

Justice subverted: 7th session of MB leaders before military courts



Arab Commission for Human Rights
 ARAB COMMISSION FOR HUMAN RIGHTS
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military tribunal of Egypt's Arab Commission has followed with grave concern the obstacles concerning the registered at the No. 963 of 2006 Criminal Court Muslim Brotherhood leaders in the renowned case known as in which 18 Egyptians are still serving harsh prison Office file No. 2 of 2007 Military Prosecutor General's sentences.

[of the Arab Commission for Human Rights](#) The military tribunal is the first of its kind after the constitutional amendments have Rights were made. [Nongovernmental organizations monitoring human rights abuses around the world.](#) [the tribunal as a serious setback to the constitution which stipulates in its charter the principle and](#) regarded [. guarantees of democratic rights and fundamental freedoms in Egypt](#)

Important international organizations such as Amnesty International and Human Rights Watch, and regional Arab Center for the Independence of the Judiciary, organizations including the Arab Commission for Human Rights, and Arabic Network for Human Rights Information) and Egyptian organizations such as the Hisham Mubarak Center, the Egyptian Organization for Human Rights have all unanimously condemned the ruling of the Egyptian 40 Muslim Brotherhood leaders in which the ruling was issued on April case No. 2 of 2007 against military court [special courts for political issues reveal](#) 15, 2008. The court ruling is a breach of natural justice and the devoting of human International, Regional & [to the prevention of](#) constitutional guarantees for defense in addition [the absence of](#) National Human Rights to monitor the proceedings.

All human International, Regional & National Human Rights have stated that the absence of minimum guarantees Article (68) of the defies international standards for fair trials where they emphasized that non-compliance with [the International Covenant on Civil](#) provisions of the Egyptian Constitution in particular, is a flagrant violation of as recognized by its article 14, which was ratified by Egypt in January 1982 and [and Political Rights \(ICCPR\)](#) published in the Official Gazette in April 15, 1982, which states that "All persons shall be equal before the courts and tribunals. In the determination of any criminal charge against him, or of his rights and obligations in a suit at law, everyone shall be entitled to a fair and public hearing by a competent, independent and impartial tribunal established by law." The African Commission on Human and Peoples' Rights, (the body created to monitor the implementation of the ACHPR), elaborated on these rights in its principles and guidelines on the right to a fair trial. "The only purpose of military courts shall be to determine offenses of a purely military nature committed by military personnel," the African Commission wrote. "Military courts should not, in any circumstances whatsoever, have jurisdiction over civilians." The Egyptian Constitution reveals in article 169, that "Sessions of courts shall be made in public, unless a court decides to hold them on camera, in consideration of public order or morality."

Egypt's Military tribunals are under the supervision of the administration of military justice as a part of the command structure of the armed forces by the law in which the military judges shall be appointed by a decree from [subject to the](#) the Minister of Defense, which means the absence of an independent judiciary. Moreover they are Military Service Act where military discipline and obedience to orders are the most in the [regulations laid down](#) the armed forces officers only; stressing that such a blatant contradiction important characteristics designed only for is not compatible with the requirements of judicial action.

a powerful message from the authorities to The Military tribunals of opposition political activists and protesters are to prevent the political and security the judicial power in Egypt at a time when judges are engaged in epic battles in the core of their work. The authority attempts to remind the judges, civil and political societies that interference [The authorities only are entitled to deciding whether the accused](#) the absolute master in all political trials.it is [the authority](#) is granted. Furthermore, judges have been appointed by the ruling regime and [remains in custody or](#) . [the prisoner will serve a long or short term sentence will then decide whether](#)

On December 14, 2006, pre-dawn raids were carried out by the SSI against prominent Muslim Brotherhood members. They were subsequently charged with belonging to a banned organization. With the purpose as stated at They were accused of using citizens of the time, was to disrupt the Constitution and attack personal freedoms charges of money laundering terrorism as a means to achieve their purposes. A host of fabricated accusations and [as their houses were raided](#). were brought by the Prosecution against MB leaders two weeks after the detentions and employees displaced. [businesses stalled](#)

On January 28, 2007, the Attorney General issued a decision ordering the confiscation of the finances of the defendants, spouses, and children preventing wives and children from having access to any of their finances including real estate, cash or assets. On January 29, 2007, the Cairo criminal Court (Circuit 16th, North Cairo) overruled the provisional detention of the State Security prosecution against the defendants and ordered their immediate release without bail. However, The Interior Minister did not comply with the decision where he issued a detention and under the Emergency Law pretext. President Mubarak, used his authority as military governor, ordering their referral to a military tribunal as he issued a Presidential Decree No. 40 of February 5, 2007 which was exploited well by the Interior Minister.

Despite this three different Criminal courts have issued decisions to release the defendants. However, court's rulings were not complied with by the executive authority and the interior minister's decision was more powerful in this

regard.

On April 26, 2007, the military tribunal was convened without the presence of the Brotherhood defense lawyers where many procedural errors were made before and during the court hearing. Court of Administrative Justice, led by Judge Mohammed al-Husseini on May 8, 2007 session ordered to

The discontinuance of the implementation of the Presidential Decree No. 40/ 2007 designed to refer civilians to military courts including (MB defendants in the renowned case known as No. 963/2006 against Eng. al-Shatir and his co-defendants) where there is a continuation of the civil court epic battle against the blatant executive interference.

Egypt's court of appeals chaired by the late Sayed Nofal (who served as adviser to the President, has rejected the demands and refused to step down from looking into the appeal submitted by the defendants. Furthermore, he upheld the government's appeal and neglected the Administrative Court's ruling designed to halt the President's decree No. 40. These unprecedented and shameful acts aimed to demolish legal proceedings have not occurred in the history of contemporary Egyptian judiciary since Egypt's independence. The continuation of the military tribunals despite the existence of litigation requires us to stop examining proceedings until the Supreme Constitutional Court judges offer a verdict in regards to the conflict. Consequently, the military tribunal on April 15, 2008 issued sentences against 25 detainees to jail terms ranging from three to ten years while acquitted 15 others.

The Military Court also sentenced five MB leaders to 10 years where six of the defendants are residing outside Egypt and have been sentenced in absentia; namely Youssef Nada, Ali Ghaleb Mahmoud, Fathi Al-Kholi, Youssef Tawfik, and Ibrahim Mohamed El Zayat. The military court hearings resulted in the sentencing of El-Shater and businessman Hasan Malik to a 7-year prison term and five other MB leaders namely Ahmed Shousha, Ahmed Abdel-Ati, Saber El-Sharkawi, Assaad Mohamed and Ahmed Abdul Warith while 13 others were sentenced to 3-year prison term namely they are Essam Hashish, Farid Galabat, Midhat al-Haddad, Dhia al-Din Farahat, Mustafa Salem, Ayman Abd al-Ghani, Mohammed Ali Bishr, Mahmoud Abu-Zeid, Essam Afifi, Mamdouh El Hussein, Fathy Baghdadi, Salah Al-Desouki and Sayyed Maroof. In addition to these unjust and harsh sentences all their belongings and assets were confiscated.

How and when will the State Council's enforce and implement provisions?

First: The decisions by the Supreme Administrative Court on January December 27, 2008, under which the Executive power refused to release 18 citizens placed in detention, pending investigation by police.

Second: The decision by Supreme Administrative Court on July 7, 2008, in which they refused to release 13 MB members who spent three quarters of their sentence.

The Arab Commission for Human Rights has long demanded that the Egyptian authorities stop illegal military tribunals and continued escalations and violations of the constitution against the military tribunal detainees, in which Egypt is obligated under international and African law. The ACHR has stated that political and security authorities must respect the Administrative Courts' Decisions. ACHR also demands the ending of injustices committed against the detainees by respecting the parole rule where 13 prisoners' have served three quarters of their sentence rule where they are allowed the immediate release if behaviour is suitable. All Arab organizations and associations defending human rights view the detention of the MB leaders in Case No. 963/2006 Supreme State Security as a crime against freedom and demand their immediate release.

