers.”

Filming and broadcasting confessions of the accused prior to or during the investigations: One defendant was filmed confessing while investigations were ongoing.

The Ministry of Interior published a video on 25 February 2015, while investigations were still ongoing, in which defendant Ahmed Maher appears to make confessions on camera regarding the murder of Mohamed Mahmoud El Sayed El Murli.

11- See EIPR press release dated 19 November 2017: “Cries for help from the death row ward at al-Abaadiya Prison due to poor conditions - EIPR holds prison administration wholly responsible for the lives of death row inmates.” Available at: <https://eipr.org/en/press/2017/11/cries-help-death-row-ward-al-abaadiya-prison-due-poor-conditions-eipr-holds-prison>

V. Case No. 938 of 2014 / Kerdasa Criminal Court, registered under case No. 9 of 2014 / North Giza Criminal Court and case No. 375 of 2013/ Supreme State Security Court, known in the media as the “murder of Major General Nabil Farrag” case.

Enforced disappearance: at least one of the three defendants who were executed was subjected to enforced disappearance.

At least one defendant sentenced to death, Mohamed Abdel Samiea Hemeida Abd Rabbo, was subjected to enforced disappearance for a period of three days. According to his statement, he had been arrested on 4 October 2013 and was presented to a prosecutor only on 7 October 2013.

Allegations of torture: The three defendants who were executed alleged having been subjected to physical and psychological torture

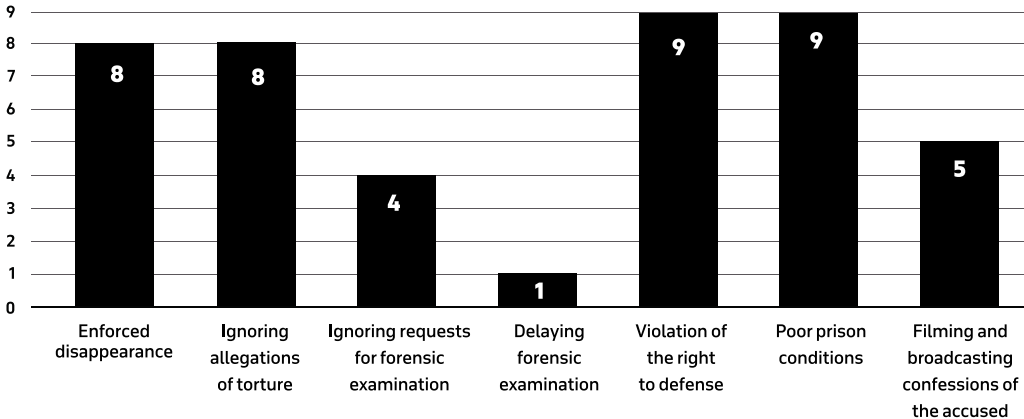
The three defendants who were executed in 2019 alleged having been subjected to various types of psychological and physical torture. One of the defendants, Salah Fathi Hassan El Nahhas, explains in the minutes of the trial sessions the way in which he was arrested and what he was subjected to during his detention. He stated:

“At the beginning of the matter, I was walking down the street and I was arrested by officer Ahmed Samir and a police officer named Ashour was with him. He asked me to ride with them and I said Ok. He took me to the Security Directorate, where I met Officer Magdy Abdel Aal and he started beating me very hard. Then I was filmed on television and he kept beating me very badly. They kept on beating me up to the point that my arm got broken. They brought me to the prison doctor and the medical report said that I needed an operation in my arm and that there was no other solution. My arm has since been broken. After that, they took me for an interrogation session, and when I was presented to the prosecutor he said: ‘I will not interrogate him in this shape’, because I was bleeding. After that they made me sign

under my answers and I went to prison.”¹²

As for the other defendants, Mohamed Saeed Farag showed marks of blood clotting on his mouth and nose during the court session and stated before the court that these injuries were the result of officers beating him during his arrest. In addition, signs of redness, bruises and back injuries were visible on defendant Mohamed Abdel-Sami’e Hemeida, who stated that these were a result of assaulting him using the back of a gun during his arrest.

VI. Case No. 81 of 2016/ Supreme State Security Criminal Court, known in the media as the “Assassination of the Public Prosecutor” case.



Enforced Disappearance: At least eight of the nine defendants sentenced to death were subjected to enforced disappearance

On 20 February 2019, The Cairo Appeals Prison executed nine defendants in the case, of whom at least eight defendants were subjected to enforced disappearance, according to their statements before the Prosecution. According to the investigation files, Ahmed Mohamed Taha Ahmed Wahdan was arrested 30 days before the arrest date officially documented in the arrest order. Abdel Qasim Ahmed Ali Youssef was

12- Court Session Minutes of Case 938 of the year 2014/ Kerdasa Criminal Court, registered under case Nr. 9 of the year 2014/ North Giza Criminal Court and Case Nr. 375 of the year 2013/ Supreme State Security Prosecution.

also arrested 14 days prior to the officially documented arrest date. Mahmoud Al Ahmadi Abdel Rahman was arrested ten days before his official arrest date. Abu Bakr El Sayed Abdel Meguid was also arrested 11 days before his officially documented arrest date. Abdel Rahman Soliman Mohamed Mohamed Kahoush was arrested 40 days before the official date of his arrest, Ahmed Mohamed Haitham Al Degwy was arrested 41 days before his official arrest date and Ahmed Mahrous Sayed Abdel Rahman was arrested 12 days before his officially documented arrest date. Finally, Islam Mohamed Ahmed Mekkawi was arrested 18 days before his officially documented arrest date. All the defendants were able to identify the places of their detention during the periods of their enforced disappearance in three security headquarters, namely, the State Security headquarters in Lazoghli, the State Security building in Zagazig, and the Security Directorate in Hurghada.

Allegations of torture of defendants: At least eight of the nine defendants who were executed alleged having been subjected to physical and psychological torture.

Eight out of the nine defendants executed had alleged being subjected to torture, according to their documented statements before the Public Prosecutor's Office, during periods of enforced disappearance. The torture included beatings with the hands, feet, and sharp instruments, and electric shocks to different parts of the body, in addition to the psychological torture of threatening to harm families or relatives of the defendants.

Mahmoud El Ahmadi Abdel Rahman stated in his interrogation session on 28 April 2016 that:

«All the confessions I made before were under physical and psychological coercion from State Security officers as they threatened to harm my mother, my sister and my father. They threatened to arrest and assault them, and they threatened to detain my brother and to blow up my house. They wrote a statement on three folio papers and made me memorize it. Then in five or six days, the officer told me that I will meet his big bosses and that I had to stick to the words that I had memorized, otherwise I

will regret it and will be sent back here to them."¹³

In an interrogation session on 6 April 2016 Islam Mohamed Ahmed Mekkawi stated:

*«I want to say that all the statements that I gave before during the investigations are false. I had said them because those who arrested me tortured me psychologically and physically to coerce me into saying these things. I am saying this only now because all this time during the investigations I was afraid I would be sent back to them and they would go back to torturing me. But because I am being held in a prison now, I am reassured and can say this today. I was taken on the 23rd of February in front of the State Council in Dokki, and I don't know who arrested me. I was handcuffed, blindfolded and taken to a place, but I don't know where it is because I was blindfolded. When I reached that place and entered a room, they tortured me in it. They beat me with tools, but I don't know what kind of tools because I was blindfolded. They beat and electrocuted me all over my body. Then I was given a piece of paper. I was meant to read and memorize what's on it so that when it is time for the interrogation, I was meant to state what's on this paper. And so, when it was time for my statement, I said what was written on the paper.»*¹⁴

Prohibiting or stalling forensic medical examinations: At least four defendants' requests to be referred to a forensic medical examination were ignored, and one defendant's request was stalled.

Despite the defendants' allegations of torture in their statements before the prosecution, the latter did not fulfill its obligation to verify or investigate such allegations, even though in some cases it took note and documented the injuries when it conducted a viewing of the defendants. It has not verified the validity of the defendants' allegations of torture by referring them to be examined by forensics for a detailed medical report either. When in one of the court hearings some of the defendants

13- Interrogation Session in case Nr 81 of 2016 / Supreme State Security Criminal Court – statement of Mahmoud Al Ahmadi Abdel Rahman.

14- Interrogation Session in case Nr 81 of 2016 / Supreme State Security Criminal Court – statement of Islam Mohamed Ahmed Mekkawi.

narrated before the judge that they had been tortured, as appeared in a video clip dated August 16 2016, the judge ignored what the three defendants stated and did not order their referral to forensics neither did he order any other form of verification of their statements.

The Public Prosecution's response to the defendants and their counsels' requests for forensic medical examinations varied. The prosecution ignored the requests of four of the defendants and did not order their referral. As for defendant Mahmoud Al-Ahmadi, the prosecution referred him to a forensic medical examination 33 days after his request to document his injuries, which directly affects the accuracy of the results. The prosecution's behavior was repeated by stalling other defendants' requests. Also, in the case of Islam Mekkawi, the prosecution issued an order referring him to forensics, but in one of his statements after the referral order, he said that it was never carried out and that he wasn't examined.

Violation of the right to defense: The Public Prosecutor's Office has started interrogating nine defendants in the absence of a lawyer of their choosing.

None of the nine defendants had a lawyer of their choosing present at the first interrogation sessions. The Public Prosecutor's Office began interrogating four of them in the presence of a court-appointed lawyer and interrogated five others without the presence of any lawyer at all. The absence of a lawyer of one's own choosing was not limited to the initial interrogation sessions but extended beyond this for some defendants. Abul Qasim Ahmed, Mahmoud Al Ahmadi and Ali Wahdan had lawyers of their choosing 41 days after the first interrogation session took place. In the case of Abu Bakr El Sayed Abdel Meguid, he had a lawyer of his choosing 38 days after his interrogation had begun. In the interrogation session of 16 April 2016 he stated:

*"I am requesting my release and I want to say that they made me memorize the words that I had said before when I was at State Security under torture for 15 days. I didn't retract these words in the previous sessions because I did not have a lawyer."*¹⁵ This also indicates

15- Interrogation Sessions of Case Nr. 81 of the year 2015 / Supreme State Security Criminal Court – Statement of Abu Bakr El Sayed Abdel Meguid.

the extent to which the defendants fear to speak honestly before prosecutors in the absence of a lawyer that has gained their trust.

Poor prison conditions: Nine defendants complained of poor conditions in their prison cells.

The nine defendants complained about the poor conditions in their cells in Al Aqrab Prison, which one of the defendants described as “humanly unbecoming” according to the investigation files. In the interrogation sessions the defendants complained about the obstinacy regarding prohibiting family visits, prohibiting detainees from cleaning themselves and showering as well as banning them from receiving medication and clothes in many cases. This is in addition to the fact that they were not allowed to exercise at all sometimes, which means that the defendants were kept inside the cell 24 hours a day. Complaints were also made about the poor quality of prison food, which was described in more than one place as «insufficient and bad». The investigation files reveal some of what the defendants mentioned about the conditions of their imprisonment:

“I’ve been suffering from a cold and fever for a while (...) I want to take a shower and maintain personal hygiene,”¹⁶ said Abu Bakr El Sayed Abdel Meguid in his interrogation session.

“I was beaten and insulted more than once. Before being brought here, I found an officer in the ward pulling me from my clothes, he hit me with his hand on the back of my neck, he cursed at me, pushed me with my face against the wall and he slapped me on my face. I don’t know why he did this to me. I feel some pain in my neck, on my lower lip and under my mouth. I want to state that when I went back after the last interrogation session, I found that they had taken all my medication, my underwear, three blankets, and they left me one blanket. They also took the second prison uniform as well as the honey and dates, which my family had brought for me in the visit. I was not brought to a hospital and I still want to see a doctor. A doctor

16- Interrogation Sessions of Case Nr. 81 of 2015 / Supreme State Security Criminal Court – Statement of Mohamed Al Ahmadi Abdel Rahman Ali.

had ordered a wheelchair for me.”¹⁷

As for defendant Mohamed Al Ahmadi Abdel Rahman Ali, following a delicate knee surgery, he was prohibited from bringing in a crutch to assist him with his walking. *“I need care for my leg, after it underwent a cruciate ligament operation, and I am asking for authorization to bring in the crutch.”¹⁸*

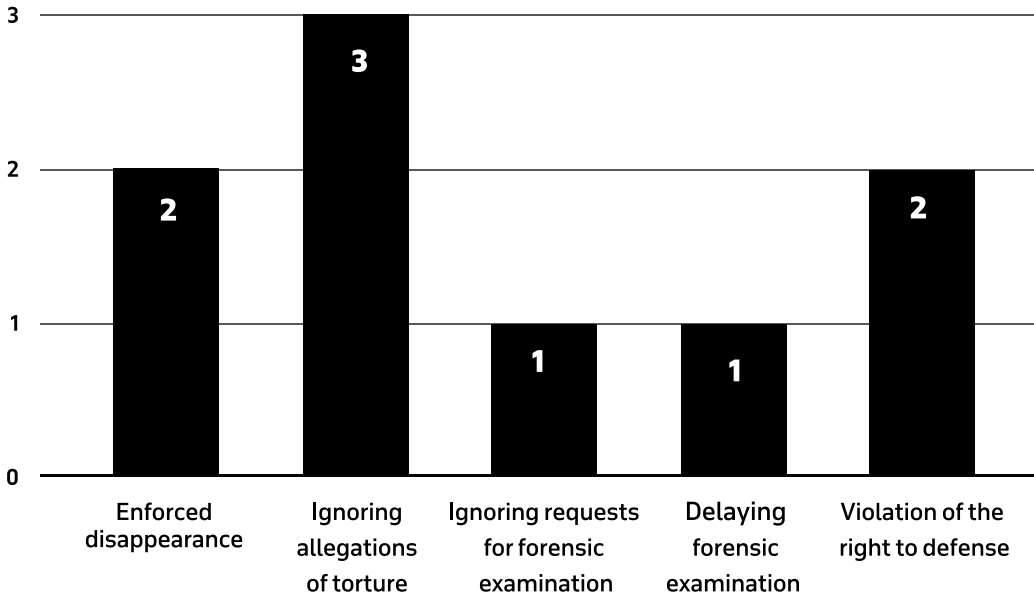
Filming and Broadcasting confessions of defendants during the course of the investigations.

The Ministry of Interior published a video clip on 6 March 2016, that is, during the course of the investigations and before formal charges were filed, in which four defendants in the case appeared to confess on camera. They are Mahmoud Al-Ahmadi, Ahmed Gamal Ahmed, Mohamed Ahmed El Sayed, and Abul Qasim Ahmed Ali. After the court sessions began in June 2016, Mahmoud Al-Ahmadi stated the following about the video: *«The words they wanted were written on three sheets of folio paper. They forced me to memorize them and repeat them while being filmed on camera. At that time the wounds from the beatings were visible so they covered them with makeup.»* On August 16 of the same year, one of the news channels published a video during a court hearing, in which Mahmoud Al-Ahmadi, Abul Qasim Ahmed Ali and Abu Bakr El Sayed, who were later executed, appear, telling the judge about the torture they were subjected to at the National Security premise in Lazoghli.

17- Interrogation Sessions of Case Nr. 81 of 2015 / Supreme State Security Criminal Court – Statement of Ahmed Mohamed Haitham El Degwy.

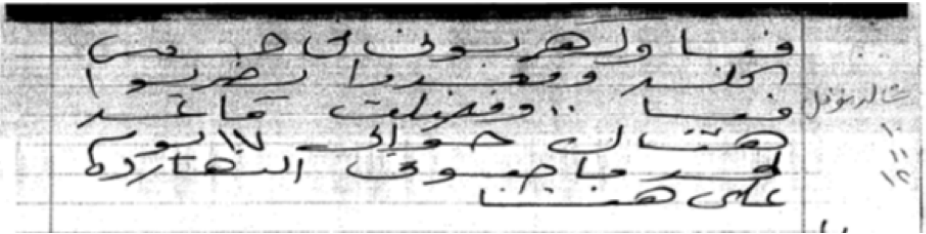
18- Interrogation Sessions of Case Nr. 81 of 2015 / Supreme State Security Criminal Court – Statement of Abu Bakr El Sayed Abdel Meguid.

VII. Case No. 288 of 2015 / North Cairo Military Criminal Court, known in the media as the “Assassination of Colonel Wael Tahoun” case.



Enforced Disappearance: At least two of the three defendants sentenced to death were subjected to enforced disappearance.

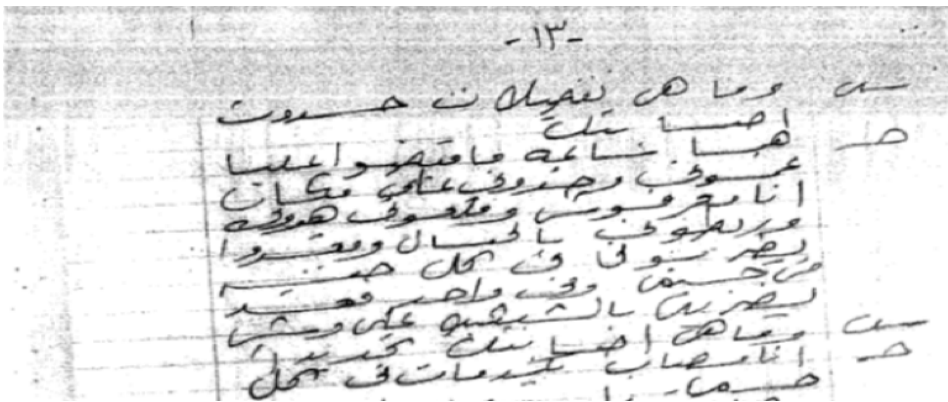
At least two defendants who were sentenced to death in their presence were subjected to enforced disappearance. Khaled Salah El Din Nofal was subjected to enforced disappearance for 17 days. He was arrested, according to his confession, on 22 May 2015 from Cairo’s Central Train Station in Ramses Square, and not from his place of residence, as the official arrest memo alleges. He was not brought before the Public Prosecution until 7 June 2015. Mohamed Bahey El Din was also subjected to enforced disappearance for 20 days. According to his confessions, he was arrested on 18 May 2015 and was not presented to Public Prosecution until 6 June 2015.



Allegations of torture: Three defendants alleged having been subjected to physical and psychological torture

The three defendants, who were sentenced to death, have stated that they were subjected to physical and psychological torture during the period of their enforced disappearance, as per the investigation documents. Khaled Salah El-Din Nofal stated on 7 June 2015 that he was physically assaulted by being beaten and kicked in different parts of his body after being tied with ropes and hung from above. Mohamed Bahey El-Din also retracted his confessions because of the torture he had been subjected to. He stated:

«Everything I had said did not happen. I said it because I was tortured in State Security and because I was very scared.»



Khaled Salah El-Din Nofal's statements during his interrogation:

“When they arrested me, they blindfolded me and took me to a place unknown to me. They stripped me off my clothes and tied me with ropes and they kept beating me everywhere on my body and one of them was slapping me with slippers on my face.»

Violation of the right to defense: The Public Prosecutor's Office started the interrogation of at least two of the three defendants sentenced to death in the absence of a lawyer of their choosing.

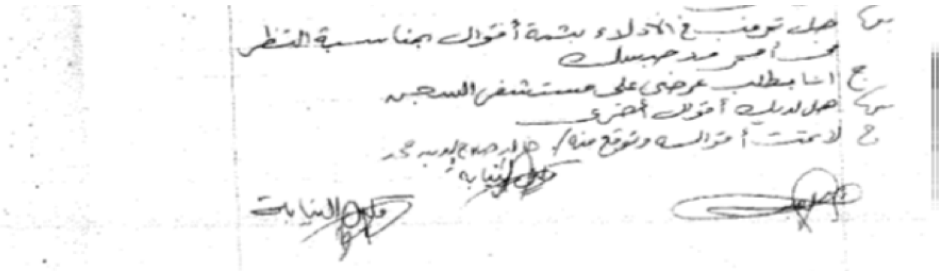
According to the investigation documents, the Public Prosecutor's Office began interrogating at least one defendant despite the absence of his lawyer, under the pretext of "a state of necessity" and "a fear of losing evidence." The Public Prosecution also assigned a lawyer to one defendant; thus interrogations began with at least two defendants in the absence of a lawyer of their choosing.

Prohibiting or stalling the referral of defendants to forensic medical examinations

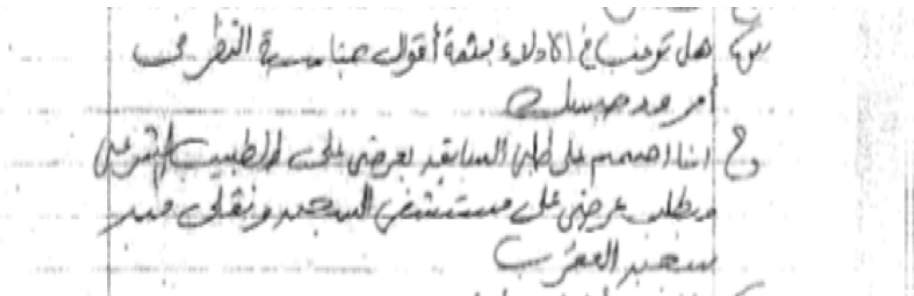
When Mohammed Bahey El-Din asked the Public Prosecutor's Office to refer him to the forensic medicine department on 15 June 2015 in order to document his injuries, the presentation was stalled until a forensic report was issued on 26 July 2015 (we could not verify the date of his referral order to the Forensic Medicine Authority). In other words, the report was issued 42 full days after his request. Khaled Salah El-Din Nofal also requested to be referred to Forensics or even to the prison hospital several times during the interrogation sessions, and his request was ignored.

*"I want to be referred to forensic medicine because I was in State Security from 18 May until 5 June 2015 (...) I was blindfolded from the time they arrested me, and they beat me all over my body with their hands and feet. They used to handcuff me and hang me from my wrists for about an hour or two every time."*¹⁹

19- Investigation Files of Case Nr. 288 of 2015 / North Cairo Military Criminal Court – Statement of Mohamed Bahey El Din.

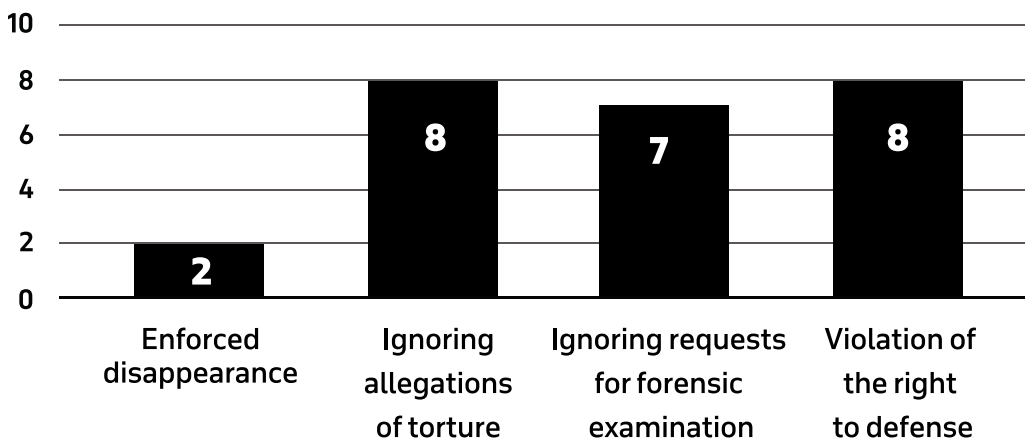


On 3 March 2015, Khaled Salah El-din Nofel requested to be referred to prison hospital



On 30 August 2015, Khaled Salah El-din Nofel requested again to be referred to prison hospital and Forensic Medicine

VIII. Case Nr. 108 of 2015 / Alexandria Military Criminal Court, known in the media as the “IED Planting Cell” case.



Enforced disappearance: at least two of the 10 defendants sentenced to death in person have been subjected to enforced disappearance.

Seventeen defendants in this case were subjected to enforced disappearance according to the available information, including Azzam Ali Shehata Ahmed Amr, who was sentenced to death. Azzam Ali was subjected to enforced disappearance for 22 days while being detained at the Security Directorate, according to his statement before the Prosecution, where he stated his real date of arrest.²⁰

Allegations of torture: At least eight of the ten defendants sentenced to death in person alleged having been tortured.

Eight defendants in this case alleged having been subjected to different types of torture. According to the defendants' statements before prosecution, these include psychological threats, physical assault using hands, feet and sharp objects and electric shocks. For example, on 1 April 2015, Khaled Mohamed Ali Mohamed Saada states in his interrogation session:

«They took me to the directorate, and since then I've been at the directorate, sleeping on the floor without bedding and handcuffed with my hands behind me. They would open the windows when it is freezing. After that when they were interrogating me, they placed electric wires at my fingertips and electrocuted me.»²¹

At the interrogation session on 1 April 2015, the two defendants, Sameh Fawzi Mahmoud and Ahmed Saleh Abdel Aziz retracted their confessions that had been documented and filmed at the Security Directorate. They listed the physical and psychological torture they had been subjected to as their reasons before the prosecution.²²

20- Investigation Documents of Case 108 of the year 2015 / Alexandria Military Criminal Court.

21- Investigation Documents of Case 108 of 2015 / Alexandria Military Criminal Court – Statement of Khaled Mohamed Ali Mohamed Seada.

22- Investigation Documents of Case 108 of 2015 / Alexandria Military Criminal Court.

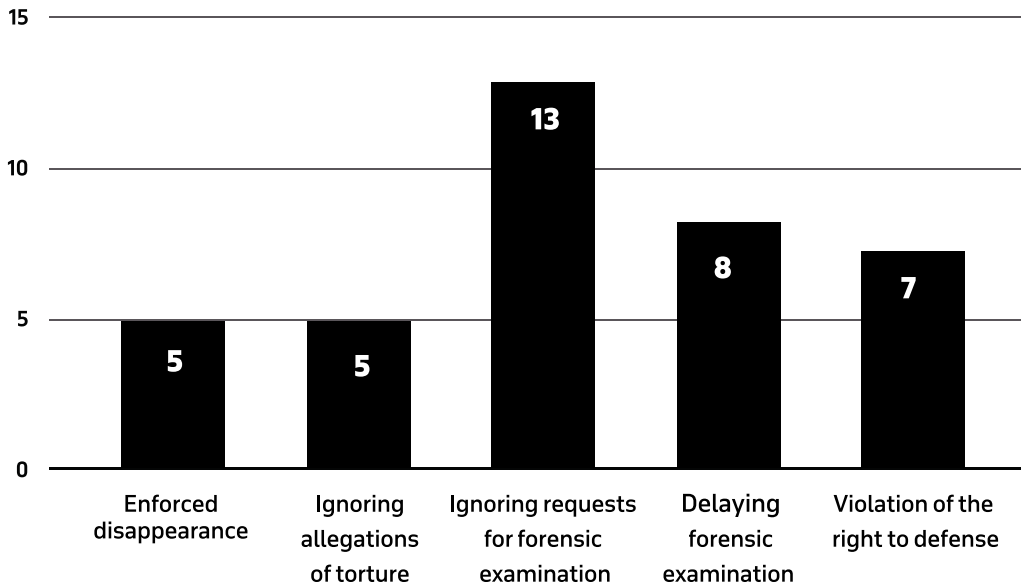
Prohibiting or Stalling the referral of defendants to forensic medical examinations

Seven defendants had requested from prosecution to be referred to Forensic Medicine in order to document their injuries, but all requests were completely ignored. None of the defendants were referred to the Forensic Medicine Authority.

Violation of the right to defense: Prosecution started interrogating at least eight defendants in the absence of a lawyer of their choosing.

The Military Prosecution began interrogating at least eight defendants in the absence of their own lawyer(s) at least in the first interrogation sessions. The Public Prosecution also began interrogating only two of the eight in the presence of a court-appointed lawyer.

IX. Case No. 165 of 2017 / Alexandria Military Criminal Court, known in the media as the “Church Bombing” case.



Enforced Disappearance: At least five of the defendants sentenced to death were subjected to enforced disappearance for varying periods

At least five of the defendants sentenced to death were subjected to enforced disappearance, according to their statements. Based on his statement before the prosecutor, Mohamed Mubarak Abdel Salam Metwally was arrested on 15 December 2016, that is, 70 days before the officially recognized date of arrest, which is 14 March 2017. Salama Ahmed Salama Mohamed Qassem was also arrested 67 days before the officially recognized arrest date. Walid Abul Magd Abdallah Abdel Aziz was arrested 44 days before his official arrest date and Amr Saad Abbas Ibrahim was arrested 55 days before his official arrest date. This is all according to the defendants' statements documented in the prosecution's investigation files. Some of the defendants were able to identify the places in which they were unofficially detained, before they were presented to prosecution. These were the headquarters of the National Security Agency in Qena and Abbasiya as well as the Security Directorate in Qena.

Allegations of torture: At least five of the defendants sentenced to death alleged having been tortured.

At least four defendants among those sentenced to the death penalty retracted their statements as a result of having been subjected to physical and psychological torture and explained that these statements were extracted under torture from officers at the State Security premise.

According to the investigation documents, Walid Abul Magd Abdallah retracted his statement on 27 March 2017 and Salama Ahmed Salama retracted his on 5 March 2017. The defendants stated the following:

“National Security arrested me, took me to their place and kept torturing me. They threatened to harm my family and made me memorize all the words I was to say before prosecution. They kept torturing me by electrocution and they stripped me off

my clothes and they filmed me and made me confess.”²³

Defendant Salama Ahmed Salama stated the following: «*They tortured me with electricity, hung me and told me that either I confess to these words or they would get rid of me and my family.*»²⁴

Ignoring or Stalling requests of defendants to be referred to a forensic medical examination

Despite the allegations of torture made before prosecution by 21 defendants in this case and despite their request to be referred to Forensic Medicine to document their injuries, the prosecution ignored 13 of these requests and did not fulfill its role in verifying the validity of the allegations by referring the defendants to the Forensic Medicine Authority and launching an investigation into their claims of torture.

In the case of eight other defendants, the prosecution responded to the requests to be referred to forensic medicine, but after delays and stalling for varying periods, which necessarily affects the accuracy of the results of the medical examination. In the case of Mohamed Youssef Abu Bakr Hafez, the delay reached 34 days. Rami Mohamed Abdel Hamid was examined by forensic medicine eight days after his request and his claim to have been subjected to torture which the prosecution have proved during one of the investigation sessions. The prosecution reviewed him and documented that “*he has two wounds on his testicles and his penis and another on his knee, all due to him being subjected to electrocution*”

Violation of the right to defense: Prosecution has started interrogating seven defendants in the absence of a lawyer of their choosing.

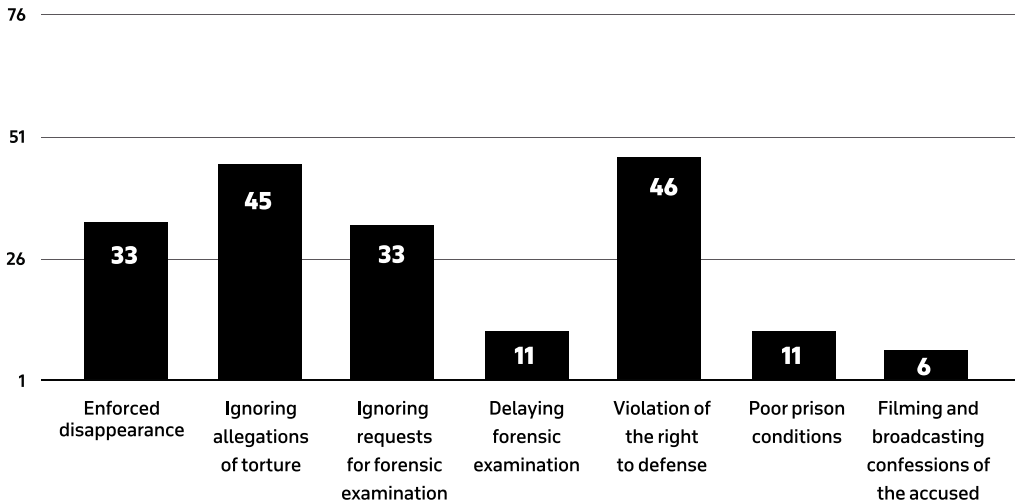
The prosecution began interrogating at least six defendants despite the absence of their lawyer, under the pretext of “unavailability of lawyers to appoint” and “fear of

23- Investigation Files for Case Nr. 165 of 2017 / North Cairo Military Criminal Court – statement of Walid Abul Magd Abdallah.

24- Investigation Files for Case Nr. 165 of 2017 / North Cairo Military Criminal Court – statement of Salama Ahmed Salama.

losing evidence”. Another ground the prosecution used was because “the syndicate is closed, and we feared the defendant’s detention grounds will expire.” In other cases, the prosecution did not even mention any grounds to justify initiating the interrogation without legal representation. In addition, the prosecution assigned a lawyer during the interrogation of one of the aforementioned seven defendants. Thus, the investigation process violated the right to effective legal representation for at least seven of the defendants.

Out of 104 defendants in 9 cases, where 76 defendants were sentenced to death or executed:



Recommendations

1. The immediate suspension of the death penalty, if only temporarily, until the societal debate on the abolition of the penalty is fully opened, as proposed by the Egyptian Government during the vote on the resolution related to the penalty at the 36th session of the Human Rights Council (Sixth Amendment, L.41.)
2. The Egyptian Government should sign and ratify the Second Optional Protocol to the International Covenant on Civil and Political Rights, aiming at the abolition of the death penalty (Optional Protocol on the Abolition of the Death Penalty).
3. The Egyptian Government should sign and ratify the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.
4. The Egyptian government should fulfill of its obligation in accordance with the Convention against Torture, which it has signed, and which states in Article 2, Section A, that: “Each State Party shall take effective legislative, administrative, judicial or other measures to prevent acts of torture in any territory under its jurisdiction.” Therefore, the Egyptian Government should initiate the process of adopting a stand-alone law criminalizing torture.
5. The Egyptian Government should sign and ratify the International Convention for the Protection of All Persons from Enforced Disappearance. Parliament must reconsider the penal, terrorism, military and drug laws to reduce the number of capital crimes, so that this punishment is imposed only for the most dangerous crimes and in the narrowest scope. In addition the Law Protecting Public and Vital facilities should be amended so that civilians accused of crimes punishable with the death penalty are not referred to any exceptional or military courts no matter the reason.
6. Reconsidering the Code of Criminal Procedures and treating the loopholes it contains that violate the rights of the accused and the right of defense to make it consistent with the provisions of the Egyptian Constitution. Specifically, we call for the amendment of Article 124 of the Code of Criminal Procedures,

which grants the investigator the right to start the interrogation in the absence of a lawyer in cases of flagrante delicto and where there is urgency due to fear of losing evidence. We demand that no accused or defendant is questioned or interrogated for any reason without the presence of a lawyer. We stress that any accused or defendant potentially facing charges that may lead to the death penalty should have the services of a competent lawyer and shall fully receive his/ her right to choose his/ her lawyer.

7. We call upon the judicial authorities not to rely in their verdicts on the statements in preliminary inquiries unless they are accompanied by evidence and proof that do not bear any doubt and not to rely on mere desk research. We further call upon the investigative authorities to commit themselves to presenting the accused to forensic medical examination immediately upon the latter's declaration that they have been subjected to torture or upon the presence of any visible injuries at the time they are presented to prosecution. Those responsible should be investigated seriously and promptly. In addition, a serious and prompt investigation should be initiated into any defendant's claim on enforced disappearance or unlawful detention.
8. We call upon the Ministry of Interior to stop publishing videos of the accused during investigation periods, as it constitutes a fundamental violation of the right to a fair trial and the presumption of innocence, until proven otherwise.
9. Finally, we call upon the Egyptian Government to commit to republishing and making available the annual reports of the Dar al-Ifta on the opinions expressed by the Mufti of the Republic in death sentence cases, which it has stopped publishing since 2012. We recommend that the government make all information related to death sentences and their implementation available to the public, especially to the families of defendants and those convicted.