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U.S. Operated Secret ‘Dark Prison’ in Kabul

(New York, December 19, 2005) – Accounts from detainees at Guantánamo reveal that the United States as recently as last year operated a secret prison in Afghanistan where detainees were subjected to torture and other mistreatment, Human Rights Watch said today.

Eight detainees now held at Guantánamo described to their attorneys how they were held at a facility near Kabul at various times between 2002 and 2004. The detainees, who called the facility the “dark prison” or “prison of darkness,” said they were chained to walls, deprived of food and drinking water, and kept in total darkness with loud rap, heavy metal music, or other sounds blared for weeks at a time.

The detainees offer consistent accounts about the facility, saying that U.S. and Afghan guards were not in uniform and that U.S. interrogators did not wear military attire, which suggests that the prison may have been operated by personnel from the Central Intelligence Agency.

The detainees said U.S. interrogators slapped or punched them during interrogations. They described being held in complete darkness for weeks on end, shackled to rings bolted into the walls of their cells, with loud music or other sounds played continuously. Some detainees said they were shackled in a manner that made it impossible to lie down or sleep, with restraints that caused their hands and wrists to swell up or bruise. The detainees said they were deprived of food for days at a time, and given only filthy water to drink.

The detainees also said that they were held incommunicado and never visited by representatives of the International Committee of the Red Cross or other independent officials.

“The U.S. government must shed some light on Kabul’s ‘dark prison,’” said John Sifton, terrorism and counterterrorism researcher at Human Rights Watch. “No one, no matter their alleged crime, should be held in secret prisons or subjected to torture.”

The detainees’ allegations were communicated to Human Rights Watch by their attorneys and are contained in attorneys’ contemporaneous notes. Human Rights Watch was unable to interview the detainees directly, since the United States has not allowed human rights organizations to visit detainees at Guantánamo or other detention sites abroad. However, Human Rights Watch believes that the detainees’ allegations are sufficiently credible to warrant an official investigation. The detainees are of different nationalities and have different attorneys. None claimed to have been detained at the secret facility for more than six weeks at a time, and did not otherwise make extraordinary claims.

Most of the detainees said they were arrested in other countries in Asia and the Middle East, and then flown to Afghanistan. Detainees who arrived by airplane said they were driven about five minutes from a landing field to the prison. Afghan guards told some of them that the facility was located near Kabul. Some detainees who were kept at the facility were transferred at various times to and from another secret facility near Kabul. The detainees said they were later transferred to the main U.S. military detention facility near Bagram, where many other Guantánamo detainees say they were initially held.

Human Rights Watch said that the “dark prison” may have been closed after several detainees were transferred to the Bagram facility in late 2004.

M.Z., a detainee arrested in another country in 2002 (name and identifying details withheld at his attorney's request), said he was held at the "prison of darkness" for about four weeks. He says he was sent to "an underground place, very dark" where there was "loud music" playing continuously. He said he was held in solitary confinement, where it was "pitch black... no light." M.Z. said that when he was interrogated he was taken to a room with a strobe light, and shackled to a ring on the floor. During the interrogations, he says, an interrogator threatened him with rape.

Benyam Mohammad, an Ethiopian-born Guantánamo detainee who grew up in Britain, said he was held at the "dark prison" in 2004 and described his experience to his attorney in English:

It was pitch black no lights on in the rooms for most of the time.... They hung me up. I was allowed a few hours of sleep on the second day, then hung up again, this time for two days. My legs had swollen. My wrists and hands had gone numb.... There was loud music, [Eminem's] "Slim Shady" and Dr. Dre for 20 days.... [Then] they changed the sounds to horrible ghost laughter and Halloween sounds. [At one point, I was] chained to the rails for a fortnight.... The CIA worked on people, including me, day and night.... Plenty lost their minds. I could hear people knocking their heads against the walls and the doors, screaming their heads off.

J.K., another detainee (name withheld at attorney's request), also alleged that he had been held in the dark, shackled to the wall and subjected to weeks of sleep deprivation and constant loud music and noise, as well as being beaten during interrogations. "People were screaming in pain and crying all the time," he told his attorney.

Abd al-Salam Ali al-Hila, a Yemeni whose arrest and transfer to Afghanistan was previously documented by Human Rights Watch [Guantanamo: New "Reverse Rendition" Case](#), said he was kept at the "dark prison" at various times in 2003. He told his lawyers he had been chained to the wall, kept in almost constant darkness, and subjected to sleep deprivation and constant noise.

Similarly, attorneys for Hassin Bin Attash, Jamil el Banna and Bisher al Rawi, three other detainees who said they were previously held at the "dark prison," said their clients made allegations about constant darkness, shackling, sleep deprivation, inadequate food and water, and beatings during interrogations. One other detainee provided similar information through his attorney, who requested that the client's name and nationality be kept confidential.

On November 18, ABC News [reported](#) that several CIA officials told ABC that the CIA had operated a secret facility in Kabul, and voiced concerns about interrogations there. The CIA officials, who requested anonymity from ABC, said that CIA officials authorized six techniques for use against detainees with "high-level" intelligence value, including long-term sleep deprivation, exposure to cold for more than 40 hours, and "waterboarding," in which interrogators poured water over the detainee's face until he believed he would suffocate or drown. The officials told ABC that the CIA had authorized these techniques in March 2002 and that they were used at the Kabul facility and elsewhere.

The accounts given by the Guantánamo detainees about the Kabul facility are also consistent with stories told by four detainees, who in July escaped from U.S. military custody at Bagram, on a videotape obtained by ABC News and Al-Arabiya. On the videotape, the detainees said they were held at "the dark prison" before being sent to Bagram, and describe being subjected to loud music and total darkness, as well as physical abuse.

Human Rights Watch has previously identified 26 "disappeared" persons believed to be held in secret facilities operated or used by the U.S. A "disappearance" is an unlawful detention in which the detaining authorities deny holding the person or refuse to disclose his or her whereabouts. Human Rights Watch said today that the U.S. may have used the facility near Kabul to hold "disappeared" detainees at various times.

Human Rights Watch said that the alleged torture and other mistreatment of detainees, if proven, would amount to serious violations of U.S. criminal law, such as the War Crimes Act and the Anti-Torture Statute, as well as the laws of Afghanistan. The mistreatment of detainees also violates the Convention against Torture and the International Covenant on Civil and Political Rights, both of which the United States has ratified, and the laws of war. ([Summary of statutes](#))

Human Rights Watch has long called for a special prosecutor to investigate alleged mistreatment of detainees in U.S. detention facilities abroad.

“We’re not talking about torture in the abstract, but the real thing,” said Sifton. “U.S. personnel and officials may be criminally liable, and a special prosecutor is needed to investigate.”

Human Rights Watch called on the United States to move “disappeared” persons into known detention facilities, articulate the legal basis under which detainees are held, and allow access to all detainees by independent monitors.

“It’s time for the Bush administration to shut the secret prisons and stop holding people illegally,” said Sifton.

Related Material

Audio: John Sifton on NPR's Morning Edition

Audio Clip, December 19, 2005

Summary of International and U.S. Law Prohibiting Torture and Other Ill-treatment of Persons in Custody

Special Focus, May 24, 2004

From: <http://hrw.org/english/docs/2005/12/19/afghan12319.htm>

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List of “Ghost Prisoners” Possibly in CIA Custody

List of Detainees Published by Human Rights Watch

The following is a list of persons believed to be in U.S. custody as “ghost detainees” -- detainees who are not given any legal rights or access to counsel, and who are likely not reported to or seen by the International Committee of the Red Cross. The list is compiled from media reports, public statements by government officials, and from other information obtained by Human Rights Watch. Human Rights Watch does not consider this list to be complete: there are likely other “ghost detainees” held by the United States.

Under international law, enforced disappearances occur when persons are deprived of their liberty, and the detaining authority refuses to disclose their fate or whereabouts, or refuses to acknowledge their detention, which places the detainees outside the protection of the law. International treaties ratified by the United States prohibit incommunicado detention of persons in secret locations.

Many of the detainees listed below are suspected of involvement in serious crimes, including the September 11, 2001 attacks; the 1998 U.S. Embassy bombings in Kenya and Tanzania; and the 2002 bombing at two nightclubs in Bali, Indonesia. (One of the listed, No. 25, Ahmed Khalfan Ghailani, was indicted in U.S. federal court for his role in the 1998 attacks.) Yet none on this list has been arraigned or criminally charged, and government officials, speaking anonymously to journalists, have suggested that some detainees have been tortured or seriously mistreated in custody.

The current location of these prisoners is unknown.

List, as of December 1, 2005:

1. Ibn Al-Shaykh al-Libi

Reportedly arrested on **November 11, 2001**, Pakistan.
Libyan, suspected commander at al-Qaeda training camp.
Previously listed as “disappeared” by Human Rights Watch.

2. Abu Faisal

Reportedly arrested on **December 12, 2001**
Nationality unknown. See next entry.

3. Abdul Aziz

Reportedly arrested on **December 14, 2001**
Nationality unknown. In early January 2001, Kenton Keith, a spokesman at the U.S. Embassy in Islamabad, produced a chart with the names of senior al-Qaeda members listed as killed in action, detained, or on the run. Faisal and Aziz were listed as detained on Dec. 12 and 14, 2001. See: Andrea Stone, “Path to bin Laden may lie behind bars; US interrogates al-Qaeda, Taliban prisoners in hope of nailing down war on terror’s prime targets,” USA Today, January 8, 2002; Bradley Graham and Walter Pincus, “Al-Qaeda Trainer in U.S. Hands,” The Washington Post, January 5, 2002.

4. Abu Zubaydah (also known as Zain al-Abidin Muhahhad Husain)

Reportedly arrested in **March 2002**, Faisalabad, Pakistan.

Palestinian (born in Saudi Arabia), suspected senior al-Qaeda operational planner. Listed as captured in "George W. Bush: Record of Achievement, Waging and Winning the War on Terror," available on the White House website. Previously listed as "disappeared" by Human Rights Watch.

5. Abdul Rahim al-Sharqawi (aka Riyadh the facilitator)

Reportedly arrested in **January 2002**

Possibly Yemeni, suspected al-Qaeda member (possibly transferred to Guantanamo). Previously listed as "disappeared" by Human Rights Watch (see note 27).

6. Abd al-Hadi al-Iraqi

Reportedly arrested in **January 2002**

Nationality unknown, presumably Iraqi, suspected commander of al-Qaeda training camp. U.S. officials told Associated Press on January 8, 2002 and March 30, 2002, of al-Iraqi's capture. See e.g., "Raid May Have Nabbed Bin Laden Lieutenant," Associated Press, March 30, 2002. Previously listed as "disappeared" by Human Rights Watch (see note 27).

7. Muhammed al-Darbi

Reportedly arrested in **August 2002**

Yemeni, suspected al-Qaeda member. The Washington Post reported on October 18, 2002: "U.S. officials learned from interviews with Muhammad Darbi, an al Qaeda member captured in Yemen in August, that a Yemen cell was planning an attack on a Western oil tanker, sources said." On December 26, 2002, citing "U.S. intelligence and national security officials," the Washington Post reports that al-Darbi, as well as Ramzi Binalshibh [see below], Omar al-Faruq [reportedly escaped from U.S. custody in July 2005], and Abd al-Rahim al-Nashiri [see below] all "remain under CIA control."

8. Ramzi bin al-Shibh

Reportedly arrested on **September 13, 2002**

Yemeni, suspected al-Qaeda conspirator in Sept. 11 attacks (former roommate of one of the hijackers). Listed in "George W. Bush: Record of Achievement, Waging and Winning the War on Terror," available on the White House website. Previously listed as "disappeared" by Human Rights Watch.

9. Abd al-Rahim al-Nashiri (or Abdulrahim Mohammad Abda al-Nasheri, aka Abu Bilal al-Makki or Mullah Ahmad Belal)

Reportedly arrested in November 2002, United Arab Emirates.

Saudi or Yemeni, suspected al-Qaeda chief of operations in the Persian Gulf, and suspected planner of the USS Cole bombing, and attack on the French oil tanker, Limburg. Listed in "George W. Bush: Record of Achievement, Waging and Winning the War on Terror," available on the White House website. Previously listed as "disappeared" by Human Rights Watch.

10. Mohammed Omar Abdel-Rahman (aka Asadullah)

Reportedly arrested in **February 2003**, Quetta, Pakistan.

Egyptian, son of the Sheikh Omar Abdel-Rahman, who was convicted in the United States of involvement in terrorist plots in New York. See Agence France Presse, March 4, 2003: "Pakistani and US agents captured the son of blind Egyptian cleric Omar Abdel Rahman. . . a US official said Tuesday. Muhamad Abdel Rahman was arrested in Quetta, Pakistan, the official said, speaking on condition of anonymity." David Johnston, New York Times, March 4, 2003: "On Feb. 13, when Pakistani authorities raided an apartment in Quetta, they got the break they needed. They had hoped to

find Mr. [Khalid Sheikh] Mohammed, but he had fled the apartment, eluding the authorities, as he had on numerous occasions. Instead, they found and arrested Muhammad Abdel Rahman, a son of Sheik Omar Abdel Rahman, the blind Egyptian cleric. . .”

11. Mustafa al-Hawsawi (aka al-Hisawi)

Reportedly arrested on **March 1, 2003** (together with Khalid Sheikh Mohammad), Pakistan. Saudi, suspected al-Qaeda financier. Previously listed as “disappeared” by Human Rights Watch.

12. Khalid Sheikh Mohammed

Reportedly arrested on **March 1, 2003**, Rawalpindi, Pakistan. Kuwaiti (Pakistani parents), suspected al-Qaeda, alleged to have “masterminded” Sept. 11 attacks, killing of Daniel Pearl, and USS Cole attack in 2000. Listed in “George W. Bush: Record of Achievement, Waging and Winning the War on Terror,” available on the White House website. Previously listed as “disappeared” by Human Rights Watch.

13. Majid Khan

Reportedly arrested on **March-April 2003**, Pakistan. Pakistani, alleged link to Khalid Sheikh Mohammad, alleged involvement in plot to blow up gas stations in the United States. Details about Khan’s arrest were revealed in several media reports, especially in Newsweek: Evan Thomas, “Al Qaeda in America: The Enemy Within,” Newsweek, June 23, 2003. U.S. prosecutors provided evidence that Majid Khan was in U.S. custody during the trial of 24-year-old Uzair Paracha, who was convicted in November 2005 of conspiracy charges, and of providing material support to terrorist organizations.

14. Yassir al-Jazeera (aka al-Jaziri)

Reportedly arrested on **March 15, 2003**, Pakistan. Possibly Moroccan, Algerian, or Palestinian, suspected al-Qaeda member, linked to Khalid Sheikh Mohammed. Details of arrest reported: Alex Spillius, “FBI Questions al-Qaeda Man in Pakistan,” Daily Telegraph, March 17, 2003; Paul Haven, “Al-Qaida suspect begins cooperating with authorities, Pakistani security officials say,” Associated Press, March 17, 2003.

15. Ali Abdul Aziz Ali (aka Ammar al Baluchi)

Reportedly arrested on **April 29, 2003**, Karachi, Pakistan. A Pakistani, he is alleged to have funneled money to September 11 hijackers, and alleged to have been involved with the Jakarta Marriot bombing and in handling Jose Padilla’s travel to the United States. U.S. Judge Sidney Stein ruled that defense attorneys for Uzair Paracha could introduce statements Baluchi made to U.S. interrogators, proving that he was in U.S. custody. Former Deputy Attorney General James Comey also mentioned Baluchi during remarks to the media about the case of Jose Padilla on June 1, 2004

16. Waleed Mohammed bin Attash (aka Tawfiq bin Attash or Tawfiq Attash Khallad)

Reportedly arrested on **April 29, 2003**, Karachi, Pakistan. Saudi (of Yemeni descent), suspected of involvement in the bombing of the USS Cole in 2000, and the Sept. 11 attacks. See Afzal Nadeem, “Pakistan Arrests Six Terror Suspects, including Planner of Sept. 11 and USS Cole Bombing,” Associated Press, April 30, 2003. His brother, Hassan Bin Attash, is currently held in Guantanamo. Previously listed as “disappeared” by Human Rights Watch. President Bush described his arrest as a “major, significant find” in the war against terrorism: “He’s a killer. He was one of the top al-Qaeda operatives. . . . He was right below Khalid Shaikh Mohammad on the organizational chart of al-Qaeda. He is one less person that people who love freedom have to worry about.” David Ensor and Syed Mohsin Naqvi, “Bush Hails Capture of Top al Qaeda Operative,” CNN.com, May 1, 2003.

17. Adil al-Jazeera

Reportedly arrested on **June 17, 2003** outside Peshawar, Pakistan.

Algerian, suspected al-Qaeda and longtime resident of Afghanistan, alleged "leading member" and "longtime aide to bin Laden." (Possibly transferred to Guantanamo.) Previously listed as "disappeared" by Human Rights Watch.

18. Hambali (aka Riduan Isamuddin)

Reportedly arrested on **August 11, 2003**, Thailand.

Indonesian, involved in Jemaah Islamiyah and al-Qaeda, alleged involvement in organizing and financing the Bali nightclub bombings, the Jakarta Marriot Hotel bombing, and preparations for the September 11 attacks. Listed in "George W. Bush: Record of Achievement, Waging and Winning the War on Terror," available on the White House website. Previously listed as "disappeared" by Human Rights Watch.

19. Mohamad Nazir bin Lep (aka Lillie, or Li-Li)

Reportedly arrested in **August 2003**, Bangkok, Thailand.

Malaysian, alleged link to Hambali. See next entry.

20. Mohamad Farik Amin (aka Zubair)

Reportedly arrested in **June 2003**, Thailand.

Malaysian, alleged link to Hambali. For more information on the arrest of Mohammad Farik Amin and Mohamad Nazir bin Lep, see: Kimina Lyall, "Hambali Talks Under Grilling—Slaughter of Innocents," *The Australian*, August 21, 2003; Kimina Lyall, "Hambali Moved JI Front Line to Bangladesh, Pakistan," *The Weekend Australian*, September 27, 2003; Simon Elegant and Andrew Perrin, "Asia's Terror Threat," *Time Asia Magazine*, October 6, 2003; Simon Elegant, "The Terrorist Talks," *Time*, October 13, 2003.

21. Tariq Mahmood

Reportedly arrested in **October 2003**, Islamabad, Pakistan.

Dual British and Pakistani nationality, alleged to have ties to al-Qaeda. See "Pakistan grills detained British al-Qaeda suspect," *Agence-France Presse*, November 10, 2005; Sean O'Neill, "Five still held without help or hope; Guantanamo," *The Times*, January 12, 2005.

22. Hassan Ghul

Reportedly arrested on **January 23, 2004**, in Kurdish highlands, Iraq.

Pakistani, alleged to be Zarqawi's courier to bin Laden; alleged ties to Khalid Sheikh Mohammad. President Bush described Hassan Ghul's arrest on January 26, 2004, in comments to the press, Little Rock, Arkansas: "Just last week we made further progress in making America more secure when a fellow named Hassan Ghul was captured in Iraq. Hassan Ghul reported directly to Khalid Sheik Mohammad, who was the mastermind of the September 11 attacks. . . . He was captured in Iraq, where he was helping al Qaeda to put pressure on our troops."

23. Musaad Aruchi (aka Musab al-Baluchi, al-Balochi, al-Baloshi)

Reportedly arrested in Karachi on **June 12, 2004**, in a "CIA-supervised operation."

Presumably Pakistani. Pakistani intelligence officials told journalists Aruchi was held by Pakistani authorities at an airbase for three days, before being handed over to the U.S., and then flown in an unmarked CIA plane to an undisclosed location. Anwar Iqbal, "Pakistan Hands Over 1998 Bomber to US," *United Press International*, August 3, 2004. See also, reports cited in next entry, and Zahid Hussain, "Pakistan Intensifies Effort Against al Qaeda," *The Asian Wall Street Journal*, August 5, 2004; Bill Powell, "Target: America," *Time Magazine*, August 16, 2004, Vol. 164, Issue 7; "Pakistani Aides: Al-Qaida Arrest in June Opened Leads," *Dow Jones International News*, August 3, 2004; "CIA-supervised arrest

in Pak opened valuable leads: Report," The Press Trust of India, August 3, 2004.

24. Mohammed Naeem Noor Khan (aka Abu Talaha)

Reportedly arrested on **July 13, 2004**, Pakistan.

Pakistani, computer engineer, was held by Pakistani authorities, and likely transferred to U.S. custody. (Possibly in joint U.S.-Pakistani custody.) See Douglas Jehl and David Rohde, "Captured Qaeda Figure Led Way To Information Behind Warning," New York Times, August 2, 2004. Kamran Khan, "Al Qaeda Arrest In June Opened Valuable Leads," Washington Post, August 3, 2004; Kamran Khan and Dana Priest, "Pakistan Pressures Al Qaeda; Military Operation Results In Terror Alert and Arrests," Washington Post, August 5, 2004; "Pakistan questioning almost 20 Al-Qaeda suspects," Agence-France Presse, August 5, 2005; Robert Block and Gary Fields, "Al Qaeda's Data on U.S. Targets Aren't New: Surveillance of Listed Sites In Eastern Cities Took Place Over Time, Perhaps Years," The Asian Wall Street Journal, August 7, 2004; Adrian Levy and Cathy Scott-Clark, "One Huge U.S. Jail," The Guardian, March 19, 2005.

25. Ahmed Khalfan Ghailani

Reportedly arrested on **July 24, 2004**, Pakistan

Tanzanian, reportedly indicted in the United States for 1998 embassy bombings. U.S. and Pakistani intelligence officials told UPI that Ghailani was transferred to "CIA custody" in early August. See Anwar Iqbal, "Pakistan Hands Over 1998 Bomber to US," United Press International, August 3, 2004. Pakistani security officials told AFP and Reuters in January 2005, that Ghailani was handed over to the United States "several months ago." See e.g., "Pakistan hands Tanzanian Al-Qaeda bombing suspect to US," Agence France Presse, January 25, 2005. Listed as captured in "George W. Bush: Record of Achievement, Waging and Winning the War on Terror," available on the White House [website](#).

26. Abu Faraj al-Libi

Reportedly arrested on **May 4, 2005**, North Western Frontier Province, Pakistan.

Libyan, suspected al-Qaeda leader of operations, alleged mastermind of two assassination attempts on Musharraf. Col. James Yonts, a U.S. military spokesman in Afghanistan, "said in an email to The Associated Press that al-Libbi was taken directly from Pakistan to the U.S. and was not brought to Afghanistan."

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Black Hole: The Fate of Islamists Rendered to Egypt

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I. Summary

"If you want a serious interrogation, you send a prisoner to Jordan. If you want them to be tortured, you send them to Syria. If you want someone to disappear—never to see them again—you send them to Egypt."

Former CIA official Robert Baer, in Stephen Grey, "America's gulag," *The New Statesman*, 17 May 2004.

Sometime at the end of February 2004, six Egyptians, alleged militants who had spent several years in exile in Yemen, the last several in official custody, were surreptitiously ferried from Sanaa to Cairo, very much against their will. Among them was Sayyid Imam `Abd al-`Aziz al-Sharif, formerly a leader of Egypt's al-Jihad al-Islami, a group that had been responsible for numerous acts of political violence. Save for a brief article in the state-run *al-Gumhuriyya* newspaper, the Egyptian government has yet to even acknowledge their detention in the country.

Like most if not all such transfers of wanted Islamists to Egypt, these renditions occurred with no due process protections, such as an extradition hearing before a judicial authority. Once in Egypt, most of the rendered individuals were held in prolonged incommunicado detentions and in several cases were "disappeared"—that is, the government refused to acknowledge their whereabouts or even the fact that they were in its custody. In the handful of cases in which information eventually does surface, it turns out that the suspects have been tortured or otherwise severely mistreated. For the rest, nothing is known, and it is reasonable to fear that they too have been subjected to torture and ill-treatment.

The rendition of al-Sharif and the five others was most likely set in motion at the beginning of the month, on February 7, 2004, when Yemeni President `Ali `Abdullah Saleh visited Cairo. The first phase occurred on the evening of February 18, 2004, when former Yemeni Brigadier General Ahmad Salim `Ubaid left his eighth-floor apartment in the upper-class Cairo neighborhood of Mohandiseen and began to make his way to Cairo's Yemeni Club. `Ubaid had been in exile in Cairo for almost a decade, since the end of the civil war in Yemen in 1994. Although he had not been granted political

asylum by the Egyptian government, his case was well-known, and it was understood that he could not return to Sanaa for political reasons.¹

The first few steps of the general's walk were pleasant ones: `Ubaid lived on a quiet, tree-lined street, one which was only occasionally trespassed by passing cars. The neighborhood was one of Cairo's best: some of Cairo's most powerful men, including the minister of interior and the former deputy head of State Security Investigations, call it home. Late-model Mercedes and BMWs mixed in with the older Egyptian and Japanese cars parked on the roadside, and Cairo's one and only shooting club, where Cairo's elite went to squeeze off a few rounds, was only a few blocks away.

The former brigadier general had been walking for a few blocks when, as he later told his lawyers, he heard someone calling his name. He turned around to find a group of four or five men standing behind him.

"Are you Brigadier General Ahmad Salim `Ubaid?" one of the men asked.

"Yes," he replied.

"Please come with us," the man said.

`Ubaid was put inside a waiting microbus, blindfolded, and driven to an unknown destination. When the blindfold was taken off, he found himself inside a well-furnished room. His captors identified themselves as officers of Egypt's State Security Investigations (SSI), an arm of the Ministry of Interior.

"You are a guest of State Security," one of the men said. "Your friend wants to see you." `Ubaid understood this to be a reference to the Yemeni president, `Ali `Abdullah Saleh. A week later, on or about February 25, `Ubaid was blindfolded again, taken to the airport, put on a plane, and sent back to Yemen. A few days later, the six Egyptians were shipped to Cairo.

The practice of rendering wanted persons to Egypt and other countries in the region, despite the high risk that they will be subjected to torture, dates back to the mid-1990s.

¹ This account of `Ubaid's disappearance was drawn from interviews with his lawyers in Cairo, as well as with other sources who asked not to be named. The quotes below are based on their verbatim recollection of his account of his experience.

In many cases the returning country is a neighboring Arab or South Asian state. In some cases the United States has played a role in the transfer. In most cases there is no indication that any form of judicial procedure, such as a formal extradition request and hearing, was used; even where warrants may have been issued, in the face of Egypt's terrible record of torture the state holding the suspect should have declined the request, in accordance with international law forbidding any country from sending someone to a country, including his or her country of origin, where he or she will likely be subjected to torture.

United States abuse of detainees in its custody in the "war on terror" has now been well-documented. The cases in this report show that the problem of abuse of suspected Islamist militants is much broader, with deep roots in abusive interrogation practices of Egypt and other governments in the Middle East region. The problem predates the September 11 attacks in the United States, although the practice has increased significantly in response to those attacks.

Most if not all of those forcibly returned to Egypt were suspected of being adherents of militant Islamist groups that have carried out acts of political violence, such as assassinations or attempted assassinations of high officials, as well as attacks that targeted or indiscriminately harmed civilians.

Through interviews with exile activists, Egyptian lawyers, human rights groups, and family members of current detainees, as well as reviews of English and Arabic press accounts, Human Rights Watch has identified at least sixty-three individuals who have been rendered to, and in a few cases from, Egypt since 1995 (Appendix I). The actual number of rendered individuals is likely much higher. Cairo-based analysts and lawyers as well as exile Islamist activists who track such returns closely estimate the total number of returnees to be as high as one hundred and fifty to two hundred since September 11, 2001.²

This report describes the cases of five of these men—Muhammad and Hussain al-Zawahiri, Ahmad `Agiza and Muhammad al-Zari`, and Sayyid Imam al-Sharif, as well as `Abd al-Salam `Ali al-Hila and former Brigadier General Ahmad Salim `Ubaid, two Yemenis who were abducted in Cairo by security forces and transferred out of the country. Egypt is the common thread linking these cases; although the seven come from

² Human Rights Watch interviews with Yasser al-Sirri and Hani al-Seba'i in London and Muhammad Salah in Cairo.

different backgrounds, their cases highlight different illegal measures governments have used to apprehend and hold in detention alleged militants.

Sayyid Imam al-Sharif: Al-Sharif's case is perhaps the most typical. A former high-ranking member of the Islamist insurgency, al-Sharif was likely in the Egyptian government's sights for years. He had been living without incident in Yemen for some time, and was not taken into custody there until after the September 11, 2001, attacks in the United States.

Muhammad al-Zawahiri and Hussain al-Zawahiri: Muhammad al-Zawahiri, an alleged ex-militant and a brother of senior al-Qaeda operative Ayman al-Zawahiri, was kidnapped while in the United Arab Emirates on business in early 1999 and returned to Egypt. He was presumed dead until word of his detention was leaked to the Arabic press in early 2004. For more than five years, the Egyptian government refused to answer a single question about al-Zawahiri's whereabouts, and allowed his family to believe that he had died rather than disclose his continued incarceration. Hussain al-Zawahiri, another brother, was apprehended in 1999 by Malaysian security forces while working in that country and transferred to Egypt in an operation that apparently also involved the CIA, along with Egyptian intelligence. The Egyptian government refused to acknowledge the rendition or inform his family of his whereabouts until he was released, without charge and without any explanation, six months later. According to family members, he is under orders from Egyptian security not to speak about his ordeal.

Ahmad `Agiza and Muhammad al-Zari`: On December 18, 2001, Ahmad `Agiza and Muhammad al-Zari`, two Egyptian asylum seekers who had been living for several years without incident in Sweden, were apprehended by Swedish security forces and within hours transferred to Egypt on a U.S.-government-leased jet. In 2004 `Agiza was convicted before a military tribunal, in proceedings that failed to meet basic fair trial standards, of membership in an organization seeking to overthrow the Egyptian government and sentenced to twenty-five years in prison. Al-Zari` was released without charge in October 2003 but remains restricted to his village and is forbidden from meeting with journalists or human rights groups.

`Abd al-Salam al-Hila: A Yemeni businessman with ties to Yemeni intelligence, `Abd al-Salam al-Hila was grabbed by Egyptian authorities while in Cairo on business in September 2002, and then handed over to the CIA. Al-Hila was rendered to U.S. custody, and is currently being held at Guantanamo Bay, Cuba. His case represents the more direct involvement of the U.S. after September 11, 2001, in which persons have been apprehended without judicial warrant and in a non-combat situation and

transferred to U.S. custody. Before the September 11 attacks, the U.S. generally did not take individuals into custody itself, preferring instead to assist in the transfer of an individual to his country of origin. Al-Hila is but one of many who have been picked up in countries all over the world and taken by a circuitous route to Guantanamo. He has yet to be charged with any crime.

General Ahmad Salim `Ubaid: General `Ubaid, since released, remains under close watch in Yemen and has been forbidden from talking to the press about his case. `Ubaid's case indicates the Egyptian government's willingness to arrest and return political exiles, individuals who have no alleged connection to any militant group, and whose only "crime" is their political affiliation and their utility in securing the transfer of other wanted persons.

II. Torture in Egypt and the Prohibition Against Involuntary Return

Over the past ten years, Egypt's campaign to eradicate armed militant Islamists moved from the streets of its large cities and the countryside of Upper Egypt to countries around the world where some of those militants had taken refuge. The government has sought the return of alleged militants from Pakistan, Albania, Bosnia, Sweden, Iran, Jordan, Saudi Arabia, the United Kingdom, and Yemen. Torture in Egypt is practiced routinely, and systemically when it comes to suspected Islamist militants.³ In these circumstances, such returns are forbidden under international law, which prohibits the return of individuals to countries where they are at significant risk of torture.

Torture, although it is strictly forbidden under Egyptian law and the international human rights treaties Egypt has signed, has been a widespread and persistent phenomenon in the country, particularly during interrogation of security suspects. Methods of torture include beatings with fists, feet, leather straps, sticks, and electric cables; suspension in contorted and painful positions accompanied by beatings; the application of electric shocks; and sexual intimidation and violence. The government-appointed National Council for Human Rights, in its first annual report released in April 2005, acknowledged that torture is part of "normal investigative practice" in Egypt.⁴

³ See, for example, Human Rights Watch, *Behind Closed Doors: Torture and Detention in Egypt* (New York, 1992); "Egypt's Torture Epidemic," [Briefing Paper] February 2004; and *Mass Arrests and Torture in Sinai* (New York, 2005). On the general use of torture by Egyptian law-enforcement officials, see also Human Rights Watch, *In a Time of Torture: The Assault on Justice in Egypt's Crackdown on Homosexual Conduct* (New York, 2004).

⁴ Heba Saleh, "Egyptian report denounces torture," *BBC News*, April 11, 2005 [retrieved April 11, 2005].

Since the early 1990s, suspected Islamist militants have borne the brunt of these practices.⁵ The defeat of the Islamist insurgency by the end of the 1990s in no way mitigated the problem of torture, and deaths in custody as a result of torture and ill-treatment have once again shown a disturbing rise over the past several years. Egyptian human rights organizations reported at least ten cases in 2002 and ten more in 2003, several of which were at the hands of SSI perpetrators.⁶ The Egyptian Organization for Human Rights (EOHR), in May 2004, reported 292 known torture cases in the eleven years between January 1993 and April 2004, 120 of which resulted in the death of the suspect or prisoner.⁷

The single greatest number of known cases of torture, and deaths resulting from torture, occurred in SSI offices.⁸ In November and December 2004, Human Rights Watch and Egyptian human rights groups found credible evidence that SSI routinely used torture during interrogations following the October 2004 bomb attacks against the Taba Hilton hotel and other tourist sites, when thousands of persons were taken into custody and held without charge in incommunicado detention.⁹

The U.N. Committee Against Torture, the U.N. Human Rights Committee, and the U.N. Special Rapporteur on Torture have frequently expressed grave concern at the persistent and credible reports of torture and cruel, inhuman, or degrading treatment at the hands of Egyptian law enforcement personnel, and in particular the security services. These bodies also have criticized the failure of the government to conduct investigations into such practices and punish those responsible. To date, Egypt has refused to permit the U.N. Special Rapporteur on Torture to visit the country.

The U.S. government has also consistently reported cases of torture at the hands of law enforcement and security officials. In the most recent *Country Reports on Human Rights Practices*, covering 2004, the State Department wrote that "torture and abuse of detainees

⁵ See Human Rights Watch, *Behind Closed Doors: Torture and Detention in Egypt* (New York, 1992), especially chapters 3 and 4.

⁶ See "Egypt's Torture Epidemic: A Human Rights Watch Briefing Paper," February 2004, and the additional cases of deaths in detention of Radl Mustafa Ahmad Nassar, `Izzat Bayumi Saqr, and Mustafa Musa in Egyptian Organization for Human Rights, "Torture in Egypt...an unchecked phenomenon" (May 29, 2004), at www.eohr.org/report/2004/re3.htm [retrieved April 4, 2005].

⁷ EOHR, "Torture in Egypt...an unchecked phenomenon" (May 29, 2004), at www.eohr.org/report/2004/re3.htm [retrieved April 4, 2005].

⁸ *Ibid.*

⁹ Human Rights Watch, *Mass Arrests and Torture in Sinai*, (New York, February 2005).

by police, security personnel, and prison guards remained common and persistent,” and detailed numerous cases.¹⁰

The problem of torture in Egypt cannot be separated from the pervasive culture of impunity that prevails around this question, particularly with regard to the SSI. Egypt’s Prosecutor General’s office has investigated and prosecuted some cases involving police officials after human rights lawyers or family members filed formal complaints. None of those investigations, however, involved officials of the SSI, despite the fact that SSI officials were implicated in no less than thirty-three of the cases of torture documented by the EOHR. One of the most outrageous cases goes back more than a decade: in April 1994, SSI officers took Islamist defense lawyer `Abd al-Harith al-Madani from his office and the next day he was dead. Although the prosecutor-general at the time conceded that al-Madani’s death was “criminal,” the authorities have carried out no criminal investigation or held anyone accountable for the torture death.¹¹ A top Egyptian interior ministry official, in meetings with Human Rights Watch in February 2004 and again in February 2005, confirmed that there have been no criminal investigations or internal disciplinary measures taken in response to allegations of torture and ill-treatment by SSI officials since 1986 – nearly twenty years.¹² In the face of a systematic failure of the Egyptian authorities to investigate and prosecute officials alleged to have perpetrated these practices, the problem of torture has reached epidemic proportions.

These cases reported by Egyptian human rights groups do not include the scores of suspects transferred involuntarily to SSI custody from abroad over this period, several of whom have made credible allegations that they were subjected to torture.¹³ One of these is Mamduh Habib, the Australian citizen captured in Pakistan in October 2001 whom the U.S. transferred to Egyptian custody where for six months, according to a court affidavit filed by his U.S. lawyer, “he was subjected to unspeakable brutality,” including

¹⁰ “Egypt: Country Reports on Human Rights Practices – 2004,” released by the Bureau of Democracy, Human Rights, and Labor, February 28, 2005, at <http://www.state.gov/g/drl/rls/hrrpt/2004/41720.htm>.

¹¹ For details, see Human Rights Watch, *World Report 1995*, p. 263.

¹² The meetings were with Gen. Ahmad `Umar Abu al-Sa`ud, a member of the cabinet of Minister of Interior Habib al-`Adli, on February 28, 2004 and February 22, 2005, in Cairo.

¹³ The Egyptian Organization for Human Rights (EOHR) told Human Rights Watch that it had tried unsuccessfully to meet with Khalifa Bidaiwi al-Sayyid al-Badawi and one other person from the group of Egyptians forcibly returned from Yemen in February 2004 after their wives had approached the group for assistance (telephone interview with Tariq al-Zaghloul, Cairo, April 12, 2005). According to al-Zaghloul, the wife of al-Badawi met with her husband at the end of Ramadan, in mid-November 2004, but the brevity of the meeting and the presence of security guards did not allow her to ascertain his treatment in detention. Al-Zaghloul also said that al-Badawi and the others were serving sentences that had been imposed *in absentia* by military tribunals in previous years—in al-Badawi’s case a seven year sentence imposed in 1989.

severe beatings for hours at a time and electric shock treatment of “ingenious cruelty.”¹⁴ Habib was subsequently transferred to Guantanamo Bay, via Bagram Air Base in Afghanistan, until his release without charge in January 2005.

The Prohibition against Refoulement

The obligation to avoid the transfer, or *refoulement*, of individuals back to countries that practice torture, is a customary norm of international law. The prohibition against *refoulement* is also codified in the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT). Under Article 3 of the CAT, states must not “expel, return (‘refouler’) or extradite a person to another State where there are substantial grounds for believing that he would be in danger of being subjected to torture...”¹⁵ Article 3 further states, “For the purpose of determining whether there are such [substantial] grounds, the competent authorities shall take into account all relevant considerations, including where applicable, the existence in the State concerned of a consistent pattern of gross, flagrant or mass violations of human rights.”

Article 2 of the International Covenant on Civil and Political Rights also prohibits torture and other cruel, inhuman, and degrading treatment. The United Nations Human Rights Committee has interpreted this article to include an obligation not to engage in *refoulement*:

[The Article 2] obligation requiring that States Parties respect and ensure the Covenant rights of all persons in their territory and all persons under their control entails an obligation not to extradite, deport, expel or otherwise remove a person from their territory, where there are substantial grounds for believing that there is a real risk of irreparable harm... either in the country to which removal is to be effected or in any country to which the person may subsequently be removed.¹⁶

Despite this unambiguous prohibition, and in most cases without any judicial process in the countries concerned or in Egypt, the suspects have been sent back, typically directly into the hands of State Security Investigations (SSI) agents in the Ministry of Interior.

¹⁴ Mamduh Habib, et al., petitioners, v. George Walker Bush, President of the United States, et al., Respondents, Civil Action No. 02-CV-1130 (CKK), filed in the U.S. District Court for the District of Columbia. (filed with the Court Security Officer for clearance on November 24, 2004).

¹⁵ United Nations Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, G.A. Res. 39/46, 39 UN GAOR Supp. No. 51, at 197, UN Doc. A/RES/39/708 (1984).

¹⁶ HRC General Comment 31, *Nature of the General Legal Obligation on States Parties to the Covenant*, U.N. Doc. CCPR/C/21/Rev.1/Add.13 (2004).

Most subsequently have been held incommunicado; family members, lawyers, and the public have remained completely in the dark as to their whereabouts. There is considerable evidence that many have been tortured or otherwise abused while in detention.

The Arab Convention for the Suppression of Terrorism

Most of the persons known to have been transferred involuntarily to Egypt have been Egyptians sent from other Arab countries.¹⁷ The return of men like Sayyid `Abd al-`Aziz al-Sharif and Muhammad al-Zawahiri from countries like Yemen and UAE to Egypt, though it violates international law, does not necessarily run afoul of the Arab Convention for the Suppression of Terrorism. Before the Convention came into force, such returns were governed by bilateral agreements between the individual states.

The Convention was signed by representatives of member states of the Arab League, with no small amount of ceremony, in Cairo on April 22, 1998. Within weeks of the signing ceremony, Arab human rights groups began to express concerns about the lack of human rights protections in the Convention, and the fact that the Convention, taken as a whole, seemed to be an effort to “contract around” certain basic international law obligations, including the obligation not to return an individual to a country where he or she will be at risk of torture.¹⁸ Nowhere does the document affirm the prohibition against *refoulement*, a peremptory norm of international law. Instead, the member states of the Arab League commit to “cooperate and coordinate” with other member states, and to extradite them “in accordance with the rules and conditions stipulated in this Convention.”¹⁹ Although the Convention does state that return is not permitted under certain circumstances—for instance, offenses of a “political nature” or if the offense “relates solely to dereliction of military duties”²⁰—it does not ask that a government consider whether or not a person will be tortured or ill-treated upon return before making a decision whether or not to hand over a requested individual.

¹⁷ See appendix: thirty-two of the sixty-three known cases were from Jordan, Saudi Arabia, Yemen, Kuwait, Libya, Sudan, Syria, and the United Arab Emirates.

¹⁸ Arab Center for the Independence of the Judiciary and the Legal Profession, *Commentary on the Arab Convention Against Terrorism: the agreement protects the security of Arab governments and threatens the security of citizens and political opponents*, Cairo, May 7, 1998.

¹⁹ The Arab Convention for the Suppression of Terrorism, Article 5. An English translation of the Convention is provided as Annex II in Amnesty International, “The Arab Convention for the Suppression of Terrorism: A serious threat to human rights,” AI Index IOR 51/001/2002, January 9, 2002, available at <http://web.amnesty.org/library/print/ENGIOR510012002> [retrieved April 21, 2005].

²⁰ *Ibid.*, Article 6.

III. Who are the Jihadists?

Most of the men rendered to Egypt were or were alleged to have been affiliated with one of the two main groups that carried out attacks against Egyptian security forces and government officials as well as civilians in the 1990s. The armed militants who eventually coalesced into Egypt's *al-Jihad* [or *al-Gihad*] *al-Islami* (Islamic Jihad) and *al-Gama`a Islamiyya* (Islamic Group) first emerged in the early and mid-1970s.

In the mid- and late 1980s many went to Afghanistan to fight in the campaign to overthrow the Soviet-backed government there, an effort that had the full support of the United States as well as Egypt, Saudi Arabia, and other Arab governments allied with the U.S. But both groups had reasons for leaving Egypt besides supporting the Afghan cause. "We wanted to secure the group's leadership from detention or liquidation," Tala`at Fu`ad Qassim, a leader of *al-Gama`a al-Islamiyya*, said in an interview in the early 1990s. In addition, "all those [who traveled to Afghanistan] would return to Egypt, after gaining military expertise in combat, and would train their brothers in the organization."²¹ In the early 1990s, following the overthrow of the former government in Kabul, many militants returned to their home countries, including Egypt, to continue the armed struggle there.

Al-Jihad al-Islami, whose leaders "opted for a highly conspiratorial, elitist, and militarist strategy," was effectively dismantled with the arrest and mass military court trials of hundreds of suspected adherents in 1993 and 1994, following assassination attempts against the prime minister and the interior minister.²²

Some of the groups that became *al-Gama`a al-Islamiyya* had origins in the relatively impoverished Upper Egypt provinces like Asyut.²³ They initially enjoyed tacit support from the government of Anwar Sadat in his campaign to neutralize leftist and Nasserist opponents on university campuses, but broke with Sadat following the Camp David peace treaty with Israel in 1978 because, in their view, it failed to address Israel's occupation of the West Bank and Gaza Strip. That, and the subsequent crackdown

²¹ Hisham Mubarak, *Al-Irhabiyyun Qadimun* [The Terrorists are Coming] (Cairo: *Al-Mahrussa*, 1995), pp. 272-3. A version of Mubarak's interview with Qassim was published in English ("What Does the Gama`a Islamiyya Want?") in Joel Beinin and Joe Stork, eds., *Political Islam* (Berkeley and Los Angeles: University of California Press, 1997), pp. 314-326.

²² See International Crisis Group (ICG), "Islamism in North Africa II: Egypt's Opportunity," Middle East and North Africa Briefing (April 20, 2004), pp. 4-6. A further series of arrests and trials took place in 1998.

²³ See Mamoun Fandy, "Egypt's Islamic Group: regional revenge?," *Middle East Journal* v. 48, no. 4 (Winter 1994), pp. 607-625.

against them by the government, led some to align themselves with the Muslim Brothers, which had already adopted a non-violent stance of opposition to the government, and others to adopt a “jihadist” armed struggle position.

Unlike al-Jihad al-Islami, however, the Gama`a also established social welfare programs in poor neighborhoods and, through proselytizing and intimidation, attempted to establish an “Islamic order” in areas where it had a strong presence.²⁴ Al-Gama`a al-Islamiyya’s confrontation with the state, which included numerous attacks against foreign tourists, culminated in the September 1997 bombing of a tourist bus in downtown Cairo and the November 1997 massacre of fifty-eight foreign tourists and four Egyptians at the Hatsheput Temple in Luxor. In March 1999 the group’s governing Consultative Council issued a formal cease-fire proclamation, and 2002 saw the publication of four volumes of writings by imprisoned Gama`a leaders renouncing the views they formerly held, as illustrated by titles such as *The Prohibition of Extremism in Religion* and *Shedding Light on the Mistakes of Holy War*. In September 2003, the authorities released three top Gama`a leaders along with nearly 1,000 others.²⁵

Many of the militants living in exile took a similar route, and appear to have severed ties with their former colleagues and begun new lives abroad. Ayman al-Zawahiri, the former Jihad leader who has emerged as Usama Bin Laden’s top lieutenant, may be the exception rather than the rule. The Egyptian authorities have nevertheless pursued many of those remaining abroad regardless of whether or not they had formally broken with the remains of the now-defeated insurgency. It did so with little regard for its obligations under international law. And it did so often with assistance from the United States.

The Egyptian state had responded to the armed insurgency with bare-knuckle tactics and brute force. Emergency Law 162, dating from 1958 and in effect without interruption since 1981, was augmented by a Ministry of Interior order in October 1981, following Sadat’s assassination, that allowed the imprisonment of any persons “under suspicion of any activity that compromises the public security or public order or threatens national unity or social stability.”²⁶ The state’s powers of arbitrary detention were further strengthened by Law 97 of 1992, known as Law to Combat Terrorism.²⁷ Thousands of

²⁴ ICG, “Islamism in North Africa II,” pp. 6-7. These campaigns included attacks on Christian (Coptic) communities living in these areas.

²⁵ *Ibid.*, p. 8.

²⁶ Ministry of Interior, Order No. 1 (1981), provided to Human Rights Watch by the Hisham Mubarak Law Center (Cairo), translated by Human Rights Watch.

²⁷ The official name is the Law Amending Some Provisions of the Penal Code, the Criminal Procedure Code, the Law Establishing State Security Courts, the Law on Secrecy of Bank Accounts, and the Law on Weapons and Ammunition.

Islamist suspects were detained without trial under these laws. Some estimates put the number of Islamist detainees by the late 1990s as high as 35,000.²⁸ From December 1992 to November 1995, there were mass trials before military tribunals in which hundreds of Gama`a and Jihad suspects received harsh sentences, including seventy-one death sentences, thirteen of them in absentia. One hundred and forty four defendants were acquitted, but in most cases the Egyptian interior ministry continued holding them under the emergency law.²⁹ An estimated 15,000 persons, including scores of lawyers, are still in detention under Emergency Law provisions.³⁰

After the fall of Afghanistan's Soviet-backed government in 1992, Pakistan started to crack down on Arab militants on its soil in the early 1990s. With the insurgency sputtering out in Egypt, militants went to fight in conflicts in Tajikistan, Bosnia, Chechnya, and Yemen. Others, often seeking to leave the fighting behind, made their way to Western Europe.

"In those days, an Islamist could just buy a ticket, get on a plane, and go to Europe. He would tear up his passport on arrival and apply for political asylum," said Muhammad Salah, *Al-Hayat's* Cairo bureau chief and close observer of the militant Islamist groups. "This would take a few years of legal proceedings, but in most cases, they would be allowed to stay."³¹

But those seeking safe haven would not always head to Europe, Salah said:

In other cases, they would go to African or Arab countries. They would get in based on forged documents – they were good at making documents – then find someone who was sympathetic to the cause, and find work through them. This was happening in Yemen, in Sudan, and in other Arab countries.³²

²⁸ Hossam al-Hamalawy, "The Forgotten Victims of Another War on Terror," Islam Online, November 6, 2003: www.islamonline.net/english/Views/2003/11/article03.shtml

²⁹ *The Returnees from Albania: Violence Recedes, while Military Tribunals Continue*, EOHR report on the Military Tribunal Case 8/1998, April 18, 1999.

³⁰ Human Rights Association for the Assistance of Prisoners, "Detention and Detainees in Egypt 2003," (Cairo, 2003), p. 18.

³¹ Human Rights Watch interview with Muhammad Salah, Cairo, December 9, 2004.

³² *Ibid.*

IV. The Role of the United States

While this report does not focus on the U.S. role in renditions to countries where the person transferred is at great risk of torture, the U.S. was deeply involved in several of these cases and thus some examination of US law and policy is in order. As detailed in the next section of this report, the first U.S. renditions of Islamists to Egypt took place in 1995 and 1998 with the cases of Tal`at Fu`ad Qassim and the so-called "Tirana cell," respectively. U.S. CIA Director George Tenet has said that the CIA took part in over eighty renditions before September 11, 2001,³³ and press accounts suggest that the United States has flown 100 to 150 suspects to foreign countries, many of them to Egypt, since September 11.³⁴

The United States Congress has codified the U.S. obligations under Article 3 of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT) into law. Under Section 2242 of the Foreign Affairs Reform and Restructuring Act, Congress declared that "[i]t shall be the policy of the United States not to expel, extradite, or otherwise effect the involuntary return of any person to a country in which there are substantial grounds for believing the person would be in danger of being subjected to torture, regardless of whether the person is physically present in the United States."

Despite this clear prohibition in both international and U.S. law, there are indications that the U.S. government has followed a policy that runs counter to these key norms. About three months before Tal`at Fu`ad Qassim was "disappeared" in June 1995 (see below), then-President Clinton issued Presidential Decision Directive (PDD) 39, which explicitly authorized the "return of suspects by force":

When terrorists wanted for violation of U.S. law are at large overseas, their return for prosecution shall be a matter of the highest priority. ... If we do not receive adequate cooperation from a state that harbors a terrorist whose extradition we are seeking, we shall take appropriate measures to induce cooperation. Return of suspects by force may be

³³ "Counterterrorism Policy: Hearing Before the National Commission on Terrorist Attacks Upon the United States," March 24, 2004. Statement by George Tenet, former Director of Central Intelligence available at http://www.9-11commission.gov/archive/hearing8/9-11Commission_Hearing_2004-03-24.htm (last visited Oct. 25, 2004) (Tenet Statement to 9-11 Commission). It is not clear which transfers were included in this number, but it would appear that this number encompasses both transfers to the United States and those to other states.

³⁴ Douglas Jehl and David Johnston, "Rule Change Lets C.I.A. Freely Send Suspects Abroad to Jails," *New York Times*, March 6, 2005.

effected without the cooperation of the host government, consistent with the procedures outlined in NSD-77, which shall remain in effect.³⁵

This policy was reiterated in May 1998 with a new directive, PDD 62, which outlined ten policy programs, the first of which was "apprehension, extradition, rendition, and prosecution."³⁶ The document also created the National Coordinator for Counter-Terrorism within the National Security Council. Additional renditions to Egypt took place soon thereafter.

Since September 11, 2001, the United States has continued to play a direct role in transfers of Islamists accused of political violence to Egypt and other countries in the Middle East. There is increasing evidence that many such persons were tortured upon return. A number of cases have already been publicly reported. One of the most notorious involved Maher Arar, a Canadian citizen of Syrian origin who was detained at Kennedy Airport in New York in September 2002, held in detention for two weeks, flown to Jordan, and then driven to Syria, where he was detained for ten months and, he says, tortured repeatedly.³⁷ It appears that Arar had been named by two other Canadians, 'Abdullah al-Malki, of Syrian origin, and Ahmad al-Maati, of Egyptian origin, whom Syrian intelligence agents reportedly interrogated and tortured earlier in 2002.³⁸ All three were eventually released without ever being charged with a criminal offense.

Egypt, however, has been the country to which the greatest numbers of rendered suspects have been sent. Mamduh Habib, an Australian citizen originally from Egypt, says he was detained in Pakistan in October 2001 and interrogated there by American agents, sent to Egypt where he was tortured in prison for six months, and then to the U.S. naval base at Guantanamo for three years before he was released without charge.³⁹ Usually the suspects returned to Egypt were of Egyptian origin, but not always. In the

³⁵ Presidential Decision Directive 39, June 21, 1995. NSD-77, or National Security Directive 77 was issued in January 1992 by President George H. W. Bush. Its contents remain classified.

³⁶ 9/11 Commission, Staff Statement no. 5, in *The 9/11 Investigations*, p. 68. The list of all ten policy programs can be found in "U.S. Counter-Terrorism Policy and Organization," Roger Cressey, Director, Transnational Threats, National Security Council, September 27, 2000.

³⁷ See Jane Mayer, "Outsourcing Torture: The secret history of America's 'extraordinary rendition' program," *The New Yorker* (February 14 and 21, 2005), p. 106.

³⁸ Al-Malki and al-Maati were detained when they visited Syria; they were not sent there involuntarily. See Colin Freeze, "Arar accuser says he was tortured," *The Globe and Mail* [Toronto] (April 29, 2004), A1 [retrieved April 11, 2005], and Michelle Shephard, "Ottawa engineer acquitted in Syria; Syria clears Canadian, won't let him leave," *Toronto Star* (July 27, 2004) [retrieved April 11, 2005].

³⁹ See, for example, Megan K. Stack and Bob Drogin, "Detainee Says U.S. Handed Him Over for Torture," *Los Angeles Times* (January 13, 2005) [accessed on January 13, 2005] and Raymond Bonner, "Australian's Long Path in the U.S. Antiterrorism Maze," *New York Times* (January 29, 2005), p. A4.

months after the September 11th attacks, Pakistan apprehended a ranking al-Qaeda leader, Ibn al-Shaikh al-Libi, a Libyan national, and transferred him to U.S. custody; after a period during which CIA and FBI officials interrogated him, the CIA transferred al-Libi to Egyptian custody, and the FBI “lost track of him.”⁴⁰

In December 2001, the United States played a key role in executing the expulsion from Sweden of two asylum-seekers, Ahmad `Agiza and Muhammad al-Zari`, a case discussed in detail below. The Swedish foreign minister and her top aides took the decision at a noon meeting on December 18, 2001. Between 4 and 5 p.m. that afternoon, Sapo, the Swedish security police, picked up `Agiza and al-Zari` in Stockholm. Late that night they were taken to the airport at Bromma, where they were placed on an executive jet that was on long-term lease to the U.S. government. According to a Swedish investigative television report, ten men from the just-arrived jet, eight of them hooded, took `Agiza and al-Zari` to a small room, their hands and feet chained in a harness. There they cut their clothes from their bodies, inserted suppositories in their rectums, dressed them in diapers and dark overalls, and brought them to the plane.⁴¹ “They were very professional in their way of acting. They acted very deftly, swiftly and silently,” said Swedish police inspector Paul Forell.⁴² A few minutes before 10 p.m., the jet took off for Cairo, where `Agiza and al-Zari` were handed over to State Security Investigations (SSI) agents.⁴³ Mats Melin, the Swedish parliament’s chief ombudsman, in a March 2005 report ordered by the parliament, said that “the American security personnel took charge” and criticized the Swedish security police for “los[ing] control of the situation at the airport and during the transport to Egypt.”⁴⁴ A top Egyptian interior ministry official, interviewed by Swedish investigative reporters in 2004, said, “It certainly is considered in high appreciation and it is a model. We consider it a model that can be copied and taken as a guide on the level of international cooperation.”⁴⁵ When U.S. State Department spokesperson Richard Boucher was queried about the case following publication of a Human Rights Watch report in April 2004, he stated that he knew

⁴⁰ Mayer, “Outsourcing Torture,” pp. 114, 116. Al-Libi was eventually sent to Guantanamo, but not before his false confession under torture provided the basis for U.S. allegations in early 2003 of links between the Iraqi government of Saddam Hussein and al-Qaeda (see Human Rights Watch, “The United States’ ‘Disappeared’: The CIA’s Long-Term ‘Ghost Detainees,’” [Briefing Paper], October 2004, Annex 1.)

⁴¹ “Script: ‘The broken promise,’” TV4 [Sweden], *Kalla Fakta* [Cold Facts], May 17, 2004.

⁴² John Crewdson and Tom Hundley, “Jet’s travels cloaked in mystery; Red Sox partner’s plane hits spots U.S. sent terror suspects,” *Chicago Tribune* (March 20, 2005) [retrieved March 21, 2005].

⁴³ “Script: ‘The broken promise,’” TV4 [Sweden], *Kalla Fakta* [Cold Facts], May 17, 2004.

⁴⁴ Mattias Karen, “Report: Security police broke law allowing Americans handle extradition of Egyptians,” Associated Press, March 22, 2005 [retrieved March 22, 2005].

⁴⁵ Gen. Ahmad `Umar Abu al-Sa`ud, in “Script: ‘The broken promise,’” TV4 [Sweden], *Kalla Fakta* [Cold Facts], May 17, 2004.

nothing about it and “would see if there I anything we have to say on that.”⁴⁶ As of this writing, U.S. government officials have not commented on the reports of the U.S. role in these renditions.

In January 2002 Pakistani national Muhammad Sa`d Iqbal was arrested in Jakarta, reportedly at the request of the CIA, and flown to Egypt;⁴⁷ his present whereabouts are not known. Italian investigators are reportedly probing the U.S. role in the February 2003 abduction of Hassan Mustafa Usama Nasr, a radical Egyptian cleric also known as Abu `Umar; the abducted man was not heard from until Italian police recorded a phone call he made to his wife a year later saying that he had been taken to a U.S. air base in Italy and then flown to Cairo.⁴⁸

Another case gained attention when the parents of Ahmad `Umar Abu `Ali, a U.S. citizen, alleged that their son was arrested by Saudi authorities in June 2003 while he was studying there, detained at the behest of the U.S., and tortured during his twenty months in Saudi custody. A U.S. court ruling forced the Bush administration to take Abu `Ali into U.S. custody in February 2005.⁴⁹

Egypt’s approach to counter-terrorism and its role in the larger U.S. campaign against groups like al-Qaeda appears to be not the exception in the Middle East but the norm. “If there is a terror connection, then our policy is to be supportive of cooperation,” one former senior U.S. government official with long experience on counter-terror issues in the Middle East told Human Rights Watch.⁵⁰

Because many exile Egyptian militants were former associates of top al-Qaeda leader Ayman al-Zawahiri, himself Egyptian, the United States has been particularly interested in intelligence from Egyptian nationals, and reportedly proposed the renditions project to Egypt; according to journalist Jane Mayer, “Egypt embraced the idea.”⁵¹ “If there is

⁴⁶ Daily Briefing, Department of State, May 27, 2004 [retrieved May 27, 2004].

⁴⁷ Rajiv Chandrasekaran and Peter Finn, “U.S. Behind Secret Transfer of Terror Suspects,” *Washington Post* (March 11, 2001), p. A1 [retrieved April 11, 2005]. .

⁴⁸ Craig Witlock, “Europeans Investigate CIA Role in Abductions,” *Washington Post* (March 13, 2005), pp. A1 and A 18.

⁴⁹ On February 22, 2005, Abu `Ali was arraigned in U.S. District Court in Alexandria, Virginia, on charges of conspiracy to commit terrorism. For an account of the case by one of Abu `Ali’s lawyers, see Elaine Cassel, “The Strange Case of Ahmed Omar Abu Ali: Troubling Questions about the Government’s Motives and Tactics,” *FindLaw’s Legal Commentary* (March 7, 2005), at <http://writ.news.findlaw.com/cassel/20050307.html> [retrieved April 1, 2005].

⁵⁰ Human Rights Watch telephone interview, name withheld on request, January 2005.

⁵¹ Jane Mayer, “Outsourcing Torture,” p. 109

an al-Qaeda connection, then we will be very interested in the information they have,” the former senior U.S. government official told Human Rights Watch. Michael Scheuer, the former CIA official who acknowledges that he was deeply involved in setting up the renditions program, told Mayer, “It served American purposes to get these people arrested, and Egyptian purposes to get these people back, where they could be interrogated.”⁵²

U.S. officials appear for the most part to have relied on their Egyptian counterparts to conduct interrogations and report any new information to them. “If we are getting everything we need from the host government, then there’s no need for us to [conduct interrogations],” the former U.S. government official told Human Rights Watch. “There are some situations in which the host government can be more effective at getting information.”⁵³ Nabil `Uthman, at the time an advisor to President Mubarak and government spokesman, said the two governments shared information routinely. “We are providing them with a wealth of information,” he said.⁵⁴ According to Michael Scheuer, U.S. officials provided questions to Egyptian interrogators, but the Egyptians rebuffed an American request to question suspects directly. “We were never in the same room at the same time,” he said.⁵⁵

As already noted, militants were sent back to Egypt, sometimes with U.S. assistance, for years before the September 11, 2001 attacks, but many countries refused Egyptian extradition requests because of concerns about torture. President Mubarak reportedly complained frequently to Western leaders that their asylum policies afforded safe haven to Egyptian “terrorists.” Just days after September 11, presidential adviser Nabil `Uthman said, “We are calling on the international community to act now to deny asylum to these terrorists.”⁵⁶

One important change since September 11 appears to be the increased willingness of other countries, including Sudan, Iran, Saudi Arabia, and Yemen, to return alleged

⁵² Jane Mayer, “Outsourcing Torture,” p. 109

⁵³ Human Rights Watch telephone interview, name withheld on request, January 2005.

⁵⁴ Raymond Bonner, Don Van Natta Jr., and Amy Waldman, “Questioning Terror Suspects in a Dark and Surreal World.” *New York Times* (March 9, 2003), p. 1 [retrieved March 10, 2003]. `Uthman also said, “Any terrorist will claim torture—that’s the easiest thing. Claims of torture are universal. Human rights organizations make their living on these claims. Their job is not to talk about the human rights of the victim but of the human rights of the terrorist or those in jail.”

⁵⁵ Mayer, “Outsourcing Torture,” p. 110.

⁵⁶ Philip Smucker, “For Egypt, a feeling of vindication on crackdowns: as Arab states consider joining a US coalition they may ask for latitude,” *Christian Science Monitor* (September 18, 2001) [retrieved September 24, 2001].

militants living inside their borders to their countries of origin, usually without any form of due process and in spite of the international prohibition against sending persons involuntarily to countries where they face torture and ill-treatment. Under increased pressure from the U.S. government to cooperate, and, in some cases, wanting to benefit from improved relations with the U.S., these governments have begun to cooperate with Egypt. "Some states wanted to create a rapprochement with the States," said Hani al-Seba'i, an Egyptian Islamist in London who keeps tabs on returns to Egypt. "They wanted to be able to say, 'we don't have any Islamists here.'"⁵⁷

The number of individuals sent to a third country by or with the assistance of the U.S. is not known. The House-Senate Joint Inquiry into the September 11th attacks claimed "dozens" of renditions before September 11, 2001, although it did not specify how many of those involved the transfer of a person to a third country:

Working with a wide array of foreign governments, CIA and FBI have helped deliver dozens of suspected terrorists to justice. CTC [Counterterrorist Center] officers responsible for the renditions program told the Joint Inquiry that, from 1987 to September 11, 2001, CTC was involved in the rendition of several dozen terrorists, a number that increased substantially after September 11.⁵⁸

According to one recent account, the CIA "has rendered more than 100 people from one country to another without legal proceedings..."⁵⁹

The policy change by some countries was not only about improving relations with the United States. Some states were also concerned that exile Islamists might pose more of a threat than was initially supposed:

⁵⁷ Human Rights Watch interviews with Hani al-Seba'i, director of the Al-Maqrizi Center for Historical Studies, London, December 2004. Al-Seba'i, himself accused by the Egyptian government of being a former member of al-Jihad al-Islami – an accusation that he denies -- had been the object of a strong effort by U.K. Prime Minister Tony Blair to return him to Egypt, an effort that foundered on Egypt's refusal to offer diplomatic assurances that British officials and U.K.-based lawyers would be able to have access to him in Egypt. Al-Seba'i successfully sued the U.K. government for wrongful imprisonment arising from his detention pending removal. For more on the al-Seba'i case, see Human Rights Watch, *Still at Risk: Diplomatic Assurances No Safeguard Against Torture* (April 2005), available at <http://hrw.org/reports/2005/eca0405>.

⁵⁸ Steven Strasser, ed., *The 9/11 Investigations*, Public Affairs Reports, 2004, p. 463.

⁵⁹ Dana Priest, "CIA's Assurances on Transferred Suspects Doubted," *Washington Post* (March 17, 2005), p. A1.

September 11 created a suitable atmosphere for renditions. Many countries were afraid about being labeled as being part of the terror camp, and others were afraid for their own domestic security. They were worried that letting these people stay could backfire.⁶⁰

V. Bad Precedent: The 1995 and 1998 Renditions

As Egypt's domestic Islamist insurgency was winding down by the second half of the 1990s, the Egyptian government turned its attention to those who had fled abroad. The Egyptian government policy in the mid-1990s was to become the template for treatment of such militants for the next decade, including after the September 11, 2001, attacks on the United States. From the beginning, this response has featured efforts to have suspects returned to Egypt in secret, without regard for existing judicial mechanisms, the incommunicado detention of suspects upon their return, and subsequent reports that the suspect was tortured, or in some cases had died in detention.

Beginning in the early 1990s, a small group of Muslims began to trickle into the former Yugoslavia to assist their Bosnian Muslim co-religionists, and to fight against the Serbs in the ongoing civil war. The U.S. government took note of these developments. According to Richard Clarke, then the head of counter-terrorism efforts in the National Security Council, Washington demanded that the Bosnian government expel the militants. Short of fighters and in the midst of a bloody civil war, the Bosnian government was apparently reluctant to do so.⁶¹

Tal'at Fu'ad Qassim

Increasingly concerned about the presence of Islamist militants from Arab countries taking up arms in the former Yugoslavia, the U.S. government took action. In 1995, the U.S. orchestrated the capture of Gama`a leader Tal'at Fu'ad Qassim, also known as Abu Talal al-Qasimi. At the time of his abduction, Qassim was living in exile in Denmark, where he had been granted political asylum. Qassim was thirty-eight at the time of his abduction in Croatia in September 1995; he had been traveling to Bosnia to write about the conflict there. The Croatian foreign ministry told his wife, Amani Faruq, that Qassim had been expelled for violating Croatian residency laws.⁶²

⁶⁰ Human Rights Watch interview with Muhammad Salah, Cairo Bureau Chief, *Al-Hayat*, December 2004.

⁶¹ Clarke, p. 138.

⁶² Nadia Abou al-Magd, "Leading Islamic Militant Reported Missing in Croatia," Associated Press, September 23, 1995.

Richard Clarke has written that the decision by the U.S. government to take Tal'at Fu'ad Qassim into custody in 1995 was stirred by a recognition within the Clinton administration of the seriousness of the threat posed by international terrorism. Clarke refers to Qassim's capture as a "disappearance."⁶³ Clarke also states that, unbeknownst to the U.S. government at the time, Qassim and other foreign Muslims fighting in Bosnia were part of al-Qaeda.⁶⁴

Before his forced transfer to Egypt, Qassim was allegedly questioned aboard a U.S. navy vessel and the handover to Egypt took place in the middle of the Adriatic Sea.⁶⁵ Qassim's case is the first known rendition by the U.S. government to a third country with a record of torture.

The Qassim case marked a first of sorts for the Egyptian government as well. Its handling of the Qassim case – complete disappearance, refusing to allow any access to the individual, either by his family or his lawyers – would be repeated many times in the years to come. After his return, the Egyptian government refused to answer questions about his whereabouts, and denied his attorney, Muntassir al-Zayyat, access to him:

I didn't seem him. I don't think that anyone managed to see him, except for security of course. And those who carried out the execution...We heard about [his abduction] as soon as he was kidnapped. But we didn't know where he was.⁶⁶

In what would become standard procedure for renditions to Egypt, the Egyptian government also refused to release any information on Qassim's case:

Yes, we did present an official request. We also presented a request to the prosecutor and the ministry of interior. We asked for information about his arrest, and we asked for access, but as usual we didn't receive any reply.⁶⁷

⁶³ Clarke, p. 139.

⁶⁴ Ibid.

⁶⁵ Anthony Shadid, "Syria is Said to Hand Egypt Suspect Tied to Bin Laden," *Boston Globe*, November 20, 2001. Andrew Higgins and Christopher Cooper, "Cloak and Dagger: A CIA-Backed Team Used Brutal Means to Crack Terror Cell," *Wall Street Journal*, November 20, 2001. Human Rights Watch interview with Yasser al-Sirri, London, July 2003.

⁶⁶ Human Rights Watch interview with Muntassir al-Zayyat, Cairo, November 2004.

⁶⁷ Ibid.

Because Qassim had already been tried and convicted *in absentia* by a military tribunal in 1992, he was not retried after his return to Egypt. Instead, the death sentence that he received after that trial was apparently carried out. He is believed to have been executed by the Egyptian government.⁶⁸

After word of his death in custody leaked out, the Egyptian Organization for Human Rights asked the Egyptian government to at least confirm his death. According to Hafez Abu Saeda, the secretary-general of EOHR:

We asked the government to tell us what happened, to answer whether or not he had been tortured to death. We had received information that he had died in custody. They never responded.⁶⁹

Breaking the Tirana Cell

In 1998 the U.S. government moved against a group of alleged militants living in Tirana, Albania. The Albanian secret police, in cooperation with the CIA, monitored the group for several years and observed members carrying out various low-level criminal activities, such as counterfeiting and the production of fake passports and visas.⁷⁰ They also took careful note as the men engaged in activities that seemed to be in preparation for possible armed attacks, such as the casing of the U.S. embassy in Tirana. The local cell kept up regular contact with other exile militants in Yemen and elsewhere, and allegedly sent funds collected from the earnings of the Tirana group abroad.⁷¹

In July 1998, Albanian and U.S. agents made their move. In all, five alleged militants were captured, and one was killed in a shoot-out with Albanian security. The four captured militants, Ahmad Ibrahim al-Sayyid al-Naggar, Shawqi Salama Mustafa, Muhammad Hassan Mahmud Tita, and Ahmad Isma'il 'Uthman, were questioned by U.S. agents and then handed over to Egypt's SSI.⁷² In the same month, the CIA reportedly also rendered a fifth suspect, 'Issam 'Abd al-Tawab 'Abd al-Alim, from the Bulgarian capital Sofia to Cairo.⁷³ Two of the rendered suspects, 'Uthman and al-

⁶⁸ Muntassir al-Zayyat told Human Rights Watch that a source in the Military Prosecutor's office had confirmed this, but no government official has done so publicly. Human Rights Watch interview, Cairo, Egypt, November 2004.

⁶⁹ Human Rights Watch interview with Hafez Abu Saeda, Cairo, November 2004.

⁷⁰ Andrew Higgins and Christopher Cooper, "Cloak and Dagger: A CIA-Backed Team Used Brutal Means to Crack Terror Cell," *Wall Street Journal*, November 20, 2001.

⁷¹ *Ibid.*

⁷² EOHR, "The Returnees from Albania," April 1999.

⁷³ *Ibid.*

Naggar, had previously been sentenced to death *in absentia* by Egyptian military tribunals in March 1994 and October 1997 respectively.

Once the five men were returned to Egypt, they were all kept incommunicado, away from other Islamists then being tried. "These guys [the returnees from Albania] were kept in villas, the 'ghost' villas, we called them," said Zayyat.⁷⁴ All were held for an extended period in incommunicado detention before the trial, without access to their attorneys or to family members. "We saw them at trial," said EOHR's Hafez Abu Saeda, who defended some of the returnees. "We were not allowed to see them before that."⁷⁵

The trial, featuring 107 defendants, sixty of whom were tried *in absentia*, began on February 2, 1999. In court, the five returnees showed no visible signs of torture or ill-treatment. Despite the lack of physical marks on the men once they arrived in court, their defense lawyers insisted that they had been abused. "They told us in court that they had been tortured and that their statements were coerced. But the court did nothing about this," Abu Saeda said.⁷⁶ Muntassir al-Zayyat, who also worked on the case, said that his client, Ahmad Ibrahim al-Sayyid al-Naggar, "told me that he was tortured inside one of these villas."⁷⁷

Some of the returnees owed their very appearance in court to the discovery that they were being held in villas outside Cairo. According to al-Zayyat:

Al-Naggar was in that villa for nine months, [even] while the case was going on. Then the news leaked that he was here, and some of the other defendants bumped into him at the State Security Bureau.⁷⁸

All five of the Albania returnees were tortured, according to the Egyptian Organization for Human Rights. Al-Naggar was blindfolded for much of his detention period. At one point during his detention, SSI officials locked him in a room with dirty water up to his knees for twenty-four hours. During his stay in SSI headquarters in Lazughli Square, al-Naggar was tortured during interrogation. His hands were tied behind his back and his feet were shackled as security agents applied electric shocks to different parts of his

⁷⁴ Human Rights Watch interview with Muntassir al-Zayyat, Cairo, November 2004.

⁷⁵ Human Rights Watch interview with Hafez Abu Saeda, EOHR, November 2004.

⁷⁶ *Ibid.*

⁷⁷ Human Rights Watch interview with Muntassir al-Zayyat, Cairo, November 2004.

⁷⁸ *Ibid.*

body. Al-Naggar told his lawyers that his confessions were torture-induced.⁷⁹ The court did not order an investigation into the allegations of torture, and sentenced al-Naggar to twenty-five years in prison.

Ahmad Isma'il 'Uthman was returned from Albania a month later than the others, on August 13, 1998. According to the EOHR, during two months in incommunicado detention, he was both beaten and subjected to electroshock during interrogation by SSI agents.⁸⁰

'Uthman and al-Naggar were executed on the morning of February 23, 2000, on the basis of their earlier convictions and death sentences by military tribunals in 1994 and 1997.⁸¹

The London-based Islamic Observation Center, an organization that tracks the treatment of suspected Islamist militants, reported that Shawqi Salama Mustafa was held for several weeks in a room filled with water up to his knees, and he was also subjected to electroshock during interrogation. His interrogators tied his legs together and suspended him from the ceiling several times, and also dragged him from room to room with his face to the floor. The security forces also threatened to rape him during interrogation. Mustafa received a twenty-five year sentence.⁸²

'Issam 'Abd al-Tawab 'Abd al-Alim was held incommunicado from July 13 to September 12, 1998. During his sixty-day detention, 'Abd al-Alim was allegedly beaten by his interrogators during questioning. He received a fifteen-year sentence.⁸³

Muhammad Hassan Mahmud Tita spent just under two months in incommunicado detention, and finally appeared before the Prosecutor General in mid-September. He told both the prosecutor and his lawyer that he was subjected to electroshock on several parts of his body while being hung from the ceiling. Tita was sentenced to ten years in prison.⁸⁴

⁷⁹ EOHR, "The Returnees from Albania," April 1999, p. 13-14.

⁸⁰ *Ibid.*, p. 18.

⁸¹ Statement by the London-based Islamic Observation Center, February 24, 2000.

⁸² *Ibid.*, p. 14.

⁸³ *Ibid.*, p. 15.

⁸⁴ *Ibid.*, p. 16.

In all, 80 of the 107 were convicted, and nine were sentenced to death *in absentia*. Among those handed death sentences *in absentia* were Ayman al-Zawahiri, his brother Muhammad, and `Abd al-`Aziz Musa Dawud al-Gamal, who was among those transferred from Yemen in 2004 as part of the Egyptian-Yemeni swap for former Yemeni Brigadier General Ahmad Salim `Ubaid.

VI. Muhammad al-Zawahiri and Hussain al-Zawahiri

At the time he was rendered from UAE to Cairo in March or April 1999, Muhammad al-Zawahiri had not set foot on Egyptian soil for a quarter-century. After graduating from the faculty of engineering at Cairo University, Muhammad, the brother of senior al-Qaeda leader Ayman al-Zawahiri, left Egypt to work for various construction firms in Saudi Arabia. In 1981, his name was on the list of defendants in the mass trial of alleged conspirators in the assassination of President Sadat. He was acquitted of all charges *in absentia* by an Emergency State Security court.⁸⁵

Despite his acquittal, Muhammad was still wary of returning to Egypt, fearing that he would be picked up and retried upon return. "He was afraid to return to Egypt after that," his uncle said. "He was worried that they would accuse him again."⁸⁶

In the mid-1980s, Muhammad joined the Saudi government-run World Islamic Relief Organization as an architect, helping to build schools and hospitals in different parts of the Muslim World. He traveled to Indonesia, Bosnia, Malawi, and other countries for the charity.

But Muhammad later began to feel insecure in Saudi Arabia. After an Egyptian imam of a mosque in Jeddah was arrested by Saudi authorities and returned to Cairo in the early 1990s, Muhammad began to prepare for his own departure. He took his family first to Yemen, and then to Sudan, where he was reunited with Ayman. Both Muhammad and Ayman were forced to leave Sudan in 1995; Ayman returned to Afghanistan, and Muhammad went back to Yemen with his wife and six children.

⁸⁵ Ayman al-Zawahiri identified his brother Muhammad as a member of the same militant cell, according to the transcript of his 1981 Higher State Security Court confession, as reproduced by the Islamist lawyer Muntassir al-Zayyat in his *The Road to Al-Qaeda: The Story of Bin Laden's Right-Hand Man* (London: Pluto Press, 2004), pp. 36-45.

⁸⁶ Human Rights Watch interview with Mahfuz `Azzam, Cairo, Egypt, December 2004.

His work in Yemen with engineering contractors took him to the UAE on a regular basis. He was picked up there in March or April 1999, and returned to Cairo. Little is known about the circumstances of his arrest in UAE, but it roughly coincided with the death sentence handed down by an Egyptian military court in April of 1999 in the mass trial that included the so-called "returnees from Albania."

According to the uncle of Muhammad and Ayman, Mahfuz `Azzam, Muhammad's family in Yemen waited to hear from Muhammad for six months before finally contacting the Egyptian embassy in Sanaa in October 1999. Without any means of support in Yemen, Muhammad's wife `Aliyya asked the Egyptian embassy for permission to return to Cairo. The embassy immediately granted her request. According to Mahfuz `Azzam,

They played nice, said of course you can return. They got them flight tickets and they picked her up from her home, and they even took her to the airport in an embassy car. Then they escorted them to the plane. But as soon as she arrived in Cairo, she was detained. She was held for three days. They interrogated her, but she wasn't abused.⁸⁷

Shortly after `Aliyya's release, Muhammad's youngest brother, Hussain al-Zawahiri, was arrested in Malaysia and sent to Egypt in an operation apparently coordinated between Malaysian security, Egyptian intelligence, and the CIA. Hussain was working as an engineer for Multidiscoversy, a Malaysian company, building power plants. He had been arrested few times in Egypt on suspicion of affiliation with al-Jihad al-Islami, but was never indicted and was not wanted in Egypt or elsewhere at the time of his arrest.⁸⁸

Hussain was nabbed by Malaysian security while driving to work. He was detained for thirty-six hours, blindfolded and handcuffed, and was flown on a private flight to Cairo. He says he was allowed water only once during the trip.

Egyptian intelligence held him briefly upon arrival in Cairo, and then handed him over to the SSI. The Egyptian government did not acknowledge the rendition, and refused to disclose any information about Hussain's whereabouts to his family in Cairo.⁸⁹

⁸⁷ Ibid.

⁸⁸ Ibid; Lawrence Wright, "The Man Behind Bin Laden," *The New Yorker*, November 2002.

⁸⁹ Human Rights Watch interview with Mahfuz `Azzam, Cairo, December 2004

Some six months later, Hussain was summoned to a SSI commander's office in the middle of the night, and told he could go free. Though Hussain was anxious to return to his family, he was physically unprepared to leave. "He said he couldn't just go out like that. He had no passport, no ID. He hadn't shaved for six months, and was wearing an old torn *galabiyya* a detainee had given him," Mahfuz `Azzam, his uncle, said. After some discussion, Hussain was allowed to call his sister from the SSI office. His brother-in-law came later to pick him up, and drove him home.⁹⁰

Hussain is under orders from Egyptian security not to speak about his ordeal, his family told Human Rights Watch, and he has yet to speak publicly about his time in prison. His uncle would only say that Hussain was interrogated and tortured after being returned to Egypt, and that it was "worse in State Security than in the *mukhabarat* [intelligence]," without further elaboration.⁹¹

Even after Hussain's release, there was still no new news about Muhammad. His family learned of Muhammad's return to Cairo later that year in 1999, but the government refused to say anything about his case. According to one of the lawyers hired by the family to look into the case, Mamduh Isma`il:

We tried to go through unofficial channels to get information through the military-judicial committee. Security agencies have to notify the court if the person in question has been arrested after the judgment is rendered. So we tried to get information through the committee, but we couldn't get anything.⁹²

Following the US-led invasion of Afghanistan in October 2001, rumors circulated in Islamist circles that Muhammad had been executed, and that the Americans asked the Egyptian government for a sample of his DNA from the dead body to match it with that of a skull found in Tora Bora, which they suspected was Ayman al-Zawahiri.⁹³ The Egyptian government kept silent, neither confirming nor denying any of the rumors about Muhammad's fate. After so many years in detention, Muhammad's family eventually gave up hope that he was still alive, his uncle said.

⁹⁰ *Ibid.*

⁹¹ *Ibid.*

⁹² *Ibid.*

⁹³ Lawrence Wright, "The Man Behind Bin Laden," *The New Yorker*, September 16, 2002.

For these five years, none of his family knew anything about him. Everyone believed that he was dead. For five years, his family didn't even know, is he alive or is he dead? Is he dead or alive? We didn't even know who to ask.⁹⁴

Muhammad's mother, Umayma `Azzam, separated from her two sons for several years, could not give up hope that Muhammad was still alive. But her brother counseled her to put the matter to rest:

No one knew anything about him. I even used to tell his mother, don't ask about him. The lawyers have told me that he is dead. And she used to cry and tell me that maybe we should just ask. And I told her no, don't waste your time. We shouldn't ask.⁹⁵

The first news that Muhammad might be alive came on February 28, 2004, five years after his forced transfer to Egypt, when the London-based daily *al-Sharq al-Awsat* broke the story that he was still alive and being held in the Tora prison complex. The report was accompanied by a recent photograph of Muhammad.⁹⁶

The Egyptian Minister of Interior, Habib al-`Adli, confirmed the news in a press conference on March 4, 2004. Minister al-`Adli also announced at the conference that Muhammad would be retried in front of a military tribunal.⁹⁷

After the government acknowledged that Muhammad al-Zawahiri was in custody, it allowed members of his family to visit him in detention. The first visit took place on March 18, after repeated requests by Muhammad's family.

During these visits his family learned that Muhammad had been tortured. Mahfuz `Azzam told Human Rights Watch that Muhammad's sister, Heba, a doctor by training, noticed that Muhammad had trouble shaking hands. Heba also saw scars on his wrists, and noted that his feet were swollen. She concluded that the marks were a result of being hung from the ceiling by his wrists.

⁹⁴ Human Rights Watch interview with Mahfuz `Azzam, Cairo, December 2004.

⁹⁵ Ibid.

⁹⁶ *Al-Sharq al-Awsat*, February 28, 2004.

⁹⁷ *Al-Sharq al-Awsat*, March 5, 2004.

Although Muhammad could not speak freely in front of the prison guards who monitored all of his visits with his family, he asked his mother to make a formal request to the Prosecutor General for a forensics exam. He wanted one to be done as soon as possible, before the marks on his body disappeared. His mother presented the formal request to the government on August 4, 2004; the family has yet to receive any response from the government. There was also no response from the government to Muhammad's separate request to be examined by a forensics expert.

In April 2004, Mahfuz `Azzam managed to win his first and only visit with his nephew. The visit lasted only a few minutes, and the entire conversation took place in the presence of the SSI liaison officer in Tora prison. In those few minutes, Muhammad briefly conveyed to his uncle glimpses of the torture and ill-treatment that he had endured:

He stayed for four years and half in an underground detention facility run by the *mukhabarat*, where he did not see sunlight, and could not distinguish between day and night. The interrogation and torture went hand in hand. He lost hope in seeing the sun again.⁹⁸

After four-and-half years, Egyptian intelligence handed Muhammad over to the SSI, which detained him for six months, either in their main headquarters in Lazughli Square in downtown Cairo, or in their new citadel-like premise in Nasr City, an eastern suburb of the capital.

Despite allowing his family some access to him, the government otherwise gave little ground on Muhammad's due process rights. Notwithstanding repeated requests from Muhammad himself, the government refused to allow him access to an attorney. It also refused to clarify his legal situation, which, given that he had been sentenced to death in 1999, was a matter of some concern. According to his lawyer, Mamduh Isma`il:

Even after the Ministry of Interior announced that they have Muhammad al-Zawahiri in custody, I went to the military judiciary committee to get information on his whereabouts. But they told me that they haven't yet been officially notified that he is in custody. This is still the case today.⁹⁹

⁹⁸ Human Rights Watch interview with Mahfuz `Azzam, Cairo, December 2004.

⁹⁹ Human Rights Watch interview with Mamduh Isma`il, Cairo, December 2004.

Muhammad's legal defense remains paralyzed by the government's refusal to set the wheels of the legal process in motion:

The security services should notify the court that they have him, and then I have sixty days to file a petition on his behalf. But I can't do that because the state security hasn't notified the court, and so they haven't contacted me, even though the newspapers are flooded with stories about him.

This is a big problem. He is in a serious legal situation. He has been sentenced to death by a military tribunal, but they have put all of the legal procedures aside.¹⁰⁰

For Muhammad, the legal limbo has created a sense of uncertainty. "He wanted to know his legal status: is he going to be retried or not? Is he going to be executed?" asked Mamduh Isma'il. "But I couldn't tell him anything. We are just waiting for the state to act first, so that we can respond. But up to now, it's been a dead end."

His uncle shared the same concerns about his nephew's unclear status. In his view, no branch of the Egyptian government will do anything on the case, despite their legal obligation to do so:

If you go to the military tribunal which sentenced Muhammad and you present a complaint, and say that this sentence was based on an unconstitutional article, and should be overturned, then the military tribunal would just reject us. If you go to the Prosecutor General, you'll get the same result... If you go to the Prosecutor General and ask for a visit, he will basically say I don't know anything about this. So where should I go?¹⁰¹

As a result, Muhammad al-Zawahiri does not know if he will ever be allowed out of prison, or even whether or not the government will carry out the 1999 death sentence, still hanging over him. According to his uncle:

¹⁰⁰ Human Rights Watch interview with Mamduh Isma'il, Cairo, December 2004.

¹⁰¹ Human Rights Watch interview with Mahfuz 'Azzam, Cairo, December 2004.

His legal position is hanging in the balance. Is he going to be tried? Is he going to be executed? Is he going to be set free? This is the question that we want answered. This is the question that he himself wants answered.¹⁰²

VII. From Stockholm to Cairo: Ahmad `Agiza and Muhammad Al-Zari`

The December 2001 transfers of Ahmad `Agiza and Muhammad al-Zari` from Sweden to Egypt remain one of the most controversial cases of rendition involving the use of diplomatic assurances by a European government.¹⁰³

On December 18, 2001, Ahmad Hussain Mustafa `Agiza was walking back from his language class in downtown Stockholm when he was grabbed by Swedish security agents and forced into a waiting car. Muhammad Ibrahim Sulaiman al-Zari`, another Egyptian living in Sweden, was also apprehended in Stockholm about the same time. Within hours the two were put on a U.S. government-leased plane and returned to Egypt.¹⁰⁴ `Agiza and al-Zari` had both sought asylum in Sweden, and were awaiting decisions on their claims. The government rejected their applications despite an earlier recognition by the Swedish Migration Board that the men had a well-grounded fear of persecution if returned to Egypt, and the Board's judgment that they should be granted asylum.¹⁰⁵

`Agiza and al-Zari` were excluded from refugee status based on evidence provided by the Swedish secret police that the men were associated with Islamist groups responsible for terrorist acts. In 1999 an Egyptian military tribunal had convicted `Agiza in absentia on charges of membership in an organization whose aim was to overthrow the government, and sentenced him to twenty-five years in prison.¹⁰⁶ This secret evidence provided to the Swedish authorities was not disclosed in full to either the men or their

¹⁰² Ibid.

¹⁰³ For previous Human Rights Watch coverage of this case, see Human Rights Watch, "Empty Promises: Diplomatic Assurances No Safeguard Against Torture," April 2004, vol 16, no. 4, p. 32-36 [online at <http://hrw.org/reports/2004/un0404/>]. For additional details on the Swedish government's wrongful use of diplomatic assurances, see Human Rights Watch, *Still at Risk: Diplomatic Assurances No Safeguard against Torture* (April 2005), available at <http://hrw.org/reports/2005/eca0405>.

¹⁰⁴ Human Rights Watch, "Empty Promises: Diplomatic Assurances No Safeguard Against Torture," April 2004, vol 16, no. 4, p. 32-36 [online at <http://hrw.org/reports/2004/un0404/>].

¹⁰⁵ "Script: 'The broken promise,'" TV4 [Sweden], *Kalla Fakta* [Cold Facts], May 17, 2004.

¹⁰⁶ Human Rights Watch "Letter to Swedish Government on Behalf of Hannan Attia" December 17, 2003 [online] <http://www.hrw.org/english/docs/2003/12/18/sweden6761.htm> (retrieved March 4, 2005).

lawyers, and there was no right to appeal the expulsions, which were swiftly executed the same day that they were ordered.¹⁰⁷

The December 18 transfer of the two men followed written assurances from Egyptian authorities that they would not be subject to the death penalty, torture or ill-treatment, and would receive fair trials. Egypt also agreed to post-return monitoring involving Swedish embassy visits to the men in prison.

In Egypt, however, `Agiza and al-Zari` were held in incommunicado detention for five weeks before their families were allowed to visit them. Despite the agreement between the Swedish and Egyptian governments that Swedish diplomats would have regular access to the two men, they didn't meet with Swedish representatives until late January 2002.

There is considerable evidence that Egyptian security agents tortured the men during detention. A confidential Swedish government memorandum detailing the men's first visit by embassy officials includes allegations from the men that they were repeatedly beaten by prison guards, denied necessary medication, blindfolded during interrogations, and were threatened with reprisals against family members if they did not cooperate with the interrogations and provide the information.¹⁰⁸ These details of the confidential memorandum were omitted from the version of the monitoring report that the government made available to the public. Both `Agiza and al-Zari` maintain that after the first visit by the diplomats, the torture and threats increased—in a December 2004 radio interview, Carl Henrik Ehrenkrona, chief legal adviser to the Swedish Ministry of Foreign Affairs, argued that one reason for not communicating the men's torture allegations to various United Nations human rights bodies was to protect them from possible reprisal from the Egyptian police!¹⁰⁹

The men also made serious allegations of torture to family members and their Egyptian and Swedish lawyers. According to `Agiza's mother, he told her that he was subject to repeated beatings and electric shocks, after which a cream was applied (to minimize evidence of burn), and that he was at one point left chained and blindfolded for 10 days,

¹⁰⁷ Human Rights Watch, "Empty Promises': Diplomatic Assurances No Safeguard Against Torture," April 2004, vol. 16, no. 4, p. 32.

¹⁰⁸ Memoranda on file with Human Rights Watch.

¹⁰⁹ Sveriges (Swedish) Radio, *Ekot Programme*, December 10, 2004, transcript on file with Human Rights Watch. The exchange is translated in Human Rights Watch, *Still at Risk: Diplomatic Assurances No Protection against Torture* (April 2005), p. 64.

during which he urinated and defecated on himself. He also alleged that he was made to lick food off of the prison floor.¹¹⁰

Similar allegations made by `Agiza's parents about their son's treatment are detailed in submissions to the United Nations Committee against Torture, in an application filed by `Agiza's wife. The committee's summary of the parents' testimony following their January 23, 2002 visit with `Agiza states:

[`Agiza] seemed pale, weak, seemingly in shock and near breakdown. His eyes, cheeks, and feet were allegedly swollen, with his nose larger than usual and bloodied. He told [sic] that he had been tied and hung upside down while transported to the prison, and then being constantly blindfolded and subjected to advanced methods of interrogation, including electric shocks. He said he was told the guarantees provided to the Swedish government were worthless.¹¹¹

The committee's summary of the parents' subsequent visit of April 16, 2002 states:

He allegedly whispered to his mother that he had been further tortured by electric shocks after the January visit, and held in solitary confinement for about ten days. His arms and legs were tied behind his back and he could not relieve himself. He said he had told the Swedish Ambassador about the torture, and that prison officers had urged him to decline further visits from the Ambassador. He stated that officers had told him his wife would be returned soon, and they threatened to assault her and his mother sexually. He said he remained in solitary confinement, in a cell measuring two square meters, without windows, heat or light and that, while not tied, he could only visit the toilet once every 24 hours, which caused him kidney problems.¹¹²

Al-Zari` was released in October 2003 but restricted to a form of house arrest, after being held for almost two years without charge or trial. He is presently not allowed to

¹¹⁰ The Human Rights Center for the Assistance of Prisoners, "Governmental Deportation: Egyptian Nationals as Islamic Activists" April 1, 2003.

¹¹¹ *Attia v. Sweden*, CAT/C/31/D/199/2002, November 24, 2003 at ¶ 7.1 [available at www.unhchr.ch].

¹¹² *Attia v. Sweden* at ¶ 7.2

speak to journalists or human rights groups without receiving clearance from state security.¹¹³

Ahmad `Agiza's trial

`Agiza was given a new trial in April 2004—the first time the Egyptian government retried a person convicted by a military tribunal in absentia. His retrial was also held before a military tribunal rather than a civilian court. Human Rights Watch monitored all four hearings of `Agiza's retrial.

Contrary to the assurances made by the Egyptian authorities to the Swedish government, however, the fifteen-day trial was patently unfair. The court repeatedly refused the defense access to key prosecution documents and administratively delayed the defense's access to others, forcing the defense to waste crucial time shuttling back and forth between the court and various government offices. `Agiza was not permitted sufficient time to consult with his lawyers—he was granted consultations of only ten to fifteen minutes immediately before the commencement of the hearings. The court repeatedly refused defense requests to call witnesses.¹¹⁴

`Agiza testified in court that he had been tortured by Egyptian security officials immediately after his return to Cairo. He said that after he filed a formal complaint about the torture he suffered in prison, he was transferred to another prison, where he was put in "punitive isolation" for forty-six days. At the April 20, 2004 hearing, `Agiza told his defense lawyers that an officer of the Egyptian security forces warned him after the previous week's hearing not to mention his torture or ill-treatment again in court.¹¹⁵

Although the government allowed this testimony, it did not allow `Agiza to be examined by an independent forensics expert, who would have been able to corroborate `Agiza's allegations of torture. Instead, the judge sent `Agiza to a prison doctor. The prison doctor confirmed that `Agiza had sustained physical injuries while in prison, but the judge again refused to allow an independent forensic exam.¹¹⁶

¹¹³ Human Rights Watch, "Empty Promises: Diplomatic Assurances No Safeguard Against Torture, April 2004, vol. 16, no. 4, p. 35-6.

¹¹⁴ Human Rights Watch press release, "Sweden Implicated in Egypt's Abuse of Suspected Militant: Egypt Violated Diplomatic Promises of Fair Trial and No Torture for Terrorism Suspect," May 5, 2004 [online] <http://www.hrw.org/english/docs/2004/05/05/egypt8530.htm> (retrieved March 7, 2005)

¹¹⁵ Human Rights Watch, "Sweden Implicated in Egypt's Abuse of Suspected Militant: Egypt Violated Diplomatic Promises of Fair Trial and No Torture for Terrorism Suspect," May 5, 2004 [online] <http://www.hrw.org/english/docs/2004/05/05/egypt8530.htm> (retrieved March 7, 2005)

¹¹⁶ *Ibid.*

`Agiza admitted that he had been a member of al-Jihad al-Islami, but insisted that he did not support the use of violent means to achieve the goal of an Islamic state, and that his views had appeared in the London-based pan-Arab press at the time. `Agiza claimed that he left the group over the question of violence, and that other members of the group left with him. According to a leading Islamist defense lawyer, Muntassir al-Zayyat,

`Agiza split from Islamic Jihad and took some members with him.
`Agiza disagreed with Ayman al-Zawahiri over the use of violence. And he disagreed with Zawahiri about the importance of importing militants into Egypt to fight jihad.¹¹⁷

In order to establish that he had indeed left the organization, and that his views were in fact non-violent, `Agiza's defense team wanted to call to the stand journalists who had interviewed him over the years. The court refused every defense request to allow witnesses to give testimony that contested the government's charges.¹¹⁸

On the morning of April 27, 2004, the court announced its verdict: `Agiza was again sentenced to twenty-five years in prison for membership in an organization whose aim is to overthrow the Egyptian government by violent means. `Agiza did not have the right to challenge the decision—only President Hosni Mubarak can overturn the military court verdict. `Agiza's sentence was subsequently reduced to fifteen years.

VIII. Cairo to Kabul to Guantanamo: the `Abd al-Salam al-Hila case

`Abd al-Salam `Ali al-Hila, a Yemeni businessman, arrived in Cairo on an EgyptAir flight, Friday, September 19, 2002, checking in the Semiramis Intercontinental, a five-star hotel overlooking the capital's Tahrir Square.¹¹⁹ He came to Cairo to meet with his Egyptian business associates. Al-Hila disappeared within a week of his arrival in Egypt. According to his brother, `Abd al-Wahab al-Hila, he is believed to have been taken first to Baku, Azerbaijan, and he was then transferred to U.S. custody in Afghanistan. After

¹¹⁷ Human Rights Watch interview with Muntassir al-Zayyat, Cairo, November 2004.

¹¹⁸ Human Rights Watch, "Sweden Implicated in Egypt's Abuse of Suspected Militant: Egypt Violated Diplomatic Promises of Fair Trial and No Torture for Terrorism Suspect," May 5, 2004 [online] <http://www.hrw.org/english/docs/2004/05/05/egypt8530.htm> (retrieved March 7, 2005)

¹¹⁹ Human Rights Watch interview with `Abd al-Wahab al-Hila, December 2004. An earlier version of this presentation of `Abd al-Salam al-Hila's case was released as a separate briefing paper in March 2005 [<http://hrw.org/english/docs/2005/03/28/usint10379.htm>].

being held for some sixteen months in Afghanistan, he was sent to Guantanamo Bay, where he is still being held. No charges have been filed against him.

When al-Hila arrived in Cairo, according to his brother, he had a busy schedule of meetings. He managed a pharmaceutical firm in Yemen, and also served as a representative of Arab Contractors Co., Egypt's biggest construction company, in Sanaa.

Commerce wasn't al-Hila's only vocation. The father of three was also a Yemeni intelligence colonel, who was in charge of the "Arab Afghan file." The Yemeni government had welcomed hundreds and possibly a thousand or more "Arab Afghans" (Arabs who had gone to Afghanistan to join the fight against Soviet-backed government in the 1980s) volunteering to fight the Marxist secessionist rebels in the South during the country's 1994 civil war. In addition to these foreign "Arab Afghans," an estimated 30,000 Yemenis also went to Afghanistan; many of them also assisted the Yemeni government upon their return.

After the civil war ended, some volunteers settled down, intermarried with Yemenis, and, by and large, refrained from politics. Others continued to be active in militant politics, seeking a safe haven in Yemen's hard-to-control border areas with Saudi Arabia. Many others left the country for other destinations.

Al-Hila was the intelligence officer in charge of transferring scores of Arab Islamists from Yemen to other countries, including Western Europe, to seek asylum. His position meant that he had a close relationship with Yemeni President `Ali `Abdullah Saleh, as well as with a broad array with Arab and Western intelligence services, and members of the militant groups themselves.¹²⁰

Those familiar with the Islamist scene in Yemen say his knowledge of the Islamists' exodus out of his country made him a valuable source of information for the CIA. Islamists deny his involvement with al-Qaeda, or any armed group, but say he helped thousands to leave the country. According to press reports, an Egyptian militant in Yemen told Egyptian intelligence agents that al-Hila had ties to al-Qaeda operatives. Other reports said that Egyptian intelligence had recorded conversations al-Hila had

¹²⁰ Human Rights Watch interview with Yasser al-Sirri, London, July 2003; Muhammad al-Shafi'i, "Zawahiri's Secret Papers, Part Seven," *Al-Sharq al-Awsat*, December 19, 2002; `Abd al-Salam `Abd al-Salam Tahir, "Aborted Kidnapping Attempt of an Egyptian Embassy Employee Follows a Chase in Sanaa Streets," *Al-Sharq al-Awsat*, September 17, 2003.

with Islamist associates in 2000 and 2001 that may have referred to planned attacks.¹²¹ This information may have then been passed on to U.S. intelligence, and prompted his apprehension on arrival in Egypt.¹²²

Al-Hila's trip to Cairo, however, was supposed to be strictly business. He was invited by the Arab Contractors' head office in Cairo to settle some financial disagreements over his construction business commission, according to his 30-year-old brother `Abd al-Wahab.¹²³ Al-Hila was in a regular daily contact with his family, using both his Yemeni and Cairo cellular phones. On September 24, his family became worried after he did not answer their calls for the whole day.¹²⁴

"`Abd al-Salam phoned us on the following day to say he had been invited to a meeting with 'some people,'" his brother recalled. Al-Hila told his brother nervously that, "the atmosphere is cloudy and dark over here," but did not elaborate further. This was to be his last phone conversation from Cairo with his family. Members of his family kept on calling him on the days following, but he didn't answer. His two mobile phones were switched off three days later.¹²⁵

The family subsequently contacted the Egyptian embassy in Sana'a to try to get some information on his whereabouts. They also made requests to the Yemeni president and the foreign ministry to lobby the Egyptian government on their behalf, assuming he was detained in Cairo.

`Abd al-Wahab insisted that his brother was not involved in any armed activities against the Egyptian government. He is not sure why his brother was kidnapped, but says "they talked in the press about his role with the Arab Afghans during [Yemen's civil] war."

Yemeni officials called upon their Egyptian counterparts to disclose the whereabouts of al-Hila. The Yemeni ministerial cabinet issued a statement on October 31, 2002,

¹²¹ Megan P. Stack, "A Yemeni reportedly jailed by Egypt in 2002 apparently has been in covert American military custody since, without legal recourse," *Los Angeles Times* (March 30, 2005).

¹²² Human Rights Watch interview with Yasser al-Sirri, London, June 2004; Human Rights Watch phone interview with Yasser al-Sirri, December 2004; Muhammad al-Shafi'i, "Ayman al-Zawahiri's Secret Papers, Part 7," *Al-Sharq al-Awsat*, December 19, 2002; Interview with Nabil al-Hila, Middle East Transparent, July 22, 2004.

¹²³ Human Rights Watch interview with `Abd al-Wahab al-Hila, December 2004.

¹²⁴ *Ibid.*

¹²⁵ Human Rights Watch interview with `Abd al-Wahab al-Hila, December 2004.

implying he was still detained in Egypt.¹²⁶ The statement called upon Egyptian officials to disclose al-Hila's whereabouts in spirit of the "brotherly" ties between the two countries.

The first Egyptian official response to the allegations came on November 3, 2002, in a report by the state-run Middle East News Agency, which quoted an "Egyptian official source" as stating that al-Hila left Cairo on an American flight to Baku on September 28, 2002. The source also denied any involvement by the Egyptian authorities in his "disappearance."¹²⁷

The family received no specific information from the Egyptian or Yemeni governments on `Abd al-Salam's allegedly voluntary flight to Baku. They were told by the Yemeni foreign minister in November 2002 that Egyptian officials showed him the "departure card" each passenger fills out when flying out of Cairo Airport. `Abd al-Wahab, his brother, asked the ministry for a copy of the departure card, but when Human Rights Watch interviewed him in December 2004 he had yet to receive one. Ahmad Sinidar, a Yemeni interior ministry official, told a reporter that "the Egyptians are the ones who know how he disappeared, and how he ended up abroad."¹²⁸

Al-Hila's fate was unknown for more than a year and a half. During that time, his family had no information on him whatsoever: his whereabouts, which government was holding him and why, and his conditions of detention were all unknown. Finally, on April 14, 2004, Yemeni foreign minister Abu Bakr al-Qurbi announced that the Yemeni embassy in Islamabad, Pakistan, had received a letter from al-Hila smuggled out of Bagram Airbase in Kabul, Afghanistan. His brief letter, dated January 12, 2004, stated that he had been detained by the CIA in Afghanistan for 16 months, after being kidnapped in Cairo by Egyptian intelligence.¹²⁹

The full letter was published by the Yemeni state-owned daily *26 September*, on April 25, 2004:

His Excellency, the Ambassador of the Yemeni Republic,

¹²⁶ Khalid Mahmud, "The Disappeared Yemeni Left Cairo to Azerbaijan on an American Flight, Egyptian Official Confirms," *Al-Sharq al-Awsat*, November 4, 2002.

¹²⁷ *Ibid.*

¹²⁸ Megan P. Stack, "A Yemeni reportedly jailed by Egypt in 2002 apparently has been in covert American military custody since, without legal recourse," *Los Angeles Times* (March 30, 2005).

¹²⁹ HOOD public statement, "Al-Hila is in Kabul," April 27, 2004. HOOD is a Yemen-based independent Islamist human rights organization.

My brother, Mr. Ambassador, I—`Abd al-Salam `Ali al-Hila—am writing to you from my solitary confinement cell in Afghanistan. I was imprisoned by the Afghans, but I am in the CIA custody, together with a Yemeni brother in another cell. He is a merchant, who was arrested in Thailand and brought to Afghanistan. There are also seven other Arabs [detained here].

My brother, Mr. Ambassador, I am writing this letter from a dark prison. I don't know why I am in jail. I am a businessman with a good reputation, who did a lot for this country. ... My brother, Mr. Ambassador, I am writing to you asking for help from God and the president of the [Yemeni] republic... I have been put in jail in Afghanistan by the Americans, after I was arrested in the Arab Republic of Egypt during a brief business trip. The CIA conspired with the Egyptian *mukhabarat*, making false allegations and threats against me, so as to justify their crime of kidnapping me from Egypt and locking me up in this Afghani prison. I did not know I was in Afghanistan except after four months of incarceration. My brother, Mr. President, I am in prison though I am not guilty. You, concerned state officials, and the Americans know well I am not involved in any events related to the Americans or non-Americans; nor do I have any relations with [terrorist] organizations. My only crime is that the Americans wanted information from me, but couldn't find any, so I was left in Afghani prisons. My last interrogation was a year ago. The Americans cannot imprison me in America because they know I am not a criminal, and imprisoning me will be against their country's laws, and all other godly as well as ungodly laws. However, they [Americans] are violating these [laws] outside their country, and still claim they protect human rights.

My brother, Mr. President, I don't know what the Americans and the Egyptians told you about me, [but] I urge you to request my immediate release and my safe transfer home. If they accuse me of anything, then the minimum rights of any accused [include] standing trial in court. Thus, I ask you to lobby the Americans and the Egyptians, who handed me over [to the Americans], to bring me home. And if they accuse me of anything, then they could confront me with it in my country, in a public, fair, civilian court.

My father, the President, I am writing this letter to you, and wait, together with another Yemeni merchant by the name Amin al-Yafi'i ...

We hope we will not be unjustly forgotten in prisons! Only God knows how [bad] my situation is! Please take care of my mother, children, brothers, and my trade.

This letter was written on 12 Dhu'l-Qa'dah 1424 Hijri—12/1/2004 AD... I hope from my brother, Mr. Ambassador, to devote attention to the matter and convey my message to the president of the Republic.

In July 2004, al-Hila's family received a letter from Kabul via the Red Cross dated May 26, 2004. This was the first communication that they had received from him since he had been detained a year-and-a-half earlier. Two months later, they received another letter, dated July 19—this time from Guantanamo. This letter did not mention any details about his arrest or prison conditions. Instead, his letter was full of queries about the family.

In December 2004, the family received another two letters dated October 15 and October 30. Besides the greetings and good health wishes, al-Hila wrote in the October 15 letter, "I was moved to the new prison, from Afghanistan to Cuba, Guantanamo...." The rest of the sentence was blacked out by a U.S. military censor. As of this writing, al-Hila is believed to be still in detention in Guantanamo.

IX. The Egypt-Yemen "Exchange Renditions": The Abduction of Gen. Ahmad Salem `Ubaid

On February 9, 2004, Yemeni President `Ali `Abdullah Saleh came to Cairo for a three-day state visit to discuss, among other matters, "security cooperation" with Egyptian President Mubarak.¹³⁰ Within days of the Yemeni President's arrival, the news that Saleh had made a deal with Mubarak to hand over members of Egyptian Islamic Jihad members in jail in Sanaa had leaked to the Arabic press.¹³¹

According to the London-based *al-Sharq al-Awsat*, a Yemeni delegation was sent to Cairo to facilitate the exchange of prisoners immediately after President Saleh's departure:

¹³⁰ BBC Monitoring Middle East, "Yemeni leader to visit Egypt 9 February to discuss ties, terrorism," February 8, 2004.

¹³¹ BBC Monitoring Middle East, "Yemen to hand over militants to Egypt: report," February 14, 2004. Translated text of `Abdu Zayna, "Yemeni security delegation visits Egypt to brief officials on movements of fundamentalists; Cairo expects to receive new group of fugitives," *Al-Sharq al-Awsat*, 13 February 2004.

A Yemeni security delegation will visit Cairo next week as part of cooperation between Cairo and Sanaa to resolve all security issues. The delegation will also provide Egyptian officials with all details of the movements of some fundamentalist leaders who have been residing in Yemen since the first half of the 1990s. The visit follows Yemeni President `Ali `Abdullah Saleh's statement a few days ago that this issue has been resolved.

Informed Egyptian sources said that they expect Yemen to take measures soon to hand a number of fugitive fundamentalists over to Egypt.¹³²

At that point, the names of the Egyptian militants who were to be sent to Cairo were not known. And the fact that `Ubaid was to be traded for them was not publicly known until after his disappearance on February 18.

Former Brigadier General `Ubaid held various senior government posts for the government of the People's Democratic Republic of Yemen (South Yemen) prior to its 1991 unification with the Yemen Arab Republic (North Yemen). He had served as information minister, deputy defense minister, and after unification was Yemen's ambassador to Ethiopia before he was forced to flee the country after backing the southern separatists when civil war broke out in 1994.¹³³

Although he had been identified as a "political asylum seeker" in Cairo, it is unclear whether `Ubaid had formally requested political asylum. Nonetheless, his reasons for leaving Yemen were common knowledge. According to one lawyer familiar with the case:

In a general sense, everyone knew that he had fled Yemen for political reasons... He wasn't forced to leave, but everyone knew he would be in trouble if he went back. He was in the opposition.¹³⁴

¹³² Ibid.

¹³³ HRAAP defense memo, submitted to the court October 19, 2004. Page 3; "Ubaid Disappears in Cairo," *Al-Thawri*, February 26, 2004.

¹³⁴ Human Rights Watch interview with Muhammad Zari'i, Director, HRAAP, Cairo, November 2004.

As detailed above, Egyptian state security officials were waiting outside `Ubaid's Cairo apartment on February 18, the day he disappeared. After `Ubaid left his apartment on his way to Cairo's Yemeni club, he was grabbed by a group of men and put in a car. Then he was taken to State Security.¹³⁵

Concerned about his disappearance and suspecting that he may have been kidnapped, members of `Ubaid's family called the Human Rights Association for the Assistance of Prisoners (HRAAP), and asked for help. According to Muhammad Zari'i, the organization's director:

After he was detained, his brother and daughter called us. They called and said that he went out, and he just disappeared. Two days later, he called them, and asked about his medicines. They of course asked where are you, and he said, I am with the *gama'a* [a family code word for security]. He told them not to worry. They asked where they should send the medicines, and he said don't worry, they will handle it.¹³⁶

His family had cause for concern: It was unthinkable that `Ubaid would leave Cairo of his own accord, without notifying his family. It was equally unthinkable that he would voluntarily go back to Sanaa. He had been living Egypt for more than a decade, and traveled regularly outside of Egypt to countries other than Yemen.

The family first got word of his disappearance when `Ubaid called his son, Nashwan, at home, saying that he would be late.

On that day, my father called home and said that he was [with] a friend who had had a diabetic attack and said that he would be late. We noticed that the telephone number did not appear on the telephone.

I then called other friends who confirmed that my father did not show up at the club on that day. I informed the Egyptian related authorities and the Yemeni Embassy in Cairo. Four days later, my father called back asking for the names of the medicines he is taking. When we asked

¹³⁵ Human Rights Watch interviews, Cairo, November and December 2004.

¹³⁶ Human Rights Watch interview with Muhammad Zari'i, Director, HRAAP, Cairo, November 2004.

about his whereabouts, he replied by saying he was with “good friends.”
Once again the telephone number was not shown on our telephone.¹³⁷

Both his family and his lawyer in Yemen immediately suspected that he had been taken back to Sanaa. According to Dr. Muhammad al-Mikhlaifi, director of the Yemeni Observatory, an independent human rights group, and lawyer for `Ubaid:

When he disappeared we were concerned right away he would be sent to Yemen. We knew the Egyptian government had been asking for the return of several Egyptians who were stopped in Yemen, and the Yemeni government was hesitant to hand them over. When we heard news that Yemen had finally agreed to send those men to Egypt, we said there must be a political deal, and a Yemeni dissident will “disappear” in Cairo. When Brigadier General `Ubaid disappeared, we knew he must be on his way to Sanaa.¹³⁸

Initial attempts to determine `Ubaid’s whereabouts, or get the government to admit that it was holding him, were unsuccessful:

We sent requests to the Ministry of Interior and the Prosecutor General. There was no reply whatsoever, either positive or negative. All of our faxes were about declaring his whereabouts: where is he? ... We tried to look up his name at the airports, but they refused to give us any information.¹³⁹

The first public disclosure of `Ubaid’s return to Yemen came in the form of a news bulletin. The Kuwaiti daily *Al-Watan* on March 6, 2004, reported that `Ubaid had been returned to Yemen in exchange for six Islamists. The Yemeni embassy denied any knowledge of the incident.¹⁴⁰

¹³⁷ Muhammad bin Sallam, “Ubeid’s fate shrouded with mystery,” *Yemen Times*, April 22-25, 2004.

¹³⁸ Human Rights Watch interview with Dr. Muhammad al-Mikhlaifi, director of the Yemeni Observatory, and lawyer for `Ubaid, December 18, 2004.

¹³⁹ Human Rights Watch interview with HRAAP, Cairo, November 2004.

¹⁴⁰ Ashraf al-Fiqqi, “The Yemeni Embassy Denies, while *Al-Watan* Sources Reveal the Secret of his Disappearance: Egyptian Authorities Hands Over a Southern Leader In Accordance with Security Cooperation Agreement between the Two Countries,” *Al-Watan*, March 6, 2004.

Although it later became clear that the Egyptian government was responsible for `Ubaid's initial detention, and held him for a full week before turning him over to the Yemeni government, it nonetheless publicly denied any involvement in the case.¹⁴¹ As late as May 6, 2004, less than two weeks before `Ubaid's eventual release, the Egyptian government claimed to know nothing about `Ubaid's whereabouts, claiming in a letter to the court trying `Ubaid's case in Cairo that "efforts continue to investigate the conditions surrounding (`Ubaid's) disappearance."¹⁴² A copy of `Ubaid's passport obtained by Human Rights Watch, made after his removal from Cairo, shows no exit stamp from Egypt, indicating that he did not leave Egypt by any normal means.

The Yemeni government also initially denied any knowledge of `Ubaid's whereabouts. On March 22, during a meeting with a senior party official, Yemeni President `Ali `Abdullah Saleh claimed to have no idea where `Ubaid might be, and disputed news reports about his rendition to Sanaa. Claiming to be concerned over `Ubaid's fate, President Saleh also promised to contact the Egyptian government to ask after `Ubaid.¹⁴³

The Yemeni government also ignored or responded disingenuously to requests for information about `Ubaid's whereabouts made by his lawyers and his family in Yemen. The Yemeni Ministry of Human Rights, acting on a request from `Ubaid's lawyer, contacted both the Yemeni interior ministry and foreign ministry on April 10, asking both bodies for any information they had about `Ubaid's fate. The interior ministry failed to respond; the foreign ministry replied a week later with a claim that they were "following the issue with the embassy in Cairo."¹⁴⁴

`Ubaid was released on May 18. It was only after his release that the details of his ordeal became known.

As noted above, `Ubaid was held under reasonably good conditions in Cairo before being flown to Yemen. While in Cairo, he stayed in a furnished room with a desk, television, and carpets on the floor. It was a far cry from what awaited him in Sanaa. The

¹⁴¹ Human Rights Watch interview with HRAAP, Cairo, November 2004.

¹⁴² Letter from Egyptian Ministry of Interior, Department of Legal Affairs, May 6, 2004, on file with Human Rights Watch.

¹⁴³ *Al-Tagammu'* newspaper, March 22, 2004; copy on file with Human Rights Watch.

¹⁴⁴ Human Rights Watch interview with Dr. Muhammad al-Mikhlaqi, December 2004; photocopies of the letters sent by the human rights ministry to the interior and foreign affairs ministries on file with Human Rights Watch.

sixty-two year old `Ubaid was also supplied with various medications for his ailments, which included a heart ailment, diabetes, and glaucoma.

When the time came to send him back, `Ubaid was blindfolded and put in a car by State Security Investigations agents. They began to drive, and after a while, he heard the sound of airplanes taking off and landing. It was then that he knew for certain that he was being taken back to Yemen.

Once `Ubaid was on the plane, his blindfold was removed. He was surprised to find someone from the Yemeni embassy on the plane, a man named Hussain.

“Why am I here?” `Ubaid asked.

“You are going to meet your friend,” Hussain replied, referring to Yemeni President `Ali `Abdullah Saleh, and repeating the joke made by Egyptian State Security a few days before.¹⁴⁵

`Ubaid was then flown to Sanaa ; the only other men on the plane besides the Yemeni embassy official were Yemeni security agents.

After he arrived in Sanaa, `Ubaid was blindfolded and put into a waiting car. He was then driven to the location where he would be held, completely cut off from the outside world, for the next three months.

General `Ubaid knows nothing about the location of the room that he was taken to, other than that it is below ground; he remembers being led, still blindfolded, down a flight of stairs. The small room in which he was held was insect-infested, filthy, and dark. Much of the food he was given was rotten, and the drinking water was foul-smelling. `Ubaid asked for basic toiletries during his stay in the makeshift prison cell; his captors refused. The Yemeni government also withheld `Ubaid’s heart medication from him, despite the fact that a full supply had been given to him by the Egyptian government during his brief detention in Cairo.

According to his lawyer in Cairo, the source of `Ubaid’s suffering was the uncertainty over what would happen next:

¹⁴⁵ Human Rights Watch interview with Muhammad, Zari`i, HRAAP, Cairo, Egypt, November 2004.

He felt that his life was over. The real torture he experienced was the torture of not knowing what was going to happen. He didn't know if he was going to be tortured. He didn't know if he was going to be executed. He didn't know if he was going to be interrogated. He was dying to have someone come and tell him what was going to happen to him.¹⁴⁶

`Ubaid was held under these conditions for three months. Although `Ubaid was not tortured, he was not given access to an attorney, nor were his family members allowed to know his whereabouts or even told that he was in fact in custody.

On May 19, 2004, the government-controlled *Al-Thawra* newspaper announced that `Ubaid had been released. The announcement stated that he had been "extradited" from Egypt, suggesting a legal procedure that in fact had not taken place. The newspaper also said that `Ubaid was released "following questioning about the charges against him."¹⁴⁷ As far as is known, `Ubaid has not been charged with any crime by the Yemeni authorities.

Since his release, `Ubaid has returned to his family home outside Sanaa; he is barred from meeting with the media, and has yet to speak publicly about his ordeal. According to his lawyer in Yemen:

He is not allowed to speak to the media or even me, his lawyer, since his release. Can you believe that? I'm not only his lawyer, but I'm also his friend. Still, he can't talk to me. I don't blame him. He's someone who saw the Grim Reaper, and it must be still haunting him.¹⁴⁸

Although the Yemeni government has promised not to harm him provided that he does not attempt to leave the country, observers familiar with his case believe that his safety is at risk for as long as he remains in Yemen.¹⁴⁹

The Egyptian government has attempted to use `Ubaid's release to wash its own hands of the matter; it submitted an *Al-Jazeera* news report on `Ubaid's release to argue that the

¹⁴⁶ Human Rights Watch interview with Muhammad Zari'i, HRAAP, Cairo, Egypt, November 2004.

¹⁴⁷ *Al-Thawra*, May 19, 2004.

¹⁴⁸ Human Rights Watch interview with Dr. Muhammad al-Mikhlafi, December 18, 2004.

¹⁴⁹ Human Rights Watch interview with Muhammad Zari'i, HRAAP, Cairo, November 2004.

case brought by HRAAP should be dismissed. On May 27, the Ministry of Interior wrote to the court, "We are honored to inform you that Al-Jazeera Arabic satellite channel has broadcasted information about the return of [ʿUbaid] to his house in Aden following his release by Yemeni authorities."¹⁵⁰ In response to ʿUbaid's release, HRAAP is now asking that the Egyptian government publicly explain its role in the ʿUbaid's forced return to Sanaa.

ʿUbaid's return has broader implications. To the extent that his vigilante-style abduction and return to Yemen signals a change of policy by the Egyptian and Yemeni governments, other Yemenis in exile in Cairo are also at risk. "There are many other Yemeni dissidents in Cairo who could face the same fate," said Dr. al-Mikhlaḥi. "They are very scared at the moment, and still cannot believe what happened. They too could disappear one day, depending on the relations between Cairo and Sanaa."¹⁵¹

X. Trade-Off: The Rendition to Egypt of Sayyid Imam al-Sharif, ʿIssam Shuʿaib, Khalifa Bidaiwi al-Sayyid al-Badawi, Ali ʿAbd al-Rahim, ʿUthman al-Samman, and ʿAbd al-ʿAziz Musa Dawud al-Gamal

Much less is known about the transfer of these six Egyptians from Yemen to Cairo, because like most wanted persons involuntarily sent to Egypt they have largely dropped from sight. According to London-based Islamists interviewed by Human Rights Watch, the six men, ʿIssam Shuʿaib, Khalifa Bidaiwi al-Sayyid al-Badawi, Ali ʿAbd al-Rahim, ʿUthman al-Samman, ʿAbd al-ʿAziz Musa Dawud al-Gamal, and Sayyid Imam al-Sharif, also known as Dr. Fadl, were transferred on February 28, 2004.¹⁵² Two of the men, al-Samman and al-Gamal, had already been sentenced to death *in absentia* by Egyptian military tribunals in 1992 and 1999, respectively. All six had been picked up by the Political Security Organization, Yemen's secret police, in the wake of the September 11, 2001 attacks on the United States.

¹⁵⁰ Letter from Egyptian Ministry of Interior, May 27, 2004; on file with Human Rights Watch.

¹⁵¹ Human Rights Watch interview with Dr. Muhammad al-Mikhlaḥi, director of the Yemeni Observatory, and lawyer for Obeld, December 18, 2004.

¹⁵² Human Rights Watch interviews with Hani al-Seba'i, director of al-Maqreezi Center for Historical Studies, London, December 2004; Human Rights Watch interview with Yasser al-Sirri, director, Islamic Observation Center, London, December 6, 2004; "Yemen hands Egypt Islamist fugitives, including former Al-Jihad leader – report," 20 March 2004. Translated text of Kamil al-Tawil, "Egyptian Islamists 'kidnapped' in Yemen, 'al-Jihad leader worked in ibb hospital,'" *Al-Hayat*, 17 March 2004.

The most important of the six returnees was Sayyid Imam al-Sharif. The other five, said one Cairo-based analyst, “were just other members of the group.”¹⁵³

Sharif was born in 1950, in the southern Egyptian province of Bani Swaif. He joined the ranks of Islamist dissent in the 1970s while studying medicine at Cairo University. He was tried in absentia, and acquitted, in the 1981 trial of Islamist suspects following President Sadat’s assassination. Al-Sharif left Egypt for the UAE in 1982, where he worked as a doctor. He then resided in Pakistan for few weeks before leaving for Saudi Arabia, and then went back to Pakistan again, where he worked for a Kuwaiti Red Crescent hospital in Peshawar.¹⁵⁴

In Peshawar, al-Sharif worked to rebuild the Egyptian Islamic Jihad in exile, together with Ayman al-Zawahri, who was also in Peshawar at that time. Al-Sharif was elected as the group’s first leader there, and al-Zawahiri served as his deputy.

But the two quickly fell out over questions of strategy and tactics. Al-Sharif reportedly disagreed with al-Zawahri over the use of violence. Al-Sharif gave way to al-Zawahiri in 1992, the same year that the Islamist insurgency picked up again in Egypt. Al-Sharif believed that violent attacks were futile, and instead advocated slow and steady infiltration into the structure of the state, but the group as a whole decided otherwise. Al-Sharif reportedly severed his ties with the Jihad, and devoted his time to his medical work and theological studies.¹⁵⁵

On September 10, 1993, al-Sharif took his wife and family to Sudan, where he was received on arrival by Ayman al-Zawahri, in Khartoum Airport. The relations between the two men, however, deteriorated further during al-Sharif’s time in Sudan. Al-Sharif accused al-Zawahri of incompetence, and faulted him for the escalation of violence and mass arrests of Jihad suspects inside Egypt. He took his family to Sanaa following the 1994 Yemeni civil war, and began working in a local hospital. His son Isma`il insisted his father had by then severed all links with militant groups.¹⁵⁶

After the September 11, 2001, attacks on the United States, al-Sharif may have known that he would come under scrutiny over his past associations with al-Zawahiri and other

¹⁵³ Human Rights Watch interview with Muhammad Salah, Cairo, December 2004.

¹⁵⁴ Ibid.

¹⁵⁵ *Al-Hayat*, March 3, 2004; Phone interviews with Hani al-Seba`i and Yasser al-Sirri, London, December 6, 2004.

¹⁵⁶ *Al-Hayat*, April 4, 2004.

Islamist militants with ties to al-Qaeda. In the weeks before his arrest, al-Sharif received signals that the Yemeni state security was paying more attention to him. "There were some signs of tension between him and the state security before the arrest," said Muhammad Salah, the Cairo bureau chief of *al-Hayat*.¹⁵⁷ Al-Sharif moved houses for security reasons shortly before he was arrested.

Dr. al-Sharif was picked up while at work at the al-Shiffa Hospital in Ibb governorate, south of Sanaa , on October 28, 2001.¹⁵⁸ His family was not informed of his arrest.

"They asked around and found out that he was kidnapped," said Salah. "It took two or three weeks before they found out where he was."¹⁵⁹

Sharif was initially held incommunicado, but eventually family members had irregular access to him: "The visits went through ups and downs," said Salah. "Sometimes security would let them in, other times they wouldn't."¹⁶⁰

During his three years in detention in Sanaa, al-Sharif was held without charge, without trial, and without access to an attorney. According to sources who maintained direct contact with the families of the six detainees, U.S. agents participated in the interrogation of all six men in detention.¹⁶¹

The six men were reportedly held under very poor conditions. The cells were dirty, the food substandard. Although the six men were not physically abused, the conditions of their detention can be considered a form of ill-treatment.

Despite the urgings of many prominent Yemeni politicians, including parliamentary speaker `Abdullah al-Ahmar, and tribal leaders, the Yemeni government refused to release al-Sharif. They were told, according to al-Sharif's son Isma`il, that his case was in the hands of the U.S. ambassador in Sana'a.¹⁶² Al-Sharif's support in Yemen had to do with his standing in the community:

¹⁵⁷ Human Rights Watch interview with Muhammad Salah, Cairo, December 2004.

¹⁵⁸ *Al-Hayat*, April 4, 2004

¹⁵⁹ Human Rights Watch interview with Muhammad Salah, Cairo, December 2004.

¹⁶⁰ *Ibid.*

¹⁶¹ Human Rights Watch telephone interviews with Yasser al-Sirri and Hani al-Seba'i in London, December 2004.

¹⁶² *Al-Hayat*, April 4, 2004.

They supported his release because he was a very good surgeon, and also it has to do with Islamists in general. They tend not to overcharge for their services, and they do a lot of charity work. It was also because al-Sharif was an expert on theology. He had close contacts with other Yemeni religious figures and that's what he devoted his time to. That's why he was supported in Yemen.¹⁶³

On February 28, 2004, al-Sharif and the other five alleged militants were removed from their political security cells and put into unmarked cars. They were then driven to a small airport in Sanaa. They were then put on a plane and flown back to Cairo. For the most part, they have not been seen or heard from since.¹⁶⁴

Sharif's son Isma'il returned to Egypt in September 2003, to pursue his studies. According to Salah, who spoke to Isma'il, "His father urged him to return to Egypt to continue his schooling, and also to deal with some family matters."¹⁶⁵ Isma'il was detained on arrival in Cairo by Egyptian state security. He was interrogated, but said he wasn't ill-treated. Isma'il al-Sharif believes that his relatively lenient treatment and quick release are an indication that the Egyptian authorities believed his father was no longer involved with the militants who had carried out the insurgency in the 1990s.

Al-Sharif was returned to Egypt on February 28. His return was announced by the state-run *al-Gumbhuriyya* newspaper one week later, on March 6:

Al-Gumbhuriyya has learned from a senior security source that Egypt has received a big number of Jihad fugitives from abroad, including the former Emir of the group, Sayyid Imam al-Sharif, who was finally arrested in Yemen. The State Security prosecutor has started interrogating several of those terrorists.¹⁶⁶

¹⁶³ Human Rights Watch interview with Muhammad Salah, Cairo, December 2004.

¹⁶⁴ The Egyptian Organization for Human Rights (EOHR) told Human Rights Watch that it had tried unsuccessfully to meet with Khalifa Bidaiwi al-Sayyid al-Badawi and one other person from the group of Egyptians forcibly returned from Yemen in February 2004 after their wives had approached the group for assistance (telephone interview with Tariq al-Zaghloul, Cairo, April 12, 2005). According to al-Zaghloul, the wife of al-Badawi met with her husband at the end of Ramadan, in mid-November 2004, but the brevity of the meeting and the presence of security guards did not allow her to ascertain his treatment in detention. Al-Zaghloul also said that al-Badawi and the others were serving sentences that had been imposed *in absentia* by military tribunals in previous years—in al-Badawi's case a seven year sentence imposed in 1989.

¹⁶⁵ *Ibid.*

¹⁶⁶ *Al-Gumbhuriyya*, "Security Source: Egypt received Sayyid Imam al-Sharif and Large Number of Jihad Fugitives," March 6, 2004; on file with Human Rights Watch.

After news of al-Sharif's return to Egypt leaked to the press, Isma`il met with the Cairo bureau chief of *al-Hayat*, in order to focus more attention on al-Sharif's case. The journalist noted that Isma`il appeared calm:

He looked calm. He sounded confident that his father wouldn't be harmed in prison. He believed that the authorities knew that he wasn't involved in any violence, and that he wasn't involved in September 11. And so that's why he was calm.¹⁶⁷

For the past ten months, al-Sharif and the other five men have been held in incommunicado detention. Given Egypt's past practice with regards to returned militants, all six men remain at risk of torture or ill-treatment.

As far as is known, Egypt offered no diplomatic assurances to the Yemeni government that the men would not be tortured, and has yet to even publicly acknowledge that the six men are in custody. The Yemeni government also did not seek any guarantees from the Egyptian government that the returnees would not be ill-treated. "There were no assurances asked for by the Yemeni government in this case, as in most other cases," said Muhammad Naji Allaw, director of the Sanaa-based human rights group HOOD.¹⁶⁸

After al-Sharif was returned to Egypt, members of his family in Egypt asked, through lawyers, to see him, but they were refused. "The government didn't allow us to see him. They haven't allowed us to see him since he was returned," said one lawyer who made some informal inquiries on al-Sharif's behalf.¹⁶⁹ "His family came to me and also to other lawyers. We asked the government the same basic questions, where is he, can we see him, and so on." The government said nothing.

The same lawyer, reflecting on al-Sharif's case, noted that all information is in control of the state, and they are under no obligation to disclose anything: "You are in front of a very dark picture, and you can't get any information... The only news that you can get is from the state, and in this case, the state refused to say anything."¹⁷⁰

Sharif remains in custody, along with the other five returnees.

¹⁶⁷ Human Rights Watch interview, Cairo, December 2004.

¹⁶⁸ Human Rights Watch phone interview with Muhammad Naji Allaw, Cairo, December 15, 2004.

¹⁶⁹ Human Rights Watch interview with Mamduh Isma`il, Cairo, Egypt, December 2004.

¹⁷⁰ Human Rights Watch interview with Mamduh Isma`il, Cairo, Egypt, December 2004.

XI. Recommendations

To the Government of Egypt

- Establish a public registry of persons held in detention, including persons extradited, rendered, or otherwise transferred from abroad. The registry should include the place and date of arrest and, if different, the date of entry into Egyptian custody, present place of detention, and the legal basis for detention. Make this information available to the families of detained persons.
- Promptly release persons in detention who have not been charged with a recognizable criminal offense.
- Ensure that all persons in detention are taken before a judicial authority no later than twenty-four hours after arrest or entry into Egyptian custody.
- Ensure that all persons in detention are able to exercise their right to legal counsel, to appeal their detention, and to fair trial and due process. Persons convicted by military tribunals or special security courts, where proceedings do not meet fair trial standards, and especially persons convicted *in absentia*, should be granted re-trials that do meet international fair trial standards or released.
- Ensure that family members have access to detainees.
- Ensure that persons detained arbitrarily and unlawfully and persons subjected to torture and ill-treatment are able to access prompt and fair compensation.
- Issue and publicize widely a directive from the President of the Republic stating that acts of torture and ill-treatment by law enforcement officials will not be tolerated, that reports of torture and ill-treatment will be promptly and thoroughly investigated, and that those found responsible will be held accountable.
- Direct the Office of the Prosecutor General to fulfill its responsibility under Egyptian law to investigate in a thorough, impartial, and timely manner all torture allegations against law enforcement officials. Ensure the independence of the Prosecutor General's office from political interference and mandate prosecutors to conduct unannounced inspections of all places of detention, speaking to inmates in conditions of privacy, and taking complaints. Make public the results.
- Ensure the prompt conduct of independent forensic medical examinations of detainees who allege that they have been subject to torture.
- Allow access for Egyptian and international human rights monitors to places of detention, and the opportunity to conduct confidential discussions with detainees.

- Ratify the Optional Protocol to the Convention against Torture, which allows independent international experts to conduct regular visits to places of detention within the territory of state parties, to assess the conditions of detention and to make recommendations for improvements.
- Implement the recommendations of the Committee against Torture in May 2002 and the U.N. Special Rapporteur on Torture in 2003, in particular the recommendation to establish a fully independent complaints mechanism for persons held in custody.

To the Member States of the League of Arab States

- Do not under any circumstances extradite, render, or otherwise transfer to Egypt persons suspected or accused of security offenses unless and until the government of Egypt has demonstrated that it has ended practices of torture and ill-treatment, and taken demonstrable and effective steps to end impunity for officials responsible for ordering, condoning, or carrying out acts of torture and ill-treatment. Transfers of persons to Egypt under current circumstances would constitute a violation of the principle of non-refoulement.
- Do not seek or accept diplomatic assurances as the basis for returning any person to Egypt.

To the United States, the Member States of the European Union, and the International Community

- Do not under any circumstances extradite, render, or otherwise transfer to Egypt persons suspected or accused of security offenses unless and until the government of Egypt has demonstrated that it has ended practices of torture and ill-treatment and impunity for officials responsible for ordering, condoning, or carrying out acts of torture and ill-treatment. Transfers of persons to Egypt under current circumstances would constitute a violation of the principle of non-refoulement.
- Do not seek or accept diplomatic assurances as the basis for returning any person to Egypt.
- Closely monitor any military, security, and counter-terrorism assistance to Egypt to ensure that security and intelligence forces strictly adhere to international human rights standards regarding arbitrary and incommunicado detention and torture and ill-treatment.

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Appendix: Known and Reported Renditions to Egypt 1994-2004

DATE OF ARREST (MM/DD/YY)	NAME	NATIONALITY	SENT FROM	TO	NOTES	SOURCE
??/??/1994	Hisham `Abduillah Muhammad Sulaiman Abaza	Egyptian	Libya	Egypt	Five year prison sentence (by military tribunal) in 1999. His 1994 extradition to Egypt together with three other Egyptian suspects was allegedly part of a dissidents' exchange deal.	IOC Statement: "Libya said to hand Egypt five suspected militants," Reuters, April 27, 1999.
5/??/1995	Muhammad `Abd al-Rahim al-Sharqawi	Pakistani	Pakistan	Egypt	Egyptian State Security prosecutor ordered his release on November 12, 1996, but he is still held in Abu Za'bal prison. The IOC published a letter dated August 27, 2004 by al-Sharqawi complaining of mistreatment.	IOC Statement, August 27, 2004 Phone interview with Hani al-Seba'i, Aug 5, 2004
9/??/1995	Tal'at Fu'ad Qassim	Egyptian	Croatia	Egypt	Believed executed.	See report text.
??/??/1998	Tariq `Ali Mursi	Egyptian	South Africa	Egypt	Islamic Jihad suspect whose extradition was the result of coordination between the CIA and its Egyptian and South African counterparts.	"Sharp decline in terrorism," al-Ahram Weekly On-line, Dec 31, 1998 - Jan 6, 1999 Phone interview with Hani al-Seba'i, Aug 5, 2004 IOC Statement, April 9, 1999
4/??/1998	Sa'id Sayyid Salama Khalid	Egyptian	Saudi Arabia	Egypt	Fifteen year prison sentence (by military tribunal).	EOHR, "The Returnees from Albania," April 18, 1999
6/25/1998	Shawqi Salama Mustafa `Atyya	Egyptian	Albania	Egypt	Twenty-five year prison sentence (by military tribunal).	See report text.
7/1/1998	Ahmad Ibrahim al-Sayyid al-Naggar	Egyptian	Albania	Egypt	Executed February 23, 2000 for alleged earlier offences.	See report text.
7/13/1998	`Issam `Abd al-Tawab `Abd al-'Alim	Egyptian	Bulgaria	Egypt	Fifteen year prison sentence (by military tribunal). See text for details on alleged treatment.	See report text. Phone interview with Hani al-Seba'i, August 5, 2004 EOHR Report, "The Returnees from Albania," April 18, 1999

DATE OF ARREST (MM/DD/YY)	NAME	NATIONALITY	SENT FROM	TO	NOTES	SOURCE
7/14/1998	Muhammad Hassan Titta	Egyptian	Albania	Egypt	Ten year prison sentence (by military tribunal). See text for details on alleged treatment.	EOHR, The Returnees from Albania, April 1999, pages 15-16 See report text. Andrew Higgins and Christopher Cooper. "Cloak and Dagger", Wall Street Journal, November 20, 2001
7/30/1998	Magdi Ibrahim al-Sayyid al-Naggar	Egyptian	Saudi Arabia	Egypt	Ahmad al-Naggar's brother. Was forcibly returned to Egypt from Saudi Arabia and detained at SSI premises. Acquitted by military tribunal but still detained.	AI Statement, August 4, 1999
8/13/1998	Ahmad Isma'il 'Uthman Saif	Egyptian	Albania	Egypt	Executed in February 2000. See text for details on alleged treatment.	EOHR, "The Returnees from Albania," April 1999, page 18; "Cloak and Dagger", Wall Street Journal, November 20, 2001
8/20/1998	Ahmad Salama Mabruk	Egyptian	Azerbaijan	Egypt	Twenty-five year prison sentence (by military tribunal).	IOC Statement, April 9, 1999 "Bin Laden Front Reportedly Bought CBW From E. Europe," al-Hayat, April 20, 1999 "US Said Interrogating Jihadi Over CBW," al-Hayat, April 21, 1999
8/20/1998	'Issam Muhammad Hafiz Marzuq	Egyptian	Azerbaijan	Egypt	Fifteen year prison sentence (by military tribunal).	IOC Statement, April 9, 1999
8/20/1998	Ihab Muhammad 'Abdullah Saqr	Egyptian/Sudanese	Azerbaijan	Egypt	Detained without trial.	IOC Statement, April 9, 1999 Phone interview with Hani al-Seba'i, August 5, 2004
9/2/1998	Muhammad Sa'id 'Abd al-Maqsud	Egyptian	UAE	Egypt	Ten year prison sentence (by military tribunal).	EOHR, "The Returnees from Albania," April 18, 1999

DATE OF ARREST (MM/DD/YY)	NAME	NATIONALITY	SENT FROM	TO	NOTES	SOURCE
1/11/1999	Ahmad Hassan Badi'a	Egyptian	Kuwait	Egypt	Kuwait accused him of involvement in "pro-Iraqi" and Islamist terrorist activities. He was sent to Egypt together with another 14 suspects, only 3 of whose names are available. Detained by SSI.	IOC Statement; "Kuwait said to hand over 15 militants to Egypt", Reuters, January 29, 1999.
1/11/1999	Magdi Fahmi	Egyptian	Kuwait	Egypt	See above.	IOC Statement; "Kuwait said to hand over 15 militants to Egypt", Reuters, January 29, 1999.
1/11/1999	Muhammad Farag	Egyptian	Kuwait	Egypt	See above.	IOC Statement; "Kuwait said to hand over 15 militants to Egypt", Reuters, January 29, 1999.
1/29/1999	Al-Sayyid Hassan Mukhils	Egyptian	Uruguay	Egypt	Extradited to Cairo on July 7, 2003. Reportedly held incommunicado at SSI headquarters in Cairo.	"Militant suspect sought," al-Ahram Weekly, May 6-12, 1999 AI Report 2004, Egypt
3/7/1999	Muhammad Sadiq	Egyptian	Libya	Egypt	Handed over with four other Egyptian suspects, part of wider extradition efforts directed at Islamic Jihad suspects. 13 others received from South Africa, Yemen, Kuwait and Syria in the previous "few weeks."	IOC Statement; "Libya said to hand Egypt five suspected militants," Reuters, April 27, 1999; "Militants handed over," Al-Ahram Weekly, April 29 - May 5, 1999.
(3 or 4)/2/1999	Muhammad al-Zawahri	Egyptian	UAE	Egypt	See text for details on alleged treatment.	Al-Sharq al-Awsat report, March 5, 2004 Al-Sharq al-Awsat report, March 18, 2004

DATE OF ARREST (MM/DD/YY)	NAME	NATIONALITY	SENT FROM	TO	NOTES	SOURCE
(11 or 12)/7/1999	Hussain al-Zawahri	Egyptian	Malaysia	Egypt	See text for details on alleged treatment.	"The Man Behind Bin Laden," The New Yorker, November 2002 Phone interview with Hani al-Seba'i, August 5, 2004 "Ayman al-Zawahri: Bin Laden's Legend Maker," Elaf, Sep 11, 2003
3/15/2000	Muhammad Sha`ban Muhammad Hassanain	Egyptian/Danish	Pakistan	Egypt	Sought asylum in Denmark in 1995, traveling with Danish travel documents. Arrested by Pakistani authorities and rendered to Egypt after interrogation.	IOC Statement, May 29, 2000
4/7/2000	Ayman `Abd al-Raziq Hassan Kamal al-Din	Egyptian	Lebanon	Egypt	Three year prison sentence (by military tribunal) in 1993.	IOC Statement, May 13, 2000
6/28/2001	Hisham Mahmud	Egyptian	Saudi Arabia	Egypt		IOC Statement, July 8, 2000
6/28/2001	`Imad al-Din `Abd al-Rahim	Egyptian	Saudi Arabia	Egypt		IOC Statement, July 8, 2000
6/28/2001	Muhammad Yusuf	Egyptian	Saudi Arabia	Egypt		IOC Statement, July 8, 2000
6/28/2001	Ahmad al-'Ishawi	Egyptian	Saudi Arabia	Egypt		IOC Statement, July 8, 2000
7/7/2001	Yahia `Abd al-Baqi Salim	Egyptian	Saudi Arabia	Egypt		IOC Statement, July 8, 2000
7/7/2001	Ahmad Kamil `Ammar	Egyptian	Saudi Arabia	Egypt		IOC Statement, July 8, 2000
10/7/2001	Rifa`i Ahmad Taha	Egyptian	Syria	Egypt	Stopped in Syria on way from Sudan to Iran. Flown to Cairo, fate remains unknown. Sentenced to death in absentia (by military tribunal). Egyptian and Syrian governments have refused to comment on the operation, but rendition confirmed by US Rep Darrell Issa while leading congressional delegation to both countries in November 2001.	Interview with Yasser al-Sirri, London, June 2004; Anthony Shadid, "Syria is Said to Hand Egypt Suspect Tied to Bin Laden", Boston Globe, November 20, 2001

DATE OF ARREST (MM/DD/YY)	NAME	NATIONALITY	SENT FROM	TO	NOTES	SOURCE
10/11/2001	Sayyid Imam al-Sharif	Egyptian	Yemen	Egypt	Rendered to Egypt February 28, 2004	Interview with Yasser al-Sirri, June 2004, London; HRAAP Statement, April 3, 2004
10/?/2001	'Issam Shu'aib	Egyptian	Yemen	Egypt	Rendered to Egypt February 28, 2004	Interview with Yasser al-Sirri, June 2004, London; HRAAP Statement, April 3, 2004
10/?/2001	Khalifa Bida'wi al-Sayyid al-Badawi	Egyptian	Yemen	Egypt	Rendered to Egypt February 28, 2004. Seven year prison sentence in absentia (by military tribunal) in 1989. Visited by wife in November 2004, his treatment could not be assessed due to monitoring by SSI and brevity of visit.	Interview with Yasser al-Sirri, June 2004, London; HRAAP Statement, April 3, 2004 Interview with Tairiq al-Zaghul, Cairo; EOHR, April 2004.
10/?/2001	'Ali 'Abd al-Rahim	Egyptian	Yemen	Egypt	Rendered to Egypt February 28, 2004	Interview with Yasser al-Sirri, June 2004, London; HRAAP Statement, April 3, 2004
10/?/2001	'Uthman al-Samman	Egyptian	Yemen	Egypt	Rendered to Egypt February 28, 2004	Interview with Yasser al-Sirri, June 2004, London; HRAAP Statement, April 3, 2004
10/?/2001	'Abd al-'Aziz Musa Dawud al-Gamal	Egyptian	Yemen	Egypt	Rendered to Egypt February 28, 2004	Interview with Yasser al-Sirri, June 2004, London; HRAAP Statement, April 3, 2004

DATE OF ARREST (MM/DD/YY)	NAME	NATIONALITY	SENT FROM	TO	NOTES	SOURCE
10/?/2001	Mamduh Habib	Egyptian-Australian	Pakistan	Egypt	Arrested in Pakistan, sent by US to Egypt, transferred to Guantanamo Bay in Cuba in May 2002. Released in January 2005.	See report text.
12/?/2001	Mubarak `Ali `Abbas	Egyptian	Jordan	Egypt	Egyptian authorities accused him of involvement in 1995 assassination attempt against President Mubarak in Addis Ababa.	Middle East Newswire report, January 1, 2002
12/?/2001	Rif at `Ali Gawad	Egyptian	Jordan	Egypt	See above.	Middle East Newswire report, January 1, 2002
12/?/2001	`Issam Mahmud	Egyptian	Jordan	Egypt	See above.	Middle East Newswire report, January 1, 2002
12/?/2001	Sami Amin	Egyptian	Jordan	Egypt	See above.	Middle East Newswire report, January 1, 2002
12/?/2001	Sa `ud Hussain `Ali	Egyptian	Jordan	Egypt	See above.	Middle East Newswire report, January 1, 2002
12/?/2001	`Amr `Umar	Egyptian	Jordan	Egypt	See above.	Middle East Newswire report, January 1, 2002
12/?/2001	Safwat Muhammad Shakir	Egyptian	Jordan	Egypt	Egyptian authorities accused him of involvement in 1995 assassination attempt against President Mubarak in Addis Ababa.	Middle East Newswire report, January 1, 2002
12/18/2001	Ahmad Hussain `Agiza	Egyptian	Sweden	Egypt	See text for details on alleged treatment.	HRW Reports, "Empty Promises," April 15, 2004, and "Still at Risk," April 20, 2005

DATE OF ARREST (MM/DD/YY)	NAME	NATIONALITY	SENT FROM	TO	NOTES	SOURCE
12/18/2001	Muhammad al-Zari	Egyptian	Sweden	Egypt	See text for details on alleged treatment.	HRW Reports, "Empty Promises," April 15, 2004; and "Still at Risk," April 20, 2005
12/?/2001 or 1/?/2002	Ibn al-Shaikh al-Libi	Libyan	Afghanistan	Egypt	Arrested by Pakistani authorities, transferred to CIA custody, then sent to Cairo.	HRW Report, "The United States' Torture," New Yorker (February 14 and 21, 2005). Jane Mayer, "Outsourcing Torture," New Yorker (February 14 and 21, 2005).
1/?/2002	Muhammad Sa' d Iqbal	Pakistani	Malaysia	Egypt	See text for details on alleged treatment.	See report text.
4/15/2002	Muhammad Ali al-Mahdi Ibrahim Sulaiman	Egyptian	Brazil	Egypt	Brazilian Supreme Court ordered his arrest after receiving extradition request from Egypt to face charges of terrorism. Sulaiman lived in Brazil for the previous eight years. Date of arrival in Egypt unknown.	"Brazil arrests suspected Egyptian militant," BBC online report, April 16, 2002
6/12/2002	Nabil Ahmad Sulaiman	Egyptian	US	Egypt	In February 2003, sentenced to five years' imprisonment by the (Emergency) Supreme State Security Court in Cairo on charges of membership of an illegal organization in connection with his alleged affiliation with al-Jihad al-Islami. Trial followed his deportation from the US on June 12, 2002 following a request by Egyptian authorities.	AI Report 2004
8/?/2002	Muhammad Id Ibrahim Sharaf (Abu al-Faraj al-Yamani)	Egyptian	UAE	Egypt	Sentenced in absentia to ten years in prison in 1999, in the "Returnees from Albania" trial.	Al-Sharq al-Awsat, March 12, 2003

DATE OF ARREST (MM/DD/YY)	NAME	NATIONALITY	SENT FROM	TO	NOTES	SOURCE
9/14/2002	Hisham Muhammad Mahmud al-Tarabili	Egyptian	Brazil	Egypt	Living in Brazil since 1991. Charged in absentia in Egypt in 1992 with membership in an "illegal organization," al-Gama'a al-Islamiyya	Western Hemisphere Overview
9/19/2002	'Abd al-Salam 'Ali al-Hila	Yemeni	Egypt	Cuba	According to authorities in Yemen, and al-Hila's brother, he was taken within ten days to Baku, Azerbaijan, then on to the Begram air base in Afghanistan, and, finally, sometime in mid-2004, to the U.S. detention facility at Guantanamo Bay, Cuba.	See report text.
?/?/2003	Ahmad 'Abd al-Hafiz	Egyptian	Bosnia	Egypt	Sentenced to ten years in prison in 1986 for "burning video stores."	Al-Sharq al-Awsat, March 12, 2003
2/?/2003	Hassan Mustafa Usama Nasr	Egyptian	Italy	Egypt	Also known as Abu 'Umar, abducted by US and flown from base in Italy to Cairo.	Craig Witlock, "Europeans Investigate CIA Role in Abductions," <i>Washington Post</i> (March 13, 2005).
Sometime between April to June 2003	Muhammad 'Abd al-Ghaffar al-Sa'idi	Egyptian	Malaysia	Egypt		"Four Countries Extradited Wanted Islamists to Cairo," al-Jazeera.Net, July 21, 2003
Sometime between April to June 2003	Hani Haikal	Egyptian	Malaysia	Egypt		Asharq al-Awsat report, Aug 4, 2003
Sometime between April to June 2003	Muhammad Yusuf 'Abd al-Rahman	Egyptian	Sudan	Egypt		"Four Countries Extradited Wanted Islamists to Cairo," al-Jazeera.Net, July 21, 2003

DATE OF ARREST (MM/DD/YY)	NAME	NATIONALITY	SENT FROM	TO	NOTES	SOURCE
2/18/2004	Ahmad Salim `Ubalid	Yemeni	Egypt	Yemen	See text for details on alleged treatment.	Interview with Yasser al-Siri, June 2004, London; HRAAP Statement, April 3, 2004
3/7/2004	Mustafa Hamza	Egyptian	Iran	Egypt	Former head of al-Gama`a al-Islamiyya rendered from Iran to Egypt probably in March 2004. Rendition denied by Iranian government. Egyptian interior minister acknowledged in January 2005 that Hamza in Egyptian custody.	Statement by Al-Maqreezi Center for Historical Studies, November 30, 2004. "Egypt trial for alleged plotter," al-Jazeera.Net English, January 8, 2005. "Iran denies reported handover of wanted Islamist to Egypt," AFP, December 6, 2004.
2/14/2004	Muhammad Ahmad Ali al-Sharqawi	Egyptian	Yemen	Egypt	Charged with arson in 1989, currently held in Abu Za`bal maximum security prison.	Communiqué from Tariq al-Zaghul, ECHR, April 23, 2005
Prior to July 2004	Muhammad Khalil	Egyptian	Iran	Egypt	Arrested in Mashhad, sent to Cairo.	"Iran handed Egypt prominent fundamentalist not linked to al-Qaeda leaders," al-Hayat, July 31, 2004

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Guantanamo: New “Reverse Rendition” Case

Detainee Captured in Egypt Disappeared in U.S. Custody

(New York, March 30, 2005) – A Yemeni businessman captured in Egypt was handed over to U.S. authorities and “disappeared” for more than a year and a half before being sent to Guantanamo Bay Naval Base in Cuba, Human Rights Watch said today.

In a new briefing, Human Rights Watch today released details of the previously unreported case of `Abd al-Salam `Ali al-Hila, a Yemeni terror suspect initially detained in Cairo by Egyptian authorities in 2002 and currently held at Guantanamo.

While considerable attention has been paid recently to U.S. renditions of suspects to third countries, the al-Hila case is new evidence of the reverse: foreign authorities picking up suspects in non-combat and non-battlefield situations and handing them over to the United States without basic protections afforded to criminal suspects.

“Al-Hila was essentially kidnapped on the streets of Cairo and then ‘disappeared’ in U.S. custody,” said John Sifton, a researcher at Human Rights Watch. “Whatever the allegations against him, Al-Hila should have been charged and given the opportunity to challenge his detention.”

The Human Rights Watch briefing, “Cairo to Kabul to Guantanamo: the `Abd al-Salam `Ali al-Hila Case,” details how al-Hila, a Yemeni intelligence colonel and businessman who had been involved in helping Arab Islamists in the 1990s, was first picked up by Egyptian authorities while on a business trip in Cairo on September 19, 2002. According to authorities in Yemen, and al-Hila’s brother, he was taken within ten days to Baku, Azerbaijan, then on to the Bagram air base in Afghanistan, and, finally, sometime in mid-2004, to the U.S. detention facility at Guantanamo Bay, Cuba.

Prior to detention in Cairo, al-Hila, a father of three, had been in daily contact with his family in Yemen. After his “disappearance” in September 2002, the family did not hear from him again until April 2004. Details of his whereabouts were not known until a letter al-Hila wrote was smuggled out of Afghanistan (a translation is reprinted in full in the attached briefing). The letter was released by Yemeni authorities in April 2004. Al-Hila sent subsequent letters to his family from Afghanistan via the International Committee of the Red Cross and, most recently, from Guantanamo.

The al-Hila case is not unique. Other detainees captured outside of Afghanistan, in non-combat situations, have been brought to Guantanamo without criminal law protections. Human Rights Watch said that six Algerians held in Bosnia, for instance, were transferred to U.S. officials in January 2002 (despite a Bosnian high court order to release them) and were sent to Guantanamo. The administration has detained several other suspects outside of Afghanistan and held them as “enemy combatants.”

“The Bush administration continues to believe that by invoking the word ‘terror’ it can detain anyone in any corner of the world without any oversight,” said Sifton. “Yet all these cases do is suggest that the United States has no commitment to legal principles. Turning your back on the law is not the way to stop terrorism.”

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Cairo to Kabul to Guantanamo

A Human Rights Watch Briefing Paper

`Abd al-Salam `Ali al-Hila arrived in Cairo on an EgyptAir flight, Friday, September 19, 2002, checking in the Semiramis Intercontinental, a five-star hotel overlooking the capital's Tahrir Square.¹ Al-Hila disappeared within a week of his arrival in Egypt. According to his brother, `Abd al-Wahab al-Hila, he is believed to have been taken first to Baku, Azerbaijan, and he was then transferred to U.S. custody in Afghanistan. After being held for some sixteen months in Afghanistan, he was sent to Guantanamo Bay, where he is still being held.

When al-Hila arrived in Cairo, according to his brother, he had a busy schedule of meetings with his Egyptian business associates. He managed a pharmaceutical firm in Yemen, and also served as a representative of Arab Contractors Co., Egypt's biggest construction company, in Sana'a.

Commerce wasn't al-Hila's only vocation. The father of three was also a Yemeni intelligence colonel, who was in charge of the "Arab Afghan file." The Yemeni government had welcomed hundreds and possibly a thousand or more "Arab Afghans" (Arabs who had gone to Afghanistan to join the fight against Soviet-backed government in the 1980s) volunteering to fight the "Marxist" secessionist rebels in the South during the country's 1994 civil war. (In addition to these foreign "Arab Afghans," an estimated 30,000 Yemenis also went to Afghanistan; many of them also assisted the Yemeni government upon their return.)

After the civil war ended, some volunteers settled down, intermarried with Yemenis, and, by and large, refrained from politics. Others continued to be active in militant politics, seeking a safe haven in Yemen's hard-to-control border areas with Saudi Arabia. Many others left the country for other destinations.

Al-Hila was the intelligence officer in charge of transferring scores of Arab Islamists from Yemen to other countries, including Western Europe, to seek asylum. His position meant that he had a close relationship with Yemeni President `Ali `Abdullah Salih, as well as with a broad array with Arab and Western intelligence services, and members of the militant groups themselves.²

Those familiar with the Islamist scene in Yemen say his knowledge of the Islamists' exodus routes out of his country made him a valuable source of information for the CIA. Islamists deny his involvement with al-Qaeda, or any terror group, but still say he helped thousands to leave the country. According to press reports, an Egyptian militant in Yemen told Egyptian intelligence agents that al-Hila had ties to al-Qaeda operatives. This information may have then been passed on to U.S. intelligence, and prompted his apprehension on arrival in Egypt.³

Al-Hila's trip to Cairo, however, was supposed to be strictly business. He was invited by the Arab Contractors' head office in Cairo to settle some financial disagreements over his construction business commission, according to his 30-year-old brother `Abd al-Wahab.⁴

Al-Hila was in a regular daily contact with his family, using both his Yemeni and Cairo cellular phones. On September 24, his family became worried as he did not answer their calls for the whole day.⁵

“`Abd al-Salam phoned us on the following day to say he had been invited to a meeting with ‘some people,’” his brother recalled. Al-Hila told his brother nervously that, “the atmosphere is cloudy and dark over here,” but did not elaborate further. This was to be his last phone conversation from Cairo with his family. Members of his family kept on calling him on the days following, but he didn’t answer. His two mobile phones were switched off three days later.⁶

The family subsequently contacted the Egyptian embassy in Sana'a to try to get some information on his whereabouts. They also made requests to the Yemeni president and the foreign ministry to lobby the Egyptian government on their behalf, assuming he was detained in Cairo.

`Abd al-Wahab insisted that his brother was not involved in any armed activities against the Egyptian government. He is not sure why his brother was kidnapped, but says “they talked in the press about his role with the Arab Afghans during [Yemen’s civil] war.”

Yemeni officials called upon their Egyptian counterparts to disclose the whereabouts of al-Hila. The Yemeni ministerial cabinet issued a statement on October 31, 2002, implying he was still detained in Egypt.⁷ The statement called upon Egyptian officials to disclose al-Hila’s whereabouts in spirit of the “brotherly” ties between the two countries.

The first Egyptian official response to the allegations came on November 3, 2002, in a report by the state-run Middle East News Agency, which quoted an “Egyptian official source” as stating that al-Hila left Cairo on an American flight to Baku on September 28, 2002. The source also denied any involvement by the Egyptian authorities in his “disappearance.”⁸

The family received no specific information from the Egyptian or Yemeni governments on his allegedly voluntary flight to Baku. They were told by the Yemeni foreign minister in November 2002 that Egyptian officials showed him the “departure card” each passenger fills out when flying out of Cairo Airport. `Abd al-Wahab asked the ministry for a copy of the departure card, but when Human Rights Watch interviewed him in December 2004 he had yet to receive one.

Al-Hila’s fate was unknown for more than a year and a half. During that time, his family had no information on him whatsoever: his whereabouts, which government was holding him and why, and his conditions of detention were all unknown. Finally, on April 14, 2004, Yemeni foreign minister Abu Bakr al-Qurbi announced that the Yemeni embassy in Islamabad, Pakistan, had received a letter from al-Hila smuggled out of Bagram Airbase in Kabul, Afghanistan. His brief letter, dated January 12, 2004, stated that he had been detained by the CIA in Afghanistan for 16 months, after being kidnapped in Cairo by Egyptian intelligence.⁹

The full letter was published by the Yemeni state-owned daily *26 September*, on April 25, 2004:

His Excellency, the Ambassador of the Yemeni Republic,

My brother, Mr. Ambassador, I—`Abd al-Salam `Ali al-Hila—am writing to you from my solitary confinement cell in Afghanistan. I was imprisoned by the Afghans, but I am in the CIA custody, together with a Yemeni brother in another cell. He is a merchant, who was arrested in Thailand and brought to Afghanistan. There are also seven other Arabs [detained here].

My brother, Mr. Ambassador, I am writing this letter from a dark prison. I don’t know why I am in jail. I am a businessman with a good reputation, who did a lot for this country. ... My brother, Mr. Ambassador, I am writing to you asking for help from God and the president of the [Yemeni] republic... I have been put in jail

in Afghanistan by the Americans, after I was arrested in the Arab Republic of Egypt during a brief business trip. The CIA conspired with the Egyptian Mukhabarrat, making false allegations and threats against me, so as to justify their crime of kidnapping me from Egypt and locking me up in this Afghani prison. I did not know I was in Afghanistan except after four months of incarceration. My brother, Mr. President, I am in prison though I am not guilty. You, concerned state officials, and the Americans know well I am not involved in any events related to the Americans or non-Americans; nor do I have any relations with [terrorist] organizations. My only crime is that the Americans wanted information from me, but couldn't find any, so I was left in Afghani prisons. My last interrogation was a year ago. The Americans cannot imprison me in America because they know I am not a criminal, and imprisoning me will be against their country's laws, and all other godly as well as ungodly laws. However, they [Americans] are violating these [laws] outside their country, and still claim they protect human rights.

My brother, Mr. President, I don't know what the Americans and the Egyptians told you about me, [but] I urge you to request my immediate release and my safe transfer home. If they accuse me of anything, then the minimum rights of any accused [include] standing trial in court. Thus, I ask you to lobby the Americans and the Egyptians, who handed me over [to the Americans], to bring me home. And if they accuse me of anything, then they could confront me with it in my country, in a public, fair, civilian court.

My father, the President, I am writing this letter to you, and wait, together with another Yemeni merchant by the name Amin al-Yafi`i. ... We hope we will not be unjustly forgotten in prisons! Only God knows how [bad] my situation is! Please take care of my mother, children, brothers, and my trade.

This letter was written on 12 Dhu'l-Qa'dah 1424 Hijri—12/1/2004 AD... I hope from my brother, Mr. Ambassador, to devote attention to the matter and convey my message to the president of the Republic.

In July 2004, al-Hila's family received a letter from Kabul via the Red Cross dated May 26, 2004. This was the first communication that they had received from him since he had been detained a year-and-a-half earlier. Two months later, they received another letter, dated July 19—this time from Guantanamo. This letter did not mention any details about his arrest or prison conditions. Instead, his letter was full of queries about the family.

In December 2004, the family received another two letters dated October 15 and October 30. Besides the greetings and good health wishes, al-Hila wrote in the October 15 letter, "I was moved to the new prison, from Afghanistan to Cuba, Guantanamo...." The rest of the sentence was blacked out by the U.S. military censor.

As of this writing, there was no evidence that he had been released from Guantanamo.

¹Human Rights Watch interview with `Abd al-Wahab al-Hila, December 2004.

² Human Rights Watch interview with Yasir al-Sirri, London, July 2003; Muhammad al-Shafi`i, "Zawahiri's Secret Papers, Part Seven," Asharq al-Awsat, December 19, 2002; `Abd al-Salam `Abd al-Salam Tahir, "Aborted Kidnapping Attempt of an Egyptian Embassy Employee Follows a Chase in Sana'a Streets," Asharq al-Awsat, September 17, 2003.

³ Human Rights Watch interview with Yasir al-Sirri, London, June 2004; Human Rights Watch phone interview with Yasir al-Sirri, December 2004; Muhammad al-Shafi`i, "Ayman al-Zawahiri's Secret Papers, Part 7," Asharq al-Awsat,

December 19, 2002; Interview with Nabil al-Hila, Middle East Transparent, July 22, 2004.

⁴Human Rights Watch interview with `Abd al-Wahab al-Hila, December 2004.

⁵ Ibid.

⁶ Human Rights Watch interview with `Abd al-Wahab al-Hila, December 2004.

⁷ Khalid Mahmud, "The Disappeared Yemeni Left Cairo to Azerbaijan on an American Flight, Egyptian Official Confirms," Asharq al-Awsat, November 4, 2002.

⁸ Ibid.

⁹ HOOD public statement [HOOD is a Yemen-based Islamist human rights organization] statement, "Al-Hila is in Kabul," April 27, 2004.

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