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## The Road to Abu Ghraib

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## Introduction

Since late April 2004, when the first photographs appeared of U.S. military personnel humiliating, torturing, and otherwise mistreating detainees at Abu Ghraib prison in Iraq, the United States government has repeatedly sought to portray the abuse as an isolated incident, the work of a few “bad apples” acting without orders. On May 4, U.S. Secretary of Defense Donald H. Rumsfeld, in a formulation that would be used over and over again by U.S. officials, described the abuses at Abu Ghraib as “an exceptional, isolated” case. In a nationally televised address on May 24, President George W. Bush spoke of “disgraceful conduct by a few American troops who dishonored our country and disregarded our values.”

In fact, the only exceptional aspect of the abuse at Abu Ghraib may have been that it was photographed. Detainees in U.S. custody in Afghanistan have testified that they experienced treatment similar to what happened in Abu Ghraib -- from beatings to prolonged sleep and sensory deprivation to being held naked -- as early as 2002. Comparable -- and, indeed, more extreme -- cases of torture and inhuman treatment have been extensively documented by the International Committee of the Red Cross and by journalists at numerous locations in Iraq outside Abu Ghraib.

This pattern of abuse did not result from the acts of individual soldiers who broke the rules. It resulted from decisions made by the Bush administration to bend, ignore, or cast rules aside. Administration policies created the climate for Abu Ghraib in three fundamental ways.

First, in the aftermath of the September 11 attacks on the United States, the Bush administration seemingly determined that winning the war on terror required that the United States circumvent international law. Senior administration lawyers in a series of internal memos argued over the objections of career military and State Department counsel that the new war against terrorism rendered “obsolete” long-standing legal restrictions on the treatment and interrogation of detainees.

The administration effectively sought to re-write the Geneva Conventions of 1949 to eviscerate many of their most important protections. These include the rights of all detainees in an armed conflict to be free from humiliating and degrading treatment, as well as from torture and other forms of coercive interrogation. The Pentagon and the Justice Department developed the breathtaking legal argument that the president, as

commander-in-chief of the armed forces, was not bound by U.S. or international laws prohibiting torture when acting to protect national security, and that such laws might even be unconstitutional if they hampered the war on terror. The United States began to create offshore, off-limits, prisons such as Guantánamo Bay, Cuba, maintained other detainees in “undisclosed locations,” and sent terrorism suspects without legal process to countries where information was beaten out of them.

White House legal counsel Alberto Gonzales, while suggesting that the Geneva Conventions be circumvented, did convey to President Bush the worries of military leaders that these policies might “undermine U.S. military culture which emphasizes maintaining the highest standards of conduct in combat and could introduce an element of uncertainty in the status of adversaries.” Those warnings were ignored, but proved justified. In May 2004, a member of the 377th Military Police Company told the *New York Times* that the labeling of prisoners in Afghanistan as “enemy combatants” not subject to the Geneva Conventions contributed to their abuse. “We were pretty much told that they were nobodies, that they were just enemy combatants,” he said. “I think that giving them the distinction of soldier would have changed our attitudes toward them.”<sup>1</sup>

Second, the United States began to employ coercive methods designed to “soften up” detainees for interrogation. These methods included holding detainees in painful stress positions, depriving them of sleep and light for prolonged periods, exposing them to extremes of heat, cold, noise and light, hooding, and depriving them of all clothing. News reports describe a case where U.S. personnel with official approval tortured a detainee held in an “undisclosed location” by submerging him in water until he believed he would drown. These techniques, familiar to victims of torture in many of the world's most repressive dictatorships, are forbidden by prohibitions against torture and other cruel, inhuman or degrading treatment not only by the Geneva Conventions, but by other international instruments to which the U.S. is a party and by the U.S. military's own long-standing regulations.

It is not yet clear which techniques of ill-treatment or torture were formally approved at which levels of the U.S. government and the degree of severity allowed in their application, or whether they were informally encouraged. What is clear is that they were used systematically both in Afghanistan and then in Iraq, and that they were also used on some scale at Guantánamo. It is also clear that the purpose of these techniques is to inflict pain, suffering and severe humiliation on detainees. Once that purpose was

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<sup>1</sup> Douglas Jehl and Andrea Elliott, “Cuba base sent its interrogators to Iraqi prison,” *New York Times*, May 29, 2004.

legitimized by military and intelligence officials, it is not surprising that ordinary soldiers came to believe that even more extreme forms of abuse were acceptable. The brazenness with which some soldiers conducted themselves at Abu Ghraib, snapping photographs and flashing the “thumbs-up” sign as they abused prisoners, confirms that they felt they had nothing to hide from their superiors.

Third, until the publication of the Abu Ghraib photographs forced action, Bush administration officials took at best a “see no evil, hear no evil” approach to all reports of detainee mistreatment. From the earliest days of the war in Afghanistan and the occupation of Iraq, the U.S. government has been aware of allegations of abuse. Yet high-level pledges of humane treatment were never implemented with specific orders or guidelines to forbid coercive methods of interrogation. Investigations of deaths in custody languished; soldiers and intelligence personnel accused of abuse, including all cases involving the killing of detainees, escaped judicial punishment. When, in the midst of the worst abuses, the International Committee of the Red Cross complained to Coalition forces, Army officials apparently responded by trying to curtail the ICRC’s access.

Concern for the basic rights of persons taken into custody in Afghanistan and Iraq did not factor into the Bush administration’s agenda. The administration largely dismissed expressions of concern for their treatment, from both within the government and without. This, too, sent a message to those dealing with detainees in the field about the priorities of those in command.

The severest abuses at Abu Ghraib occurred in the immediate aftermath of a decision by Secretary Rumsfeld to step up the hunt for “actionable intelligence” among Iraqi prisoners. The officer who oversaw intelligence gathering at Guantánamo was brought in to overhaul interrogation practices in Iraq, and teams of interrogators from Guantánamo were sent to Abu Ghraib. The commanding general in Iraq issued orders to “manipulate an internee’s emotions and weaknesses.” Military police were ordered by military intelligence to “set physical and mental conditions for favorable interrogation of witnesses.” The captain who oversaw interrogations at the Afghan detention center where two prisoners died in detention posted “Interrogation Rules of Engagement” at Abu Ghraib, authorizing coercive methods (with prior written approval of the military commander) – such as the use of military guard dogs to instill fear – that violate the Geneva Conventions and the Convention against Torture and Other Cruel, Inhuman Degrading Treatment or Punishment.

Unlike U.S. actions in the global campaign against terrorism, the armed conflict in Iraq was justified in part on bringing democracy and respect for the rule of law to an Iraqi population long-suffering under Saddam Hussein. Abusive treatment used against terrorism suspects after September 11 came to be considered permissible by the United States in an armed conflict to suppress resistance to a military occupation.

The Bush administration apparently believed that the new wars it was fighting could not be won if it was constrained by “old” rules. The disturbing information coming to light points to an official policy of torture and cruel, inhuman or degrading treatment.

The Bush administration has denied having a policy to torture or abuse detainees. Human Rights Watch calls on the administration to demonstrate conclusively that its public disavowal of torture and other mistreatment of detainees in U.S. custody was in fact the policy of the U.S. government, and to make public all relevant government documents. The administration should also detail the steps being taken to ensure that these abusive practices do not continue, and to prosecute vigorously all those responsible for ordering or condoning this abuse.

Ironically, the administration is now finding that it may be losing the war for hearts and minds around the world precisely because it threw those rules out. Rather than advance the war on terror, the widespread prisoner abuse has damaged efforts to build global support for countering terrorism. Indeed, each new photo of an American soldier humiliating an Iraqi could be considered a recruiting poster for al-Qaeda. Policies adopted to make the United States more secure from terrorism have in fact made it more vulnerable.

## **I. A Policy to Evade International Law**

In the aftermath of the September 11 attacks on the United States, the Bush administration seemingly determined that winning the war on terror required that the United States circumvent international law. “There was a before-9/11 and an after-9/11,” said Cofer Black, former director of the CIA’s counterterrorist unit, in testimony to Congress. “After 9/11 the gloves came off.”<sup>2</sup>

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<sup>2</sup> John Barry, Michael Hirsh and Michael Isikoff, “The roots of terror,” *Newsweek*, May 24, 2004.

The first public manifestation of a policy to circumvent normal detention rules came in January 2002, when the United States began sending persons picked up during the armed conflict in Afghanistan to its naval base at Guantánamo Bay, Cuba. Ultimately Guantánamo would hold more than 700 detainees from forty-four countries, many apprehended far from any conflict zone. Guantánamo was deliberately chosen in an attempt to put the detainees beyond the jurisdiction of the U.S. courts. Indeed, in response to a legal challenge by several detainees, the U.S. government later argued that U.S. courts would not have jurisdiction over these detainees even if they were being tortured or summarily executed.<sup>3</sup>

### ***Circumventing the Geneva Conventions***

Ignoring the deeply rooted U.S. military practice of applying the Geneva Conventions broadly, U.S. Defense Secretary Donald H. Rumsfeld labeled the first detainees to arrive at Guantánamo on January 11, 2002 as “unlawful combatants,” automatically denying them possible status as prisoners of war (POWs). “Unlawful combatants do not have any rights under the Geneva Convention,” Mr. Rumsfeld said, overlooking that the Geneva Conventions provide explicit protections to all persons captured in an international armed conflict, even if they are not entitled to POW status. Rumsfeld signaled a casual approach to U.S. compliance with international law by saying that government would “for the most part, treat them in a manner that is reasonably consistent with the Geneva Conventions, to the extent they are appropriate.”<sup>4</sup> On February 7, Rumsfeld questioned the relevance of the Geneva Conventions to current U.S. military operations: “The reality is the set of facts that exist today with the al-Qaeda and the Taliban were not necessarily the set of facts that were considered when the Geneva Convention was fashioned.”<sup>5</sup>

At the same time, a series of legal memoranda written in late 2001 and early 2002 by the Justice Department helped build the framework for circumventing international law restraints on prisoner interrogation. These memos argued that the Geneva Conventions did not apply to detainees from the Afghanistan war.

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<sup>3</sup> See *Gherebi v. Bush* 9th Circuit, Dec. 18, 2003. The United States asserts the power “to do with [them] as it will, when it pleases, without any compliance with any rule of law of any kind, without permitting [them] to consult counsel, and without acknowledging any judicial forum in which its actions may be challenged. ... Indeed, at oral argument, the government advised us that its position would be the same even if the claims were that it was engaging in acts of torture or that it was summarily executing the detainees. To our knowledge, prior to the current detention of prisoners at Guantánamo, the U.S. government has never before asserted such a grave and startling proposition. ... a position so extreme that it raises the gravest concerns under both American and International law.”

<sup>4</sup> “Geneva Convention doesn’t cover detainees,” Reuters, January 11, 2002.

<sup>5</sup> See Jim Garamone, DefenseLink News (US Military), American Forces Press Service, February 7, 2002.

Alberto R. Gonzales, the White House counsel, in a January 25, 2002 memorandum to President Bush, endorsed the Justice Department's (and Rumsfeld's) approach and urged the president to declare the Taliban forces in Afghanistan as well as al-Qaeda outside the coverage of the Geneva Conventions. This, he said, would preserve the U.S.'s "flexibility" in the war against terrorism. Mr. Gonzales wrote that the war against terrorism, "in my judgment renders obsolete Geneva's strict limitations on questioning of enemy prisoners." Gonzales also warned that U.S. officials involved in harsh interrogation techniques could potentially be prosecuted for war crimes under U.S. law if the Conventions applied.<sup>6</sup> Gonzales said that "it was difficult to predict with confidence" how prosecutors might apply the Geneva Conventions' strictures against "outrages against personal dignity" and "inhuman treatment" in the future, and argued that declaring that Taliban and al-Qaeda fighters did not have Geneva Convention protections "substantially reduces the threat of domestic criminal prosecution."<sup>7</sup>

Gonzales did convey to President Bush the worries of military leaders that these policies might "undermine U.S. military culture which emphasizes maintaining the highest standards of conduct in combat and could introduce an element of uncertainty in the status of adversaries."<sup>8</sup>

The Gonzales memorandum drew a strong objection the next day from Secretary of State Colin L. Powell. Powell argued that declaring the conventions inapplicable would "reverse over a century of U.S. policy and practice in supporting the Geneva Conventions and undermine the protections of the law of war for our troops, both in this specific conflict and in general."<sup>9</sup>

On February 7, 2002, in the face of growing international criticism,<sup>10</sup> President Bush announced that the U.S. government would apply the "principles of the Third Geneva Convention" to captured members of the Taliban, but would not consider any of them to be POWs because, in the U.S. view, they did not meet the requirements of an armed

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<sup>6</sup> Gonzales was referring to prosecution under the War Crimes Act of 1996 (18 U.S.C. Section 2441), which punishes the commission of a war crime, including torture and humiliating or degrading treatment, by or against a U.S. national, including members of the armed forces.

<sup>7</sup> Memorandum from Alberto R. Gonzales to the President, January 25, 2002.

<sup>8</sup> *Ibid.*

<sup>9</sup> Memorandum from Colin L. Powell to Counsel to the President, January 26, 2002.

<sup>10</sup> See, e.g., Statement of High Commissioner for Human Rights on Detention of Taliban and al-Qaeda Prisoners at U.S. Base in Guantanamo Bay, January 16, 2002; Kieran Murray, "EU, Latin America condemn U.S. prison abuse in Iraq," Reuters, May 28, 2004. Rumsfeld dismissed the criticism as "isolated pockets of international hyperventilation." See "High Taliban official in U.S. custody," Associated Press, February 9, 2002.



force under that Convention. As for captured members of al-Qaeda, he said that the U.S. government considered the Geneva Conventions inapplicable but would nonetheless treat the detainees “humanely.”

These decisions essentially reinterpreted the Geneva Conventions to suit the administration’s purposes. Belligerents captured in the conflict in Afghanistan should have been treated as POWs unless and until a competent tribunal individually determined that they were not eligible for POW status. Taliban soldiers should have been accorded POW status because they openly fought for the armed forces of a state party to the Convention. Al-Qaeda detainees would likely not be accorded POW status, but the Conventions still provide explicit protections to all persons held in an international armed conflict, even if they are not entitled to POW status. Such protections include the right to be free from coercive interrogation, to receive a fair trial if charged with a criminal offense, and, in the case of detained civilians, to be able to appeal periodically the security rationale for continued detention.

Even after the Abu Ghraib scandal broke, Secretary Rumsfeld continued to take a loose view of the applicability of the Geneva Conventions. On May 5, 2004, he told a television interviewer the Geneva Conventions “did not apply precisely” in Iraq but were “basic rules” for handling prisoners.<sup>11</sup> Visiting Abu Ghraib on May 14, Rumsfeld remarked, “Geneva doesn’t say what you do when you get up in the morning.” In fact, the U.S. armed forces have devoted considerable energy over the years to making the Geneva Conventions fully operational by military personnel in the field. Various U.S. military operational handbooks and manuals provide the means for implementing Geneva Convention provisions, even where those provisions are vague. Decisions by foreign and international criminal courts and interpretations of customary international law provide other means for clarifying Geneva Convention requirements.

### ***Undermining the Rules Against Torture***

All the while, the Bush administration resisted publicly discussing the requirements for the treatment of detainees under international human rights law, in particular the U.N. Convention against Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment (the Convention Against Torture). That convention bars not only torture

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<sup>11</sup> United States Department of Defense News Transcript, Secretary Rumsfeld Interview with Matt Lauer NBC “Today,” <http://www.dod.gov/transcripts/2004/tr20040505-secdef1425.html>.

but “cruel, inhuman or degrading treatment or punishment which do not amount to torture.”<sup>12</sup>

After the first reports of so-called “stress and duress” tactics against detainees appeared in the *Washington Post* in December 2002,<sup>13</sup> Human Rights Watch called on President Bush to investigate and condemn allegations of torture and other cruel and inhuman treatment.<sup>14</sup> In response, Department of Defense General Counsel William J. Haynes II stated that “United States policy condemns torture,” but he did not acknowledge that the United States also had a legal obligation to refrain from cruel, inhuman or degrading treatment. He also failed to address whether the United States was using the “stress and duress” techniques reported in the press.<sup>15</sup> In June 2003, Senator Patrick Leahy wrote to National Security Advisor Condoleezza Rice asking if “stress and duress” techniques were being employed and urging the administration to issue a clear statement that cruel, inhuman, or degrading treatment of detainees will not be tolerated. Finally, in June 2003, in response to the Leahy letter, Haynes stated, correctly, that the Convention Against Torture prohibits (at the very least) interrogators overseas from using any technique that would be unconstitutional if employed in the United States.<sup>16</sup> There is no evidence, however, that this message was ever conveyed to U.S. commanders in the field.

Rather, at the same time that the administration was publicly rejecting the use of torture or cruel, inhuman, or degrading treatment, it was apparently laying the legal groundwork for the use of just such tactics. The *Washington Post* has reported that in August 2002, the Justice Department advised Gonzales, in response to a CIA request for guidance, that torturing al-Qaeda detainees in captivity abroad “may be justified,” and that international laws against torture “may be unconstitutional if applied to interrogations” conducted in the war on terrorism.<sup>17</sup> The memo added the doctrines of “necessity and

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<sup>12</sup> Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, adopted and open for signature, ratification and accession by General Assembly resolution 39/46 of December 10, 1984, article 16.

<sup>13</sup> Dana Priest and Barton Gellman, “U.S. decries abuse but defends interrogations,” *Washington Post*, December 26, 2002; see discussion *infra*.

<sup>14</sup> Human Rights Watch, “United States: Reports of Torture of Al-Qaeda Suspects,” December 27, 2002, <http://www.hrw.org/press/2002/12/us1227.htm>.

<sup>15</sup> <http://www.hrw.org/press/2003/04/dodltr040203.pdf>.

<sup>16</sup> The Haynes letter to Leahy followed an earlier exchange with U.S.-based human rights groups, including Human Rights Watch, in which Haynes stated that “United States policy condemns torture,” but did not acknowledge that the United States also had a legal obligation to refrain from cruel, inhuman or degrading treatment. See Human Rights Watch, “U.S. Sidesteps Charges of Mistreating Detainees,” <http://www.hrw.org/press/2003/04/us041703.htm>; Timeline of Detainee Abuse Allegations and Responses, <http://www.hrw.org/english/docs/2004/05/07/usint8556.htm>

<sup>17</sup> Dana Priest and R. Jeffrey Smith, “Memo Offered Justification for Use of Torture,” *Washington Post*, June 8, 2004.

self-defense could provide justifications that would eliminate any criminal liability” on the part of officials who tortured al-Qaeda detainees. The memo also took an extremely narrow view of which acts might constitute torture. It referred to seven practices that U.S. courts have ruled to constitute torture: severe beatings with truncheons and clubs, threats of imminent death, burning with cigarettes, electric shocks to genitalia, rape or sexual assault, and forcing a prisoner to watch the torture of another person. It then advised that “interrogation techniques would have to be similar to these in their extreme nature and in the type of harm caused to violate law.” The memo suggested that “mental torture” only included acts that resulted in “significant psychological harm of significant duration, e.g., lasting for months or even years.”

The legal reasoning of the Justice Department memo re-appeared in an April 2003 memorandum from a working group appointed by Pentagon legal counsel Haynes that was headed by Air Force General Counsel Mary Walker and included senior civilian and uniformed lawyers from each military branch, and which consulted the Justice Department, the Joint Chiefs of Staff, the Defense Intelligence Agency and other intelligence agencies, according to the *Wall Street Journal*.<sup>18</sup> They contended that the president was not bound by the laws banning torture. According to a draft of the classified memo, the lawyers argued that the president had the authority as commander in chief of the armed forces to approve almost any physical or psychological actions during interrogation, up to and including torture, in order to obtain “intelligence vital to the protection of untold thousands of American citizens.” The memo presented a number of legal doctrines, including the principles of “necessity” and “self-defense,” and the inherent powers of the president which could be used to evade the prohibition on torture. The memo advised that the president issue a “presidential directive or other writing” that subordinates charged with torture could use as evidence that their actions were authorized, since authority to set aside the laws in wartime is “inherent in the president.”

The Convention Against Torture provides, however, that “[n]o exceptional circumstances whatsoever, whether a state of war or a threat or war, internal political instability or any other public emergency, may be invoked as a justification of torture.”<sup>19</sup> The International Covenant on Civil and Political Rights, which also bans torture and other mistreatment, considers the right to be free from torture and other cruel, inhuman or degrading treatment as nonderogable, meaning that it can never be suspended by a state, including during periods of public emergency.

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<sup>18</sup> Jess Bravin, “Pentagon Report Set Framework For Use of Torture,” *Wall Street Journal*, June 7, 2004.

<sup>19</sup> Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, adopted and open for signature, ratification and accession by General Assembly resolution 39/46 of December 10, 1984, article 16.

And, according to media accounts and Human Rights Watch interviews, senior officials in the Defense and Justice Departments and the Central Intelligence Agency approved a set of coercive interrogation techniques for use in Afghanistan and Iraq that violate the prohibition of cruel, inhuman, or degrading treatment and can amount to torture.<sup>20</sup> These techniques apparently include stripping detainees naked during interrogation, subjecting them to extremes of heat, cold, noise, and light, hooding them, depriving them of sleep, and keeping them in painful positions.<sup>21</sup>

The *New York Times*, citing current and former counterterrorism officials, reported that in one case CIA interrogators used graduated levels of force against Khalid Sheikh Mohammed, a detainee held in an “undisclosed location” (see *infra*), including a technique known as “water boarding,” in which a prisoner is strapped down, forcibly pushed under water and made to believe he might drown. According to the *Times*, “these techniques were authorized by a set of secret rules for the interrogation of some 12 to 20 high-level al-Qaeda prisoners that were endorsed by the Justice Department and the CIA.”<sup>22</sup>

### **Renditions**

The Bush administration facilitated or participated directly in the transfer of an unknown number of persons without extradition proceedings, a practice known as “irregular rendition,” to countries in the Middle East known to practice torture routinely. The *Washington Post* in December 2002 described the rendition of captured al-Qaeda suspects from U.S. custody to other countries, such as Syria, Uzbekistan, Pakistan, Egypt, Jordan, Saudi Arabia, and Morocco, where they were tortured or otherwise mistreated. Unnamed U.S. officials suggested that detainees were deliberately moved to countries known for

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<sup>20</sup> The *Washington Post* has reported that a “list of about 20 techniques was approved at the highest levels of the Pentagon and the Justice Department,” techniques for use at the Guantánamo Bay prison. Dana Priest and Joe Stephens, “Pentagon approved tougher interrogations,” *Washington Post*, May 9, 2004. Senior government officials had earlier told Human Rights Watch of the approval of a “72-point matrix.” It is possible that this 72-point list was reduced to 20 in the approval process.

<sup>21</sup> According to Physicians for Human Rights: “Prolonged periods of sleep deprivation can result in confusion and psychosis, physical symptoms including headaches and dizziness, and chronic disruption of normal sleep patterns.” Also, “deprivations or normal sensory stimulation (e.g. sound, light, sense of time, isolation, restrictions of sleep, food, water, toilet facilities bathing, motor activity, medical care, and social contacts) serve to disorient victims, to induce exhaustion and debility, difficulty concentrating, impair memory and instill fear, helplessness, despair, and, in some cases, can result in severe anxiety and hallucinations and other psychotic reactions.” Physicians for Human Rights, “Interrogations, Torture and Ill Treatment: Legal Requirements and Health Consequences,” May 14, 2004, at page 7-8, [http://www.phrusa.org/research/pdf/iraq\\_medical\\_consequences.pdf](http://www.phrusa.org/research/pdf/iraq_medical_consequences.pdf).

<sup>22</sup> James Risen, David Johnston and Neil A. Lewis, “Scrutiny worries CIA interrogators,” *New York Times*, May 13, 2004.

their use of torture to ease constraints on their interrogations. One official was quoted as saying, "We don't kick the [expletive] out of them. We send them to other countries so they can kick the [expletive] out of them." An official who had supervised the capture and transfer of accused terrorists said "If you don't violate someone's human rights some of the time, you probably aren't doing your job...I don't think we want to be promoting a view of zero tolerance on this."<sup>23</sup>

Tarek Dergoul, a Briton released from Guantánamo in March 2004, said that during interrogation there he was threatened with being sent to Morocco or Egypt, "where I would be tortured."

In one case, Maher Arar, a Syrian-born Canadian in transit from a family vacation through John F. Kennedy airport in New York, was detained by U.S. authorities. After holding him for nearly two weeks, U.S. authorities flew him to Jordan, where he was driven across the border and handed over to Syrian authorities, despite his repeated statements to U.S. officials that he would be tortured in Syria and his repeated requests to be sent home to Canada. Mr. Arar, whom the United States asserts has links to al-Qaeda, was released without charge from Syrian custody ten months later and has described repeated torture, often with cables and electrical cords, during his confinement in a Syrian prison.

In another case, Swedish television reported in May 2004 that in December 2001 a U.S. government-leased Gulfstream 5 jet airplane transported two Egyptian terrorism suspects who were blindfolded, hooded, drugged, and diapered by hooded operatives, from Sweden to Egypt. There the two men were tortured, including in Cairo's notorious Tora prison.<sup>24</sup> The plane was apparently the same one that had allegedly been used two months earlier to transport a Yemeni suspect from Pakistan to Jordan.

In a third case, U.S. operatives reportedly managed the capture and transfer of Mohammed Haydar Zammar, a top al-Qaeda suspect and dual German-Syrian national, to Syria in June 2002, over the protests of the German government. The United States has reportedly provided questions to Syrian interrogators.<sup>25</sup>

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<sup>23</sup> Dana Priest and Barton Gellman, "U.S. decries abuse but defends interrogations," *Washington Post*, December 26, 2002.

<sup>24</sup> Swedish TV4 Kalla Fakta Program: "The Broken Promise," May 17, 2004. See English Transcript at <http://hrw.org/english/docs/2004/05/17/sweden8620.htm>.

<sup>25</sup> Murhaf Jouejati, Adjunct Professor at George Washington University, and an expert on Syria, told the National Commission on Terrorist Attacks Upon the United States that "Although US officials have not been able to interrogate Zammar, Americans have submitted questions to the Syrians." Statement of Murhaf Jouejati

## **“Disappearances”**

Among the most disturbing cases, perhaps unprecedented in U.S. history, are the detainees who have simply been “disappeared.”<sup>26</sup> Perhaps out of concern that Guantánamo will eventually be monitored by the U.S. courts, certainly to ensure even greater secrecy, the Bush administration does not appear to hold its most sensitive and high-profile detainees there. Terrorism suspects like Khalid Sheikh Mohammed, accused architect of the September 11 attacks, and Abu Zubaydah, a close aide of Osama bin Laden, are detained by the United States instead in “undisclosed locations,” presumably outside the United States, with no access to the ICRC, no notification to families, no oversight of any sort of their treatment, and in most cases no acknowledgement that they are even being held. Human Rights Watch has pieced together information on 13 such detainees, apprehended in places such as Pakistan, Indonesia, Thailand, Morocco, and the United Arab Emirates, who have “disappeared” in U.S. custody.<sup>27</sup>

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to the National Commission on Terrorist Attacks Upon the United States, July 9, 2003, [http://www.9-11commission.gov/hearings/hearing3/witness\\_jouejati.htm](http://www.9-11commission.gov/hearings/hearing3/witness_jouejati.htm).

<sup>26</sup> According to the preamble of the Declaration on the Protection of all Persons from Enforced Disappearance, “enforced disappearances occur, in the sense that persons are arrested, detained or abducted against their will or otherwise deprived of their liberty by officials of different branches or levels of Government, ... followed by a refusal to disclose the fate or whereabouts of the persons concerned or a refusal to acknowledge the deprivation of their liberty, which places such persons outside the protection of the law...” [emphasis added]. General Assembly resolution 47/133 of December 18, 1992. “Enforced disappearance” has been defined by the Rome Statute of the International Criminal Court as the “arrest, detention or abduction of persons by, or with the authorization, support or acquiescence of, a State or a political organization, followed by a refusal to acknowledge that deprivation of freedom or to give information on the fate or whereabouts of those persons, with the intention of removing them from the protection of the law for a prolonged period of time.” Article 7 (2) (1).

<sup>27</sup> They are :1) Abdul Rahim al-Sharqawi (aka Riyadh the facilitator), arrested before April 2002, al-Qaeda member, allegedly coordinated logistics for attacks; 2) Ibn Al-Shaykh al-Libi, arrested before April 2002, allegedly al-Qaeda training camp commander; 3) Abd al-Hadi al-Iraqi, arrested before April 2002, allegedly al-Qaeda training camp commander; 4) Abu Zubaydah (aka Zubeida, aka Zain al-Abidin Muhahhad Husain), arrested in March 2002 in Faisalabad, Pakistan, al-Qaeda member, Palestinian (born in Saudi Arabia), allegedly senior al-Qaeda operational planner, potential heir to Bin Laden; 5) Omar al Faruq, arrested in June 2002 in Indonesia, al-Qaeda member, Kuwaiti, allegedly planned large-scale attacks against U.S. interests in Indonesia, Malaysia, the Philippines, etc.; 6) Abu Zubair al-Haili, arrested in June 2002 in Morocco, al-Qaeda member, Saudi, allegedly operational and military chief (deputy to Abu Zubaydah); 7) Ramzi bin al-Shibh, arrested in September 2002, al-Qaeda member, Yemeni, alleged conspirator in Sept. 11 attacks (former Atta roommate), meant to be 20th hijacker; 8) Abd al-Rahim al-Nashiri (aka Abu Bilal al-Makki), arrested in November 2002 in the United Arab Emirates, al-Qaeda member, Saudi or Yemeni, allegedly chief of operations in Persian Gulf and mastermind of USS Cole bombing and recent attack on the French oil tanker Limburg; 9) Mustafa al-Hawsawi, arrested March 1, 2003 (together with Khalid Sheikh M.) in Rawalpindi, Pakistan, al-Qaeda member, Saudi, allegedly financier; 10) Khalid Sheikh Mohammed (aka Shaikh Mohammed), arrested March 1, 2003 in Rawalpindi, Pakistan, al-Qaeda member, Kuwaiti (Pakistani parents), alleged mastermind behind Sept. 11 attacks as well as Pearl killing, USS Cole attack, etc.; 11) Waleed Mohammed Bin Attash (aka Tawfiq bin Attash or Tawfiq Attash Khallad), arrested in late April 2003 in Karachi, Pakistan, al-Qaeda member, Saudi (of Yemeni descent), alleged “top al-Qaida operative suspected of playing crucial roles in both the bombing of the U.S. destroyer Cole in 2000 and the Sept. 11 terror attacks;” 12) Adil al-Jazeera, arrested June 17, 2003 in Peshawar, Pakistan, al-Qaeda member, alleged “leading member”; 13) Hambali (aka Riduan Isamuddin),

## II. Guantánamo: America's "Black Hole"

The secrecy surrounding detention practices at the U.S. Naval Base at Guantánamo Bay, Cuba, the U.S. government's refusal to grant POW status to the Taliban detainees there or to even recognize that al-Qaeda detainees are covered by the Geneva Conventions, the approval of harsh interrogation techniques, and the allegations of abuse by some released detainees combine to raise concerns about mistreatment of detainees at the base. While Human Rights Watch has no information of Abu-Ghraib-level abuses at Guantánamo, there is a lot that remains to be learned.

The United States has carefully controlled information about the detainees at Guantánamo, barring them from most contact with the outside world.<sup>28</sup> As a result, little is publicly known about the more than 700 detainees from forty-four countries, including children as young as 13, who have been held at Guantánamo.<sup>29</sup> Human Rights Watch, and others, have had access only to detainees *released* from U.S. custody – and those released thus far are people whom U.S. authorities did not consider to be a security risk or indictable for criminal offenses. That is, none of them are the sort of high value or important detainees who might have been treated more harshly. What the world has been allowed to see of the Guantánamo detention facility are highly controlled tours for journalists (who have not been able to talk to detainees), and occasional video material released by the U.S. Department of Defense. Guantánamo has been described as a "legal black hole" by Lord Johan Steyn, a judicial member of Britain's House of Lords.<sup>30</sup>

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arrested August 11, 2003 in Aytthaya, Thailand, Jemaah Islamiyah (and al-Qaeda) member, Indonesian, allegedly organized/financed Bali nightclub bombing, Jakarta Marriot Hotel bombing, preparations for Sept. 11.

<sup>28</sup> Guantánamo detainees are visited by the ICRC, which does not report publicly, and some have been interviewed by representatives of their home governments.

<sup>29</sup> On January 29, 2004, the U.S. released three children believed to be between thirteen and fifteen years of age, but continued to hold an unspecified number of older children. For a more detailed discussion of the special risks to children held at Guantánamo see, Human Rights Watch, "Despite Releases, Children Still Held at Guantánamo," January 29, 2004, <http://www.hrw.org/english/docs/2004/01/29/usint7117.htm>, and Human Rights Watch, "Letter to Secretary Rumsfeld on Child Detainees at Guantanamo," April 24, 2003, <http://www.hrw.org/press/2003/04/us042403ltr.htm>.

<sup>30</sup> Johan Steyn, "Guantanamo: A monstrous failure of justice," *International Herald Tribune*, November 28, 2003.

Incommunicado detention has been consistently condemned by international human rights bodies as facilitating conditions under which torture and other mistreatment may take place.<sup>31</sup>

Statements by U.S. officials that the Geneva Conventions do not apply to al-Qaeda detainees -- indeed, the Bush administration's refusal to acknowledge that any law applies to them -- and that harsher methods of interrogation are therefore permissible, only heighten this concern. In his January 2002 memo to the president, for instance, White House counsel Gonzales endorsed not applying the Conventions to Guantánamo to avoid "Geneva's strict limitations on questioning of enemy prisoners."<sup>32</sup>

It was the failure to obtain sufficient information using non-coercive methods on Guantánamo detainees which reportedly led to the creation of the working group which informed Secretary Rumsfeld in April 2003 that the president, as commander in chief, could authorize torture notwithstanding domestic and international legal prohibitions.<sup>33</sup> According to the *Wall Street Journal*, a U.S. official who helped prepared the report said "We'd been at this for a year-plus and got nothing out of them [certain Guantánamo detainees] ... we need to have a less-cramped view of what torture is and is not." According to the official, interrogation techniques including drawing on prisoners' bodies, putting women's underwear on their heads, and threatening imminent harm to their families had not borne fruit and there was a need to "ratchet up the pressure."<sup>34</sup>

The *Washington Post* reported that in April 2003, officials at the highest levels of the Defense and Justice Departments approved a list of about twenty interrogation techniques for use at Guantánamo Bay that permit, among other things, reversing the normal sleep patterns of detainees and exposing them to heat, cold and "sensory assault," including loud music and bright lights, according to defense officials. The use of the techniques, according to the *Post*, must be justified as "militarily necessary," and must be accompanied by "appropriate medical monitoring," and requires the approval of

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<sup>31</sup> The Human Rights Committee, the expert body established to monitor compliance with the International Covenant on Civil and Political Rights, in its authoritative interpretation of Article 7 prohibiting torture and cruel, inhuman or degrading treatment or punishment, has stated: "To guarantee the effective protection of detained persons, provisions should be made for detainees to be held in places officially recognized as places of detention and for their names and places of detention, as well as for the names of persons responsible for their detention, to be kept in registers readily available and accessible to those concerned, including relatives and friends." General Comment 20, para. 11.

<sup>32</sup> See, e.g., John Yoo, "Terrorists have no Geneva rights," *Wall Street Journal*, May 26, 2004.

<sup>33</sup> Jess Bravin, Pentagon Report Set Framework For Use of Torture, *Wall Street Journal*, June 7, 2004

<sup>34</sup> *Ibid.*



senior Pentagon officials, and in some cases, of the Defense Secretary.<sup>35</sup> CBS News reported that Secretary Rumsfeld had approved such treatment for Mohammed Khatani, who in August 2001 allegedly tried unsuccessfully to enter the United States as part of the 9-11 plot. The treatment included reversing Khatani's sleep patterns, cutting off his beard, playing loud music and subjecting him to interrogation sessions lasting up to twenty hours. The head of U.S. Southern Command, General James Hill, whose responsibilities include Guantánamo Bay, said in June 2004 that Rumsfeld approved unspecified intensive interrogation techniques on two prisoners at Guantánamo.<sup>36</sup> The *Wall Street Journal* has reported that interrogation methods now used at Guantánamo include "limiting prisoners' food, denying them clothing, subjecting them to body-cavity searches, depriving them of sleep for as much as ninety-six hours and shackling them in so-called stress positions."<sup>37</sup>

Human Rights Watch has examined the accounts of over a dozen people released from Guantánamo concerning their incarceration there. These include nine persons directly interviewed by Human Rights Watch in Afghanistan and Pakistan, a sworn statement by a British former detainee provided to Human Rights Watch by his legal representative, and comments to media sources by several others. None of these accounts includes descriptions of the range of coercive interrogation techniques that reportedly had been authorized. As noted above, none of the detainees released to date have included "high value" detainees; most were apparently not even members of al-Qaeda or the Taliban. Thus, it cannot be determined if the methods used on the interviewees are representative or not of methods used on more important detainees. Nevertheless, some do describe degrading treatment, beatings and some sexual humiliation.

Describing his experience of being chained to the floor for long periods in an interrogation room without actually being interrogated, Briton Tarek Dergoul, who was released in March 2004, stated: "Eventually I'd need to urinate and in the end I would try to tilt my chair and go on the floor. They were watching through a one-way mirror. As soon as I wet myself, a woman MP [military police] would come in yelling, 'Look what you've done! You're disgusting.'"<sup>38</sup>

In a joint statement issued on May 13, 2004, Shafiq Rasul and Asif Iqbal, who were also released in March 2004 and repatriated to Britain, recounted: "Shortly before we left, a new practice was started. People would be taken to what was called the 'Romeo' block

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<sup>35</sup> Dana Priest and Joe Stephens, "Pentagon approved tougher interrogations," *Washington Post*, May 9, 2004.

<sup>36</sup> Josh White, "Methods used on 2 at Guantanamo," *Washington Post*, June 4, 2004.

<sup>37</sup> Jess Bravin, "Pentagon Report Set Framework For Use of Torture," *Wall Street Journal*, June 7, 2004.

<sup>38</sup> David Rose, "They tied me up like a beast and began kicking me," *The Observer*, May 16, 2004.

where they would be stripped completely. After three days they would be given underwear. After another three days they would be given a top, and then after another three days given trouser bottoms. Some people only ever got underwear. This was said to be for 'misbehaving.'"<sup>39</sup>

One detainee, "A.," in Afghanistan, told Human Rights Watch that he was threatened with electric shocks. Human Rights Watch is not aware, however, of any instances in which shocks were actually administered.

A number of those interviewed described physical duress, particularly being subjected to extreme cold in the camp's isolation wing. Former detainee Shah Mohammed Alikhil told Human Rights Watch: "It had a cold environment and cold weather [air conditioning] was blowing. Sometimes I was freezing cold, but we were denied blankets except during the night we were given blankets."<sup>40</sup> Mohammad Saghir from Pakistan,<sup>41</sup> also complained of the very cold conditions in the punishment cells, where he was twice held, caused by air conditioning. Former detainee A., from Afghanistan, stated: "The isolation room was for punishment. It was a dark room and cold air was blowing. I had two blankets but still I was feeling cold. I was there for a month each time."<sup>42</sup> Tarek Dergoul described being chained to a ring in the floor and left alone for up to eight hours each day for a month. He stated: "The air conditioning would really be blowing – it was freezing, which was incredibly painful on my amputation stumps." (Dergoul had his left arm amputated above the elbow and a big toe was amputated because of frostbite.)<sup>43</sup>

Many described being chained or shackled. Dergoul described restraint equipment referred to as the "short shackle" - steel bonds pulled tight to keep the subject bunched up, then chained to the floor: "After a while, it was agony."<sup>44</sup> Shafiq Rasul and Asif Iqbal, British detainees at Guantánamo, described interrogation practices as follows:

"Our interrogations in Guantánamo... were conducted with us chained to the floor for hours on end in circumstances so prolonged that it was practice to have plastic chairs...

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<sup>39</sup> Shafiq Rasul and Asif Iqbal, Open letter to the U.S. Senate Armed Services Committee, May 13, 2004.

<sup>40</sup> Human Rights Watch interview with Shah Mohammed Alikhil, January 3, 2004.

<sup>41</sup> Human Rights Watch interview with Mohammad Saghir, January 17, 2004.

<sup>42</sup> Human Rights Watch interview with A. [name withheld], February 6, 2004.

<sup>43</sup> David Rose, "They tied me up like a beast and began kicking me," *The Observer*, May 16, 2004.

<sup>44</sup> David Rose, "They tied me up like a beast and began kicking me," *The Observer*, May 16, 2004.

that could be easily hosed off because prisoners would be forced to urinate during the course of them and were not allowed to go to the toilet.

“One practice ... was ‘short shackling’ where we were forced to squat without a chair with our hands chained between our legs and chained to the floor. If we fell over, the chains would cut into our hands. We would be left in this position for hours before an interrogation, during the interrogations (which could last as long as 12 hours), and sometimes for hours while the interrogators left the room. The air conditioning was turned up so high that within minutes we would be freezing. There was strobe lighting and loud music played that was itself a form of torture. Sometimes dogs were brought in to frighten us... Sometimes detainees would be taken to the interrogation room day after day and kept short-shackled without interrogation ever happening, sometimes for weeks on end.”<sup>45</sup>

Other detainees interviewed by Human Rights Watch, however, did not describe any abuse during interrogations. For example, Abdul Razak told Human Rights Watch that

“In the thirteen months I was in Cuba, I was interrogated 10-12 times. I was interrogated in a separate room and always alone. I would be brought there and my legs would be shackled to a chair. One or two Americans in plain clothes interviewed me. A typical interrogation consisted of questions about my family, education record, language skills, background...what I intended to do in the future...Purpose of my missionary activity...who funded it...what I was doing in Afghanistan....The sessions lasted between one and two hours each and I was asked questions the whole time.”<sup>46</sup>

Several detainees talked about beatings, although only one had been assaulted himself. The Afghan former detainee A. told Human Rights Watch: “I saw some other prisoners who were beaten and blood was running from their heads. Specifically I saw two Arabs who were acting obstinately who were beaten.”<sup>47</sup> Mohammad Saghir, from Pakistan, says he witnessed the beating by seven guards of an Arab prisoner for spitting at a guard: “They all went into the cell and were beating him and kicking him.”<sup>48</sup> Shafiq Rasul and Asif Iqbal reported witnessing a number of assaults on prisoners by U.S. personnel, and that soldiers had spoken openly of conducting beatings in cells, boasting “we can do anything we want.” Abdul Razak stated, “though I was never beaten, I heard from other

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<sup>45</sup> Shafiq Rasul and Asif Iqbal, Open letter to the U.S. Senate Armed Services Committee, May 13, 2004.

<sup>46</sup> Human Rights Watch interview with Abdul Razak, June 3, 2004.

<sup>47</sup> Human Rights Watch interview with A. [name withheld], February 6, 2004.

<sup>48</sup> Human Rights Watch interview with Mohammad Saghir, January 17, 2004.

prisoners that they had been. And I saw one prisoners with serious head injuries...gashes and congealed blood...who said the guards had done it.”<sup>49</sup> Rasul and Iqbal recounted one beating in particular, of Bahraini prisoner Jummah Al-Dousari, who they described as having become “psychiatrically disturbed”:

“[Jummah Al-Dousari] was lying on the floor of his cage immediately near to us when a group of eight or nine guards known as the ERF team (Extreme Reaction Force) entered his cage... They stamped on his neck, kicking him in the stomach even though he had metal rods there as a result of an operation, and they picked up his head and smashed his face into the floor. One female officer was ordered to go into the cell and kick him and beat him which she did, in his stomach. This is known as “ERFing.”<sup>50</sup>

Briton Tarek Dergoul alleges that he was himself beaten, and had a chemical spray administered when he refused to comply with cell searches. He also said the cell searches were sometimes staged when prisoners were praying. He has stated:

“If I refused a cell search MPs would call the Extreme Reaction Force who came in riot gear with plastic shields and pepper spray. The Extreme Reaction Force entered the cell, ran in and pinned me down after spraying me with pepper spray and attacked me. The pepper spray caused me to vomit on several occasions. They poked their fingers in my eyes, banged my head on the floor and kicked and punched me and tied me up like a beast. They often forced my head into the toilet.”<sup>51</sup>

The detainee accounts of excessive or malicious force centered primarily around the use of these special squads, which according to a Guantánamo spokesman are actually known as the “Initial Response Force.”<sup>52</sup> As is common in U.S. prisons, Guantánamo apparently used specially outfitted groups of guards to enter the cells of detainees disobeying orders in order to secure compliance or subdue them as necessary. Standard use of force requirements mandate that no more force should ever be used against prisoners than necessary to achieve legitimate security or safety objectives.<sup>53</sup> In U.S. prisons, however, the special teams often use unnecessary or excessive force – using the

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<sup>49</sup> Human Rights Watch interview with Abdul Razak, June 3, 2004.

<sup>50</sup> Shafiq Rasul and Asif Iqbal, Open letter to the U.S. Senate Armed Services Committee, May 13, 2004.

<sup>51</sup> Statement by Tarek Dergoul made available to Human Rights Watch.

<sup>52</sup> “Videos Of Prisoner Treatment At Guantanamo Held By US,” Dow Jones International News, May 21, 2004.

<sup>53</sup> See, e.g., U.N. Standard Minimum Rules for the Treatment of Prisoners (1955), Art. 54. (1) “Officers of the institutions shall not, in their relations with the prisoners, use force except in self-defence or in cases of attempted escape, or active or passive physical resistance to an order based on law or regulations. Officers who have recourse to force must use no more than is strictly necessary.”

confrontation with a detainee as an opportunity to “teach him a lesson” or to engage in malicious beatings. A similar phenomenon may have happened at Guantánamo, despite military insistence that the IRF squads used the minimal force necessary. Under the rules of the prison, every use of the IRF squad is apparently videotaped. A review of all those tapes could confirm or disprove detainees’ allegations of beatings by the IRF. Navy Vice Admiral Albert Church apparently reviewed some of the tapes in early May 2004.

The U.S. military has denied any serious abuse at Guantánamo. Following the release of the photographs showing the abuses at Abu Ghraib prison, Secretary of Defense Donald Rumsfeld sent the Navy’s inspector general, Vice Adm. Albert T. Church, to Guantánamo in early May to undertake a review of possible abuses. According to Church, he found only eight instances of minor infractions involving contact dating back to 2002. Two guards were demoted in rank and a third was acquitted in a court martial. Church’s findings were based on interviews with interrogators, guards, military civilians, and contractors. Somewhat surprisingly, he did not interview any detainees.

Following the emergence of the photographs from Abu Ghraib, some former Guantánamo detainees have also insisted that photographs and videotapes of practices inside Guantánamo exist. Britons Shafiq Rasul and Asif Iqbal stated: “[T]here were and no doubt still are cameras everywhere in the interrogation areas. We are aware that evidence that could contradict what is being said officially is in existence. We know that CCTV cameras, videotapes and photographs exist since we were regularly filmed and photographed during interrogations and at other times.”<sup>54</sup>

### **III. Afghanistan: Impunity for Systematic Abuse**

Since the fall of the Taliban government in Afghanistan, U.S.-led forces have arrested and detained at least one thousand Afghans and other nationals, some during military operations, others with no apparent connection to ongoing hostilities. The U.S. also used its facilities in Afghanistan as staging points for the transfer of detainees captured in Pakistan and, reportedly, Southeast Asia. U.S. officials have told journalists and Human Rights Watch that U.S. military and intelligence personnel in Afghanistan employ

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<sup>54</sup> Shafiq Rasul and Asif Iqbal, Open letter to the U.S. Senate Armed Services Committee, May 13, 2004.

an interrogation system that includes the use of sleep deprivation, sensory deprivation, and forcing detainees to sit or stand in painful positions for extended periods of time.<sup>55</sup>

Among the earliest images of the treatment of prisoners from the Afghan war were pictures of John Walker Lindh, a young American captured in December, 2001, held naked, bound by duct tape to a stretcher. According to an affidavit filed in U.S. court by his attorney, U.S. soldiers “blindfolded Mr. Lindh, and took several pictures of Mr. Lindh and themselves with Mr. Lindh. In one, the soldiers scrawled ‘shithead’ across Mr. Lindh’s blindfold and posed with him. . . . Another told Mr. Lindh that he was ‘going to hang’ for his actions and that after he was dead, the soldiers would sell the photographs and give the money to a Christian organization.”<sup>56</sup> According to legal documents filed on his behalf, Lindh was flown to a Marine airbase in the Afghanistan high desert dubbed Camp Rhino. According to a statement provided in government discovery, a Navy doctor claims that a U.S. Special Forces officer told him at Camp Rhino that “sleep deprivation, cold and hunger might be employed” while Lindh was interrogated.<sup>57</sup>

The United States has failed to adequately address charges of mistreatment of detainees by U.S. military and intelligence personnel in Afghanistan. Human Rights Watch warned U.S. officials repeatedly about these problems in 2003 and 2004. In a March report, *Enduring Freedom: Abuses by U.S. Forces in Afghanistan*, Human Rights Watch documented numerous cases of mistreatment of detainees at various detention sites in Afghanistan, including extreme sleep deprivation, exposure to freezing temperatures, and severe beatings.<sup>58</sup> Detainees complained about being stripped of their clothing and photographed while naked. Some of these abusive practices during interrogation were similar to those recently reported in Iraq. These allegations are consistent with other allegations received by the Afghan Independent Human Rights Commission, the United Nations Assistance Mission in Afghanistan, and numerous international journalists.<sup>59</sup>

As early as December 2002, the *Washington Post* had reported that persons being held in the CIA interrogation center at Bagram airbase who refuse to cooperate “are sometimes kept standing or kneeling for hours in black hoods or spray-painted goggles, according

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<sup>55</sup> U.S.: Systemic Abuse of Afghan Prisoners, <http://www.hrw.org/english/docs/2004/05/13/afghan8577.htm>.

<sup>56</sup> Seymour M. Hersh, “Chain of command; How the Department of Defense mishandled the disaster at Abu Ghraib,” *The New Yorker*, May 17, 2004.

<sup>57</sup> [http://www.lindhdefense.info/20020613\\_FactsSuppSuppress.pdf](http://www.lindhdefense.info/20020613_FactsSuppSuppress.pdf), p.18

<sup>58</sup> See Human Rights Watch Report, *Enduring Freedom: Abuses by U.S. Forces in Afghanistan* <http://hrw.org/reports/2004/afghanistan0304/>.

<sup>59</sup> For testimony from Afghan detainees gathered by Human Rights Watch, see <http://hrw.org/english/docs/2004/05/13/afghan8577.htm>.

to intelligence specialists familiar with CIA interrogation methods. At times they are held in awkward, painful positions and deprived of sleep with a 24-hour bombardment of lights—subject to what are known as ‘stress and duress’ techniques.”<sup>60</sup>

Many of those arrested by U.S. forces in Afghanistan have been detained for indefinite periods at U.S. military bases or outposts. While held, these detainees have no contact with relatives or others, although some detainees receive visits from the ICRC. Detainees have no opportunity to challenge the basis for their detention. Some detainees were sent to the U.S. detention center at Guantánamo Bay Naval Base in Cuba, while others have been kept in Afghanistan. Many have ultimately been released without being charged; but some detainees in Afghanistan have been held for over two years.

The U.S. military maintains some twenty detention facilities throughout Afghanistan. The main U.S. detention facility in Afghanistan is at the Bagram airbase, north of the capital Kabul. Other detention facilities in the country include bases in Kandahar, Jalalabad, and Asadabad. The U.S. Central Intelligence Agency (CIA) is also holding an unknown number of detainees, both at Bagram airbase and at other locations in Afghanistan, including in Kabul.

Afghans detained at Bagram airbase in 2002 have described being held in detention for weeks, continuously shackled, intentionally kept awake for extended periods of time, and forced to kneel or stand in painful positions for extended periods. Some say they were kicked and beaten when arrested, or later as part of efforts to keep them awake. Some say they were doused with freezing water in the winter. Similar allegations have been made about treatment in 2002 and 2003 at U.S. military bases in Kandahar and in U.S. detention facilities in the eastern cities of Jalalabad and Asadabad.

The United States has still not provided any adequate explanation for four, and possibly five, suspicious deaths of detainees that took place in Afghanistan in 2002 and 2003. The first two deaths, which took place at Bagram airbase in December 2002, were ruled homicides by U.S. military doctors who performed autopsies. In the case of 22-year-old detainee Dilawar, the military maintained for months that he had died of a heart attack. However, the military changed its position when the *New York Times* obtained copy of Dilawar’s autopsy report, prepared by U.S. military physicians, concluding he died from “blunt force injuries to lower extremities complicating coronary artery disease.” The

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<sup>60</sup> Dana Priest and Barton Gellman, “U.S. decries abuse but defends interrogations,” *Washington Post*, December 26, 2002.

mode of death was determined to be "homicide." Two Afghans arrested with Dilawar told the *New York Times* that they were held in isolation cells, black hoods were placed over their heads, and their hands at times were chained to the ceiling. They also alleged that they were forced to strip naked in the presence of female soldiers. A military spokesman at Bagram told the *New York Times* that the death of the other detainee, 30-year-old Habibullah, was ruled a homicide by a military pathologist, the cause being "pulmonary embolism [blood clot in the lungs] due to blunt force injury to the legs."<sup>61</sup>

Military officials in the Army Criminal Investigative Division told Human Rights Watch in late 2003 and early 2004 that investigations into the two homicides were "ongoing." But in April 2004, Human Rights Watch received credible information that preliminary results of a military investigation into the two deaths were in fact completed in early 2003, and that some disciplinary actions were taken against U.S. personnel, although no prosecutions were initiated. U.S. military officials have repeatedly refused to explain to Human Rights Watch the circumstances of the third detainee death, which took place in Asadabad, in eastern Afghanistan, in June 2003.

In March of this year, Human Rights Watch again called on the United States to release the results of its investigations into the three deaths. These requests have been ignored. The deaths of two other detainees in Afghanistan are under investigation. On June 21, 2003, Abdul Wali, held at Asadabad died under suspicious circumstances; according to the Associated Press, his death is under investigation by the C.I.A.'s inspector general.

On November 6, 2003, detainee Abdul Wahid died while in U.S. custody in Afghanistan. His death is attributed to multiple blunt force injuries that were complicated by a muscle condition. According to military death certificates released by the Pentagon, his death was ruled a "medical homicide," which means that the person died in connection with the actions or influence of another person. It does not necessarily mean a crime occurred.

A fifth incident, in which an Afghan detainee died due to hypothermia after he was doused with cold water and left shackled in an unheated cell overnight, has emerged in the press. According to the *Los Angeles Times*, this case was referred by the CIA to the Justice Department, but no investigation results have been made public.<sup>62</sup> While conditions at Bagram seem to have improved, especially in the last few months, serious

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<sup>61</sup> See Human Rights Watch, "Enduring freedom: Abuses by U.S. forces in Afghanistan," March 2004, <http://hrw.org/reports/2004/afghanistan0304/>.

<sup>62</sup> Bob Drogin, "Abuse Brings Deaths of Captives Into Focus," *Los Angeles Times*, May 16, 2004.



concerns remain about other U.S. detention facilities in Afghanistan. The Afghan Independent Human Rights Commission (AIHRC)—an autonomous institution within the Afghan government—has collected complaints alleging torture and mistreatment made by recently released detainees and families of persons still detained. The AIHRC also received numerous complaints about abuses by U.S. troops in 2003 and 2004 at its local offices in southern and eastern Afghanistan, where U.S. military operations occur regularly. The commission repeatedly raised concerns about abuses with U.S. officials in 2003 and 2004, as did local government representatives and officials with the United Nations Assistance Mission in Afghanistan.

The violations of detainees' rights are exacerbated by the almost complete opacity maintained by U.S. officials about the Bagram facility and other detention facilities in Afghanistan. The United States refuses to allow access to detainees' families, lawyers, or advocates, or to journalists or representatives of nongovernmental organizations (other than the ICRC). While the ICRC has access to the Bagram facility, none of the other U.S. facilities are currently monitored by outside observers. On May 10, 2004, the AIHRC formally requested access to U.S. detention sites in Afghanistan. Human Rights Watch has also made formal requests to visit U.S. detention sites in Afghanistan through 2003 and 2004, none of which received any response.

Almost nothing is known about U.S. investigations or prosecutions of U.S. military personnel for alleged violations of international humanitarian law in Afghanistan. Simply put, the United States operates its detention facilities in Afghanistan in a climate of almost total impunity. As noted, the Department of Defense has not even released the results of its investigations into the deaths of Afghan detainees at Bagram and Asadabad and has yet to explain adequately the circumstances of these deaths. Nor have U.S. officials adequately responded to inquiries about alleged mistreatment and torture by U.S. forces in Afghanistan.

The military intelligence unit that oversaw interrogations at the Bagram detention center where at least two prisoners' deaths were ruled homicides was later placed in charge of questioning at Abu Ghraib prison in Iraq.<sup>63</sup> Capt. Carolyn A. Wood, who served at Bagram from July 2002 to December 2003, brought to Iraq interrogation procedures developed during service in Afghanistan, according to Congressional testimony.<sup>64</sup> It was

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<sup>63</sup> Douglas Jehl and David Rohde, "Afghan deaths linked to unit at Iraq prison," *New York Times*, May 24, 2004.

<sup>64</sup> A senior Army lawyer, Col. Marc Warren, stated at a Senate Armed Services Committee hearing on May 19, 2004, that members of the 519<sup>th</sup> Military Intelligence Battalion from Fort Bragg, NC, including Carolyn Wood, "had served as interrogators in Afghanistan, where the American military runs detention centers at Bagram Air Base and at a site in Kandahar, in southern Afghanistan," and that the 519th was one of the several units that

apparently Capt. Wood who wrote the interrogation rules posted on the wall at Abu Ghraib.

One member of the 377th Military Police Company told the *New York Times* that the fact that prisoners in Afghanistan had been labeled as “enemy combatants” not subject to the Geneva Conventions had contributed to the abuse. “We were pretty much told that they were nobodies, that they were just enemy combatants,” he said. “I think that giving them the distinction of soldier would have changed our attitudes toward them. A lot of it was based on racism, really. We called them hajis, and that psychology was really important.”<sup>65</sup>

Military (but not necessarily CIA) detention facilities in Afghanistan are the subject of a “top-to-bottom” review by Brigadier General Charles Jacoby, the deputy operational commander of Bagram airbase. Gen. Jacoby’s mandate is to ensure that procedures at all coalition detention facilities in Afghanistan “are in accordance with the spirit of the Geneva Conventions,” according to the official CENTCOM press release announcing his assignment on May 24. The U.S. military has announced that only “some of the key conclusions” of Gen. Jacoby’s report would be made public, but that findings regarding specific techniques and incarceration practices would be kept classified.<sup>66</sup>

#### **IV. Iraq: Applying Counter-Terrorism Tactics during a Military Occupation**

The United States, as an Occupying Power in Iraq under the Geneva Conventions, may deprive civilians in Iraq of their liberty in only two situations: for “imperative reasons of security,” or for prosecution.<sup>67</sup> Since President Bush declared the end of major combat in Iraq in May 2003, more than 12,000 Iraqis have been taken into custody by U.S. forces and detained for weeks or months. Until very recently, the U.S. has failed to ensure that so-called security detainees received a proper review of their cases as is

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brought to Iraq “their own policies that had been used in other theaters.” Douglas Jehl and Eric Schmitt, “The reach of war: The interrogators; Afghan policies on questioning landed in Iraq,” *New York Times*, May 21, 2004.

<sup>65</sup> Douglas Jehl and Andrea Elliott, “Cuba base sent its interrogators to Iraqi prison,” *New York Times*, May 29, 2004.

<sup>66</sup> Associated Press, “U.S. General: Details in probe of Afghan jails to stay secret,” June 1, 2004.

<sup>67</sup> See Letter on HRW’s Concerns About the Rights of Iraqi Detainees, February 10, 2004, <http://hrw.org/english/docs/2004/02/10/iraq8471.htm>.

required under the Geneva Conventions.<sup>68</sup> In its February 2004 report to Coalition forces, the International Committee of the Red Cross reported that military intelligence officers told the ICRC that 70 to 90 percent of those in custody in Iraq last year had been arrested by mistake.<sup>69</sup>

The U.S.'s treatment of detainees in Iraq was shrouded in secrecy from the beginning of the occupation. What is clear is that abusive treatment used after September 11 on suspects in the "war on terror" came to be considered permissible as well in an armed conflict to suppress resistance to a military occupation. Procedures used in Afghanistan and Guantánamo were imported to Iraq, including the use of "stress and duress" tactics and the use of prison guards to set the conditions for the interrogation of detainees.<sup>70</sup>

In the aftermath of the Abu Ghraib scandal, information has come to light which suggests that harsh and coercive interrogation techniques such as subjecting detainees to painful stress positions and extended sleep deprivation have been routinely used in detention centers throughout Iraq. Department of Defense officials said that military intelligence "Human Exploitation Teams" regularly used so called "50/10 tactics": 50 minutes in sun with a bag over the head in stressful positions followed by 10 minutes of rest.<sup>71</sup>

In its February 2004 report, the ICRC found that "methods of physical and psychological coercion were used by the military intelligence in a *systematic way* to gain confessions and extract information" (emphasis added). The methods cited by the ICRC included:

- hooding to disorient and prevent detainees from breathing freely
- being forced to remain for prolonged periods in painful stress positions

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<sup>68</sup> Douglas Jehl and Kate Zernike, "Scant evidence cited in long detention of Iraqis," *New York Times*, May 30, 2004.

<sup>69</sup> "Report of the International Committee of the Red Cross (ICRC) on the treatment by the Coalition Forces of Prisoners of War and other Protected Persons by the Geneva Conventions in Iraq during arrest, internment and interrogation," February 2004; Hereafter "ICRC report."

<sup>70</sup> As Maj. General Antonio Taguba noted in his report, recent intelligence collection in support of Operation Enduring Freedom [the war in Afghanistan] posited a template whereby military police actively set favorable conditions for subsequent interviews. Investigative report, on alleged abuses at U.S. military prisons in Abu Ghraib and Camp Bucca, Iraq by Maj. Gen. Antonio M. Taguba: "Article 15-6 Investigation of the 800<sup>th</sup> Military Police Brigade." Hereafter "Taguba report."

<sup>71</sup> Matt Kelley, "Military intelligence troops accused of abuses in four camps outside Abu Ghraib," May 29, 2004.

- being attached repeatedly over several days, for several hours each time to the bars of cell doors naked or in positions causing physical pain
- being held naked in dark cells for several days and paraded naked, sometimes hooded or with women's underwear over their heads
- sleep, food, and water deprivation
- prolonged exposure while hooded to the sun during the hottest time of day

The classified investigative military report of Maj. Gen. Antonio Taguba confirmed these findings. Taguba reported that "numerous incidents of sadistic, blatant, and wanton criminal abuses" were inflicted on several detainees. His catalogue was even longer than the ICRC's:

- Punching, slapping and kicking detainees; jumping on their naked feet;
- Videotaping and photographing naked male and female detainees;
- Forcibly arranging detainees in various sexually explicit positions for photographing;
- Forcing groups of male detainees to masturbate themselves while being photographed and videotaped;
- Arranging naked detainees in a pile and then jumping on them;
- Positioning a naked detainee on a box, with a sandbag on his head, and attaching wires to his fingers, toes and penis to simulate electric torture;
- Writing "I am a Rapist" (sic) on the leg of a detainee alleged to have forcibly raped a 15-year-old fellow detainee, and then photographing him naked;
- Placing a dog chain or strap around a naked detainee's neck and having a female soldier pose with him for a picture;
- A male military police guard having sex with a female detainee;<sup>72</sup>
- Breaking chemical lights and pouring the phosphoric liquid on detainees;
- Threatening detainees with a loaded 9-mm pistol;
- Pouring cold water on naked detainees;
- Beating detainees with a broom handle and a chair;
- Threatening male detainees with rape;

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<sup>72</sup> Interestingly, this was not referred to as "rape," although the threat to forcibly have sex with male detainees was referred to as rape.

- Allowing a military police guard to stitch the wound of a detainee who was injured after being slammed against the wall in his cell;
- Sodomizing a detainee with a chemical light and perhaps a broom stick;
- Using military working dogs (without muzzles) to frighten and intimidate detainees with threats of attack, and in at least one case biting and severely injuring a detainee;
- Forcing detainees to remove their clothing and keeping them naked for several days at a time;
- Forcing naked male detainees to wear women's underwear;
- Taking pictures of dead Iraqi detainees.<sup>73</sup>

There is additional evidence that interrogation methods in violation of international human rights and humanitarian law were commonplace in Iraq. According to a transcript obtained by the *New York Times*, Col. Thomas Pappas, commander of the 205<sup>th</sup> Military Intelligence Brigade, told Maj. General Antonio Taguba that intelligence officers sometimes instructed military police to strip detainees naked and to shackle them in preparation for interrogation when there was a "good reason" to do so. Lt. Col. Jerry Phillabaum, the former top military police commander in Abu Ghraib, said in a written statement that military interrogators routinely used sleep deprivation and other forms of psychological intimidation to elicit information from prisoners. "The purpose of that wing of the prison was to isolate prisoners with intelligence, so that they would provide it during MI [military intelligence] interrogations," Phillabaum said.<sup>74</sup> The Reuters news agency reported that three of its Iraqi employees were detained near Fallujah in January 2004 and subjected to sleep deprivation with bags over their heads, forced to remain stress positions for long periods, and beaten. A summary of the U.S. Army's 82<sup>nd</sup> Airborne Division's investigation provided to Reuters conceded that the detainees were "purposefully and carefully put under stress, to include sleep deprivation, in order to facilitate interrogation."<sup>75</sup>

### ***Cases under Investigation***

From the earliest days of the U.S. occupation of Iraq, the U.S. government has been aware of allegations of abuses, including the death of some 30 persons in detention. Yet soldiers accused of abuse have – until after the Abu Ghraib scandal broke – escaped

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<sup>73</sup> Taguba report.

<sup>74</sup> Sewell Chan and Thomas E. Ricks, "Iraq prison supervisors face army reprimand," *Washington Post*, May 4, 2004.

<sup>75</sup> Andrew Marshall, "Reuters staff abused by U.S. in Iraq," Reuters, May 18, 2004.

judicial punishment.<sup>76</sup> Several cases are still being investigated as possible homicides. To date, no one has been criminally charged in any of the cases.

Among the cases:

### ***Camp Bucca***

In one case dating from the first days of the occupation, three Army reserve MPs allegedly beat prisoners and encouraged others to do so at Camp Bucca in the southern city of Um Qasr on May 12, 2003. The commanding officer at Camp Bucca was Lt. Col. Jerry Phillabaum, later implicated in the Abu Ghraib abuses. Charges were brought against the military police but were ended with only their demotion and discharge. In his report, Maj. Gen. Taguba noted that "Following the abuse of several detainees at Camp Bucca in May 2003, I could find no evidence that BG [Brig. Gen.] Karpinski ever directed corrective training for her soldiers or ensured that MP Soldiers throughout Iraq clearly understood the requirements of the Geneva Conventions relating to the treatment of detainees."

### ***Abed Hamed Mowhoush***

Captured in October 2003, the former chief of Iraqi air defenses, Maj. Gen. Abed Hamed Mowhoush, died November 26, 2003, at a detention facility at Al Qaim. The Pentagon first released a death certificate reporting that Mowhoush had died "of natural causes" -- a news release added that "he did not feel well and subsequently lost consciousness." But following a report in the *Denver Post*<sup>77</sup> after the Abu Ghraib scandal erupted, the Pentagon acknowledged that, according to an autopsy report, Mowhoush died of "asphyxia due to smothering and chest compression" showing "evidence of blunt force trauma to the chest and legs" and said that a homicide investigation was underway. Reportedly, Chief Warrant Officer Lewis Welshofer and another officer slid a sleeping bag over Mowhoush's head and rolled him over and over while asking questions. Welshofer is accused of sitting on Mowhoush's chest and placing his hands over his mouth. According to the investigative summary, "approximately 24 to 48 hours prior to (Mowhoush's death), Mowhoush was questioned by 'other governmental agency

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<sup>76</sup> Under the U.S. Uniform Code of Military Justice, military personnel may be subject to so-called non-judicial punishment via an article 15 administrative hearing or to prosecution by court martial. Article 15 punishments include up to one-year imprisonment, fines, loss of rank, and discharge from the military.

<sup>77</sup> Arthur Kane and Miles Moffeit, "Carson GI eyed in jail death Iraqi general died in custody," *Denver Post*, May 28, 2004.

officials,' [i.e. the CIA] and statements suggest that he was beaten during that interrogation."<sup>78</sup>

### *Karim 'Abd al-Jalil*

A former lieutenant colonel in the Iraqi army, Kareem 'Abd al-Jalil died on January 9, 2004, at Forward Operating Base Rifles near al-Asad where he was being interrogated by Special Forces since January 4. The original death certificate stated that he died of "natural causes... during his sleep." But pictures taken by 'Abd al-Jalil's cousin of his body before burial seem to depict severe bruises on his abdomen as well as marks and cuts on his arms and legs, especially around the wrists. Spiegel TV, a German news organization, interviewed another detainee held with 'Abd al-Jalil who stated that during interrogation, American soldiers "would kick him ['Abd al-Jalil] a lot, cuff his hands and place them behind his neck. And they would also cuff his feet, then one of them would hold his feet up while the other pulled down his head. They tossed him on his back and stepped on him. They danced on his belly and poured cold water all over him."<sup>79</sup> A Pentagon memo obtained by the *Denver Post* and reported by NBC says 'Abd al-Jalil was held in isolation, his hands tied to a pipe that ran along the ceiling. When he was untied, he attacked his interrogators and later tried to escape. When recaptured, his hands were tied to the top of his cell door and his mouth gagged.<sup>80</sup> Five minutes later, a guard noticed 'Abd al-Jalil dead, hanging by his shackles. After these revelations, the Pentagon released another certificate calling 'Abd al-Jalil's death a homicide from "blunt force injuries and asphyxia."<sup>81</sup> The Pentagon also said those who interrogated him included members of an elite special forces unit, some of the most highly trained personnel in the U.S. military.<sup>82</sup>

### *Nagm Sadoon Hatab*

Former Baath Party official Nagm Sadoon Hatab was found dead at Camp Whitehorse detention facility near the southern Iraqi city of Nasiriyah on June 6, 2003.<sup>83</sup> The autopsy

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<sup>78</sup> Robert Weller, "Soldier investigated in Iraqi general's death: Officer at Fort Carson says there is an 'agenda,'" Associated Press, May 29, 2004.

<sup>79</sup> Chris Hansen, "Profile: death in custody; investigation into death of Iraqi detainee Kareem Abdul Jaleel reveals more prison atrocities, NBC News Transcripts, May 23, 2004. Also see: "US troops tortured Iraqi prisoner to death: report," Agence France Presse, May 14, 2004.

<sup>80</sup> Editorial, "The Homicide Cases," *Washington Post*, May 28, 2004.

<sup>81</sup> Chris Hansen, "Profile: death in custody; investigation into death of Iraqi detainee Kareem Abdul Jaleel reveals more prison atrocities, NBC News Transcripts, May 23, 2004.

<sup>82</sup> Chris Hansen, "Profile: death in custody; investigation into death of Iraqi detainee Kareem Abdul Jaleel reveals more prison atrocities, NBC News Transcripts, May 23, 2004.

<sup>83</sup> Tom Squitieri and Dave Moniz, "3rd of detainees who died were assaulted; Shot, strangled, beaten, certificates show," *USA Today*, June 1, 2004.

record said he died from "strangulation." Military records state that Hatab was asphyxiated when a Marine guard grabbed his throat in an attempt to move him, accidentally breaking a bone that cut off his air supply. Another Marine is charged with kicking Hatab in the chest in the hours before his death - several of his ribs were broken.<sup>84</sup> Hatab was also covered with feces and left under the sun for hours. The Marines believed Hatab had taken part in the ambush of Pfc. Jessica Lynch's unit and reportedly were instituting some form of vigilante justice. Eight Marines were initially charged with various offenses related to Hatab's death; six later had the charges dropped or reduced to administrative punishment. The two men to be tried are Maj. Clarke Paulus, who commanded Camp Whitehorse when Hatab died, and Sgt. Gary Pittman, who was a guard there. They will be tried at Camp Pendleton in August and September 2004, respectively.<sup>85</sup>

### ***Reports of Abuse Ignored***

Prior to the publication of the Abu Ghraib photos, the U.S. government had multiple opportunities to take all necessary action to address what officials should have recognized was a serious and widespread problem. In fact, the ICRC report states that it alerted U.S. authorities to abuses orally and in writing throughout 2003. In May 2003, the ICRC sent a memorandum based on over 200 allegations of ill-treatment of prisoners of war during capture and interrogation at collecting points, battle group stations and temporary holding areas. That same month, the Special Representative of the United Nations Secretary-General, Mr. Sergio Vieira de Mello raised concerns about the treatment of detainees with the Coalition Administrator, Ambassador Paul Bremer.<sup>86</sup> In early July 2003, the ICRC presented a paper detailing approximately 50 allegations of ill-treatment in the military intelligence section of Camp Cropper, at Baghdad International Airport.

According to the ICRC these incidents included:

"a combination of petty and deliberate acts of violence aimed at securing the co-operation of the persons deprived of their liberty with their interrogators; threats (to intern individuals indefinitely, to arrest

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<sup>84</sup> "Did abuses go beyond Abu Ghraib?" CBS News, May 29, 2004.

<sup>85</sup> Alex Roth and Jeff McDonald, "Iraqi detainee's death hangs over Marine unit," *San Diego Union-Tribune*, May 30, 2004; and Rick Rogers, "Abuse charges against Marine reservist are dismissed," *San Diego Union-Tribune*, April 13, 2004.

<sup>86</sup> See Report of the Secretary-General to the U.N. Security Council, July 17, 2003, S/2003/715, para. 47.



other family members,<sup>87</sup> to transfer individuals to Guantánamo) against persons deprived of their liberty or against members of their families (in particular wives and daughters); hooding; tight handcuffing; use of stress positions (kneeling, squatting, standing with arms raised over the head) for three or four hours; taking aim at individuals with rifles, striking them with rifle butts, slaps, punches, prolonged exposure to the sun, and isolation in dark cells. ICRC delegates witnessed marks on the bodies of several persons deprived of their liberty consistent with their allegations.”

In one case, a detainee:

“alleged that he had been hooded and cuffed with flexi-cuffs, threatened to be tortured and killed, urinated on, kicked in the head, lower back and groin, force-fed a baseball which was tied into the mouth using a scarf and deprived of sleep for four consecutive days. Interrogators would allegedly take turns ill-treating him. When he said he would complain to the ICRC he was allegedly beaten more. An ICRC medical examination revealed haematoma in the lower back, blood in urine, sensory loss in the right hand due to tight handcuffing with flexi-cuffs, and a broken rib.”

During a visit to Abu Ghraib prison in October 2003, ICRC delegates witnessed “the practice of keeping persons deprived of their liberty completely naked in totally empty concrete cells and in total darkness,” the report said. “Upon witnessing such cases, the ICRC interrupted its visits and requested an explanation from the authorities. The military intelligence officer in charge of the interrogation explained that this practice was ‘part of the process.’”<sup>88</sup>

Rather than responding to these warning signals, however, according to one senior U.S. Army officer who served in Iraq, Army officials responded to the report of abuses at Abu Ghraib prison by trying to

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<sup>87</sup> In November 2003, Coalition Forces arrested the wife and daughter of General Izzat Ibrahim al-Douri, former vice-chair of Iraq’s Revolutionary Command Council and a top Saddam Hussein associate, apparently as hostages, in violation of the Geneva Conventions. See Human Rights Watch Letter to Defense Secretary Donald Rumsfeld, January 12, 2004, [http://www.hrw.org/english/docs/2004/01/12/usint6921\\_txt.htm](http://www.hrw.org/english/docs/2004/01/12/usint6921_txt.htm).

<sup>88</sup> “Red Cross: Iraq abuse ‘tantamount to torture’: Agency says U.S. was repeatedly given details of mistreatment,” MSNBC News, May 11, 2004.

curtail the ICRC's spot inspections, insisting that the ICRC should make appointments before visiting the cellblock.<sup>89</sup>

### **Guantánamo meets Afghanistan at Abu Ghraib**

In August 2003, Defense Secretary Rumsfeld, through his top intelligence aide, Stephen A. Cambone, sent Maj. Gen. Geoffrey D. Miller, who oversaw the interrogation efforts at the U.S. military base at Guantánamo Bay, Cuba, to, in the words of Maj. Gen. Taguba, "review current Iraqi Theater ability to rapidly exploit internees for actionable intelligence."<sup>90</sup> Miller was tasked in essence with "Gitmo-izing" interrogation practices in Iraq, although the Bush administration recognizes that the Geneva Conventions are "fully applicable" in Iraq<sup>91</sup> while it has said that they do not cover al-Qaeda detainees Guantánamo.<sup>92</sup>

As Taguba highlighted in his report, Miller recommended that "the guard force be actively engaged in setting the conditions for successful exploitation of the internees."<sup>93</sup> There is little clarity regarding what else Miller recommended.<sup>94</sup>

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<sup>89</sup> Douglas Jehl and Eric Schmitt, "Army tried to limit Abu Ghraib access," *New York Times*, May 20, 2004. The article also quotes Brigadier General Janis Karpinski, commander of the 800th Military Police Brigade, whose soldiers guarded the prisoners, as saying that senior officers in Baghdad had treated the ICRC report in "a light-hearted manner."

<sup>90</sup> Taguba later decried Miller's idea of transporting interrogation techniques from Guantánamo to Iraq, noting that there were major differences between the status of the detainees in the two locations.

<sup>91</sup> Douglas Jehl and Neil A. Lewis, "US disputed protected status of Iraq inmates," *New York Times*, May 23, 2004. See also, Alberto R. Gonzales, "The Rule of Law and the Rules of War," *New York Times*, May 15, 2004 ("Both the United States and Iraq are parties to the Geneva Conventions. The United States recognizes that these treaties are binding in the war for the liberation of Iraq. There has never been any suggestion by our government that the conventions do not apply in that conflict.")

<sup>92</sup> Miller testified that "no program" at Guantánamo "has any of those techniques that are prohibited by the Geneva Convention." But Sanchez, said that the procedures Miller brought from Guantánamo to Iraq "have to be modified" because "the Geneva Convention was fully applicable" in Iraq, in contrast to Guantánamo. Editorial, "Reveal the Rules," *Washington Post*, May 23, 2004.

<sup>93</sup> Taguba took issue with this proposal and noted that it would be "in conflict with" the recommendations of the Ryder Report, a previous review of Iraqi prisons which stated that the engagement of military police in military interrogations to "actively set the favorable conditions for subsequent interviews runs counter to the smooth operation of a detention facility."

<sup>94</sup> According to Thomas Pappas, the U.S. army officer in charge of the prison cells at Abu Ghraib, one of Miller's recommendations was the use of military guard dogs in interrogations. Pappas also stated that the recommendation was approved by Lt. Gen. Ricardo S. Sanchez, the top U.S. military official in Iraq. Both Miller and Sanchez deny this. R. Jeffrey Smith, "General is Said to Have Urged Used of Dogs," *Washington Post*, May 26, 2004; Scott Higham, Joe Stephens and Josh White, "Prison Visits by General Reported in Hearing; Alleged Presence of Sanchez Cited by Lawyer," *Washington Post*, May 23, 2004.

On October 12, Sanchez implemented Miller's proposals, issuing a classified memorandum calling for interrogators at Abu Ghraib to work with military police guards to "manipulate an internee's emotions and weaknesses" and to assume control over the "lighting, heating . . . food, clothing, and shelter" of those they were questioning.<sup>95</sup> The full contents of the Sanchez memo have not been made public.

In addition, between three and five interrogation teams were sent in October from Guantánamo to the American command in Iraq "for use in the interrogation effort" at Abu Ghraib.<sup>96</sup>

Capt. Carolyn A. Wood, who oversaw interrogations at the Bagram detention center in Afghanistan where two prisoners died, apparently prepared the document titled "Interrogation Rules of Engagement" that was posted at Abu Ghraib. According to the document, certain interrogation methods could be undertaken, but only if the "CG's" (Sanchez's) approval was sought and obtained in writing. Depending on their actual application, these methods would violate the Geneva Conventions prohibitions against abusive and coercive treatment of detainees. They included:

- Change of scenery down (moving to a more barren cell)
- Dietary manipulation
- Environmental manipulation
- Sleep adjustment (reverse schedule)
- Isolation for longer than 30 days
- Presence of military working dogs
- Sleep management (72 hours maximum)
- Sensory deprivation (72 hours maximum)
- Stress positions (no longer than 45 minutes)

The document also cautions that detainees "will NEVER be touched in a malicious or unwanted manner" and that the Geneva Conventions apply in Iraq.

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<sup>95</sup> See R. Jeffrey Smith, "Memo gave intelligence bigger role: increased pressure sought on prisoners," *Washington Post*, May 21, 2004.

<sup>96</sup> Douglas Jehl and Andrea Elliott, "Cuba base sent its interrogators to Iraqi prison, New York Times, May 29, 2004.

Even though his title appears on the document, which also carried the logo of Combined Joint Task Force-7, the U.S.-led coalition force in Iraq, General Sanchez denies having seen or approved the rules of engagement posted at Abu Ghraib (although he acknowledged that in twenty-five separate instances, he approved holding Iraqi prisoners in isolation for longer than thirty days, one of the methods listed in the posted rules). Keith B. Alexander, the head of the Army intelligence, however, said that they were the approved policy for interrogations of detainees in Iraq.<sup>97</sup>

What is clear is that U.S. military personnel at Abu Ghraib felt empowered to abuse the detainees. The brazenness with which the soldiers at the center of the scandal conducted themselves, snapping photographs and flashing the “thumbs-up” sign as they abused prisoners, suggests they felt they had nothing to hide from their superiors. The abuse was so widely known and accepted that a picture of naked detainees forced into a human pyramid was reportedly used as a screen saver on a computer in the interrogation room.<sup>98</sup> According to Maj. Gen. Taguba, “interrogators actively requested that MP guards set physical and mental conditions for favorable interrogation of witnesses. . . . [The] MP Brigade [was] directed to change facility procedures to “set the conditions” for military intelligence interrogations. Taguba cited the testimony of several military police: “One said the orders were ‘Loosen this guy up for us. Make sure he has a bad night. Make sure he gets the treatment.’” Another stated that “the prison wing belongs to [Military Intelligence] and it appeared that MI personnel approved the abuse.” That MP also noted that “[t]he MI staffs, to my understanding, have been giving Graner [an MP in charge of night shifts at Abu Ghraib] compliments on the way he has been handling the MI [detainees]. Example being statements like ‘Good job, they’re breaking down real fast.’”

General Sanchez announced on May 14, 2004, that he had barred the use of coercive interrogation techniques including “stress positions,” “sleep deprivation,” and the use of hoods, that had previously been available, though it is still not clear what he had previously approved.

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<sup>97</sup> Editorial, “Reveal the rules,” *Washington Post*, May 23, 2004.

<sup>98</sup> Kate Zernike, “Only a few spoke up on abuse as many soldiers stayed silent,” *New York Times*, May 22, 2004.

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**M**

## **Egypt: Bus Driver Raped by Police Faces New Risk of Torture**

### ***Egyptian Authorities Responsible for Safety of Torture Victim Sentenced to Prison***

(Cairo, January 13, 2007) — A criminal court in Giza this week sentenced `Imad al-Kabir, a 21-year-old microbus driver tortured and raped by police last year, to three months in prison for resisting authorities and assaulting an officer, Human Rights Watch said today. Al-Kabir now risks being sent back to the same police station where he was tortured by police officers who later circulated a video of his rape.

Al-Kabir told Human Rights Watch that two plainclothes officers detained him on January 18, 2006, after he intervened in an altercation between the officers and his cousin. He said that the officers took him to Bulaq al-Dakrur police station, where they beat him, tied him by his wrists and ankles, and raped him with a stick while one of the officers made a video of the torture with his mobile phone. The video shows al-Kabir screaming and begging for mercy while being raped.

A police report dated January 18, 2006, indicated that al-Kabir was arrested for “resisting authorities” and assaulting a civil servant performing his duties. On January 9, roughly a month after al-Kabir complained to prosecutors about the abuse he suffered in custody, Judge Samir Abu al-Mati sentenced al-Kabir to three months in prison.

“Egyptian authorities are responsible for `Imad al-Kabir’s safety in custody,” said Sarah Leah Whitson, Middle East Director at Human Rights Watch. “The authorities must not send al-Kabir back to face further harm or intimidation, and they should take immediate steps to prosecute the people who tortured him.”

According to al-Kabir, police told him they circulated the video among other microbus drivers from his neighborhood to “break his spirit.” Egyptian bloggers posted the video in early November, sparking intense press interest and public outcry.

In early December, al-Kabir publicly identified two of the officers who tortured him as Capt. Islam Nabih and Corp. Rida Fathi of the Bulaq al-Dakrur police station and filed a complaint with the public prosecutor. The prosecutor summoned al-Kabir on December 12 for questioning regarding his complaint and on December 24 ordered the two held for questioning. In a separate hearing on January 9, Judge al-Mati, the same judge who sentenced al-Kabir to prison, also denied bail to the two police officers, whose trial is scheduled to begin in March.

“The state has an obligation to protect al-Kabir as a witness in a torture case,” Whitson said. “Sending a torture victim back to the same place where he said he was tortured on charges brought by his alleged torturers raises enormous concerns about his safety.”

The Convention Against Torture, which Egypt ratified in 1986, requires that anyone alleging torture and any witnesses to the torture should be “protected against all ill-treatment or intimidation as a consequence of his complaint or any evidence given.” The same Convention states that Egypt is obliged to prohibit any form of torture or ill treatment and to protect victims by carrying out thorough, impartial and prompt investigations into allegations of torture and filing criminal charges where appropriate.

Article 42 of Egypt’s constitution provides that any person in detention “shall be treated in a manner concomitant with

the preservation of his dignity” and that “no physical or moral (ma`nawi) harm is to be inflicted upon him.” But article 126 of Egypt’s Penal Code gives a narrow definition of torture as physical abuse alone occurring only when the victim is “an accused,” and only when it is being used in order to coerce a confession. This definition improperly excludes cases of mental or psychological abuse, and cases where the torture is committed against someone other than “an accused” or for purposes other than securing a confession.

Human Rights Watch and Egyptian lawmakers have repeatedly called on the government to change the Penal Code to incorporate Egypt’s obligations under international human rights law and also to amend laws that allow the government to hold detainees incommunicado for months at a time. Incommunicado detention makes it easy to mistreat suspects with impunity and have allowed torture to become commonplace in Egyptian detention facilities, Human Rights Watch said.

“The fact that the people who tortured `Imad al-Kabir videotaped their crime suggests that they thought they could get away with it,” Whitson said. “The government must end the shadowy culture of impunity that the video exposed.”

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## **Related Material**

### [Egypt: Hold Police Accountable for Torture](#)

Press Release, December 23, 2006

### [“Diplomatic Assurances” against Torture](#)

Questions and Answers, November 10, 2006

### [World Report 2007: Egypt](#)

World Report Chapter, January 11, 2007

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## I. Summary

On October 7, 2004, a massive car-bomb wrecked the Taba Hilton hotel located on the Egyptian-Israeli border. There were two smaller bombings later that night at nearby tourist campsites. The attacks killed more than thirty and wounded more than one hundred. Most of the victims were tourists, many of them Israelis, as well as Egyptian hotel staff.

Initial speculation by Egyptian and Israeli authorities focused on al-Qaeda or other international groups that have carried out large-scale attacks against civilians. But just over two weeks later, on October 25, Egypt's Ministry of Interior announced that it had identified nine persons responsible for the attacks, all from the North Sinai area: five were in custody, two had been killed carrying out the attack, and two remained at large.

Meanwhile, around October 13, Egypt's State Security Investigation service (SSI) began a campaign of mass arbitrary arrests in and around al-`Arish, the government and commercial center of North Sinai, apparently as part of its investigation into the Taba attacks. These arrests continued unabated after the October 25 announcement through early December. Egyptian human rights groups said that security forces had rounded up as many as three thousand persons, including several hundred persons detained solely to secure the surrender of wanted family members.

The government has officially neither confirmed nor contested that figure, although one North Sinai security official insisted anonymously that the number being held in early December was "only" around eight hundred. As of early February, the government has still provided no information to families or legal counsel regarding the number of persons in detention or their whereabouts. On January 28, between five hundred and one thousand demonstrators reportedly clashed with police in al-`Arish when they tried to stage a march protesting the detentions. In early February 2005, the government announced that it had released ninety persons detained in connection with the investigation.

On February 1, 2005, police reportedly engaged in a shoot-out with other suspects near the central Sinai town of Ras Sudr, killing one person who had not been previously identified as a suspect. Further clashes on February 5 killed at least one of the two named suspects still at large.

Human Rights Watch visited Egypt in early December and, accompanied by two representatives of the Egyptian Association against Torture, interviewed former detainees and eyewitnesses to arrests in the al-`Arish area. In every one of the score of cases that Human Rights Watch investigated, the SSI had detained persons without informing them of the reasons for their detention. They were usually picked up in pre-dawn raids on their homes. Officials typically kept detainees in local SSI offices for three or four days, and in some cases well over a week, without charging them. The authorities released some but most of the detained individuals were transferred to Tora prison in Cairo and Damanhur Prison in the Nile Delta. Human Rights Watch has been unable to learn if these detainees were charged at the time of transfer or since. Most of those detained, it appeared, were or were considered to be Islamists—that is, persons favoring a system of governance that accords with what they consider to be core Islamic principles.

Family members told Human Rights Watch that they were afraid to “cause trouble” by pressing officials for information about detained relatives. They learned only informally, if at all, about the whereabouts of their husbands, sons, fathers, and brothers from those who had been with them in detention but were now released.

This lack of knowledge was especially painful to families because of widespread reports that detainees were subjected to torture and ill-treatment during interrogation. These reports were consistent with documented practices of the SSI in politically-charged investigations. Human Rights Watch interviewed several former detainees who provided credible accounts of torture they underwent at the hands of SSI interrogators. Others spoke of seeing fellow detainees who had been badly tortured, and hearing the screams of those being abused. Given that those most likely to have been tortured are among the hundreds if not thousands of persons still in detention, and that many of those released fear the possible consequences of meeting with independent human rights monitors, Human Rights Watch believes that torture and ill-treatment by the SSI has been widespread in connection with the investigations into the Taba attacks.

Human Rights Watch contacted the Ministry of Interior, the Office of the Prosecutor General, the Office of the State Security Prosecutor, the head of the Governorate of Northern Sinai, and the Deputy Commander of the SSI in al-`Arish to request meetings to discuss our concerns, to obtain information about the investigations, and to learn the perspective of government officials. In all cases, the requests were rejected or received no response. To Human Rights Watch’s knowledge, the government has not commenced any investigation into the allegations of torture and abuse, and has not prosecuted or disciplined any officials for having taken part in the torture and mistreatment of detainees.

The Egyptian government's counter-terrorism policies rely in part on special powers conveyed under the nation's Emergency Law of 1958, which has been in effect continuously since 1981 and which must be renewed every three years, as well as the Law to Combat Terrorism of 1992. These laws flout human rights protections enshrined in Egypt's Constitution by giving the government the power to arbitrarily arrest and detain people for indefinite periods. Even the Emergency Law, however, requires that authorities immediately inform a person of the reason for his arrest, allow him to contact family and legal counsel, and provide for the right to appeal his detention after thirty days. Furthermore, the laws do not permit torture under any circumstance.

Human Rights Watch recognizes the government's obligation to address serious threats to the security of its citizens and residents such as that posed by the Taba attacks. However, international law is unambiguous: no security threat, no matter how grave, justifies torture, and the government's ability to detain persons without charge is strictly limited. Human rights agreements to which Egypt is a party, most notably the International Covenant on Civil and Political Rights (ICCPR), ensures basic protections for persons even in the midst of a declared emergency.

Egypt has a long-standing and well-documented record of arbitrary arrest and torture and ill-treatment of detainees.<sup>1</sup> Human Rights Watch calls on President Hosni Mubarak to state clearly and publicly that the government will not tolerate acts of torture and ill-treatment, and that such abuses by law enforcement personnel, including agents of the SSI, will be investigated, prosecuted, and punished.

With respect to the recent mass arrests and the absence of any transparency on the part of the government, Human Rights Watch urges the government to establish a public registry of persons detained in connection with the Taba investigations, promptly release all persons detained unless they have been charged with a recognizable offense, conduct a thorough and impartial inquiry into allegations of arbitrary arrest and torture, discipline or prosecute those officials found to have violated the law, and ensure that persons arrested illegally and/or subjected to torture and ill-treatment have access to prompt and fair compensation. Any detainees who are charged should be granted a fair trial and all related due process guarantees.

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<sup>1</sup> See, for example, Human Rights Watch, *Behind Closed Doors: Torture and Detention in Egypt* (New York, July 1992), "Egypt's Torture Epidemic" (Human Rights Watch Backgrounder), February 2004, and *In a Time of Torture: The Assault on Justice in Egypt's Crackdown on Homosexual Conduct* (New York, 2004).

## II. Recommendations

### ***To the Government of Egypt***

#### ***Concerning allegations of arbitrary arrest and detention:***

- Establish as a matter of urgency a public registry of persons detained in northern Sinai for more than twenty-four hours in connection with investigations into the bombings in Taba and Ras Shaitan on October 7, 2004. The registry should include the date of arrest, places and dates of detention, and dates of transfer to different prison facilities or investigation offices.
- Promptly release all persons still in detention in connection with these investigations, unless they have been charged with a recognizable criminal offense.
- 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.
- Ensure that arresting authorities immediately record the arrest of any individual and the legal basis for that arrest, and make this information readily available to the family of the detained person.
- Ensure that all detainees are held in recognized places of detention that are accessible to government inspection, independent monitors, relatives, and defense counsel.
- Ensure that all persons in detention are taken before a judicial authority no later than twenty-four hours after arrest.
- Ensure that family members have prompt access to detainees.
- Declare that the government will not seek to extend Law 162/1958 (the Emergency Law) for an additional three years when it expires in 2006. Meanwhile, immediately suspend application of provisions of Law 162/1958, Law 97/1992, and other laws and directives that do not comply with Egypt's obligation under international human rights law to safeguard the right to liberty and security of persons and the requirement not to engage in arbitrary arrest or detention.
- Conduct a full and impartial inquiry into allegations of arbitrary arrest and detention by SSI officials in al-'Arish and northern Sinai. Make the results of such an inquiry public, including disciplinary measures taken as a result of the inquiry and the names of those disciplined.

- Ensure that persons detained arbitrarily and unlawfully in connection with the investigations into the Taba bombings are able to access prompt and fair compensation.

### *Concerning allegations of torture and ill-treatment*

- Issue and publicize widely a directive from the President of the Republic stating clearly that acts of torture and ill-treatment by law enforcement or prison officials will not be tolerated, and that reports of torture and ill-treatment will be promptly and thoroughly investigated.
- 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 of the Prosecutor General's investigation into allegations of torture and ill-treatment by SSI officers and interrogators against persons detained in connection with the investigations into the Taba area attacks of October 7, 2004, including disciplinary measures taken as a result of the inquiry and the names of those disciplined.
- Conduct promptly independent forensic medical examinations of detainees who allege that they have been subject to torture or ill-treatment.
- Allow access for Egyptian and international human rights monitors to places of detention, and the opportunity to conduct confidential discussions with detainees.
- Amend Article 126 of the Penal Code to make the definition of torture consistent with Article 1 of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (Convention against Torture).
- Amend Penal Code Article 129, on the use of cruelty by officials, and Article 280, on illegal detention, to make the penalties commensurate with the seriousness of the offenses, as felonies rather than misdemeanors.
- 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 general recommendations made by the Committee against Torture in May 2002 and by the U.N. Special Rapporteur on Torture in 2003, to establish a fully independent complaints mechanism for persons held in custody.
- Ensure that persons subjected to torture or ill-treatment in violation of Egyptian and international law are able to access prompt and fair compensation.

### ***To the People's Assembly and the Shura Council***

- Schedule an impartial and thorough public inquiry, including a parliamentary fact-finding committee, to look into allegations of illegal and arbitrary detention, and the use of torture and ill-treatment, in connection with investigations into the Taba bombings of October 7, 2004, and require the participation of Minister of Interior al-`Adli.
- Call upon the government to respect and comply fully with the principles and obligations with respect to illegal detention and torture as laid down in the ICCPR, the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (Convention against Torture), the Arab Charter on Human Rights, and the Egyptian Constitution.
- Insist that the government take concrete and effective legal and policy steps to end the practices of arbitrary detention and torture.

### ***To the international donor community***

- Raise with the government of Egypt in all official meetings and at the highest level concerns over the treatment of suspects arrested for security-related offenses. Call on the Egyptian government to ensure that this treatment conforms to international human rights standards.
- Closely monitor any military, security, and counter-terrorism assistance to the Egyptian government to ensure that security and intelligence forces strictly adhere to international human rights standards.
- Provide human rights training as an integral component of capacity building programs involving the police and security agencies, with a component dedicated to stopping the use of torture and other cruel, inhuman, and degrading treatment for purposes of interrogation or punishment.
- Ensure that aid given includes assistance for the development and support of local human rights groups with an independent monitoring capacity.
- Do not extradite or arrange the rendition to Egypt of persons suspected of security offenses.



### III. Introduction

On the night of October 7, 2004, in Egypt's Sinai Peninsula, three explosions rocked the Gulf of Aqaba tourist town of Taba and nearby tourist camp sites.<sup>2</sup> The first and most deadly blast, apparently an explosive-rigged pick-up truck, occurred at the entrance to the Taba Hilton hotel at around 10 p.m., collapsing the hotel's façade and lobby as well as front guest rooms. An estimated nine hundred guests and five hundred employees were inside at the time.<sup>3</sup> The ten-floor 430-room hotel sits directly on the Egyptian-Israeli border and had been constructed while the Sinai was under Israeli military occupation.<sup>4</sup>

About an hour and a half later, another car-bombing shook the Moon Island campsite at Ras Shaitan (Devil's Head), about forty-five kilometers south of Taba along the Gulf of Aqaba coast, and a third blast occurred nearby without causing any damage.<sup>5</sup> Taba is popular with Israeli tourists and vacationers, including Palestinian citizens of Israel. Israel's Foreign Ministry estimated that some twelve thousand to fifteen thousand Israelis were vacationing in Sinai at the time.<sup>6</sup> The Egyptian government reported that thirty-four persons were killed, including thirteen Egyptians, ten Israelis, two Italians, and a Russian, and more than one hundred injured.<sup>7</sup>

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<sup>2</sup> Human Rights Watch, "Egypt/Israel: Attacks on Civilians Are Unjustifiable Crimes," October 12, 2004, at <http://hrw.org/english/docs/2004/10/12/egypt9497.htm>.

<sup>3</sup> Matthew Gutman, "IDF concludes Sinai rescue operation – 13 Israelis among 32 bombing victims," *Jerusalem Post*, October 10, 2004 [retrieved January 4, 2005].

<sup>4</sup> Joel Leyden, "Exodus 2004. Thousands Enter Israel after Terror Attacks," *Israel News Agency*, October 8, 2004 [retrieved January 4, 2005]. Israel had claimed that the international border placed Taba and the hotel inside Israel, but this claim was rejected by international arbitrators and the area, with the hotel, was returned to Egypt in March 1989.

<sup>5</sup> "Terror bombings hit Taba and Ras a-Satan in Sinai," Israel Ministry of Foreign Affairs Website, October 10, 2004 [retrieved January 4, 2005].

<sup>6</sup> Joel Leyden, "Exodus 2004. Thousands Enter Israel after Terror Attacks," *Israel News Agency*, October 8, 2004 [retrieved January 4, 2005].

<sup>7</sup> "Bedouins detained over Sinai attacks," *Aljazeera.net*, October 10, 2004 [retrieved January 4, 2005]. There appears to be no final, official account of the number and nationalities of those killed and injured. Israeli Chief-of-Staff Lt. Gen. Moshe Ya'alon reportedly told the Israeli cabinet on October 10 that thirteen Israelis, six Egyptians, and fourteen others were killed (Matthew Gutman, "IDF concludes Sinai rescue operation – 13 Israelis among 32 bombing victims," *Jerusalem Post*, October 10, 2004 [retrieved January 4, 2005]). A *Washington Post* story published on October 23 cited the *Associated Press* as saying that eleven Israelis, eight Egyptians, one Russian, two Italians, and twelve others were killed (Scott Wilson and Molly Moore, "Egypt Inquiry Slowed by Lack of Evidence," *Washington Post*, October 23, 2004, p. A17). An Egyptian journalist, several weeks after the attacks, wrote that the injured were mostly Israelis and numbered 159 (Amira Howeidy, "Explosive reactions," *al-Ahram Weekly*, October 28-November 3, 2004 [retrieved January 7, 2005]).

Approximately a week later, beginning around October 13, Egyptian security forces initiated a campaign of mass arrests that continued for many weeks, resulting in the detention of an estimated 2,500 to three thousand persons. These arrests continued well after a government announcement on October 25 that identified by name nine persons alleged to be responsible for the attacks, of whom two remained at large. As of late January 2005, hundreds if not thousands of those arrested remained in detention, their whereabouts unknown to families or defense lawyers. The authorities at no point have indicated on what, if any, charges these individuals were being held. There are numerous indications that many interrogations have been accompanied by torture and ill-treatment.

### ***Al-`Arish and Northern Sinai***

Sinai is a sixty-one thousand square kilometer triangle-shaped peninsula bounded by the Mediterranean Sea on the north, the Gulf of Suez and the Suez Canal on the west, the Red Sea to the south, and the Gaza Strip, Israel, and the Gulf of Aqaba on the east. The interior of the peninsula is sparsely-settled desert and mountains for the most part. Most of the population of 219,000 is concentrated in the north, along the Mediterranean coast, particularly in and around al-`Arish, the major governing and commercial center.<sup>8</sup> Taba, at the head of the Gulf of `Aqaba, and Sharm al-Shaikh, on the peninsula's southern tip, are major tourist sites, catering mainly to Israelis (Taba) and Europeans (Sharm al-Shaikh). Numerous smaller tourist areas dot the "Riviera" along the Gulf of `Aqaba coastline. The tourism industry and the development of government services have drawn people from the Nile Delta and elsewhere in Egypt. Some four thousand or so of the long-time Bedouin residents still inhabit the interior.<sup>9</sup>

Northern Sinai was historically a major trade route, and the peninsula figured in several Israeli-Arab wars. Israel occupied the peninsula militarily from 1967 until 1982, when it was returned to Egypt under the terms of the 1979 peace treaty between the two countries.

"Al-`Arish has the feel of a border town, it's been a border town throughout its history," one Western former long-time resident said. "People go along with whoever is the political authority as long as they are allowed to get on with their lives."<sup>10</sup> "Many Egyptians consider Sinai a backwater and the local population backwards," an Egyptian journalist told Human Rights Watch. "The area is hard to control. Smuggling is

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<sup>8</sup> Egyptian government statistics, found at <http://www.sis.gov.eg/eginfnew/tourism/fcity/html/nsina.htm>.

<sup>9</sup> "Bedouin man confesses to selling explosives; Palestinian militant involvement eyed in Egypt resort blasts," *Associated Press*, October 10, 2004 [retrieved January 12, 2005].

<sup>10</sup> E-mail communication to Human Rights Watch, January 10, 2005.

common, insurgent types migrate there. Loyalty is first to the shaikh, not to the government or the imam [religious leader].”<sup>11</sup> Many tribal leaders reportedly cooperate closely with Egyptian intelligence and security services. There is also a significant population of Palestinian origin, mainly families that moved into Sinai from the Gaza Strip while it was under Egyptian rule between 1949 and 1967.<sup>12</sup>

### **Government investigations**

Initial speculation, by both Israeli and Egyptian officials, concerning who might be responsible had centered on al-Qaeda.<sup>13</sup> Israel’s chief of military intelligence, Maj. Gen. Aharon Zeevi-Farkash, reportedly told an emergency cabinet meeting the following day that al-Qaeda was “most likely” behind the attacks, and Foreign Minister Silvan Shalom said, “The type, the planning, the scope, the simultaneous attacks in a number of places, all this points to al-Qaeda”<sup>14</sup> Egyptian investigators similarly expressed the view that attackers linked to Ayman al-Zawahiri, a leader of Egypt’s Islamic Jihad movement until that group merged with al-Qaeda and al-Zawahiri became Osama Bin Laden’s top deputy, had probably come from Jordan or Saudi Arabia.<sup>15</sup>

In the days immediately following the bombings, Egyptian security forces reportedly arrested dozens of Sinai Bedouin, including some who worked in local rock quarries and thus had access to explosives routinely used in such places.<sup>16</sup>

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<sup>11</sup> Human Rights Watch interview, name withheld, Cairo, December 11, 2004.

<sup>12</sup> There are no official figures on the Palestinian population in Sinai. The estimate for the whole of Egypt—there are substantial communities in Cairo and elsewhere as well—range from fifty-three thousand to seventy thousand (Amira Howaidy, “Explosive reactions,” *Al-Ahram Weekly*, October 28-November 3, 2004 [retrieved January 7, 2005]). An Israeli journalist, commenting on the Taba bombings, wrote that “ Hamas activists continued to move about unhampered in Sinai,” indicating that the transit is not primarily through the Palestinian tunnels underneath the border with Egypt but from Lebanon to al-`Arish by sea and from Sudan via the Red Sea. See Amos Harel, “Living on burrowed time,” *Ha`aretz*, December 17, 2004.

<sup>13</sup> Four previously unknown groups—the World Islamist Group, the Islamic Tawhid Brigade, Muhammad’s Army Group, and the `Abdullah `Azzam Brigades—claimed responsibility, but these claims have received little credence. See for example Noha El-Hennawy, “Death in the Sinai,” *Egypt Today*, November 9, 2004 [retrieved December 2, 2004].

<sup>14</sup> Sarah el-Deeb, “Egypt detains Bedouin tribesmen in Sinai terror attacks that killed at least 33,” *Associated Press*, October 9, 2004 [retrieved January 4, 2005]; Evan Osnos, “Israel says Al Qaeda top suspect in bombings,” *Chicago Tribune*, October 9, 2004 [retrieved January 4, 2005].

<sup>15</sup> Sarah el-Deeb, “Egypt detains Bedouin tribesmen in Sinai terror attacks that killed at least 33,” *Associated Press*, October 9, 2004 [retrieved January 4, 2005].

<sup>16</sup> Some reports—See, for example, Scott Wilson and Molly Moore, “Egypt Inquiry Slowed by Lack of Evidence,” *Washington Post*, October 23, 2004, p. A17—suggested the number may have been in the low twenties, while others suggested that it was considerably higher. Matthew Gutman (“IDF concludes Sinai rescue operation – 13 Israelis among 32 bombing victims,” *Jerusalem Post*, October 10, 2004 [retrieved January 4, 2005]) wrote two days after the attacks that “Egyptian authorities have detained 150 suspects, mostly Bedouin.”

Hussain al-Qayyim, a shop owner in his late twenties from Shaikh Zuwaid, about thirty-five kilometers east of al-'Arish, told Human Rights Watch that the security forces "were confused at first. They'd arrest whole villages and release them the same day, day after day, village after village. The shaikhs said, 'You can't do this: tell us who you want, and we will bring them to you. Don't violate our homes and our women.'"<sup>17</sup> After a week or so, around the beginning of Ramadan, Hussein said, the authorities began to focus on specific categories of suspects, such as men whose first names were Mustafa, or men who drove red pick-up trucks. And "beards"—i.e., presumed adherents of Islamist congregations.<sup>18</sup>

On October 13, the semi-official daily *al-Ahram* reported that security forces had identified the three vehicles used as originating within Egypt and that the authorities were "tightening the noose" in the hunt for four suspects.<sup>19</sup> Egyptian and Israeli investigators said they believed the bombings were carried out by a "previously unknown cell" that was "inspired" by al-Qaeda and directed by "experienced foreign militants," and that the attack had "likely" been planned for a year or more.<sup>20</sup>

On October 25, the Ministry of Interior issued a statement announcing the arrest of five men, identifying them and four others as responsible for the attacks. The main perpetrator responsible for the Taba Hilton attack, the statement said, was Iyad Salah, a minibus driver of Palestinian origin from al-'Arish, in his twenties, who was killed in the explosion and identified by means of DNA analysis. According to the ministry statement, Salah and his accomplices stole the three cars, "equipped them with [explosive materials found in] leftover war material," and rigged timing devices from washing machine parts. Salah, the statement said, "was involved in groups with a bad reputation and had previously committed several crimes"—including rape—but "had recently turned to religious extremism."<sup>21</sup> The statement said that "the bombings were a reaction to the deterioration of the situation in the occupied territories, and targeted Israelis staying in the hotel and at the camping ground." A "senior Egyptian security

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<sup>17</sup> Human Rights Watch interview with Hussain al-Qayyim, Cairo, December 7, 2004.

<sup>18</sup> Human Rights Watch interview with Hussain al-Qayyim, Cairo, December 4, 2004.

<sup>19</sup> "The search for the four terrorists who executed the Taba blasts; the three vehicles used were from within Egypt," *al-Ahram*, October 13, 2004 (in Arabic).

<sup>20</sup> Scott Wilson and Molly Moore, "Egypt Inquiry Slowed by Lack of Evidence," *Washington Post*, October 23, 2004, p. A17.

<sup>21</sup> Ministry of Interior statement (in Arabic) provided to Human Rights Watch by an Egyptian journalist by e-mail, December 5, 2004. This translation is from the Egyptian Organization for Human Rights (EOHR), "Arish...random arrests, detention and torture: Stop the tragedy," Cairo, November 24, 2004. The Ministry statement said that among Salah's crimes was "the rape of a girl in a car he was driving."

officer” said that Salih had ties to a Palestinian Islamist group in Gaza, which he would not identify.<sup>22</sup>

According to the statement, Sulaiman Ahmad Salah Flaifil, thirty-nine-years-old, originally from Maidan, a Bedouin village outside al-`Arish, also died in the hotel explosion. The statement said that the attack was not intended to be a suicide bombing; rather, their deaths resulted from “a fault in the timing device.”

According to the Ministry of Interior statement, the five persons arrested were: Muhammad Ahmad al-Suwariki, “a stolen car dealer”; Ihab Mahmud `Id Musbah, an electric parts shop employee in al-`Arish who stole one of the cars; Hamdan Salama Salim al-Ahmar, a camp-ground owner from south Sinai who provided information to the attackers; Muhammad Jayyiz Sabah Hussain, an Irrigation Department employee in north Sinai who also owns an appliance repair shop and prepared the vehicles with the explosives and timers; and Muhammad `Abdullah Riba`a Sulaiman `Abdullah, who owns a metal workshop in al-`Arish and “checked” the explosives in the cars. The statement provided no information about the circumstances or times of their arrests.

The ministry statement also identified two suspects still at large who were allegedly responsible for the campground bombings: Muhammad Ahmad Salah Flaifil, a brother of one of those killed in the Taba blast, and Gum`an Gum`a Gum`an Tarabis.<sup>23</sup>

Aside from the reference to the DNA-based identification of the two alleged perpetrators killed in the Taba blast, the October 25 statement offered no information about how the government identified the nine suspects, how it had apprehended the five in custody, or where they were held. The government also did not address why it was sure that it had identified all those responsible, beyond the assertion of Cabinet spokesman Magdi Radi that “the detainees’ statements showed that there was no organization behind their attack.”<sup>24</sup> Presidential spokesman Majid `Abd al-Fatah similarly emphasized that there was no evidence linking al-Qaeda to the attacks and that

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<sup>22</sup> Salah Nasrawi, “Egypt announces arrest of Sinai plotters,” *Associated Press*, October 25, 2004 [retrieved December 2, 2004].

<sup>23</sup> Ministry of Interior statement. In some of the press reports following the early February clashes with suspects (see below), Gum`an Tarabis was identified as Hamad Gum`a.

<sup>24</sup> Dan Murphy, “Palestinian grievances behind Egypt attack,” *Christian Science Monitor*, October 27, 2004 [retrieved January 4, 2005].

it was the act of an individual driven by the “injustice, aggression and despair” of the Palestine-Israel conflict.<sup>25</sup>

Despite the government’s claim that it had identified all the perpetrators, on February 1, 2005, police reportedly killed Muhammad `Abd al-Rahman Badawi, a previously unnamed suspect, in a shoot-out near Ras Sudr, the central Sinai town on the Gulf of Suez.<sup>26</sup> On February 5, two additional suspects were killed in further clashes in that area.<sup>27</sup>

### **Mass Arrests**

The October 25 statement made no reference to the large-scale arrests that security forces had begun about ten days earlier. Egyptian, regional, and international media contained scant reporting on this campaign or the ostensible reasons for it. The only coverage was that generated by Egyptian human rights organizations, who published reports in late November estimating that up to three thousand people had been rounded up, including persons taken as hostages to secure the surrender of wanted family members. The Egyptian groups also reported credible allegations of torture and ill-treatment during interrogation.

Most of the arrests occurred after the Ministry of Interior statement of October 25. This would suggest either that the official statement did not fully reflect the investigation into the attacks, or that the government was using the occasion of the attacks to carry out a much broader crackdown against potential opponents, particularly those identified as having Islamist sympathies. The statement did identify the alleged ringleader, Iyad Salah, as a “religious extremist,” but stressed his Palestinian identity and purported motivation. “The motivation of the accident is clearly related to what’s going on in the occupied territories, because the planner was a Palestinian who was negatively motivated by what’s going on there,” Cabinet spokesman Magdi Radi said after the interior minister briefed that body.<sup>28</sup> In an article published in early January, three months after the attacks, *al-Hayat’s* Cairo bureau chief reflected the official consensus when he wrote that the

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<sup>25</sup> Amira Howeidy, “Explosive reactions,” *al-Ahram Weekly*, October 28-November 3, 2004 [retrieved January 7, 2005].

<sup>26</sup> “Deadly clash in Sinai peninsula,” *BBC News*, February 1, 2005, [http://news.bbc.co.uk/1/hi/middle\\_east/4226741.stm](http://news.bbc.co.uk/1/hi/middle_east/4226741.stm).

<sup>27</sup> Sarah el-Deeb, “Bedouins lead Egypt’s hunt for militants,” *Associated Press*, February 6, 2005 [retrieved February 7, 2005]. According to this account, one of those slain was Gum’an Gum’a Gum’an Tarabis, previously identified as a suspect; the other could not be identified owing to the severity of his wounds.

<sup>28</sup> Dan Murphy, “Palestinian grievances behind Egypt attack,” *Christian Science Monitor*, October 27, 2004 [retrieved January 4, 2005].

“incident” is “considered a one-act attack after it was proved that the perpetrators were not members of an Islamic organization but motivated by emotions resulting from what is happening to the Palestinian people at the Israeli army’s hands.”<sup>29</sup>

Several Egyptian journalists told Human Rights Watch that their efforts to elicit responses from the government to the claims of the human rights groups that thousands had been rounded up were fruitless. “Just read the statement [of October 25] was all they would say,” one journalist said.<sup>30</sup>

On February 4, 2005, the government announced that the Ministry of Interior had released ninety of the detainees arrested in connection with the investigation into the Taba attacks, and that more releases would follow.<sup>31</sup>

### **Reports of Egyptian Human Rights Groups**

Several investigators with the Egyptian Organization for Human Rights (EOHR) visited the al-`Arish area on November 1-2, 2004. Their report on the security forces’ response to the Taba attacks stated that mass arrests began on October 13 and that these included women and children detained “as pawns to force men to turn themselves in.”<sup>32</sup>

The arrests, according to the EOHR, were carried out by the State Security Investigation (SSI) and were arbitrary and random: “For example, during a police hunt for one of the wanted men who was said to be driving a red car more than nineteen owners of red cars were arrested.”<sup>33</sup> The EOHR report included details of interviews with family members of eight detained persons; one former detainee testified that she had been threatened with electric shocks and had heard the screams of other detainees who had undergone torture.<sup>34</sup> The EOHR estimated that the number detained between October 7 and November 1 was three thousand from al-`Arish and neighboring villages.<sup>35</sup>

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<sup>29</sup> Muhammad Salah, “Secrets of a quarter of a century of their activities: Muntassir al-Zayyat in a new book on Islamic Groups defeat,” *al-Hayat*, January 6, 2005, translated by BBC Monitoring Middle East, January 9, 2005 [retrieved January 10, 2005].

<sup>30</sup> Human Rights Watch interview, name withheld. Cairo, December 5, 2004.

<sup>31</sup> Mahir Isma`il, “Al-Ifraj `an 90 min al-mo`qtali Sina’ [Release of 90 of the Sinai Detainees],” *al-Misri al-Yawm*, February 5, 2005, p. 1.

<sup>32</sup> Egyptian Organization for Human Rights, “Arish...random arrests, detention and torture: Stop the tragedy,” (November 24, 2004), p. 5 (hereafter cited as EOHR report).

<sup>33</sup> EOHR report, p. 5.

<sup>34</sup> Testimony of the wife of Ahmad Hamdan `Abdullah Abu Shita, EOHR report, pp. 8-9.

<sup>35</sup> EOHR report, p. 11-12. The report appended a list of seventy-six detained individuals by name.

On November 15-16, coinciding with the 'Id al-Fitr celebration of the end of Ramadan, a delegation of activists representing Hisham Mubarak Law Center (Ahmad Seif al-Islam Hamad), the Nadim Center for the Rehabilitation of Victims of Violence (Magda Adly), and the Egyptian Association against Torture (Laila Soueif, Aida Seif al-Dawla) visited al-'Arish and the town of Shaikh Zuwaid, close to Egyptian Rafah. At a press conference in Cairo on November 24, and by e-mail, they made available testimonies they had taken in interviews with residents.<sup>36</sup> The persons whose testimonies were presented in this report were not identified by name, but provided accounts of arbitrary arrests and detention as well as first-hand testimonies of torture at the hands of SSI officials in al-'Arish, Rafah, and the headquarters in the Lazughli district of Cairo. The report also noted that an official responsible for security in Sinai had told a meeting of heads of tribes and political notables that the number of arrests was around 2,500.

The Committee for the Defense of Freedoms of the Egyptian Lawyers Syndicate released a report in mid-January 2005 that contained summary testimonies of ten persons who, the committee alleged, had been the victims of arbitrary arrest and ill-treatment.<sup>37</sup>

The findings of the EOHR report, the Hisham Mubarak Law Center and the Nadim Center report, and the Lawyers' Syndicate report are consistent with one another and with Human Rights Watch's findings regarding large-scale arrests, arbitrary detention, and torture and ill-treatment during interrogation.

### **Methodology**

Human Rights Watch visited al-'Arish and its environs on December 7 – 8 and spoke with two dozen persons who were themselves detained or who witnessed the arrest of one or more family members during the month of Ramadan, which ran from October 16 to November 14. Human Rights Watch carried out the investigation with the participation and assistance of Ahmad Seif al-Islam, the director of the Hisham Mubarak Law Center, and Aida Seif al-Dawla, chair of the Egyptian Association against Torture and a physician working with the Nadim Center. Human Rights Watch also met with

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<sup>36</sup> "Thus spoke the people of North Sinai: Testimonies of State Security Intelligence Victims in Arish and the city of Sheikh Zoayyed," Report of a fact-finding visit undertaken by the Egyptian Association against Torture (Leila Soueif, Aida Seif al-Dawla), Hisham Mubarak Law Center (Ahmed Seif al-Islam Hamad), Al-Nadim Center for the Rehabilitation of Victims of Violence (Magda Adl), 15-17 November 2004 (Cairo, November 24, 2004).

<sup>37</sup> "We will take the torturers to court," Report [in Arabic] of the fact-finding mission of the Committee for the Defense of Freedoms of the Lawyers Syndicate regarding the security operation in the Sinai (Cairo, January 17, 2005). On January 10, lawyers reportedly boycotted the al-'Arish courts to protest the refusal of the local public prosecutor to accept a petition by the Lawyers Syndicate to investigate the arrests and detentions



victims and witnesses who traveled to Cairo on December 4 and 5, and spoke with Egyptian journalists and analysts who had been following these developments.<sup>38</sup>

These interviews took place, except where noted below, in a separate room with only the person being interviewed and the representatives of Human Rights Watch, the Hisham Mubarak Legal Center, and the Egyptian Association against Torture present. The interviews provided information consistent with the findings of the EOHR and the delegation representing the Hisham Mubarak Law Center, the Nadim Center, and the Egyptian Association against Torture—namely, that the response of Egypt's SSI security force has been characterized by mass arbitrary arrests and widespread torture and ill-treatment of detainees.

Most persons who spoke with Human Rights Watch did so on the condition that neither their names nor those of their detained relatives be made public or provided to the authorities.

#### **IV. Arbitrary Arrests and Detentions**

Widespread arrests in al-`Arish and the vicinity started around October 13, as the investigation into the attacks shifted from the central Sinai area around Taba to the north. The period of mass arrests appears to have been concentrated in the month of Ramadan—i.e., from mid-October through mid-November, but some arrests ostensibly in connection with the Taba attacks continued at least into mid-December and perhaps mid-January. As of late January 2005, at least hundreds and perhaps several thousand persons remained in detention.<sup>39</sup>

Aside from the Ministry of Interior statement on October 25 naming nine persons as the alleged perpetrators in the bombings, the Egyptian authorities have provided no information about the numbers of persons they have detained in connection with the Taba attacks, their identities, their whereabouts, or the legal basis for their arrest and continued detention. The government has neither confirmed nor contested the reports of Egyptian human rights organizations that placed the number of detainees at between

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<sup>38</sup> The persons interviewed by Human Rights Watch had not, with one exception, previously been interviewed by the Egyptian human rights organizations in November. In the case of Hamid Batrawi (see below), he had testified earlier regarding the detention of members of his family. His own arrest and torture, the subject of his testimony in this report, occurred after the mid-November interview.

<sup>39</sup> Mohsin Bashir, the Hisham Mubarak Law Center lawyer in charge of following these cases, said on January 23, 2005, that the center puts the total number of persons then still in detention in connection with the attacks at 2,400. E-mail communication to Human Rights Watch from Hossam Bahgat, January 23, 2005.

2,500 and three thousand persons. A political activist from al-`Arish who has been engaged in efforts to call attention to human rights abuses there told Human Rights Watch that these figures originated with a high security official during a meeting in early November with tribal and clan leaders.<sup>40</sup>

Shadi `Abd al-Karim, a lawyer with the Egyptian Organization for Human Rights, told Human Rights Watch that he attended a public meeting in the al-`Arish area in the beginning of November with the governor of the governorate of Northern Sinai, Gen. Ahmad `Abd al-Hamid. He said the governor did not provide numbers during the portion of the meeting that he attended, but the number of families present and the tenor of the discussion indicated that the number detained was large. The meeting had been called by the governor in response to “public uproar,” `Abd al-Karim said, as a way of “absorbing the anger.”<sup>41</sup>

A high security official who requested anonymity told an Egyptian reporter that the 2,500 – three thousand estimate was exaggerated, claiming, “Eight hundred people at most were detained in the governorate after the Taba blasts.”<sup>42</sup> A Cairo-based Western diplomat told Human Rights Watch that Gen. `Abd al-Hamid also had indicated privately that the number was in the hundreds rather than the thousands.<sup>43</sup> It was not clear, however, if these lower estimates were intended to refer to the total number of persons detained in connection with the attacks or the number remaining in detention as of mid-December, two months after the mass arrests began.

The Hisham Mubarak Law Center (HMLC), which represents more than one hundred of those detained in connection with the Taba attacks, reported on January 23, 2005, that the SSI had transferred previously unrecorded persons from al-`Arish to prisons in Cairo in mid-January—either newly detained persons or persons who had been detained earlier and kept illegally at al-`Arish SSI headquarters for an extended period.<sup>44</sup> The HMLC told Human Rights Watch that as of January 27 it had filed 106 detention appeals; twenty-seven detainees had obtained release decisions but only six had actually been released.<sup>45</sup>

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<sup>40</sup> Human Rights Watch interview with Ashraf Ayoub, Cairo, December 4, 2004. Human Rights Watch was unable to speak with anyone present at this meeting who could confirm this account.

<sup>41</sup> Human Rights Watch interview with Shadi `Abd al-Karim, Cairo, December 12, 2004.

<sup>42</sup> Mustafa El-Menshawly, “Rights groups interrogate Taba investigation,” *al-Ahram Weekly* (English), December 2-8, 2004, p. 3.

<sup>43</sup> Human Rights Watch interview, name withheld on request, Cairo, December 2004.

<sup>44</sup> E-mail communication to Human Rights Watch from Hossam Bahgat, January 23, 2005.

<sup>45</sup> E-mail communication to Human Rights Watch from Gamal Eid, January 27, 2005.

As noted above, on February 4, 2005, the government announced that the Ministry of Interior had released ninety of the detainees arrested in connection with the investigation into the Taba attacks, and that more releases would follow.<sup>46</sup>

### ***Patterns of arrests and detentions***

The testimonies of witnesses interviewed by Human Rights Watch indicate that arrests were carried out by agents of the SSI, many of them in plainclothes. Most of the arrests took place in pre-dawn morning hours, typically around 3 or 3:30 a.m., just prior to when people would awaken for the morning *subur*, the meal that observant Muslims share during the month of Ramadan prior to the daytime fast. As noted above, the Egyptian human rights monitors reported that family members were detained to secure surrender of wanted persons—i.e., as hostages. In some cases that Human Rights Watch investigated, family members had been detained along with wanted persons, although they were not held as hostages. In one case the family member was tortured.

In all the cases investigated by Human Rights Watch, the arresting authorities produced no arrest warrant or judicial order, and said nothing to indicate the reason for the arrest. In almost every case, those who asked were told that “the pasha”—referring to the local SSI chief—“wants to ask him a few questions, just for five minutes.” In many cases, that was the last the families had seen or heard from their detained relative. None of the released detainees whom Human Rights Watch spoke with said they had been charged or received any official indication of the purpose for their detention.

The arresting officers initially took those arrested to the nearest SSI headquarters—in al-`Arish or, in the case of persons seized in the Shaikh Zuwaid area, in Egyptian Rafah. After three or four days there, and in some cases well over a week, during which time SSI officers interrogated most detainees and subjected many to torture and ill-treatment, the authorities transferred most to prisons in Cairo or in the Nile Delta or, in a few cases, released them. At any given time during the month of Ramadan, former detainees told Human Rights Watch, there were several hundred persons in detention at the al-`Arish SSI building, often confined in hallways or at the mosque next door. The detention center was severely overcrowded, resulting in unhygienic conditions; former detainees indicated to Human Rights Watch that at some points there were only two or three toilets available for hundreds of people.

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<sup>46</sup> Mahir Isma`il, “Al-ifraj `an 90 min al-mo`qtali Sina’ [Release of 90 of the Sinai Detainees],” *al-Misri al-Yawm*, February 5, 2005, p. 1.

Many of the families interviewed by Human Rights Watch said that they did not know where those still in detention had been taken. Those who did know had typically learned through informal means, such as a phone call from a released prisoner who could tell them the location of their relative.

There is, at a minimum, a serious discrepancy between the actual date of detention and the recorded date at which time the legal basis may have been specified. Families and lawyers engaged to represent the detainees need this date in order to secure the assistance of the Detainees Affairs Office of the Ministry of Justice in determining the whereabouts and fate of a detainee within the system. Mohsin Bashir, an attorney with the Hisham Mubarak Law Center, told Human Rights Watch that relatives wanting to learn the whereabouts of a detainee would have to travel from al-'Arish to Cairo and "test visit" several prisons in the hope of locating them.<sup>47</sup>

This recorded date of detention is generally not known to family members, unless they are lucky enough to have learned it from released persons. Families told Human Rights Watch that they are afraid to "cause trouble" by pressing officials for information about the whereabouts of their detained relatives.

The public sector is a major employer in the northern Sinai, and many of those arrested worked for a government body or public corporation. In a number of cases, the employing agency removed them from the payroll for not showing up for work. In those cases where families approached government employers to inform them that an individual had been detained, and therefore removed from the rolls improperly, they were told that they needed a copy of an order showing the date of detention. The families that Human Rights Watch spoke with have been unable to secure this document.

The last two interviews in the section that follows are with relatives of persons whom the Egyptian government has identified as suspects in the Taba attacks, concerning the detention of family members other than the suspects themselves. In all other cases, the person detained or sought has not been identified as a suspect, and the authorities provided no reasons for the detention.

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<sup>47</sup> This information was conveyed in an e-mail to Human Rights Watch from Hossam Bahgat, January 23, 2005.

## **Cases of arbitrary arrest and detention**

### **Mustafa A., twenty-seven**

Mustafa A. lives in Shaikh Zuwaid, a town close to Egyptian Rafah and Egypt's border with the Gaza Strip. On the 10<sup>th</sup> of Ramadan (October 25) at around 3 a.m., he told Human Rights Watch, several vehicles carrying security officers came to his house and asked if anyone named "Mustafa" was there. When he identified himself, they asked him to come outside to speak with "the pasha" (commanding officer).<sup>48</sup> "He asked me if I used to have a beard and if I belonged to al-Jama`a al-Islamiyya," Mustafa said. "I told him, no, I'm a Sufi."<sup>49</sup> The officer then asked three detainees in one of the vehicles if they knew Mustafa. When they said no, the police left.

They returned two nights later, Mustafa said, again around 3:30 a.m., and told him that "the pasha" wanted to see him in his headquarters in Rafah, about fifteen minutes away. With him in the pick-up truck was his cousin, Hamid (not his real name), a thirty-five-year-old technical school teacher. In Rafah an officer told him they were looking for a Mustafa who was about forty-years-old—considerably older than Mustafa A.—and bearded. Mustafa was placed in a room of about nine square meters with no window and no ventilation, with seven other men. He said they had one blanket among them, and insufficient space to lie down. They were permitted access to toilet facilities only three times a day. He was not interrogated. He told Human Rights Watch that the commanding officer, whom the men knew as "Akram," told him at one point, "I know you are not the wanted one, but they want [people named] Mustafa, what can I do?"

Four days later SSI officers put Mustafa in a small truck with others and transported him to al-'Arish SSI headquarters. There, he said, the two corridors were crowded with forty to fifty detainees each. In addition, three holding cells contained about fifty men each, and he saw fifty to sixty women in an adjacent mosque when he was allowed to use the mosque's toilet facilities. An hour or so after he arrived, Mustafa said, SSI officers called

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<sup>48</sup> Human Rights Watch interview with Mustafa A. (full name withheld on request), Cairo, December 6, 2004.

<sup>49</sup> *Sufi* practitioners attach great importance to inner spirituality, and to contemplation as opposed to outward forms of ritual observance. It is associated with ascetic and mystic dimensions of Islam. Adherents of Sufism are frequently organized in orders (*turuq*, sing. *tariq*) associated with individual "masters" and represent a potential or actual challenge to the spiritual authority of the established *'ulama'*. *Salafi* refers to adherents of current revivalist movements dedicated to sweeping away and supplanting the accretions of Islam with the "original" faith and practice of the Prophet Muhammad and his contemporaries (*salaf*, or predecessor). Salafis are particularly hostile to what they see as the "pagan" and non-Muslim or pre-Islamic practices of Sufis. See for example Malise Ruthven, *Islam in the World 2<sup>nd</sup>* edition (Oxford: Oxford University Press, 2000) and Jonathan P. Berkey, *The Formation of Islam* (Cambridge: Cambridge University Press, 2003).

him and another man also named Mustafa, blindfolded them, and roughly took them upstairs where he alone was pushed into a room.

They asked him if he belonged to al-Jama`a al-Islamiyya, and if he knew anyone who adhered to the group. "They read me some names. I didn't recognize any. They said it was not in my interest that I didn't recognize the names, they were from my town, and this was the way to clear myself. But I really didn't recognize anyone." An officer then pulled him out of the room and kept him standing with another detainee in front of the interrogation room.

Although he was not himself tortured, he said he heard at various points some five to ten people screaming, and orders from four or five distinct voices to "suspend him" or "bring the electricity." He had heard screaming very faintly when he was kept downstairs, he said, but much more distinctly when on the second floor.

After about two hours, they brought him back down and forced him to sit in a crowded corridor. His blindfold had been removed, and he recognized some neighbors from Shaikh Zuwaid. One man, a twenty-two-year-old brick worker, told him he had been there for a week. There were also about five adolescent boys, about fifteen years old, among them.

He was held there for about six days, he said. Very small amounts of food were provided, and there were three toilets, one for women and two for about 350 men. On any given day, Mustafa said, officers brought in many detainees and took many out.

The interrogation accompanied by torture and ill-treatment, he said, seemed to occur only at night; ten or so men would be taken out at a time. "We got no sleep those nights," Mustafa said. "They were brought back naked and we massaged them, and removed the wires from their fingers and toes." Mustafa said he thought he was not tortured because the Sufi leader he had named did vouch that Mustafa attended their gatherings and was therefore not an Islamist. For the most part, Mustafa said, it seemed that detainees were not called for interrogation a second time.

Mustafa said the SSI detained him a total of about four days in Rafah and eight days in al-'Arish before he was released. He told Human Rights Watch that he did not feel comfortable leaving his house for about two weeks thereafter. He said many had been arrested from Shaikh Zuwaid: "Ours is a small [extended] family, and twenty-two were taken. Five of them were arrested the same night I was released, and taken to Cairo." He

said that the authorities continued to make occasional arrests in Shaikh Zuwaid, as recently as two days prior to his meeting with Human Rights Watch.

Mustafa said that he and others in his family have had a hard time getting Egyptian identity papers, and that they are often accused of being Palestinians—for many Egyptians in the area a derogatory term. “They used to accuse us of being agents of Israel,” he said. “Now [they say] we are terrorists against Israel. They just want to get rid of us.”

*Murad Ahmad, thirty-five, electrical engineer*

*Fathi Ahmad, sixty-eight, retired teacher*

Fathi Ahmad told Human Rights Watch that about fifteen SSI forces came to his house in al-`Arish at about 3 a.m. on October 12 for his son, Murad, thirty-five, an electrical engineer with a state company.<sup>50</sup> Some were in uniform and armed, some not. “They gave no reason,” he said. “They showed no warrant.” Fathi said that Murad has a “long beard” and recites the Qur’an, but that he is not part of an “Islamic party.” Murad was still in detention when Human Rights Watch spoke with his father. His father has heard from detainees who were released that Murad is in a part of the large Tora Prison complex outside Cairo.

Friends of Murad who had been in detention with him told his father that at some point around November 12, a month after the arrest, they learned that the Ministry of Interior had ordered their release. But when they called the names to be released, the authorities told Murad that he would have to remain. “I asked lawyers in Cairo if they met with my son,” Fathi told Human Rights Watch. “They said they were prevented.”

Murad’s wife and three children—a six-year-old girl and two boys, four years old and six months old, also live in Fathi’s home. Fathi said that his wife, Murad’s mother, is sixty years old and handicapped, requiring regular care. The state company that employed Murad has cut off his salary, leaving the family without income.

Fathi said that about ten SSI officers came back to his home around the 23<sup>rd</sup> of November. This time, too, they had no warrant. Fathi said he opened the front gate to let them in. “They were shouting, ‘Get down, get down,’ and ‘Where is Murad’s room?’ They went to his room and ransacked it.” Fathi said the officers took away Murad’s

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<sup>50</sup> At his request, Human Rights Watch is not using the real name of Fathi or his sons.

computer. They returned the next day and took the telephone—not a mobile but a land-line handset. Then they came again a day or two later, on November 26, and searched Murad's room once more, leaving with computer disks that Fathi said contained religious materials.

Fathi told Human Rights Watch that upstairs in his house is a room of another son, Rami, thirty-nine, who works as a teacher in Saudi Arabia and does not live at home. This time the officers searched this room as well. They didn't take anything, Fathi said, but they broke the windows. "The soldiers [sic] were everywhere, shouting," Fathi said. "It was a horrible atmosphere. We are citizens. We have rights. I am not an enemy. I'm an Egyptian. 'I'm like your father,' I said to them. 'How can you do these things to citizens?' But they took no heed of these words."

This last time the SSI came to the house, they asked Fathi to visit the SSI offices "for five minutes." "I went," Fathi said.

The interrogation lasted four hours. "Who were Murad's friends? What does he read? What sheikh does he listen to?" I said I knew nothing of this. My sons have grown up. After four hours, they told me to go to a cell. I was there three more days. They never asked another question. I asked them, "Did you call me here just because of my son's long beard?" "Yes," they said. "You are their father; we want to ask you about their behavior, their reading." They asked me to send for Rami [in Saudi Arabia]. I told them that he is a grown-up. He will not come in response to my order.

Fathi said there were about two hundred people in the cell where he was kept. After he told this account to Human Rights Watch, he asked if he could now leave. "I have told you everything. But please don't use our names. We are really afraid of them. They have no mercy."

#### *Fu'ad Yahya, forty-six, government maintenance employee*

According to `Inayat Diab `Atwa Yahya, Egyptian security officers raided her home at around 6 a.m. on the 5<sup>th</sup> of Ramadan (October 20). She was inside with her husband, Fu'ad Yahya, an occupational safety engineer working for a government maintenance office in al-`Arish, and their twelve-year-old daughter. She said the police surrounded the house and jumped over a garden fence. When Fu'ad went outside, the police blindfolded him and put him inside a car. They searched the house, she said, and took religious books. She said that those who entered the house were armed plainclothes officers and said they were with the SSI. The next day his brothers brought food for him to al-`Arish



SSI headquarters and were able to leave it for him there, indicating that this was where he was first detained. Three days later, however, he was not there, and police said they had transferred him to Cairo. "This was fifty days ago," she said. "No one has seen him since, and we don't know where he is."<sup>51</sup>

*Ahmad Sulaiman Salim al-Muslih, early twenties, unemployed*

Sulaiman Salim al-Muslih is a member of the district-level governing council, an elected advisory body. He said that the authorities arrested his son Ahmad on the 1<sup>st</sup> of Ramadan (October 16). Ahmad was living at his father's home in al-'Arish. His father was not present when security forces arrived at about 2 a.m. that night, he told Human Rights Watch, but his wife and daughters were. "The police broke in the house, asked for Ahmad, then took him and left," he said. "He was still in his pajamas. They took religious books that he had bought at the Cairo Book Fair. If those books are prohibited they shouldn't have sold them."<sup>52</sup> He said that the police numbered about ten, and some wore uniforms.

Al-Muslih said that he did not know the names of those who took his son. It was now more than two months since they had taken him, and the family has heard no news about his whereabouts or why he remains in custody. His son wore a beard, he said, and was "very religious." He said that Ahmad had not had any previous encounters with law enforcement officials.

*Muhammad al-Azraq, forty-four, teacher*

Mustafa, the brother of Muhammad al-Azraq, told Human Rights Watch that on October 26, Muhammad went to a small mosque in al-'Arish, where he led a group of two other men in the sunset prayer. According to Mustafa al-Azraq, he had been told that the police took Muhammad from there when the prayer concluded. "I asked about him, but there was no news," Mustafa said.

Then a soldier contacted me to bring him a change of clothes, and we knew he had been in al-'Arish SSI headquarters for ten days. I had gone there every day and they told me all the time they didn't know where he was when he was inside the whole time.<sup>53</sup>

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<sup>51</sup> Human Rights Watch interview with 'Inayat Diab 'Atwa Yahya, al-'Arish, December 7, 2004.

<sup>52</sup> Human Rights Watch interview with Hajji Sulaiman al-Muslih, al-'Arish, December 7, 2004.

<sup>53</sup> Human Rights Watch interview with Mustafa al-Azraq, al-'Arish, December 7, 2004.

Mustafa said that they later learned from former detainees that Muhammad had been transferred to the Central Security camp in Port Said. Mustafa said that as far as he knew Muhammad had not been subjected to torture. Mustafa said that the SSI had called Muhammad in about four years earlier "because he was bearded" in order "to get to know him," but that otherwise Muhammad had no other previous run-in with law enforcement or security officials.

*Ashraf Muhammad Mahmud Ahmad, thirty-three, computer programmer*

Ashraf Muhammad Mahmud Ahmad's wife, Suzan Ibrahim, told Human Rights Watch that security forces came for her husband at their home in al-'Arish at about 2 a.m. on the morning of the 6<sup>th</sup> of Ramadan (October 21). Their children (aged three and one-and-a-half) were also there at the time. "We were asleep, and we heard a knock on the door. As Ashraf got up to check, it became stronger, and they broke through the door."<sup>54</sup> Some of the ten or so security officials wore plainclothes. "They were from SSI," she said.

They asked if he was Ashraf and when he said yes they told him to get dressed and come with them. They searched the house. I asked why and they said they just needed to ask him a few questions and he would be right back. They took his computer and some computer games. No books. He asked if he could go to the toilet, and they said no, you can go where we take you. His father went the next day, Friday, with some clothes and food, which they accepted. He went again the next day, and they said he was transferred. Nobody has seen him since.

Suzan Ibrahim said her husband had no earlier run-ins with security or law enforcement forces. "We have no idea where he is," she said.

*Hossam al-Din Salih, twenty-two, stationery store proprietor and teacher*

Hossam's wife, Samah `Abdullah Hamdan, told Human Rights Watch that Hossam is an art faculty graduate and gives English lessons on a part-time basis.

Last Friday [December 3], I heard noise on the balcony. I thought it was the wind banging the door. It was about 2:30 in the morning. Then there was a shout, "Open, woman!" They broke the window. I shouted back,

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<sup>54</sup> Human Rights Watch interview with Suzan Ibrahim, al-'Arish, December 7, 2004.

“Wait until I put on my clothes.” I woke Hossam, and he went to the door, which they broke just as he got there. They searched the house and asked me about my brothers.<sup>55</sup>

One officer told Hossam to put on his clothes and go with them, she said, but another said, “No I want him as he is.” Samah told Human Rights Watch,

They searched the kitchen and took a kitchen knife and said to [Hossam], “This is what you use in jihad.” He said, “If I did, I would not keep it in the house.” They searched the suitcases that had some merchandise he had bought [for the store] and took it. They said they would bring it back. They told me to put on my clothes and come with them. When they searched the room where we sleep, one of them got on his knees to look under the bed and knelt right on my baby. He stood up when I screamed. They went outside and got into one of the cars, with a private license plate from al-`Arish. The police truck was full of men with beards.

This morning [December 7] they came at 9:30. A policeman told me, ‘The pasha wants to see you tonight at 8:30. If he’s not there you must wait until he comes, even to dawn.’ My neighbor said, ‘Tell the pasha she has a child. She will come when she can.’”

*Ashraf Muhammad, forty-five, government accountant*

`Abd al-Qadir Muhammad, age seventy, told Human Rights Watch that at dawn on October 21, 2004, security forces raided his brother Ashraf’s home in al-`Arish, where he lived with his wife and six children.<sup>56</sup> “They broke into the house and entered the bedroom,” `Abd al-Qadir said. “They took him out and searched the house, and took his computer and books.”<sup>57</sup> The security officers were “civilians,” `Abd al-Qadir said, and showed no warrant for Ashraf’s detention.

`Abd al-Qadir said he took food for Ashraf to SSI headquarters for two days after his arrest. “His name was on [their] list,” he said. “Then on the third day they said he’d been transferred and they didn’t know to where. That [October 24] was the last we heard.”

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<sup>55</sup> Dr. Aida Seif-al-Dawla interview with Samah `Abdullah Hamdan, al-`Arish, December 7, 2004.

<sup>56</sup> `Abd al-Qadir Muhammad requested that Human Rights Watch not publish their real names.

<sup>57</sup> Human Rights Watch interview with `Abd al-Rahman `Abd al-Aziz, al-`Arish, December 7, 2004.

Ashraf was the sole breadwinner in the household, and his wife has had no income since he was detained. `Abd al-Qadir said that the authorities also took two of Ashraf's colleagues from work into custody, but that he did not know what had happened to them.

`Abd al-Qadir told Human Rights Watch that prior to the early October Taba bombings, the SSI "had been going to [Ashraf] every three months or so, calling him in. So that he understood they were in control." Two years ago, `Abd al-Qadir said, "they kept him for three or four days and told him to shave his beard."

### *Nur Mahmud Rashid, thirty, unemployed*

Nur Mahmud Rashid graduated from al-Azhar University in Cairo with a degree in religious sciences and was looking for work, his mother told Human Rights Watch. She said that security officials came for him on the 23<sup>rd</sup> of Ramadan (November 7), just after midnight. "Two men came upstairs," she said, indicating the floor above where she was sitting. "We want your son," they said, "only for five minutes." But it's more than a month and we still can't find him."

Nur Mahmud's wife was also present. "The bell rang and woke us," she said. "he opened the door. We heard talking but we couldn't make out the words. He came back and said, 'It's the SSI. They want me for five minutes.'" She saw him get into a car with the two men, she said, and she has not heard anything since regarding his whereabouts or condition. "This is *haram*," Mahmud's mother said. "They should go to war against Israel, not against us."<sup>58</sup>

### *Munir Kamel*

Munir Kamel, who had a long dark beard and wore a white skullcap (*ta'iyya*), did not want Human Rights Watch to use his real name. He said he was arrested on the 9<sup>th</sup> of Ramadan (October 24) and held in al-'Arish's SSI headquarters for nineteen days. "They called me on the phone, told me to come, so I went," he told Human Rights Watch.<sup>59</sup> He told Human Rights Watch that he saw Nur Mahmud Rashid (see above) the morning he was brought in (November 7), at the dawn prayer. That evening, Munir said, Nur appeared unable to move, and he understood that Nur was being sent "for interrogation" to a detention facility outside al-'Arish,

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<sup>58</sup> Human Rights Watch interviews with mother and wife of Nur Mahmud Rashid, al-'Arish, December 8, 2004.

<sup>59</sup> Human Rights Watch interview, name withheld, al-'Arish, December 8, 2004.

Munir said that SSI officers had interrogated him three times—on the first, third, and sixteenth days of his detention—in the SSI headquarters in al-`Arish. His interrogators blindfolded him but did not torture him. He said his interrogators asked him what he told people when leading prayers, and whether he agitated politically. The first two interrogations were short, less than half an hour each. The last session lasted well over an hour, but the questions were the same, he said. “You are talking about jihad,’ they said to me.”

The authorities offered no explanation for his detention at any point, he said. He did not request a lawyer, he said. “I couldn’t. I knew that was asking for trouble.”

Munir told Human Rights Watch that he had been told by someone he knew in the Ministry of Interior that four persons had died under torture, but said that he did not know of any names.

*Farid `Abdullah, twenty-four, supermarket employee*

*Ahmad `Abdullah, twenty-two, construction worker*

Laila Hamad told Human Rights Watch that she awoke to the voices of security forces in her home at about 1:45 a.m. the previous Thursday (December 2).<sup>60</sup> On hearing them ask if there were any women there, she put on her clothes and opened the door to her room to find men with automatic weapons in her living room. They did not wear uniforms. “The officer was sitting where we are now, reading a file on Farid,” she said.

I started praying, “May God hold you accountable.” They said, “Why are you saying this? We’re just taking them for five minutes and will bring them back.” “No,” I said, “the people you take you never bring back.” They knew who they wanted. They had files, and they asked, “Which one of you is Farid `Abdullah?”<sup>61</sup>

There were no previous encounters with SSI officials, she said, although once Farid had been involved in a fight and dealt with the “normal police.” A security official then went upstairs with her, and searched her room and that of her daughter, who was not present. “Then they took the boys and left,” she said. “That was six days ago.” She did not know if they were in al-`Arish or had been transferred elsewhere. “Nobody dares to go ask.” She then gave Human Rights Watch permission to inquire about their whereabouts at

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<sup>60</sup> Laila Hamad asked Human Rights Watch not to use her or her sons’ real names.

<sup>61</sup> Human Rights Watch interview, name withheld, al-`Arish, December 8, 2004.

the SSI office in al-`Arish. Human Rights Watch requested a meeting with Col. `Isam `Amir, of the al-`Arish SSI, but he declined to meet.<sup>62</sup>

*Asad Amin Khairi al-Bik, fifty-two, agricultural engineer*

`Abd al-Rahman Asad Amin told Human Rights Watch that security forces detained his father in the early morning hours of the 6<sup>th</sup> of Ramadan (October 21). He said that five or six police in plainclothes and two in uniform knocked on the door at about 2:30 a.m., and his father opened.

They searched the house but did not indicate what they were looking for. Some of them I knew from seeing them in the market. They told my father, "We want you for five minutes." Now we have no idea where he is. Three weeks ago somebody who was released from Damanhur said they had seen him there and that his health was OK.<sup>63</sup>

`Abd al-Rahman said that his father was subsequently laid off from his job, ending his salary to the family. "We told them he is in detention. They asked for evidence that he is in detention."

*Sayyid Hassan Muhammad Hassan, twenty-seven, driver*

*Salama Hassan Muhammad Hassan, twenty-two, student*

The mother of Sayyid and Salama, Yasmin Bayumi Muhammad, told Human Rights Watch that about eight SSI men showed up at their house in the middle of Ramadan. They were armed. "They asked Salama his name," she said.

They then went to the upper floor and brought Sayyid down. They asked them about the Abu Shita family: "Did you see Hamada? Did you see Isma`il?" One said no, they hadn't, but the other said they ate with them three days ago but had not seen them since. They took them to al-`Arish, and then we heard nothing from them. One day before the `Id [marking the end of Ramadan], they sent me a letter from Borg al-Arab prison in Alexandria and said I should come urgently. I went to the lawyer, and he got me permission [to visit the prison]. I met with them for about twenty minutes, after waiting there three hours. We gave them

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<sup>62</sup> Telephone request to Col. `Isam `Amir, December 8, 2004.

<sup>63</sup> Dr. Aida Seif al-Dawla interview with `Abd al-Rahman Asad Amin, al-`Arish, December 8, 2004.

food and clothes. They said they had been beaten to confess their relations with the Abu Shita sons. They said they had been transferred there from al-`Arish with about 450 people.<sup>64</sup>

*Muhammad `Abdullah Riba`a, forty-one, proprietor of metal workshop in al-`Arish*

*Isma`il `Abdullah Riba`a, thirty-five, worked in his brother's workshop*

*Ahmad `Abdullah Riba`a, thirty-nine*

Muhammad `Abdullah Riba`a is one of the nine persons named in the October 25 statement of Egypt's Ministry of Interior as implicated in the Taba bombings. Neither of his brothers, Isma`il nor Ahmad, were mentioned as having any connection to the attacks. According to their father, `Abdullah Riba`a Sulaiman `Abdullah, a large number of security vehicles came to their home in al-`Arish at around 10 a.m. on the 7<sup>th</sup> of Ramadan (October 22). Between ten and twelve of them, some of them wearing hoods, broke into the house, tied Ahmad's hands behind his back, and forced him to lie face down on the floor. They also apprehended Muhammad. They took Muhammad into custody at that point but not Ahmad.

Two days later, on October 24, security forces apprehended Isma`il at Muhammad's metal workshop. Several weeks after that, on November 16, they detained Ahmad after he had spoken with a visiting Egyptian human rights delegation.<sup>65</sup>

The father told Human Rights Watch that he went to the al-`Arish SSI headquarters following the arrests. "I told them, 'Look who you've taken. Who have you left behind? Only the women.'"<sup>66</sup> He said that someone who had been released from the al-`Arish SSI headquarters told them that Ahmad had been there for three days before being transferred, but they did not know to where. "We have heard nothing since then. If we go to ask, I'm not sure we'll come back." The family had had no encounters with

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<sup>64</sup> Aida Seif al-Dawla interview with Yasmin Bayumi Muhammad, al-`Arish, December 8, 2004. The SSI had detained a number of brothers from the Abu Shita family.

<sup>65</sup> Ahmad Riba`a told the Egyptian Organization for Human Rights that he was beaten and threatened with weapons by security forces when they came to the family home on October 22 to arrest Muhammad (EOHR, "Arish...random arrests, detention and torture: Stop the tragedy," Cairo, November 24, 2004., p.5.)

<sup>66</sup> Human Rights Watch interview with `Abdullah Riba`a Sulaiman `Abdullah, al-`Arish, December 7, 2004. The interview took place at the Riba`a home in al-`Arish, and other family members were present. The EOHR had interviewed the wife and a daughter-in-law of `Abdullah Riba`a Sulaiman `Abdullah in early November (Egyptian Organization for Human Rights, "Arish...random arrests, detention and torture: Stop the tragedy," Cairo, November 24, 2004., p. 5.)

security forces prior to these events, he said. Muhammad, he said, had served in the Egyptian army in a guerrilla unit.

### *Salim Salman Abu Flaifil*

#### *Salah Ahmad Salah Flaifil, thirty-five*

Hajj Ahmad is the ranking elder in the village of Maidan, about a thirty-five minute drive southeast of al-`Arish. Two of his sons have been identified by Egypt's Ministry of Interior as implicated in the attacks. The government said that, based on DNA testing, it concluded that Suleiman Ahmad Salah Flaifil died in the explosion at the Hilton hotel in Taba; the statement said that his brother, Muhammad Ahmad Salah Flaifil, thirty years old, was also involved.<sup>67</sup> As of February 8, 2005, it was not publicly known if Muhammad Flaifil was among those killed in clashes with security forces the previous week near the Sinai town of Ras Sudr.

Hajj Ahmad told Human Rights Watch that on the 5<sup>th</sup> of Ramadan (October 20) security officials came to the village. The security forces searched his house, saying they were looking for Muhammad. They took Hajj Ahmad, his sons Salah and Salem, and two daughters into custody. The two daughters were released the same day. Hajj Ahmad said that he and his son Salem were released more than three weeks later, on the 30<sup>th</sup> of Ramadan (November 14).<sup>68</sup> After interrogation on the last day in Cairo, Hajj Ahmad said, he returned to his cell to find Salem there but not Salah. When he met with Human Rights Watch on December 8, Hajj Ahmad said that he did not know where Salah was. He has heard that he may be in Abu Za`bal, a prison outside of Cairo.

Since his release at the end of Ramadan, Hajj Ahmad said, he had been taken three or four times in the middle of the night to al-`Arish and held for several days at a time and interrogated. The authorities also took blood samples, he said. Salem was also taken in to SSI headquarters several times, he said, but separately.

Hajj Ahmad said that he was not tortured or ill-treated. He is a member of the ruling National Democratic Party and reputed to be on good terms with Egyptian intelligence.

Hajj Ahmad did not dispute his son Muhammad's alleged involvement in the Taba attacks. On three occasions prior to the attacks, he said, he had publicly disowned

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<sup>67</sup> Statement of the Ministry of Interior, October 25, 2004.

<sup>68</sup> Human Rights Watch interview with Hajj Hamad, al-Maidan, December 8, 2004.



Muhammad “because he broke the tradition.” “Everyone here knew this, including the authorities,” he said. “They knew I was not accountable for him any more.”

The meeting with Hajj Ahmad took place in a large tented shelter extending off of his home, with approximately fifteen other male relatives and village residents present. Following the meeting, one of the other men in attendance told Human Rights Watch that a number of those sitting in on the conversation with Hajj Ahmad had themselves been taken in for questioning, but they did not want to make themselves known and “risk trouble.”

### ***Arbitrary detention under international and Egyptian law***

The International Covenant on Civil and Political Rights (ICCPR), to which Egypt is a state party, guarantees that “[n]o one shall be deprived of his liberty except on such grounds and in accordance with such procedure as are established by law.”<sup>69</sup> Article 9 further mandates that arrested persons be informed at the time of their arrest of the reasons for the arrest and the criminal charges, if any, against them. Arrested persons must be brought “promptly” before a judge or other authorized judicial officer, and have the right to challenge the lawfulness of their detention before a court. In addition, victims of unlawful arrest or detention have “an enforceable right to compensation.”<sup>70</sup> The purpose of this guarantee is not to prohibit deprivation of liberty altogether, but to obligate the state “to define precisely the cases in which deprivation of liberty is permissible and the procedures to be applied” and to ensure that “the law itself must not be arbitrary” in this regard.<sup>71</sup>

Egypt’s Constitution also contains guarantees against arbitrary arrest and detention. Article 41 states that “[e]xcept in cases of flagrante delicto no person may be arrested, inspected, detained or his freedom restricted or prevented from free movement except by an order necessitated by investigations and preservation of the security of the society. This order shall be given by the competent judge or the Public Prosecution in accordance with the provision of the law.”<sup>72</sup> Article 44 states that “[h]omes shall have their sanctity and they may not be entered or inspected except by a causal judicial warrant prescribed by the law.”<sup>73</sup>

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<sup>69</sup> ICCPR, art. 9.

<sup>70</sup> ICCPR, art. 9.

<sup>71</sup> Manfred Nowak, *CCPR Commentary* (Kehl am Rhein, Strasbourg, and Arlington, VA.: N.P. Engel Publisher, 1993), pp. 160 and 172.

<sup>72</sup> “The Constitution” (Cairo: Middle East Library for Economic Services, November 1998), p. 12.

<sup>73</sup> *Ibid*, p. 13.

According to Egyptian defense lawyers consulted by Human Rights Watch, police or SSI can normally hold persons for up to twenty-four hours before they must either release them or obtain a detention order.<sup>74</sup> Egypt's Emergency Law, Law No. 162 of 1958, which the government has renewed every three years without interruption since October 1981, permits arbitrary arrest and renewable fifteen-day periods of detention without trial. Article 3 of the law grants the Ministry of Interior the authority to order the detention of any person without charge on exceedingly broad grounds such as suspicion of endangering public order or security.<sup>75</sup> The Ministry of Interior, based on Law 162/1958, issued a series of orders in October 1981 that provide for the detention and imprisonment of persons who in any way abet "anyone against whom there is credible evidence or is under suspicion of any activity that compromises the public security or public order or threatens national unity or social stability..."<sup>76</sup> Law 97/1992, known as the Law to Combat Terrorism, provides for detention without referral to the Public Prosecution Office under certain circumstances.<sup>77</sup> In addition, the government considers certain parts of the Sinai Peninsula, particularly along the border with Israel and the Gaza Strip, to be of special security concern, with highly restricted access and subject to regulation by military intelligence.<sup>78</sup>

The thousands of persons reportedly detained in northern Sinai since October 7, 2004, join an estimated fourteen to fifteen thousand other persons currently being held without trial, some for as long as two decades.<sup>79</sup>

Persons held for more than twenty-four hours, whether under judicial order or emergency legislation, must be transferred to recognized places of detention for

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<sup>74</sup> Human Rights Watch telephone interview with Mohsin Bashir, January 31, 2005; e-mail to Human Rights Watch from Gamal Eid, January 27, 2005.

<sup>75</sup> `Abd al-Mun`im Husni, *Mawsu`at Misr li al-Tashri` wa al-Qada`* [Egyptian Encyclopedia of Legislation and Rulings] vol. 6, 1<sup>st</sup> edition (Cairo: Husni Center for Legal Studies, 1987), pp. 294 – 98 (translated by Human Rights Watch).

<sup>76</sup> Ministry of Interior, Order No. 1 for the year 1981, provided to Human Rights Watch by the Hisham Mubarak Law Center, January 5, 2005, translated by Human Rights Watch. Orders No. 2 and 3 use similar language in describing the duties of mayors and communal leaders.

<sup>77</sup> The official name is 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.

<sup>78</sup> Presidential order 176/1995, for instance, issued on September 18, 1995, restricts access within 150 meters of the border with Israel and refers violations to military courts.

<sup>79</sup> Human Rights Association for the Assistance of Prisoners, "Detention and Detainees in Egypt 2003," Cairo, 2003), p. 18. In this annual report for 2003, the HRAAP wrote: "The number of people detained in Egypt under emergency law remains officially undeclared or unknown. An Assistant to the Ministry of the interior, while attending a U.N. Committee Against Torture session in the fall of 2002, justified government attempts to keep these figures undisclosed by stating that he "can not figure out the number of detainees inside Egyptian prisons as dozens are arrested and others are released daily" (p. 6).

interrogation. Continued detention at SSI offices, whether for interrogation or other purposes, does not meet this requirement.

Article 4 of the ICCPR permits a state to proclaim officially a state of emergency which will allow the government to take measures derogating from some of its obligations under the Covenant. Article 9 is one of those under which derogation is permissible.<sup>80</sup> But Article 4 states that such a public emergency must be one “which threatens the life of the nation,” and that derogations are permitted only “to the extent strictly required by the exigencies of the situation.”<sup>81</sup> This express reference to the principle of proportionality, writes Manfred Nowak in his authoritative commentary on the ICCPR, means that “[a]s exceptional measures, they may be imposed only for a limited duration and may be extended only when absolutely necessary.”<sup>82</sup>

To the extent that the campaign of arrests and detention in northern Sinai were carried out pursuant to the Emergency Law, the SSI officials conducting the arrests also acted in violation of that law, insofar as it provides that:

every person arrested or detained according to the previous Article shall be notified in writing immediately concerning the reason for arrest or detention. The person has the right to contact whomever he sees fit and to seek the aid of an attorney. He shall be accorded the same treatment as an administrative detainee. The detainee, and others concerned, may appeal the arrest or detention if thirty days have passed without his release.<sup>83</sup>

In none of the cases of detention that Human Rights Watch investigated did the arresting authorities indicate the reason(s) for the detention. In many cases, when the person being detained or a relative insisted on knowing the reasons, they were told that the local SSI commander (the “pasha”) merely wished to talk with the individual “for five minutes.” None of those individuals with whom Human Rights Watch spoke who

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<sup>80</sup> Article 4, paragraph 2, states that no derogations may be made under articles 6 (right to life), 7 (prohibition of torture), 8 (paragraphs 1 and 2 (prohibition of slavery)), 11 (prohibition of detention for debt), 15 (prohibition of retroactive criminal laws), 16 (right to recognition as a person before the law), and 18 (freedom of thought, conscience, religion and belief).

<sup>81</sup> Article 4, paragraph 1.

<sup>82</sup> Manfred Nowak, *CCPR Commentary* (Kehl am Rhein, Strasbourg, and Arlington, VA: N.P. Engel Publisher, 1993), p. 84. Nowak notes in this regard “a certain tendency on the part of authoritarian regimes to impose the state of emergency permanently, thus making it *de facto* the normal condition.”

<sup>83</sup> `Abd al-Mun`im Husni, *Mawsu`at Misr li al-Tashri` wa al-Qada`* [Egyptian Encyclopedia of Legislation and Rulings] vol. 6, 1<sup>st</sup> edition (Cairo: Husni Center for Legal Studies, 1987), pp. 289–99 (translated by Human Rights Watch).

had been detained and released had received any written or verbal justification for their detention. Similarly, the witnesses who described the arrest of their relative to Human Rights Watch also said, without exception, that the authorities showed no warrant and provided no reason for the arrest. Even if some statement of charges was made when detainees were transferred from the SSI office in al-`Arish or Rafah to a recognized prison in Cairo or elsewhere, the days spent in the SSI headquarters, often in unhygienic conditions of overcrowding, represented violations of Egyptian law and Egypt's obligations under international human rights law.

The systematic failure of the authorities to inform families of the whereabouts of those detained is also a contravention of those international human rights standards that should guide state practice. The Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment states:

Promptly after arrest and after each transfer from one place of detention or imprisonment to another, a detained or imprisoned person shall be entitled to notify or to require the competent authority to notify members of his family or other appropriate persons of his choice of his arrest, detention or imprisonment or of the transfer and of the place where he is kept in custody.<sup>84</sup>

Principle 16 (4) states, "The competent authority may however delay a notification for a reasonable period where exceptional needs of the investigation so require," but elsewhere states that such communication "shall not be denied for more than a matter of days."<sup>85</sup>

This requirement is also articulated in the UN Standard Minimum Rules for the Treatment of Prisoners. The Rules provide a basis of consensus for generally accepted principles and practices in the treatment of prisoners. Rule 92 states:

An untried prisoner shall be allowed to inform immediately his family of his detention and shall be given all reasonable facilities for communicating with his family and friends, and for receiving visits from them, subject only to

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<sup>84</sup> Principle 16(1), Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment, adapted by United Nations General Assembly Resolution 43/173 of December 9, 1988.

<sup>85</sup> *Ibid.*, Principle 15.

restrictions and supervision as are necessary in the interests of the administration of justice and of the security and good order of the institution.<sup>86</sup>

#### **IV. Torture and Ill-treatment**

Torture and ill-treatment of persons detained in connection with the Taba attacks appears to have been widespread. The November 2004 reports of the EOHR and the Egyptian Association Against Torture included testimonies of persons who themselves had suffered ill-treatment at the hands of security forces, specifically the SSI.

Among the victims and eyewitnesses who spoke with Human Rights Watch in early December, four persons had themselves been detained. Two of the four provided credible testimonies of torture inflicted on them by the SSI during interrogation; the two others said they had not themselves been tortured but had seen persons who had suffered torture and heard screaming and similar indications of security forces' inflicting pain on detainees.

These testimonies indicate that not all persons taken into custody in connection with the Taba attacks suffered torture and ill-treatment themselves. However, the fact that hundreds of persons remained in detention, and the fact that many of those who had been released were reluctant to risk further harassment or re-arrest by speaking with Human Rights Watch, suggests that many detainees suffered serious abuse at the hands of SSI interrogators.

#### ***Cases of Torture and Ill-Treatment***

##### ***Hamid Batrawi, twenty-six***

Hamid Batrawi is one of eight brothers, six of whom had been taken into custody. Hamid and his youngest brother, Halim, had been released when Human Rights Watch met with Hamid on the afternoon of December 7.<sup>87</sup> He told Human Rights Watch that

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<sup>86</sup> Standard Minimum Rules for the Treatment of Prisoners. Adopted by the First United Nations Congress on the Prevention of Crime and the Treatment of Offenders, held at Geneva in 1955, and approved by the Economic and Social Council by its resolutions 663 C (XXIV) of 31 July 1957 and 2076 (LXII) of 13 May 1977.

<sup>87</sup> Egyptian human rights monitors visiting al-'Arish in mid-November met with Hamid Batrawi (not his real name) prior to his arrest regarding the detention of his brothers. See "Thus spoke the people of North Sinai: Testimonies of State Security Intelligence Victims in al-'Arish and the city of Shaikh Zuwaid," Report of a fact-finding visit undertaken by the Egyptian Association against Torture (Leila Soueif, Aida Seif El-Dawla), Hisham

he understood, on the basis of a telephone call from a security officer, that three of his brothers were then in Tora Prison, in Cairo. He said the fourth was in SSI headquarters in al-`Arish, according to a person who had been released from there. No member of the family has been identified by the authorities as a suspect in the Taba attacks.

Hamid said that police had returned to his home the morning before he met with Human Rights Watch, December 7. The next evening, December 8, immediately after Human Rights Watch departed al-`Arish, he was again brought in for questioning.<sup>88</sup>

Hamid had been working about four months as a supervisor in an asphalt plant in the southern Sinai Peninsula. He spent a week at home in al-`Arish in mid-November and decided on November 22 to return to work. His trip passed without incident as far as Isma`iliyya, but on the road south to Suez, at about 10 a.m., his car was stopped. Officers asked for his identity papers and searched his belongings, throwing his clothes out onto the wet sand. They took him to the police station near Suez. There, he said, he was kept on the roof of the two-story building until the next afternoon, when he was transferred to the SSI headquarters in Suez. At both the police station and the SSI headquarters he gave his boss's phone number to the authorities, urging them to call to check his bona fides.

At the SSI headquarters, the officer in charge, whom others referred to as "Haitham," checked his name on the computer, and asked Hamid why he had not mentioned that five of his brothers were in detention. It was now about 12:30 p.m. The officers blindfolded him and stripped off his clothing except for his underpants. They tied his hands tied behind his back, and bound his feet as well. He was then hung by his hands from the top of an iron door, causing excruciating pain to his shoulders. His toes just touched the floor, which was wet, when all muscle control was relaxed, he said. He said that wires were attached to his toes and to his undershorts, that he was beaten with a hose and administered jolts of electricity every couple of minutes, and that the shock intensified when his toes rested on the wet floor. This continued, he thought, until about 5 p.m. Hamid said his interrogator asked him about the Taba bombing and what his brothers had done. He said he understood that he was being interrogated by the officer

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Mubarak Law Center (Ahmed Seif El Islam Hamad), El-Nadim Center for the Rehabilitation of Victims of Violence (Magda Adl), 15-17 November 2004 (Cairo, November 24, 2004).

<sup>88</sup> Human Rights Watch interview with Hamid Batrawi, al-`Arish, December 7, 2004; telephone call from Hamid Batrawi to Ahmad Seif, director of the Hisham Mubarak Law Center, December 8, 2004.

in charge of this SSI office because others present kept encouraging him to “reply to Haitham.”<sup>89</sup>

When he was removed from the door where he had been hung, Hamid said, he fell face down on the floor. Officials then took him to a hospital in Suez. Aida Seif-al-Dawla, a medical doctor who accompanied Human Rights Watch to al-`Arish, told Human Rights Watch that she visited Hamid in the hospital after getting a call from his mother, who reportedly was called by a security officer urging her to get Hamid from the hospital before the SSI did. According to Hamid and Dr. Seif al-Dawla, the SSI told hospital personnel that Hamid’s injuries were the result of an epileptic fit he suffered while at their headquarters applying for a job. The SSI officers wanted Hamid to be discharged to their custody as soon as he regained consciousness, but a nurse insisted that his condition required that he remain in the hospital’s intensive care ward. Ahmad Seif, of the Hisham Mubarak Law Center, and Ashraf Ayoub, of the Popular Committee for North Sinai Citizens’ Rights, told Human Rights Watch that they had inquired about Hamid’s whereabouts at the SSI office in Suez on the same day, but found no record of his having been there.<sup>90</sup>

Dr. Seif al-Dawla told Human Rights Watch that because of Hamid’s injuries, she arranged for him to be transported from the hospital in Suez to `Ain Shams University Hospital, where she practices and teaches. “He was carried in moaning, he couldn’t speak or walk,” she told Human Rights Watch. “He was protecting his face with both arms and screaming that no one should touch him. His face and eyes were congested with blood.” An examination showed no bones had been broken, she said, but it was a week of intensive psychotherapy and anti-depressant and sleep-inducing medicines before he could talk and walk.<sup>91</sup> Shortly afterwards, he returned to his mother’s home in al-`Arish.

Hamid said that earlier on the day of the interview with Human Rights Watch two police officers visited him at his home to request that he go to Suez to retrieve his belongings, but that he begged off, saying he was too tired to travel. He said that he spent the night of December 3rd at the home of his sister. Security forces arrived there at about 2:30 a.m., he said, looking for her twenty-nine-year-old husband. They searched the house

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<sup>89</sup> Human Rights Watch interview with Hamdan Abu Shita, al-`Arish, December 7, 2004. None of Hamdan Abu Shita’s brothers or cousins were identified by the government as implicated in the Taba attacks.

<sup>90</sup> Discussion with Ahmad Seif and Ashraf Ayoub, al-`Arish, December 7, 2004.

<sup>91</sup> Discussion with Dr. Aida Seif al-Dawla, al-`Arish, December 7, 2004.

“upside down,” he said. They asked Hamdan how he was feeling, and took his brother-in-law into custody in the al-`Arish SSI headquarters, he said.<sup>92</sup>

*`Abd al-Nur al-Sayyid, twenty-one, works in a family-owned kiosk*

`Abd al-Nur al-Sayyid told Human Rights Watch he was arrested on the 3<sup>rd</sup> of Ramadan (October 18), the day after his father had died.<sup>93</sup> “It was about 3 a.m.,” he told Human Rights Watch.

About eight officers knocked and came right in, while we were holding the wake for my father. There were many veiled women. I tried to stop them. One hit me in the face. My brother Ahmad [twenty-three] was in his room. They took the two of us in a car and went around to other houses and took about six more. They didn’t have any order, and they didn’t give any reason.<sup>94</sup>

Al-Sayyid told Human Rights Watch that he and the others arrived at SSI headquarters in al-`Arish at around 4 a.m., where they were kept in the corridors. When he asked to be able to pray, one guard hit him with the back of his hand and punched him in the stomach with a baton. He was then moved to a floor where some two hundred detainees were being kept in rooms that usually served as quarters for SSI personnel. There were no toilet facilities and they had to use their food pails to relieve themselves. He was kept in these conditions for six days. He told Human Rights Watch that he was interrogated three times, the first time two days after his arrest.

They blindfolded me and my hands were tied behind my back. I could see out the bottom a bit. In the interrogation room, there was one person who did not speak. He was not Egyptian, and only used gestures. They were friendly at first and asked me what I knew about the Qur’an. Suddenly they started beating me from behind. Then they were asking how I became a committed Muslim, and I felt that someone was stripping my clothes. I saw the hand of the guy who didn’t talk, he flipped his finger up and then I was suspended by my hands from behind from a door. A well-built guy was pulling my leg. They tied a wire around one toe and wet it with something that smelled like gasoline.

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<sup>92</sup> Human Rights Watch interview with Hamdan Abu Shita, al-`Arish, December 7, 2004.

<sup>93</sup> He requested that Human Rights Watch not use his real name.

<sup>94</sup> Human Rights Watch interview, name withheld on request, al-`Arish, December 8, 2004.



Al-Sayyid said he was suspended for about two hours, fearing that he would be shocked by an electric current, although that did not happen. The second interrogation, he said, did not involve the torture. "I was just quizzed about the names of people," he said, but the third time was the same as the first. They wanted a confession: Where did you train? How many times did you go to the mountains? Give us the names of the Islamic organizations. This [third] time someone else was being tortured there too. "Didn't you change your mind?" they said. "Confess to what he is saying." Eventually I fainted and again I woke up in a cell. This was the fifth day for me. The next day I was back squatting in the corridors for twenty-three hours at a stretch, with one break to go to the toilet. Our families brought food for us but the soldiers would take half of it.

Al-Sayyid said that on the morning of the seventh day, at the time of the dawn prayer, he and about twenty others were put into trucks. "We saw about five trucks leave with men in them the previous day," he told Human Rights Watch. "This day it was just one. When we asked where we were being taken, they told us 'home.' But instead we arrived at Tora Reception." This is a part of the large Tora Prison complex in Cairo.

"We were forced to crouch and keep our heads down [as we went in]," al-Sayyid said. "We couldn't see the officers but we could see the dogs they held on chains, almost reaching us." He said they were forced to strip to their underclothes, and then provided prison clothing in their cells. His brother was among those sent to Tora, though they were not in the same cell together. They were there for twenty-one days before they were moved to Mazra`at Tora, and there interrogations and torture resumed. "I was tortured twice in the course of three days," al-Sayyid told Human Rights Watch. "They were kicking and punching me, and they had attack dogs with muzzles. One officer noticed that I could see a bit despite the blindfold so then they put on a blindfold soaked in gasoline." The interrogators "wanted us to confess to using arms, to belonging to an organization, to implicate Hani Abu Shita," al-Sayyid said.<sup>95</sup>

After this ordeal, al-Sayyid said, he and others were again handcuffed and put in trucks and driven back to al-'Arish. "There they kept us standing for about eight hours—no food, nothing to drink, no toilet," he said. "All the beards were kept together. Those without beards were released first. Some beards were brought upstairs"—i.e., to the interrogation room.

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<sup>95</sup> According to activists in al-'Arish, Hani Abu Shita is a young and charismatic man who led prayers and chanted sacred verses in gatherings there. He and a number of his brothers and cousins were detained in the crackdown, and many believe that he in particular was badly tortured in custody. See EOHR report, November 2004, pp. 8-10.

Al-Sayyid said he was released on the eve of the `Id, after about one month in captivity. He was not charged at any point with committing an offense. Since then, security officials have not bothered him, but the authorities have told him that the kiosk he had inherited from his father would no longer be allowed to conduct business on account of problems with proper licensing.

### ***Torture under International and Egyptian Law***

The use of torture and other forms of ill-treatment are prohibited by the ICCPR and by the Convention against Torture. Egypt ratified the Convention against Torture in 1986.

Article 1 of the Convention against Torture defines torture as any act by which severe pain or suffering is:

intentionally inflicted on a person for such purposes as obtaining from him or a third person information or a confession, punishing him for an act he or a third person has committed or is suspected of having committed, or intimidating or coercing him or a third person, or for any reason based on discrimination of any kind, when such pain or suffering is inflicted by or at the instigation of or with the consent or acquiescence of a public official or other person acting in an official capacity.

Article 2 of the Convention obliges states parties to take "effective legislative, administrative, judicial or other measures to prevent acts of torture." Article 16 requires that states parties must "prevent in any territory under its jurisdiction other acts of cruel, inhuman or degrading treatment or punishment which do not amount to torture."

The government of Egypt, in its October 1998 supplementary report to the Committee against Torture (CAT), stated that "the Convention is a law of the country, all of its provisions are directly and immediately applicable and enforceable before all State authorities,"<sup>96</sup> and noted that the Egyptian Constitution "prohibits the subjection of individuals to physical or mental harm."<sup>97</sup>

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<sup>96</sup> U.N. Committee Against Torture, "Supplementary reports of States parties due in 1996: Egypt 28/01/99." CAT/C/34/Add. 11, para. 12.

<sup>97</sup> Article 42 of the Constitution states: "Any citizen who is arrested or imprisoned or whose freedom is restricted in any way must be treated in a manner conducive to the preservation of his human dignity. No physical or mental harm shall be inflicted on him.... Any statement which is established to have been made under the influence or threat of anything of the above-mentioned nature shall be considered null and void." (Cited in *Ibid.*, para. 121).

The country's Penal Code and Code of Criminal Procedure also include provisions forbidding torture and establishing penalties against those guilty of committing acts of torture. Article 126 of the Penal Code establishes penalties of imprisonment and hard labor for "any public servant or official who orders, or participates in, the torture of an accused person with a view to inducing the said person to make a confession," and Article 282 specifies a sentence of hard labor "in all cases, [for] anyone who unlawfully arrests a person and threatens to kill him or subject him to physical torture."<sup>98</sup> According to the government, the "judicial application" of these penal provisions, "in accordance with the jurisprudence of the Supreme Court," "punishes torture carried out by a member of a public authority or by an individual whether during the arrest, confinement or imprisonment of a person in the legally prescribed circumstances or otherwise."<sup>99</sup>

The government's 1998 report to the CAT also cites Penal Code Articles 126, 129 and 240 to 243 as among the legislative measures employed to combat torture, but does not provide the texts of those Articles. Article 126 pertains to beatings inflicted by public officials.<sup>100</sup> Article 129 designates as criminal offences "acts involving coercion and ill-treatment by public officials... as they constitute acts of infringement on and harm against others, with intent to induce confession."<sup>101</sup> The offense occurs "whenever a public official or servant relies on his position to use force in a manner that is detrimental to an individual's dignity or which causes him bodily pain"<sup>102</sup> and the element of crime "obtains with any material act that is likely to cause the victim bodily pain, however slight, even if the act causes no apparent injuries."<sup>103</sup> "[A]ll individuals," the report states, "whatever their capacity, enjoy the protection prescribed by this article whether they are under arrest, in detention or in other circumstances."<sup>104</sup> Articles 240 to 243 cover assault and battery offenses.<sup>105</sup> According to the government's report to the CAT, "Any person who knows that an offence has occurred is under obligation to report it, an obligation which applies to public officials pursuant to Articles 25 and 26 of the Code of Criminal Procedure."<sup>106</sup>

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<sup>98</sup> *Ibid.*, para. 44. The most recent government report to the CAT, in February 2001, refers to but does not provide the texts of these provisions. See U.N. Committee Against Torture, "Consideration of Reports Submitted by States Parties under Article 19 of the Convention, Fourth periodic reports due in 2000, Addendum: Egypt" [CAT/C/55/Add.6, 18 October 2001].

<sup>99</sup> 1999 report to the CAT, para. 47.

<sup>100</sup> *Ibid.*, para. 132.

<sup>101</sup> *Ibid.*, para. 53.

<sup>102</sup> *Ibid.*, para. 171.

<sup>103</sup> *Ibid.*, para. 173.

<sup>104</sup> *Ibid.*, para. 128.

<sup>105</sup> *Ibid.*, paras. 54 and 132.

<sup>106</sup> *Ibid.*, para. 97(a).

Under Egyptian law, the Inspection Unit of the Ministry of Interior and the Department of Public Prosecution (*al-niyaba al-`ama*) under the Ministry of Justice are responsible for investigating allegations of torture and ill-treatment. Both offices have strong professional and personal ties with security officials and police under their supervision, and historically have not provided effective recourse for victims of torture.

The Committee against Torture has expressed concern that deferral of notification of arrest coupled with deferral of access to counsel during the first forty-eight hours of detention amounts to detention “incommunicado, thereby creating conditions which might lead to abuses of authority by agents of the State.”<sup>107</sup>

## VI. Response of the Government of Egypt

Prior to visiting al-`Arish, Human Rights Watch contacted the office of Minister of Interior Habib al-`Adli requesting a meeting with him or his representative, and also requesting authorization for the governor of the Northern Sinai governorate and the head of SSI in al-`Arish to meet with Human Rights Watch in al-`Arish. Human Rights Watch received no response to this letter, or to subsequent efforts by telephone and visits to the ministry to secure a meeting.

The government presented no obstacles to Human Rights Watch’s visit to al-`Arish. However, at least one person who met with Human Rights Watch in al-`Arish was again called in for questioning by SSI officials on December 8, immediately after Human Rights Watch left the city to return to Cairo.

Neither in al-`Arish nor in Cairo were government officials willing to meet with Human Rights Watch. In al-`Arish, on December 7, Human Rights Watch telephoned the governor, Gen. Ahmad `Abd al-Hamid, to request a meeting. He responded, “I don’t meet with anybody.”<sup>108</sup> On December 8, in an effort to learn the whereabouts of two recently detained young men, Human Rights Watch telephoned Col. `Isam `Amir, the deputy head of SSI there, to request a meeting. After saying he needed to secure permission from his superiors, Mr. `Amir did not respond further to the request.

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<sup>107</sup> Committee against Torture, *Consideration of First Periodic Report of the United Kingdom and Northern Ireland*, CAT/C/SR.91, November 15, 1991. The CAT reiterated its concern about incommunicado interrogation in the U.K.’s second periodic report. See Committee against Torture, *Consideration of Second Periodic Report of the United Kingdom of Great Britain and Northern Ireland*, para. 29.

<sup>108</sup> This was the response of the governor to Ashraf Ayoub, who called him on his mobile phone to request a meeting with Human Rights Watch. Al-`Arish, December 7, 2004.

On December 9, Human Rights Watch visited the office of the State Security Prosecutor, Hisham Badawi. After re-submitting the Human Rights Watch request for a meeting in Arabic, as Mr. Badawi asked, he refused to meet, saying that he was “not responsible” for the issues we wanted to raise and that the Prosecutor-General was responsible for “this kind of meeting.”

On January 4, 2005, a delegation from the Egyptian Bar Association met with Muhammad Bindari, the head prosecutor for the governorate of Northern Sinai to ask for an investigation into alleged torture and arbitrary detention in connection with the investigations into the Taba attacks. The reported response of the prosecutor was that “this file does not fall in his jurisdiction but rather that of the Supreme State Security Prosecutor,” Hisham Badawi, in Cairo.<sup>109</sup>

To Human Rights Watch’s knowledge, the government has not investigated, prosecuted, or disciplined any security officials or police officers for their role in the torture and abuse of detainees arrested in connection with the Taba attack.

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<sup>109</sup> “Lawyers syndicate urges investigation into thousands detained in Sinai” [in Arabic], January 4, 2005 at [www.shohood.net](http://www.shohood.net) [retrieved January 5, 2005].

## Acknowledgments

Joe Stork, Washington director of the Middle East and North Africa (MENA) division of Human Rights Watch, carried out the research for this report, with the participation and assistance of Ahmad Seif al-Islam, the director of the Hisham Mubarak Law Center, and Aida Seif al-Dawla, a member of the Nadim Center and chair of the Egyptian Association against Torture. Joe Stork wrote the report. Sarah Leah Whitson, executive director of Human Rights Watch's MENA division, and Widney Brown, deputy program director, edited the report. Wilder Tayler, legal and policy director, and provided legal review. Mohamed Abdel Dayem and Tarek Radwan, associate with the Middle East division, provided translation assistance. Leila Hull, associate with the Middle East division, and Andrea Holley, manager of outreach and publications, prepared the report for publication.

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## **Appendix: Human Rights Watch letter to Minister of Interior Habib al-`Adli**

December 15, 2004

His Excellency Habib al-`Adli  
Ministry of the Interior  
Al-Shaikh Rihan Street  
Bab al-Louk  
Cairo

Your Excellency:

We are writing to you with respect to the situation in al-`Arish and the Governorate of Northern Sinai following the October 7 attacks against the Hilton hotel in Taba and two tourist campsites in the Taba vicinity. Human Rights Watch strongly condemned those attacks in a statement issued shortly afterwards as violating the most fundamental principles of humanity.

We recognize the duty of the government of Egypt to investigate these brutal and unjustifiable acts, and to bring those responsible to justice. We expect that the government will pursue its obligations in this regard in a manner that upholds Egypt's Constitution and its obligations under international human rights law.

In late November 2004, several Egyptian human rights organizations independently published reports alleging widespread abuses by the Egyptian authorities in the conduct of this investigation, in particular by the State Security Investigation (SSI) forces under the jurisdiction of the Ministry of the Interior. These allegations included reports of mass arrests of between 2,500 and three thousand persons, arbitrary detention, torture and ill-treatment, and taking family members hostage in order to secure the surrender of wanted persons. The large number of persons detained has been attributed to remarks by a high government official in al-`Arish. The government of Egypt has not publicly responded to these allegations, so far as we are aware, or provided any information on the numbers or whereabouts of those detained.

Human Rights Watch subsequently conducted its own investigation into these allegations by visiting al-`Arish and neighboring areas. During our visit, we contacted the governor, Gen. Ahmed `Abd al-Hamid, and the deputy head of SSI in al-`Arish, `Isam

`Amr; we regret that both Gen. Hamid and SSI officials refused to meet with our representative. Human Rights Watch also sent a request by fax to your office on December 7, 2004, and by hand delivery to the Ministry the following day, requesting a meeting with Your Excellency for our representative visiting Cairo, Mr. Joe Stork, the Washington director of our organization's Middle East division. The response of officials in your office was that the Ministry would contact Mr. Stork if officials wished to meet with him. As of December 12, no response was forthcoming.

Human Rights Watch is preparing a report concerning these developments in and around al-`Arish. Because we would nevertheless like to reflect the government's views in its upcoming report, we request your response to the following questions.

While visiting al-`Arish and the area, we spoke with Egyptian citizens who told us in detail of their own detention and in some cases severe torture at the hands of SSI officers. Dozens of mothers and fathers, and wives and sisters, told us of their sons and husbands and brothers who had been taken in pre-dawn raids "for just five minutes." Weeks later, in some cases nearly two months later, they still have no idea where their loved ones are, or whether they too have suffered the torture and ill-treatment that they all believe to be a routine feature of internment at the hands of the SSI. In no case did the arresting authorities provide a judicial warrant, or cite any legal basis for the arrest.

We would therefore appreciate learning from the Ministry

- The number of persons detained for 24 hours or more in connection with the October 7 bombings in Taba and vicinity.
- The number of persons remaining in detention as of December 12, 2004, in connection with the attacks or other investigations prompted by the attacks.
- The location of the places of detention where these persons are held, and the number of these persons in each of these detention sites.
- The name, age, place of detention, and legal basis for detention of those persons in custody as of December 12, 2004.

Most of the individuals with whom we spoke have asked us not to reveal their names, or those of their missing relatives, out of fear of reprisal from the authorities. The cases we raise by name below, therefore, by no means represent an exhaustive list of known missing persons. We request that the authorities make their present whereabouts known to Human Rights Watch and to their families:



- Salah Ahmad Salah Falayfil, 35, teacher, arrested in the village of Midan on the 5<sup>th</sup> of Ramadan, and rumored to be held in the Abu Zabr detention facility in the Sinai. Two of his brothers have been accused of involvement in the Taba attacks.
- Ashraf Muhammand Mahmud Ahmed, 33, a computer programmer employed by the government information center in al-`Arish, detained in al-`Arish in the pre-dawn hours of the 6<sup>th</sup> of Ramadan.
- Asad Amin Khayri al-Bik, 52, agricultural engineer, arrested at his home in the pre-dawn hours of 6<sup>th</sup> Ramadan, and rumored to be held in Damanhur prison in the Nile delta area.
- Muhammad `Abdullah Ruba`, 41, part-owner of a metal workshop, arrested in al-`Arish mid-morning on the 7<sup>th</sup> of Ramadan, and named as a suspect involved in planning the Taba attacks.
- Isma`il `Abdullah Ruba`, 35, another part-owner with his brother Muhammad of a metal workshop, arrested on the 9<sup>th</sup> of Ramadan when he arrived at the workshop.
- Ahmad `Abdullah Ruba`, 39, arrested in al-`Arish on November 16 after he met with Egyptian human rights monitors.
- Muhammad al-Azra, 44, teacher, arrested following sunset prayer in a mosque in al-`Arish on October 26.
- Fu`ad Inayat, 40, employed in a government maintenance office in al-`Arish, arrested at dawn in his home in al-`Arish, 5<sup>th</sup> of Ramadan.
- Nur Mahmud Rashid, 30, unemployed, arrested shortly after midnight at his home in al-`Arish on the 23<sup>rd</sup> of Ramadan.
- Hani `Abdullah Hamdan Abu Shita, arrested at around dawn on 9<sup>th</sup> of Ramadan.
- Fayiz `Abdullah Hamdan Abu Shita, arrested at around dawn on 9<sup>th</sup> of Ramadan.

We would appreciate knowing, in addition to the legal basis for arrest and continued detention of these and countless others held in round-up since October 7, whether they have had access to legal counsel and to visits by immediate family members.

We would like to know if the Ministry has undertaken any investigations into allegations of torture and ill-treatment of persons detained in connection with the Taba attacks.

Your Excellency, the pattern of abuses that our investigation has verified is extremely disturbing. Of particular concern is the fact that many family members have been unable to learn the whereabouts of their loved ones subsequent to their arrest. In addition, many of those arrested are government employees, and in a number of cases that we investigated family members informed Human Rights Watch that the detained person's employment and salary had been terminated. When the family informed the employer that the person had been detained by the authorities, they were told they must provide proof of detention, which they have been unable to obtain.

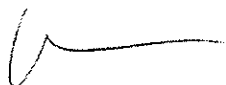
Human Rights Watch is gravely concerned that policies of secret and incommunicado detention place detainees in situations of great vulnerability where they are at risk of torture and "disappearance," which are grave offences under international human rights law. We are extremely disturbed by the credible testimonies of torture that we received as well as reports that torture and ill-treatment of detainees rounded up in connection with the attacks has been widespread.

It is therefore vital that the government take steps immediately to make public the names of persons in detention, their whereabouts, and the legal basis for their detention. We also request that the Ministry immediately allow access by Egyptian and international human rights monitors to those detention sites where these individuals are incarcerated in order to address numerous and credible reports of torture and ill-treatment by SSI officials.

We would appreciate the response of the Ministry of the Interior to this letter at your earliest opportunity. In order for your views to be reflected in the report we are preparing, we request that we receive the response by December 24, 2004.

Thank you in advance for your attention to this important matter.

Sincerely,



Sarah Leah Whitson  
Executive Director