

# Summary of impending executions

## **1. Case no. 16850/2014/Mansoura district felonies: killing of a guard, six people sentenced to death.**

On February 28, 2014, it was announced that a police sergeant, 42-year-old Abdullah Metwalli Ali al-Hamali, the guard posted on the home of Judge Hussein Qandil, a member of the judicial panel presiding over the trial of former President Mohammed Morsi, was shot and killed by masked assailants on a motorcycle who fled the scene.

On March 1, 2014, the Interior Ministry carried out security raids in all districts of the Daqahliya governorate, the home of the deceased. The raids resulted in the arbitrary arrest of 21 young men, absent a legal basis or any evidence proving their involvement in the crime. On June 14, 2014, the public prosecutor referred the case to trial. The first session was held in the Mansoura Felony Court on August 18, 2014, presided over by Judge Mansour Saqr. The case was then transferred to Judge Osama Abd al-Zaher. After several adjournments, the judgment was pronounced on July 9, 2015, after 16 months of proceedings. As part of the judgment the files of nine of the defendants tried in presence were forwarded to the mufti for review. They were subsequently sentenced to death by hanging on various charges, including forming a terrorist cell targeting the judicial authorities and policemen and joining a group established in violation of the law. On June 9, 2017, the Cassation Court denied the appeal of six of the defendants thus affirming the death sentence against them: Khaled Rifaat Gad Askar, Ibrahim Yehya Abd al-Fattah Azab, Ahmed al-Walid al-Sayyed al-Shal, Abd al-Rahman Mohammed Abduh Ateyya, Bassem Mohsen al-Kharibi, and Mamdouh Wahba.

According to the case files, 16 of the defendants were tortured, and at least eight of them were subjected to enforced disappearance for periods ranging from 2 to 90 days, as determined by the discrepancies between the dates of arrest and dates logged in the official reports. They were detained in these periods at the Homeland Security headquarters, al-Azouli, and various police stations, during which they were subjected to all manner of physical and psychological torture designed to coerce their confessions. All defendants reported the torture to the Public Prosecution. After conviction, they were imprisoned in poor conditions, denied exercise periods and visitation rights. The defendants' confessions were filmed without their consent and published by the Interior Ministry prior to the conclusion of the prosecution's investigations. The case files reveal additional violations: the defendants had no attorneys present during

questioning, and the principal piece of evidence used by the court to convict was investigations by Homeland Security, all of which relied on confidential sources that were not disclosed at any point during the proceedings.

The African Commission issued a resolution on complaint no. 571/2015, filed by one of the victims' lawyers in connection with Articles 4, 5, and 7 of the African Charter on Human and Peoples' Rights.

## **2. Case no. 200/2014/Mansoura plenary–no. 17583/2014/Mansoura station: killing of a judge's son, three people sentenced to death.**

Mohammed Mahmoud al-Sayyed Mawarli was killed in the private garage of Lt. Col. Said Maher Shair. Homeland Security investigations found that the lieutenant colonel was the target, but the Mawarli, the judge's son, was shot in his stead due to their physical resemblance. On December 14, 2017, the Cassation Court upheld the death sentence for Ahmed Maher Ahmed al-Hindawi Fayed, a student at the Faculty of Engineering; al-Moataz Billah Mohammed Ghanem Ramadan al-Attar, a student at the Faculty of Commerce; and Abd al-Hamid Abd al-Fattah Abd al-Hamid Metwalli. The defendants were sentenced to death by the first-instance court in July 2016 on charges of establishing and administering a group established in violation of the law, joining this group and supplying it with material and financial assistance, and possession of weapons and ammunition, as well as murder and complicity in murder.

The official case files reveal that the defendants were subjected to several violations:

a. Enforced disappearance for a period of 25 days: defendant al-Moataz Billah Ghanem told the prosecution during questioning that he was arrested on Wednesday the week of the Eid (October 8, 2014) at his apartment in the Manzala district. This is entirely inconsistent with the date listed on the official arrest report (November 2, 2014), which also states he was arrested in the district of the Mansoura 1 police station. Moataz relates the circumstances of his arrest as: "What happened was that I was in my apartment asleep and the police came and took me and I stayed at the station for 25 days. Then later, today, I was brought before the prosecution."

b. Torture and coercion to confess: according to the case files, defense counsel argued that the confessions of the three defendants—al-Moataz Billah, Abd al-Hamid, and Ahmed Maher—were invalid because they were made under physical and psychological duress. Defense attorneys

argued that their clients were tortured before being brought before the prosecution, with the goal of extracting confessions.

The court rejected this argument based on reports from the medical pathologist, which found no trace of injury on the defendants. The court had referred the defendants to the pathologist for an examination on March 22, 2016, to document any signs of torture they experienced prior to their questioning, although the defendants were arrested between October 2014 and February 2015—more than a year earlier. This made establishing injuries considerably more difficult.

c. Lack of attorneys present during questioning: the case files show that the defendants had no lawyers present during questioning by the prosecution. The prosecution did not adequately explain this fact, noting only that a “case of necessity” justified questioning defendant al-Moataz Billah without his attorney, without clarifying the nature of the necessity. In the case of defendant Abd al-Hamid Abd al-Fattah, “lateness of the time” was sufficient to deny him an appointed attorney. The prosecution listed no reason that the third defendant, Ahmed Maher Hindawi, was questioned without a lawyer.

d. Anonymous investigation sources: the written investigation reports of Homeland Security and criminal investigations contain several critical flaws, most importantly that the sources used to write the reports were anonymous, which undermines their credibility and raises suspicions that the investigations are not based on diligent policing. The record of the prosecution’s examination of one of the investigating officers shows no interest in identifying the persons from whom the officer received the information contained in his report. The officer merely states that his sources are confidential and cannot be disclosed on grounds of public security.

### **3. Case no. 3690/2014/South Giza plenary: espionage for Qatar, two people sentenced to death.**

The Public Prosecution alleged that the defendants, in the period from June 2013 to September 2014, in and outside the country, worked to obtain defense secrets with intent to give them to a foreign state with the objective of harming the country’s military, political, and diplomatic standing, and led a group founded in violation of the law.

The case was heard by the 11th southern circuit in the Cairo Felony Court, presided over by Judge Mohammed Shirin Fahmi, with Judge Abu al-Nasr Mohammed Othman and Judge Hassan Mustafa al-Sayes. Trial sessions were held at the Police Academy in Cairo starting on May 12, 2015. Six defendants were sentenced to death on June 18, 2016. On

September 16, 2017, the Cassation Court reduced the sentences of some defendants while denying the appeals filed by Ahmed Ali Abduh Afifi and Mohammed Adel Kilani, thus upholding the death sentence against them.

Several violations are apparent in the case files:

a. Lack of attorneys during questioning: at least the first interrogation session for all defendants questioned in connection with this case was conducted without the presence of a defense attorney, either one chosen by the defendant or appointed by the prosecution, with the exception of Mohammed Morsi, who was appointed an attorney. No attorneys were present during questioning with the other seven detained defendants and no defense attorney even made an appearance until nearly a month after the interrogations had begun. As an example, Ahmed Afifi, who was sentenced to death, was first questioned on March 28, 2014, but he had no attorney with him until the session of April 22, 2014.

b. Some defendants disappeared: at least two defendants in the case were forcibly disappeared. Ahmed Ismail stated that he was arrested on March 24, 2014, while his arrest report puts the date at April 1, 2014. Ahmed Afifi, who was sentenced to death, said during questioning, “The police came and searched my house, but that was a week ago.”

c. Torture of defendants: at least four defendants who were sentenced to death were tortured. They subsequently denied their confessions saying they were extracted under torture and duress.

#### **4. Case no. 27868/2014/Montazah 1 felonies-no. 1781/2014/East Alexandria plenary: one person, Fadl al-Mawla, sentenced to death.**

On August 15, 2013, massive demonstrations were staged in Alexandria to protest the dispersal of the Rabia sit-in the day before. Security and army forces confronted the demonstrators and opened fire on them, leading to several deaths, including taxi driver Mina Raafat Aziz. On the evening of August 15, 2013, while Fadl al-Mawla Hosni Ahmed Ismail was at work at the Engineers Club in Alexandria, the club was raided and several people were arrested, including Fadl. On June 5, 2016, the court sentenced Fadl al-Mawla to death by hanging (other defendants were sentenced to prison) on several charges, including murder, assembly, making a show of force, theft, vandalizing a vehicle, possession of weapons, and joining a group established in violation of the law.

The case was not free of legal irregularities. Most importantly, the judgment was based primarily on investigations by Homeland Security. Moreover, the court’s certainty was not swayed by the contradictory

stories told by witnesses or the fact that the sole prosecution witness in the case gave five different stories in five different places.

**5. Case no. 20091/2013/Bab al-Sharq Alexandria felonies: events taking place in Al Qaaed Ibrahim square, Alexandria coinciding with the dispersal of the Rabia sit-in, two people sentenced to death.**

The case involves incidents of violence that occurred in Alexandria coinciding with the dispersal of the Rabia sit-in in Cairo. On May 28, 2015, the Alexandria Felony Court issued judgments for 71 defendants in the case (65 in custody; 6 fugitives): 22 defendants were sentenced to 12 years in prison; 21 defendants were sentenced 15 years in prison; and 25 defendants were sentenced to life imprisonment. Three defendants were sentenced to death: Yasser Abd al-Samad Mohammed Abd al-Fattah and Yasser al-Abasir Abd al-Moneim Ismail Eissa (both in presence), and Walid Mohammed Abd al-Hamid Habib (in absentia). Despite the differences in sentencing, in its indictment the prosecution leveled the same charges against all defendants, including assembly, murder, intimidation and terrorizing of citizens, attempted murder, and possession of Molotov cocktails.

The case files show that the defendants were denied the right to a lawyer. Of the 65 defendants in custody, five were questioned without a lawyer, while three appointed attorneys were present. During questioning, the defendants said they were tortured by police. According to defendant Abd al-Rahman Mohammed Hafez, he was beaten while at the police station: “They took me to the station and just beat on me.” When the officer who conducted the investigations was questioned about the sources of his information, he stated that the sources were confidential and could not be disclosed to preserve their lives. This did not undermine the court’s confidence in the diligence of these investigations.

**6. Case no. 397/2013/Ismailiya plenary military felonies: one person sentenced to death.**

On November 4, 2014, Lt. Col. Ahmed Faruoq was killed. The prosecution charged Mohammed Ahmed with the crime, and the first-instance court sentenced him to death in July 2016. The Cassation Court upheld the sentence in December 2017.

Looking at the irregularities in this case, we find that in contrast to the constitutional mandate that persons be tried by their natural judge, the defendants in the case were referred to the Military Prosecution due to the fact that victim was a lieutenant colonel in the armed forces. The Military Prosecution has jurisdiction over crimes involving military personnel and

military judges are appointed by the defense minister. This is a grave violation of the defendant's basic right and infringes his right to a fair trial. Moreover, the 2014 constitution criminalizes torture and deems any statement made under duress to be inadmissible and invalid. Nevertheless the record of the prosecution's questioning of defendant Mohammed Sarie shows that on November 14, 2013, the prosecution observed injuries on the defendant's body, writing, "There are some abrasions next to the left eye, more abrasions on the upper left shoulder, and more under the left eye." The investigations conducted by military security in the case conceal the identity of the sources that confirmed the link between the alleged incidents and the alleged perpetrator. During questioning, the officer who conducted the investigations stated that his sources are confidential and cannot be revealed in order to preserve their lives.

**7. Case no. 437/2912/El-Manakh felonies-no. 11/2012/PortSaid plenary: involving incident at the Port Said stadium: ten people sentenced to death.**

This case involved the massacre at the Port Said stadium in which 74 fans of the Ahli Club were killed on February 1, 2012. The prosecution charged 73 people with murder, attempted murder, theft, vandalizing, thuggery, and making a show of force. On April 19, 2015, the felony court re-trying the case acquitted 21 defendants, sentenced 11 people to death, including one in absentia, and sentenced the remaining defendants to prison. On February 20, 2017, the Cassation Court upheld the death sentences, ten issued in presence and one in absentia against: al-Sayyed Mohammed al-Nadaf, Mohammed Rashad, Mohammed al-Sayyed Mustafa, al-Sayyed Mohammed Khalaf, Mohammed Adel Shehata, Ahmed Fathi, Ahmed Fathi Mazrua, Ahmed al-Baghdadi, Fouad al-Tabie, Hassan Mohammed al-Sayyed, and Abd al-Azim Bahloul.

**8. Case no. 99/2014/Ismailiya plenary-no. 11/2014/North Sinai summary military felonies: one person sentenced to death.**

A military court convened in Ismailiya sentenced 25-year-old Awda Taysir Suleiman to death by hanging. The High Military Court recently denied the appeal filed by the defendant's lawyer, citing no grounds for the denial, while the court did not permit the defense attorneys to obtain a copy of the judgment denying the appeal. Court employees stated that such documents were considered military secrets and could not be publicly circulated.