



The State Of Right To Free And Fair Trial

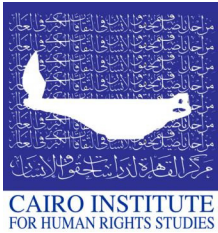
Joint Submission by:

- 1. No Military Trials for Civilians**
- 2. Egyptian Commission for Rights and Freedoms (ECRF)**
- 3. The Cairo Institute for Human Rights Studies (CIHRS)**

Related to: Egypt's UPR

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The Cairo Institute for Human Rights Studies (CIHRS) submits this report jointly with the Egyptian Commission for Rights, Freedoms (ECRF), and the No Military Trials for Civilians Group, on the occasion of the Universal Periodic Review of the Arab Republic of Egypt at the Human Rights Council's session in autumn 2014. This report covers the right to free and fair trial, in accordance with articles 9 and 14 of the International Covenant on Civil and Political Rights (ICCPR) of 1966.





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Introduction

1. Since the last UPR review of Egypt in 2010, the country has witnessed grave human rights violations during the January 2011 uprising, the rule of the of the Supreme Council of the Armed Forces (SCAF) from February 2011 until June 2012, the rule of president, Morsi, from June 2012 until June 2013, and since his ouster on 3 July 2013 until the time of writing. Unlawful killing of protesters by security forces and torture and other ill-treatment in detention have been common violations. Dissenting voices such as anti-government protesters, activists, human rights defenders and politicians have been subjected to unfair trials in military and ordinary courts, where they have been charged under laws themselves in violation of human rights law; in which they did not have access to appropriate fair trial procedures and guarantees; and in which excessive sentences were imposed. The security forces, on the other hand, have not been held accountable for the serious rights violations they have committed. Given these serious flaws, the independence of the judiciary is subject to serious question.
2. According to military sources, 11,879 civilians were tried in military courts between January and August 2011. Military tribunals convicted 8,071. The practice of military trial for civilians, including protesters, workers, human rights and political activists, journalists and children has continued until the time of writing, and is now endorsed by one article of the constitution.
3. A new Egyptian constitution was adopted by referendum in December 2012. An amended constitution was adopted following a referendum in January 2014.¹ Both texts have guaranteed respect for human rights during pre-trial detention and during trial in front of ordinary courts, but have also allowed for the trial of civilians by military court, a human rights violation *per se* that is only augmented by the lack of fair trial guarantees in military proceedings. In practice constitutional and legal guarantees of fair trial have been consistently violated.
4. Civilian detainees awaiting military trials are generally denied the pre-trial rights that are guaranteed by the constitution and the Code of Criminal Procedure (CCP), such as the rights to be informed of the charges against them, to have access to lawyers, to prepare their defence with their legal counsel, to challenge the legality of their detention, and to be brought promptly before a judge. Defendants have been denied their right to confidential communications with their lawyers and access to documents pertaining to their cases. Lawyers too face difficulties obtaining case files and hence preparing adequate defences. Often their requests to submit the testimony of defence witnesses are rejected and only prosecution witnesses are allowed to testify in front of

¹ This is referred to below as the 2013 constitution, as the draft was finalized in December of 2013, even though the constitution was only adopted following a referendum in 2014.



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court. In the past 8 months, similar violations from the ordinary judiciary were documented as well.

5. Lawyers before ordinary justice system have also been threatened, intimidated and arrested. One lawyer from the Front to Defend Egypt Protesters was threatened by a policeman, who pointed his gun at him on 25 January 2014 and ordered him to go within 10 seconds or he will shoot at him. The lawyer was seeking to meet with protesters held at a police station in south Cairo. A lawyer defending pro-Morsi female protesters in Alexandria was arrested ahead of a court session on 2 December 2013.
6. In general, the judiciary has turned a blind eye to state violations and has been lenient with state actors during investigation and trial. At the same time, it has applied the full force of the law against dissidents, including several provisions of law that violate international human rights standards. This has reinforced a sense of injustice, as victims of human rights violations and their families feel the judiciary is unable or unwilling to hold to account members of the security forces. Overall, it appears as if justice in Egypt is biased in favour of representatives of the state. As an example, some 270 protesters remain on trial in front of a Cairo criminal court in relation to clashes in front of the Prime Minister's offices in December 2011, but no one from the military forces who dispersed protesters by force is on trial for the unlawful killing of 17 people in the same protests.
7. This report is divided into two parts. Part 1 addresses violations of pre-trial rights and part 2 addresses violations of rights at trial. Both parts begin by describing relevant constitutional and legislative provisions, before discussing violations in practice. The report addresses trials in ordinary as well as military courts in the period between the end of 2010 and March 2014. It concludes with recommendations to bolster the right to fair trial in Egypt.

Part 1: Violations of pre-trial rights

A- Egyptian legal framework and pre-trial rights

8. Article 54 of the 2013 constitution states that "Personal freedom is a natural right which is safeguarded and cannot be infringed upon. Except in cases of *in flagrante delicto*, citizens may only be apprehended, searched, arrested, or have their freedoms restricted by a causal judicial warrant necessitated by an investigation. All those whose freedoms have been restricted shall be immediately informed of the causes therefore, notified of their rights in writing, be allowed to immediately contact their family and lawyer, and be brought before the investigating authority within twenty-four hours of their freedoms having been restricted. Questioning of the person may



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only begin once his lawyer is present. If he has no lawyer, a lawyer will be appointed for him. Those with disabilities shall be provided all necessary aid, according to procedures stipulated in the law. Those who have their freedom restricted and others possess the right of recourse before the judiciary. Judgment must be rendered within a week from such recourse, otherwise the petitioner shall be immediately released. The law shall regulate preventive detention, its duration, causes, and which cases are eligible for compensation that the state shall discharge for preventative detention or for execution of a penalty that had been executed by virtue of a judgment that is overruled by a final judgment. In all cases, the accused may be brought to criminal trial for crimes that he may be detained for only in the presence of an authorized or appointed lawyer.”

9. Article 55 of the constitution states 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, or arrested and confined in designated locations that are appropriate according to humanitarian and health standards. The state shall provide means of access for those with disabilities. Any violation of the above is a crime and the perpetrator shall be punished under the law. The accused possesses the right to remain silent. 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.”²
10. Article 40 of the CCP prohibits the detention of any person without an official warrant. Article 36 provides for the referral of detainees by the police to the prosecutor within 24 hours of arrest. Article 201 gives the public prosecution the authority to order preventive detention for no more than 4 days. Article 202 allows a judge to renew preventive detention for a period of between 15 and 45 days. Articles 143 and 203 allow an appeals misdemeanour court³ to extend detention in additional periods of 45 days at a time, up to a maximum of 6 months of preventive detention in cases of misdemeanours, 18 months in standard cases of criminal offence, and two years for crimes punishable by the death penalty or life imprisonment. However article 206bis of the CCP gives the public prosecutor this power of the Appeals misdemeanour court in crimes relating to external and internal state security.
11. In cases where an individual is presented to a military prosecutor, the law provides hardly any procedural protections. There is no way to appeal against preventive detention orders issued in the military justice system. Detained individuals are not

² The English translation here and below is from International IDEA’s translation.

³ Which may meet in camera.



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informed of the charges against them. Interrogations by military prosecutors generally take place in the absence of legal aid.

B- Violations of pre-trial rights in practice

12. There has been a consistent failure on the part of the authorities to inform detainees of the reason for their arrest or detention at the time of apprehension. Individuals are only informed of the charges they face when they are brought before a prosecutor. Detainees generally have access to lawyers when they are brought before the prosecutor, but not always, as the presence of a lawyer during interrogation is not compulsory.
13. Detainees are generally unable to speak in private with their lawyers before interrogation. This has been the case in most interrogations involving individuals detained in the context of protests since January, 25th, 2011. This has been documented for example relative to individuals detained in the context of the clashes in Mohamed Mahmoud Street in Cairo in November 2011 and February 2012, as well as in relation to clashes near the Presidential palace in December 2012, and more recently in the cases of the Shura Council protest in November 2013 and in the 25 January 2014 protests.
14. The right to trial within a reasonable time or to release from detention is consistently violated. At the level of the prosecution, preventive detention orders have been used as a rule rather than the exception, with the pretext of internal security offered, despite a lack of evidence or witnesses in support of police reports. Whereas the purpose of preventive detention should be to prevent the accused from escaping, tampering with evidence, intimidating witnesses or harming others, its blanket use in practice seems more designed as a way to enact punishment without trial than as a legitimate tool of public safety.
16. The authorities have used criminal charges to judicially harass political and human rights activists. Alaa Abdel Fattah, Mona Seif, from No to Military Trials for Civilians, and Ahmed Abdallah, from 6 April youth movement, were put on trial, along with 9 others, for the burning of the headquarters of Presidential candidate Ahmed Shafik in June 2012. The public prosecution at that time, when Egypt was still governed by the SCAF, closed the case for lack of evidence and Ahmed Shafik, the victim, announced that he had withdrawn his complaint to the public prosecution. As opposition to the Morsi government grew, however, the public prosecutor appointed



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by Morsi reopened the trial in March 2013.⁴In January 2014,all 12 defendants were sentenced to suspended one-year prison terms.

18. On 26 November 2013 a protest occurred in front of the Shura Council, in opposition to the inclusion of a constitutional article allowing for the trial of civilians before military courts. Following the dispersal of the protest and several detentions, 24 people were charged by the public prosecution with breaking the protest law and other offences. Their trial has however not started four months after the arrests. 22 were released on bail in short order; activist and blogger Alaa Abel Fattah and Ahmed Abdel Rahman were detained for over 100 days and only released on bail in March 2014. This extensive pre-trial detention appears to have been a way to keep these individuals behind bars for as long as possible and thereby punish them for their persistent human rights activism and opposition to military trials. While lawyers for the detained individuals frequently requested a court session be held to review the detention of the two individuals, unfortunately there is no legal mechanism allowing defence lawyers to ensure such a hearing is held promptly.
19. Since 30 June 2013, many interrogations by prosecutors have taken place in police stations and riot police camps, as for example following protests on 25 January 2014.⁵ Lawyers for the detained persons have been physically prevented from being present at these interrogations.
20. Since the waves of mass arrests against Muslim Brotherhood supporters after 30 June 2013, detainees have remained in detention for weeks and even months, with their preventive detention orders renewed by the public prosecutor. These renewals have essentially been automatic, with no substantive review of individual cases. These detainees have generally not been informed of the charges against them, and have had no access to lawyers. Prosecutors have visited places of detention (police stations and prisons) only to inform the detainees of new preventive detention orders, which means detainees have had no means to challenge the lawfulness of their detention.

Part 2: Violations of the right to a fair trial

A- Egyptian legal framework and the right to a fair trial

21. Article 94 of the constitution of 2013 states that “The rule of law is the basis of governance in the state. The state is subject to the law, while the independence,

⁴ This occurred despite the fact that no new evidence had emerged in the case, a condition required for the re-opening of a case (as according to articles 197 and 213 of the CCP).

⁵ The police have attempted to justify this new practice by arguing that it is impossible to transport the detainees to the prosecutors' offices safely.



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immunity and impartiality of the judiciary are essential guarantees for the protection of rights and freedoms.”

22. Article 95 states that “Penalties are personal. Crimes and penalties may only be based on the law, and penalties may only be inflicted by a judicial ruling. Penalties may only be inflicted for acts committed subsequent to the date on which the law enters into effect.”
23. Articles 96 states that “The accused is innocent until proven guilty in a fair court of law, which provides guarantees for him to defend himself. The law shall regulate the appeal of felony sentences. The state shall provide protection to the victims, witnesses, accused and informants as necessary and in accordance with the law.”
24. Article 97 states that “Litigation is a safeguarded right guaranteed to all. The state shall bring together the litigating parties, and work towards speedy judgment in cases. It is forbidden to grant any act or administrative decision immunity from judicial oversight. Individuals may only be tried before their natural judge. Extraordinary courts are forbidden.”
25. Articles 98 states that “The right of defence either in person or by proxy is guaranteed. The independence of lawyers and the protection of their rights are ensured as a guarantee for the right of defence. For those who are financially incapable, the law guarantees the means to resort to justice and defend their rights.”
26. Sections 2 and 3 of the CCP provide the rules of trial in front of ordinary courts.⁶ For example, article 268 provides that hearings should be public, with the exception that the court can order secret sessions in order to preserve public order or morality. There are appeals courts that may review the facts in the case of misdemeanours, but not such appeals courts relative to felony offenses; appeals on matters of law may be directed to the Court of Cassation.

B-JURISDICTION OF MILITARY COURTS TO TRY CIVILIANS

27. The 1971 constitution did not explicitly mention military trials of civilians; in practice, the 1966 Code of Military Justice allowed military courts to try civilians. In sharp contrast to demands by human rights defenders and the dictates of Egypt’s obligations under international human rights law, the 2012 Constitution sanctioned such trials. Article 198 of that constitution provided that “The Military Judiciary is an independent judiciary that adjudicates exclusively in all crimes related to the armed forces, its officers and personnel; in crimes pertaining to military service which occur within military facilities; or crimes relating to armed forces facilities, equipment or

⁶ The rules of the CCP do not apply to military courts.



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secrets. Civilians cannot stand trial before military courts except for crimes that harm the armed forces. The law defines such crimes and determines the other competencies of the Military Judiciary. Members of the Military Judiciary are autonomous and cannot be dismissed. They share the immunities, securities, rights and duties stipulated for members of other judiciaries.” Despite gesturing towards a limitation on military trials, the vague reference to “crimes that harm the armed forces” left the door wide open to the continuation of military trials in all cases the powers that be might deem appropriate.

28. Article 204 of the 2013 constitution follow the steps of 2012 constitution and failed to prohibit military trials of civilians, instead providing that “The Military Judiciary is an independent judiciary that adjudicates exclusively in all crimes related to the armed forces, its officers, personnel, and their equals, and in the crimes committed by general intelligence personnel during and because of the service. Civilians cannot stand trial before military courts except for crimes that represent a direct assault against military facilities, military barracks, or whatever falls under their authority; stipulated military or border zones; its equipment, vehicles, weapons, ammunition, documents, military secrets, public funds or military factories; crimes related to conscription; or crimes that represent a direct assault against its officers or personnel because of the performance of their duties. The law defines such crimes and determines the other competencies of the Military Judiciary. Members of the Military Judiciary are autonomous and cannot be dismissed. They share the securities, rights and duties stipulated for members of other judiciaries.”
29. The inclusion of those “under [the]authority” of the military is a new addition compared to the 2012 Constitution, and may unfortunately be read to include civilians working in factories and agencies operated by the armed forces; civilians, including minors and students, in military schools and institutions; as well as any civilians involved in a legal dispute with anyone somehow affiliated to the military. Article 204 also gives military courts jurisdiction over “crimes that constitute a direct assault on Armed Forces premises, camps, or that in its authority, designated Military Areas and borders, vehicles and equipment, weapons, arms and ammunition, military documents or secrets, its national or public capital and military factories.” Given that in Egypt the military operates wedding venues, clubs, hotels and gas stations, among other facilities, this too represents a broad expansion.
30. Article 204 also grants jurisdiction to military courts in cases involving military “documents, military secrets, public funds or military factories.” This language too is excessively vague, and is likely to lead in practice to the ability of the military to enforce censorship and violate the right to freedom of information, including by allowing the trial of any journalist who attempts to convey to the public any information or facts that relate to the military, as was seen in the cases of journalists



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Ahmed AbouDera', Mohamed Sabry and others in 2013. The inclusion of reference to “public funds “and “military factories” in the clause is likely in practice to prevent public debate on the finances of the military and its operation of extensive factories and companies.

31. There is an appeals body within the military judiciary, the Supreme Court of Military Appeals, which has the power to examine the application of the law but not the facts of the case. The procedure related to this appeals court is flawed however in that it may only be seized by defendants after the military court’s verdict has been signed by the “certification officer”, but there is no timeframe in which this signature must take place.
32. Article 48 of the Code of Military Justice gives the military justice system the primary authority to determine whether the offence committed (whatever it is) would lie within its jurisdiction or not. The law allows for military trials of minors under Article 8bis(a).
33. In June 2010 amendments to the Code of Military Justice⁷ were introduced which allowed workers in a military factory to be tried before a military court. In June 2011, amendments allowed the military courts to assign lawyers to defendants without lawyers. In May 2012, amendments abolished the notorious Article 6, which had allowed the president to refer civilians to military courts during the state of emergency at his discretion.⁸
34. In February 2014, amendments to the Code of Military Justice granted the right to appeal in misdemeanour cases only and stipulated that the Military Judiciary would be bound by the procedures laid out in the CCP with regards to verdicts in absentia. The amendments also stipulated that Egypt’s grand mufti must be consulted before handing down a death sentence. The amendments however ignored major criticisms regarding the military judiciary’s subordination to the Defence Ministry, the appointment of its judges by the Defence Ministry, the military judiciary’s ability to specify its own powers of jurisdiction and the difficulty of defence lawyers in obtaining access to defendants.

Violations of the right to a fair trial in practice

35. Many cases over the last three years have given the public and other observers the impression that the judiciary is not independent.

⁷ By Law 138 of 2010.

⁸ The state of emergency was applied for decades in Egypt.



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36. In March 2014, the Minya criminal court issued a verdict finding 529 persons guilty relative to violence in Matay, Minya in August 2013. The individuals face potential capital punishment, and as such their cases were referred to the grand mufti for his opinion. The court issued this decision after only two sessions of trial and in the absence of the defendants and their lawyers; the first sentence lasted only 30 minutes. Witnesses were not called, evidence was not presented in court, and the accused were unable to present testimony or defend themselves. Group trials such as this one represent a grave violation of the right to a fair trial and of other principles, including the principle of individualized punishment, as enshrined in the Egyptian constitution. The reference to the death penalty in such an instance makes the violation particularly grave.
37. In 2012, some 43 international and Egyptian employees of international, primarily US-based NGOs were referred to trial for operating without authorization and for receiving foreign funding. The two judges appointed by the Ministry of Justice to investigate the foreign funding case were former members of the Supreme State Security Court. The investigations were marred by many violations, including publicization of the investigations, the systematic leaking of information about the investigations to the media, and a press conference by the judges, all of which appeared designed to discredit the organizations in question and rights organizations more broadly. This conduct demonstrated a lack of judicial independence and compromised the right to a fair trial.
38. Based on these investigations the case was referred to the Cairo Criminal Court, and 43 individuals were charged with establishing, managing and working with unauthorized branches of international organizations operating in Egypt. A travel ban was imposed on these defendants.
39. After the first hearing, the judge hearing the case decided to step down, stating that he felt “embarrassed”, explaining there after that he had been pressured to implement certain directives in a blatant interference of the executive in the case. The Supreme Judicial Council opened internal investigations on the judge claims ; nothing has yet come of these investigations however.
40. In November 2013a misdemeanour court in Alexandria sentenced 21 female protesters,7 of whom were children, to 11 years imprisonment for conducting a pro-Morsi protest.⁹ According to human rights law, the act of peaceful protest is a right and should not receive any sanction, much less criminal sanction; the excessive penalties initially imposed seem to demonstrate that the court was acting based on its political opposition to the content of the protest, moreover.

⁹ The appeals court reduced the sentence to a one-year suspended prison on 7 December, and 3 months in care institution for the girls.



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41. Criminal courts have generally opted to hold closed hearing sessions and ban publication of proceedings, which has limited the access of the public to court proceedings, reducing the transparency and credibility of those trials. This has been the case relative to the majority of cases relating to the unlawful killing of protestors that occurred during the 2011 uprising as well as in the trials of Muslim Brotherhood supporters and leaders after 30 June 2013. While the authorities have argued that there would be a threat to public order or morality from holding the hearings publicly, in fact public interest in the outcome of the trials, and the guarantee of free trials, suggest the hearings should be public.
42. For example, in the trial of former President Mubarak, the former Minister of Interior and other senior Ministry of Interior officials in 2011 and 2012, the initial court sessions were broadcast by television, but key hearings where substantive information and testimonies later took place were held behind closed doors. The Cairo criminal court ordered that the court hearings be kept secret, and banned publication of the proceedings relative to the testimony of the former head of General Intelligence and the former head of SCAF. In addition, lawyers who attended on behalf of the victims did not have the opportunity to ask those witnesses questions.
43. Defendants and their lawyers are generally prevented from meeting confidentially or at all before trial sessions to discuss the case. Lawyers often have difficulties obtaining the case file to prepare before the trial session, and in some cases only get to read the case file during the trial session. Often the request of the defence team to submit the testimony of defence witnesses is rejected and only prosecution witnesses are allowed to testify in front of court. Judges limit themselves to examining the evidence brought in the case file and virtually never seek to investigate the case themselves, although they have the power to do so by law.
44. Lawyers have been threatened and arrested. On 25 January 2014 one lawyer from the Front to Defend Egyptian Protesters had a policeman point his gun at him and order him to leave within 10 seconds or he will fire. The lawyer was seeking to meet with protesters held at a police station in south Cairo. A lawyer defending pro-Morsi female protesters in Alexandria was arrested ahead of a court session on 2 December 2013.

MILITARY TRIALS OF CIVILIANS

45. Military trials of civilians take place without the presence of lawyers chosen by the defendants, or even a chance for defendants to communicate with such lawyers. Military prosecutors and judges follow orders by their superiors and are subject to rules for officers in terms of punishments and per se cannot be considered as



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independent or not subject to influence from their superiors in the hierarchy. The right to a public hearing is denied.

46. Military justice does not meet the minimum standards for neutrality or independence from the executive authority. Verdicts issued by military courts only enter into force after ratification by the president, and they are only subject to appeal after being ratified. This means the execution of these courts' judgments is dependent on the will of the president, giving him more power than the military judge himself. The president may reduce, overturn, or suspend the sentence, overturn the judgment and close the case, or order a retrial.

The law only permits convicted persons to appeal after the sentence is the ratified. As a result, the president may delay ratification to prevent convicted persons from lodging an appeal, which was the case with numerous judgments issued by military courts in the last four years.

47. According to official numbers some 11,879 civilians were tried in military courts between January and August 2011.¹⁰ Among them were minors who were sentenced to imprisonment in high-security, adult prisons. 18 defendants were sentenced to death. Despite official statements vowing to end the practice, military court sentencing of civilians continued in the following months. The sentencing of civilians by military courts did decline however; in October 2011 following the Maspero protest, in which Coptic protesters were killed during the army's violent dispersal of the protest, All civilians arrested and initially subjected to military prosecution were referred to a civil judge. The rate of referrals of civilians to military courts has declined since then, according to the information available to us, but has not ceased. In addition to the number above the following cases have been documented:

48. Following the Israeli embassy protest on 9 September 2011, approximately 87 civilians were referred to military trial.

49. Following protests at the Ministry of Defence on 30 September 2011, approximately 12 civilians were referred to military trial.

50. From 2011, some of the sentences against defendants in political related cases were suspended by decree from SCAF. In July 2012, ousted President Morsi formed a committee to review the cases of civilians who were militarily prosecuted or tried, which resulted in the pardoning of 630 people who were deemed to have been tried for "supporting the revolution". Some 1100 civilians who had been tried by military

¹⁰ This figure was announced by the head of the military judiciary in September 2011



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courts did not benefit from the review as the committee, which considered that they were tried for murder, theft, rape, and other crimes.

51. In 2012, military trials continued and the following cases were documented:
52. Following the SUMED CO. workers strike in March 2012 5 workers were referred to military courts.
53. Following clashes in Port Said, 15 civilians were convicted by military courts under different charges.
54. Following protests at the Ministry of Defense on 2 May 2012 more than 300 civilians were referred to military courts and many were convicted. Lawyers were banned from attending the investigations by military prosecutors.
55. At least 31 other civilians were referred to military courts on an individual basis and all were convicted under different charges.
56. In 2013 and 2014, the Military Judiciary continued to consider the cases of civilians, especially after the ouster of President Morsi on 3 July 2013. Most of these trials were located in Suez Canal cities - Suez, Ismailia, and Port Said - where the armed forces are deployed in large numbers. At least 4 journalists were referred to military trials and 1 of them received a verdict of six-months suspended imprisonment; at least 3 minors were referred to military courts and one of them received a 15 years prison term; at least 140 adults were referred to military courts where most of them were convicted undercharges of assaulting military personnel, military equipment's, and other offenses and received variable verdicts of imprisonment and fines.

Recommendations

1. Ensure that law and practice relative to pretrial detention and the right to a fair trial in Egypt comply in all aspects with international human rights obligations, including along the lines proposed below.
2. Inform detainees of the reason for their arrest and detention and charges brought against them immediately upon their detention.
3. Allow detainees and defendants to have access to their lawyers and to meet confidentially with them immediately, prior to any interrogation and throughout the detention process.
4. Ensure detainees have immediate access to the means of recourse necessary to promptly challenge the lawfulness of their detention.



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5. Ensure that pretrial detention may only be applied in cases involving charges that carry custodial penalties, and review all provisions of the penal code to ensure compliance with human rights law.
6. Cease the use of preventive detention orders by prosecutors as a measure to punish or prolong the detention of activists and protesters pending investigations, and ensure that preventive detention orders may only be used where there is a risk of escape, tampering with evidence, intimidating witnesses or harm to another.
7. Ensure that vulnerable individuals, such as children, are separated from adults both in pretrial and post-conviction detention.
8. Cease using criminal charges to judicially harass activists, journalists, protesters and political figures.
9. Immediately and unconditionally release all those detained arbitrarily for practicing their right to freedom of thought and expression, assembly and association.
10. Allow public hearings to take place, including in high profile cases, to ensure transparency.
11. Ensure that defendants are tried within a reasonable time in criminal cases.
12. Ensure that procedures for trial are such as to ensure equality of arms and the presumption of innocence, including by amending current procedures which provide the defense inadequate ability to present witness testimony.
13. Guarantee an independent judiciary, including by ensuring that judges are not subject to arbitrary disciplinary measures, or have their judicial immunity revoked, for undertaking their proper activities as judges.
14. Ensure accountability in all cases of human rights violations and abuses.
15. Immediately end military trials of civilians.
16. Refer to ordinary civilian courts all those who were tried or are on trial before military trials in relation to internationally recognized criminal offenses.
17. Amend article 204 of the constitution to ban the trial of civilians before military courts, leaving no room for exceptions.
18. Abolish articles 5, 7, 8 bis (a) and 48 of the Code of Military Justice to prevent the referral of civilians to military courts.



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19. Ensure that members of the military or security forces implicated in violations of the rights of civilians are to be tried in civilian courts.