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Egypt: Stop trials by emergency courts

The welcome lifting of a years-long state of emergency in Egypt is marred by ongoing trials of dozens of arbitrarily detained human rights defenders, activists, opposition politicians and peaceful protesters by emergency courts where proceedings are inherently unfair, Amnesty International said today.

On 1 November, blogger and activist Alaa Abdel Fattah, human rights lawyer and director of Adalah Center for Rights and Freedoms Mohamed Baker and blogger and activist Mohamed Ibrahim (known as Mohammed “Oxygen”), will appear before an Emergency State Security Court (ESSC) to face politically motivated charges of “spreading false information to undermine national security” over their social media posts. All three have spent more than two years in abusive pretrial detention in appalling conditions, denied private access to lawyers and regular contact with their families.

“The lifting of the state of emergency is good news in that the authorities will no longer be able to refer new cases to the emergency courts that were created under it. However, the news has a sting in its tail. Existing trials before these courts are

set to continue, their number swollen by a recent string of referrals of detained human rights defenders and activists,” said Philip Luther, Amnesty International’s Middle East and North Africa Research and Advocacy Director.

“For this to be a meaningful step towards addressing Egypt’s human rights crisis, the authorities must immediately and unconditionally release those facing trial before emergency courts solely for peacefully exercising their human rights. They include Alaa Abdel Fattah, Mohamed Baker and Mohamed ‘Oxygen’ Ibrahim, who have already spent over two years in prison solely for their peaceful activism and defence of human rights. The authorities should also stop the use of emergency courts altogether, as their proceedings breach the most basic fair trial standards, including defendants’ right to have their convictions and sentences reviewed by higher courts.”

On 25 October 2021, President Abdel Fattah Al-Sisi announced that he would not extend the state of emergency, in force since 2017. Yet in the three months preceding this decision, the Egyptian authorities referred at least 20 human rights defenders, activists and opposition politicians to trial before emergency courts.

Egypt’s ESSCs are activated during a state of emergency, since the Emergency Law allows the president to appoint judges to the courts and to designate crimes that are subject to their jurisdiction. Prosecutors then refer all cases related to those crimes to ESSCs, but are no longer able to do so once the state of emergency ends. Article 19 of the law governing the state of emergency stipulates that ongoing trials are to continue even after the state of emergency is no longer in force.

Tried by emergency courts on bogus “false information” charges

The charges against both Alaa Abdelfattah and Mohamed Baker stem from their criticism of the authorities’ treatment of prisoners and suspicious deaths in custody, while charges against Mohamed “Oxygen” are based on his posts about the government’s poor track record in upholding socio-economic rights. None of their posts include any incitement to violence or hatred and are therefore protected under Egypt’s constitution and international obligations to respect the right to freedom of expression.

In addition to the trial of these three activists, Amnesty International is aware of at least 143 other cases tried by ESSCs since the state of emergency came into force in April 2017, including those solely stemming from defendants’ peaceful exercise of their right to freedom of assembly and expression.

Among those currently on trial by ESSCs on charges of spreading “false information” are human rights defender and student **Patrick George Zaki**; former parliamentarian and human rights lawyer **Zyad el-Elaimy**, journalists and politicians Hisham Fouad and Hossam Moanis; human rights defender Ezzat Ghoniem, human rights lawyer **Hoda Abdelmoniem**, former presidential candidate of Masr al-Qawiya party **Abdelmoniem Aboulfotoh**, and deputy party head Mohamed al-Kassas. All of them have been held in prolonged pretrial detention pending investigations over terrorism related accusations, some for over two years, the absolute maximum period for pretrial detention permissible under Egyptian law.

On 22 June 2021, a Misdemeanours ESSC convicted student **Ahmed Samir Santawy** of charges of publishing “false information” and sentenced him to four years’ **imprisonment** following a grossly unfair trial over the content of social media posts.

Proceedings in front of ESSCs are inherently unfair. Defendants are denied the right to appeal their convictions and sentences in front of a higher tribunal. Other documented fair trial standards’ violations include the right to have adequate time and facilities for the preparation of their defence, right to communicate with counsel of their own choosing and right to a public hearing. For instance, Alaa Abdel Fattah and Mohamed Baker have not been able to see their lawyers in private since May.

In addition, judges at the ESSC routinely deny requests by lawyers to photocopy casefiles, which in some cases exceed 2,000 pages, instead instructing them to review them in court. Prosecutors and judges have also failed to provide copies of indictment orders to defendants and their lawyers, undermining their right to be informed of the exact nature and cause of charges against them.

Reprisal in detention

Alaa Abdel Fattah, Mohamed “Oxygen”, Mohammed Baker are held at Tora Maximum Security 2 prison in punitive and abusive conditions that violate the absolute prohibition of torture and other ill-treatment.

Unlike other prisoners, Alaa Abdel Fattah and Mohamed Baker are confined to their small and poorly ventilated cells, barred from exercise and access to fresh air and any reading material. They sleep on blankets on the floor with no beds or mattresses, causing them joint and back pain. Formal complaints to prosecutors

that this treatment amounts to a violation of prisoners' rights under Egyptian prison law have been ignored.

The three activists' request to access Covid-19 vaccines has been ignored, and they have not been allowed to wear face masks or use hydroalcoholic gel even though they are in overcrowded cells.

The mental health toll has been devastating. In August 2021, Mohamed "Oxygen" attempted suicide after being denied family visits and legal representation for months according to the Arab Network for Human Rights Information, a human rights organization. Amnesty International learned that Alaa Abdel Fattah, expressed suicidal thoughts to his lawyers last month and has been denied regular correspondence with his family.

"The Egyptian authorities are accusing brave activists daring to dream of a better future for Egypt of spreading 'false information' endangering national security. It is high time for the authorities to stop the detention, prosecution, imprisonment and harassment of peaceful critics and dissidents, and to desist from equating peaceful human rights or political activism with terrorism," said Philip Luther.



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Background

Alaa Abdel Fattah was **arrested** on 29 September 2019. His lawyer, Mohamed Baker, was arrested the same day from the prosecution building where he went to meet with his client. Upon their transfer to the prison in October 2019, prison officers blindfolded Alaa Abdel Fattah, stripped him of his clothing, beat and kicked him repeatedly, and **subjected** him and Mohamed Baker to threats and verbal abuse. The Public Prosecutor has failed to order investigations.

Mohamed “Oxygen” Ibrahim has been arbitrarily detained since 21 September 2019.

On 19 November 2020 the Cairo Criminal Court arbitrarily added Alaa Abdel Fattah and Mohamed Baker to the “terrorist list” for five years without any due process. The effect of the decision includes a travel ban and prohibition from engaging in political and civic work for five years.

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