

Last Updated: Wednesday, 07 November 2012, 13:14 GMT

[unhcr.org](#) | [Partners](#) | [Help](#) | [Contact](#) | [Site Map](#)[Home](#) [Egypt](#)

Search

Enter a word or phrase
[Advanced Search](#) [Search Tips](#)

Regions

[Africa](#)[Americas](#)[Asia](#)[Europe](#)[Oceania](#)

Countries

Categories

[Country Information](#)[Legal Information](#)[Policy Documents](#)[Reference Documents](#)

Browse by

[A-Z Index](#)[Topics](#)[Publishers](#)[Document Types](#)

Resources

[Standards and Training](#)[Information Alerts](#)[Protection Starter Kit](#)[Statistics and Operational Data](#)[UNHCR Research](#)[Library](#)[News](#)[Refworld Personalization](#)[External Links](#)Text size [A](#) [A](#) [A](#) [A](#)[Email this document](#)[Printable version](#)

Title	Egypt: Military Impunity for Violence Against Women
Publisher	Human Rights Watch
Country	Egypt
Publication Date	7 April 2012
Cite as	Human Rights Watch, <i>Egypt: Military Impunity for Violence Against Women</i> , 7 April 2012, available at: http://www.unhcr.org/refworld/docid/4f8423312.html [accessed 8 November 2012]
Disclaimer	This is not a UNHCR publication. UNHCR is not responsible for, nor does it necessarily endorse, its content. Any views expressed are solely those of the author or publisher and do not necessarily reflect those of UNHCR, the United Nations or its Member States.



Egypt: Military Impunity for Violence Against Women

The March 11 acquittal of the only military officer charged in the “virginity tests” trial is a blow for any hopes of accountability for the abuses women have experienced at the hands of the Egyptian military over the past year, Human Rights Watch said today. The military has failed to investigate and punish credible claims of other instances of violence by its members against women, including the beating and torture of women demonstrators by military officers on March 9 and December 16, 2011.

The investigation and trial in the case, in which female protesters who had been detained testified that a military doctor subjected them to “virginity testing,” underscore the lack of independence of the military justice system in trying such cases, Human Rights Watch said. The military prosecutor summoned no witnesses for the prosecution to establish the charges under which he had referred the case to court, nor did he challenge apparently factually inconsistent testimony by defense witnesses. Despite clear statements from senior military leaders that the incident had taken place, the trial did not examine who, and at what rank, ordered the tests.

“The verdict in the ‘virginity tests’ trial is just one more example of the military’s failure to punish gross abuses against women and a reminder that the military justice system lacks the fundamental independence to remedy human rights abuses by the military,” said [Sarah Leah Whitson](#), Middle East director at Human Rights Watch.

On the afternoon of March 9, 2011, military officers [destroyed](#) a tent camp belonging to demonstrators in Tahrir Square’s central garden, and arrested at least 190 demonstrators. On March 10, according to five women who gave accounts of their experiences, a military officer went into the prison cell where 17 women were being held and asked if they were married. A prison military doctor, Ahmed Adel, then conducted “[virginity tests](#)” on seven of the women who said they were not, using his fingers to examine their hymens.

Three of the women, Samira Ibrahim, Rasha Abdel Rahman, and Salwa al Hosseiny, told Human Rights Watch that a female prison warden and other soldiers were present in the corridor when the doctor conducted the “virginity tests.” Later that day, after trials lasting not more than 30 minutes, a military court sentenced all 17 of the women to suspended one-year sentences for “thuggery.” The military officers released them on March 12.

It took nine months, however, for military prosecutors to refer the case on the allegations of virginity testing to court. The only military officer charged and brought to trial was Adel, who was charged with “public indecency” and “failure to obey orders.” He was acquitted on all charges on March 11, 2012. Even though both Ibrahim and Abdel Rahman testified in court that Adel had subjected them to virginity tests, the court based its decision on the doctor’s denial and the inconsistent testimonies of two prison wardens. The military prosecutor failed to challenge the inconsistencies or to investigate anyone in the command chain who may or should have known that the tests took place and did not prevent them.

Ibrahim’s lawyer, Ahmad Hossam, told Human Rights Watch that the prosecutor also failed to summon a single witness to prove the charges he set out in his indictment referring the case to

court, and that Abdel Rahman and three other witnesses for the prosecution were able to testify only by petitioning the judge. Ibrahim had testified in her capacity as the plaintiff since the case had started as a result of the complaint she had filed.

Although they initially denied that any violations had taken place in March 2011, generals of the ruling Supreme Council of the Armed Forces (SCAF) later confirmed on at least two occasions that the virginity tests had taken place on March 10 and that this was a routine practice. In an interview with Shahira Amin, a journalist, on May 27, General Ismail Etman, chief of morale affairs for the military, said that, "We didn't want them to say we had sexually assaulted or raped them, so we wanted to prove that they weren't virgins in the first place."

On June 13, Mona Saif, founder of the No to Military Trials group, met with SCAF General Hassan al-Ruweiny, who gave her the same explanation. On June 26 Major General Abdel Fattah al-Sisi, head of military intelligence, confirmed to Amnesty International that the military had carried out the tests, as the organization published in a [statement](#) the next day. In addition, General Mohamed 'Assar told Human Rights Watch on June 7 that conducting virginity tests was "normal practice" and that, "When any woman enters an Egyptian prison, it is a rule that she be subjected to a virginity test."

The flawed investigation and trial of this case reflects the lack of the military prosecutor's and military court's independence, Human Rights Watch said. The military justice system in Egypt is a division of the Defense Ministry. The head of military justice, General Adel Morsy, reports to the SCAF and appoints all the military judges by authority vested in him by a SCAF decree.

In December Morsy [said](#) that there "was no decision in the first place to conduct virginity tests and no provision for such a procedure in the regulations of military prisons." Given his status in the military hierarchy and his authority over the military judge in the trial, such a statement effectively prejudged certain aspects of the trial, precluding an examination of whether the military ordered the virginity tests or had a policy of carrying them out, Human Rights Watch said.

"Civilian courts, not military courts, should be in charge of prosecuting the military for their ongoing abuses against civilians," Whitson said.

The acquittal of the military doctor reflects an ongoing pattern of the military's failure to investigate and prosecute cases involving military violence against women. The military has not seriously investigated allegations of [assault on women](#) demonstrators on March 9, 2011, or incidents in which video footage captured groups of military police [beating and kicking women](#) on December 16, including one veiled woman who lay on the ground with her torso exposed while six military police officers beat and kicked her.

On December 19 General Adel Emara commented on the attack on the veiled woman, telling journalists: "Yes this scene actually happened and we are investigating it. We will disclose the investigation results in full. We do not want to conceal anything." But the military has not taken the testimony of any of the women assaulted in these cases, human rights lawyers told Human Rights Watch, nor made public any of the results of their alleged investigations. An investigation into the incident by civilian prosecutors also has failed to interrogate any military officers, human rights lawyers told Human Rights Watch.

Despite the fact that military courts have issued harsh sentences, including many death sentences, in cases of rape by civilians, there appears to be a significant discrepancy in sentencing when a military officer is tried for the same crime. Human Rights Watch has been able to identify only one case in which a civilian allegedly raped by a military officer filed a criminal complaint that went to trial: the case of a 34-year-old British woman who said she was raped in a room at a checkpoint in Sinai on May 15, 2011. The military court sentenced the officer to five years in prison, which it commuted to three years in February.

Proposals to [amend](#) the Code of Military Justice should not only prohibit trying civilians before military courts but also allow for trials of military officers before civilian courts in cases of serious human rights violations.

"The military has chosen to cover up the 'virginity tests' just as it has failed to investigate or prosecute anyone for serious allegations about the beating of women protesters in December," Whitson said. "Military impunity will continue as long as the military justice system is the only place victims of military abuse can file complaints."

The Virginity Tests Trial

Failure to Investigate and Prosecute Adequately

Human rights lawyers representing Samira Ibrahim filed a complaint on June 23 at the office of the military prosecutor. The deputy chief military prosecutor summoned Ibrahim on June 28 to take her testimony. On July 10 the prosecutor summoned Adel, a 27-year-old first lieutenant and the military doctor on duty at the military prison at the time of the tests, who denied that the invasive procedure had taken place.

Ahmed Hossam, Ibrahim's lawyer, told Human Rights Watch that over the following eight months whenever he asked about the progress of the investigation, military prosecutors told

him that the results of the investigation by the military police at the prison “weren’t ready yet.” In contrast, investigations by military prosecutors of civilians can last as little as 30 minutes, and in high-profile cases three weeks, before the prosecutor refers the case to court.

It was not until December 20 that Morsy announced in a [news release](#) that the virginity tests case had been referred to trial before military courts. The prosecutor’s referral order is dated December 18. It came after hundreds of thousands of protesters took to the streets in [November](#) calling for an immediate end to military rule, and further protests on [December 16](#), when military police were caught on video beating unarmed protesters, including several women.

Charges and Indictment

Case documents reviewed by Human Rights Watch indicate that the military prosecutor limited his investigation to interrogating Adel and did not investigate the potential responsibility of commanders for ordering procedures or indict any of the commanding officers who oversaw the arrest, detention, and trial of the 174 protesters and the detention of the 17 women in the military prison. He indicted only the prison doctor and added a second charge of “failing to obey orders” to indicate that this was an isolated act that the doctor had initiated independently.

Lawyers from the Egyptian Initiative for Personal Rights (EIPR) obtained the prosecutor’s interrogation and indictment sheets. These reports indicate that on December 13 the military prosecutor interrogated Adel and charged him with “sexual assault” [*hatak’ard*] and on December 18 issued a charge sheet accusing Adel of “violating the victim Samira Ibrahim by exceeding the bounds of a medical examination and subjecting her to a virginity test and revealing her area of chastity.” [*manatiq al’iffa*]. On the interrogation sheet, the prosecutor stated that Adel had subjected Ibrahim to the test in full view of other people in the military prison.

Yet in the December 18 referral order, the prosecutor had reduced the charges from sexual assault to committing “an act of public indecency” and “failure to obey orders.” Hossam told Human Rights Watch that he and other lawyers had on four occasions asked the judge to amend the charges from “act of public indecency” and “failure to follow orders” to “sexual assault” (*hatak’ard*). The SCAF had in March 2011 amended article 268 of the Egyptian penal code on sexual assault, increasing the penalty from hard labor to imprisonment of up to seven years and stating that “any person who violates another with the use of force or threat, or attempts to do so, shall be punished with imprisonment.” The judge refused to restore the sexual assault charge.

Witnesses and Evidence

At the trial, two women testified that Adel had subjected them to the tests and two others that SCAF generals had confirmed the incident to them.

At least four witnesses summoned by defense lawyers who said they were in the military prison that day supported the military doctor’s testimony that the tests had not taken place. They included the head of the military prison, Major Ashraf Sayed Mohamed, and the two female prison wardens, Fawziya Sobhi Hassan and Abeer Rashad Abdel Moemen. However, Abdel Moemen testified that she had not been present during the military doctor’s examination of the women, contradicting her June 9 testimony to the military prosecutor that she had been with the doctor at the time of the examination and was the only one present.

Hassan also had told the prosecutor on December 19 that she had been present during the examinations with Abdel Moemen, but on February 6 testified in court that Hassan had been the only one with the doctor. The prosecutor did not raise the issue of the inconsistent testimony during the trial nor did he cross-examine the witnesses.

Since the Code of Military Justice does not recognize the standing of the civil parties to the case, Ibrahim’s lawyers, Ahmed Hossam and Adel Ramadan, only managed to get access to the case file and permission to intervene in the case after appealing to Morsy on January 3. The lawyers contended they had a right to intervene in the proceedings on the basis of article 272 of the Code of Criminal Procedure, which allows victims the right to cross-examine witnesses. Morsy allowed them to appear as lawyers for the victim to intervene in the case, but did not allow them to file compensation claims. Morsy told Hossam that he had issued orders to allow lawyers for civilian claimants to intervene in all military trials.

Hossam and Ramadan next asked the judge to summon witnesses for the prosecution, since the military prosecutor had not summoned a single witness to establish the charges. The judge approved this request, and the lawyers brought forward four witnesses to testify on February 26.

One of the four was Rasha [Abdel Rahman](#), who confirmed Ibrahim’s [testimony](#). She told Human Rights Watch that when she saw him in court on February 26 she recognized the accused as the one who had subjected her to the virginity test. She told Human Rights Watch:

There was a prison warden called Azza dressed in black. I was the fifth one to be examined. They took me to a bed in the passageway. There were others there: the

prison doctor, a soldier called Ibrahim, Azza the prison warden, and a man standing in the room opposite. The doctor examined me with his hand.

Cover-up, Despite the Military Leadership's Admission

In the first three months after the incident, members of the SCAF had repeatedly denied that the virginity tests took place, including in the above statements by Generals Mohammed 'Assar and Ismail Etman.

However, in the trial session on February 26, Shahira Amin, the journalist, testified that SCAF members had confirmed to her that the incident had taken place. In addition, Mona Saif, founder of the No To Military Trials group, testified that when their group had raised the incident in a meeting with a SCAF general, he had told them that "virginity tests" were a routine practice. Heba Morayef from Human Rights Watch also testified that a SCAF member had told her that virginity tests were a normal practice and that they were regularly conducted on all women prisoners.

Amin recounted what General Etman, chief of morale affairs for the military, [told](#) her in a telephone conversation on May 27 as she was interviewing him for a story for CNN:

The girls who were detained were not like your daughter or mine. These were girls who had camped out in tents with male protesters in Tahrir Square, and we found in the tents Molotov cocktails and (drugs).... We didn't want them to say we had sexually assaulted or raped them, so we wanted to prove that they weren't virgins in the first place.

Saif testified that General Hassan al-Ruweiny had told her on June 13 that the tests were a routine procedure on women detainees in military prisons conducted to prevent future claims of sexual assault.

Morayef testified that she was part of a Human Rights Watch delegation who had met with Major General 'Assar on June 7, who told the delegation:

You have to take into account the differences in culture around the world. There are Asian countries where you are offered the brain of a monkey as a guest. There are differences in cultures... When any woman enters an Egyptian prison, it is a rule that she be subjected to a virginity test... We have issued instructions that this should not take place again.

Hassiba Hadj Sahraoui at Amnesty International also told Human Rights Watch that when their delegation met Major General Abdel Fattah al-Sisi, head of military intelligence, on June 26, he [confirmed](#) to them that the military had carried out the tests in order to protect the military against possible allegations of rape.

Civilian Administrative Court Orders an End to Virginity Tests

Egyptian human rights lawyers had filed a separate case before an administrative court, asking the court to order an end to virginity tests in military prisons as a violation of human rights.

On December 27 Egypt's administrative court, the Council of State, ruled in Samira Ibrahim's favor in the case. Citing Egypt's Code of Criminal Procedure, Constitutional Declaration, and Egypt's ratification of treaties including the International Covenant on Civil and Political Rights, presiding judge Abdel Salam al-Naggar ruled that the practice of conducting virginity tests on women in detention was "targeted at humiliating women participating in demonstrations" and that they were "an illegal act and a violation of women's rights and an assault on their dignity." Judges in administrative courts can issue findings of law based on *prima facie* findings of an alleged practice when they rule a case admissible but do not make findings about specific criminal incidents.

The judge cited article 40 of the Code of Criminal Procedure, which states that every detainee must be treated with respect for human dignity and prohibits physical or psychological ill-treatment, and article 46, which states that women can only be searched with their consent. The judge also cited that articles 8, 9, and 17 of the Constitutional Declaration guarantee the right of people in detention to be treated with dignity, not to be subjected to any physical or psychological harm, and not to be detained in places other than those specified in the prisons law. He said that any violation of these rights is a crime and that the state is under an obligation to provide a just remedy to those whose rights have been violated.

Later that day, Morsy issued a [news release](#) in which he said that the decision of the administrative court was not applicable because there "was no decision in the first place to conduct virginity tests and no provision for such a procedure in the regulations of military prisons." He said that if these tests were to take place, they would be the act of an individual, who should be punished.

The SCAF has in the past implemented court rulings by Egypt's administrative courts, such as the Council of State judgment ordering Egypt's executive authorities to enable Egyptians living outside Egypt to vote in the country's November parliamentary elections.

Virginity Tests Under International Law

As party to the International Covenant on Civil and Political Rights and African Charter on Human and Peoples' Rights, Egypt is obliged to protect women from cruel and inhuman treatment and discrimination, and to ensure their right to privacy. Coercive virginity tests violate all three of those obligations, Human Rights Watch said.

The virginity tests also violate guarantees of freedom from discrimination in the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), which is reflected in the March 30 Constitutional Declaration that acts as Egypt's transitional constitution. The CEDAW Committee has previously stated that it views with the "gravest concern the practice of forced gynecological examinations of women ... including of women prisoners while in custody." The committee "emphasized that such coercive practices were degrading, discriminatory and unsafe and constituted a violation by state authorities of the bodily integrity, person and dignity of women."

Conducting virginity tests without the informed consent of the girl or woman violates her right to bodily integrity, dignity, privacy, and equality before the law, and would amount to a sexual assault. Such assaults cannot be justified, being based on an intrinsically discriminatory presumption that an examination of female virginity can be a legitimate interest of the state. Under international law virginity tests committed in custody constitute cruel and inhuman treatment. These exams are painful, degrading, and frightening. Victims attest that being forced to undress and undergo exams is degrading both as a physical violation and for the threatened consequences, given their status as prisoners.

Impunity for Violence Against Women Demonstrators

In addition to the "virginity tests" case, the Egyptian military has failed to punish other violence against women demonstrators. The military has not investigated or punished the beating and torture of women demonstrators by military officers on March 9 and December 16, despite promises to do so.

Human Rights Watch has interviewed 16 men and women who testified to being tortured by beating, electroshocks, and whipping by military officers on March 9 in the grounds of the Egyptian Museum, adjacent to Tahrir Square. Rasha Azab, a 28-year-old journalist for *Al-Fajr Weekly*, told Human Rights Watch she was handcuffed to an outside wall in a museum courtyard:

They were kicking me in my stomach, hitting me with wooden sticks and slapping my face. They called me dirty names. At one point, one of them came and tied my hands even more tightly. I stood there for four hours. I saw dozens of men being dragged on the floor and whipped. All of them were the people who had stayed in the square. I heard people screaming from inside the museum, and [the soldiers] said, "You should thank God you are not inside."

On March 28 SCAF Statement No. 29 on the military's official Facebook page said the military would "look into the truth of what was said recently" about "the torture of women arrested during the latest sit-in in Tahrir by military officers."

The Egyptian Initiative for Personal Rights obtained an April 2011 military police report signed by General Hamdi Badeen, head of the military police, titled "on the March 9 arrest of demonstrations from Tahrir square" and marked "very secret." The document states that:

During the filming of the detainees it was noted that there were bruises and abrasions on some of the men and women and they said that some of those inside the museum ... and some members of the armed forces ... who were inside the museum attacked them, which is what led to these bruises.

Despite this report, however, there has been no investigation by the military prosecutors into the torture of the women and men. Only the military prosecutor can summon military officers to interrogate them on such charges, and thus far, the military prosecutors have not summoned any of the victims to take their testimonies, which is the first step in any investigation.

On December 16 security forces [attacked](#) and beat female and male demonstrators who had been protesting in front of the offices of the Egyptian cabinet. At least six military police officers were caught on camera apparently beating, stomping on, and kicking a veiled woman whose clothes had been torn off, exposing her torso. In other footage, at least four military police were seen beating and kicking another woman, Azza Helal, as she lay motionless on the street with sticks. Helal, who spent over a week in hospital with serious injuries, has filed a criminal complaint with the civilian public prosecution; the other woman, whose picture was splashed across the international media, has not come forward.

General Adel Emara confirmed that this incident had taken place and told journalists: "yes this scene actually happened, and we are investigating it. We will disclose the investigation results in full. We do not want to conceal anything." But the military has not summoned the victims to testify or formally questioned any military officers in connection with a criminal investigation of this incident.

On December 20, while a women's march of up to 10,000 people was winding through the streets of downtown Cairo, the SCAF posted a statement on its official Facebook page:

The Supreme Council of the Armed Forces expresses its deep regret to the great women of Egypt for the infractions (*tagawuzat*) that occurred during the events of the Cabinet demonstrations, and affirms its respect and appreciation for the women of Egypt and their right to demonstrate and participate politically in Egypt ... taking into account that all necessary legal measures have been taken to hold accountable those responsible for these infractions.

Despite this statement, there has been no "disclosure" by the military of the result of any investigation it may have conducted or whether it has ordered disciplinary measures short of a criminal investigation. The investigation into the violence during the December demonstrations at the offices of the cabinet, led by civilian prosecutors, has not included the military officers involved in the violence. Human rights lawyers Basma Zahran and Ahmad Hossam, who represent some of the women beaten and sexually abused, both confirmed to Human Rights Watch that civilian judicial authorities have not sought to identify which military officers may have been responsible for beating the women, for example by ordering a review of available video footage.

At least two of the women told the civilian investigative judge who was interrogating them in connection with the incident that they had been beaten and sexually abused by military officers. Had there been an intention to investigate, the investigative judge would have had to transfer the complaint to the military prosecution, since only the military prosecution can interrogate military officers as accused. The first step in any investigation would be for military prosecutors to summon victims in order to take their testimonies and this has yet to occur.

Discrepancy in Sentencing Civilians and Military in Cases of Rape

Human Rights Watch is aware of only one case in which a crime of rape committed by a military officer against a civilian was prosecuted and punished. The victim, a 34-year-old woman from the United Kingdom who did not wish to be identified, was in a shared taxi on May 14, 2011, in Sinai when military officers stopped the taxi at a checkpoint before al-Arish, told the woman to get out, and ordered the taxi to drive on. The woman told Human Rights Watch that the military officer had told her to go into the building at the checkpoint, where she would have to stay until morning, and that about 15 or 20 other soldiers were at the checkpoint. She said the officer led her up to a small room on the second floor. In a statement to Human Rights Watch, she wrote:

I became even more scared and stood up to leave, but he stood up and pushed me back. I knew that the other soldiers were just outside, so I screamed, "Help!", as loudly as I could, but I think this would have only lasted for a second or two at most because he put his hand over my mouth. I struggled to get away but he was really strong. He tried to kiss me so he must have taken his hand off my mouth at some point.

I don't remember the exact sequence of what happened next. I know that he pushed me onto the floor, because I remember being face down on the floor, twisted with my face against the wall, and him somehow on top of me. I was very scared, and shocked. He pulled my jeans down and I felt something go inside my vagina. His hand was over my face and at one point I managed to move my head so that I could say "I can't breathe." I thought that he might kill me at this point. I don't remember it going in or out of me – I just remember the feeling of it inside me. I was surprised it happened so quickly. He made a noise; I think he had ejaculated.

On May 15 she reported the crime to the tourist police, who referred her to the military prosecution, where she filed a formal complaint. The woman described what happened at the military court building in Nasr City:

After a few hours of waiting I said that I wanted to go, but I was told we weren't allowed to leave. I started asking for a lawyer because I wanted help ... Once I started asking to leave, and asking for a lawyer, the military personnel present ... started asking me if I was making it up, why was I changing my mind, and telling me I did not need a lawyer as I was not accused, I was the victim. I stood up to leave but the gate was blocked by army personnel holding guns. This was terrifying. I was extremely upset and kept asking to leave.

The military prosecutor eventually allowed her to leave that evening, telling her to return the following day. The next day, an officer in civilian clothes who identified himself as "detective Hani" asked her to do a "re-enactment" of the rape on the floor, showing the positions she had been in. The military officer then asked her to return the next day. When she arrived, military officials told her that they wanted her to identify her attacker from a line-up of five men, which she did.

It was only months later that her Egyptian lawyers to whom she had granted power of attorney managed to find out that an Ismailiya military court had convicted the officer of rape and sentenced him to five years in prison. However, Field Marshall Hussein Tantawy, the Defense Minister and head of the SCAF, ordered a retrial of the case, and on February 6, the court

© UNHCR reduced the sentence to three years.

This sentence stands in marked contrast to the sentences issued by military tribunals against civilians convicted of rape, where sentences have ranged from 25 years to the death penalty. For example, in March 2011, an Ismailiya military court sentenced a 25-year-old civilian, Ismail Mohamed, to 20 years for attempted rape. On May 16 the Supreme Military Court convicted Mohamed Tarek, Karim El Sawy, Ahmed El Ashry, and Mahmoud Hassan of kidnapping and raping a woman and sentenced them to death.

Military Trials of Human Rights Abuses Lead to Impunity

The independence necessary to investigate and prosecute military abuses generally does not exist when military authorities investigate human rights violations by military personnel and prosecute them in military courts. Both the prosecution and judges should be independent of those they are investigating, including of the chain of command, Human Rights Watch said.

The Egyptian military justice system, created by Law 25 of 1966, includes courts and a prosecution section and is a division of the Defense Ministry. All military judges and prosecutors are serving members of the military, subject to the military hierarchy, selected by the head of the military justice system, and appointed by the defense minister. They have no formal independence and report to Morsy, the head of the military justice system, who reports to the defense minister, currently Tantawy, who as head of the SCAF is exercising presidential powers.

The 2005 United Nations Set of Principles for the Protection and Promotion of Human Rights through Action to Combat Impunity state that “the jurisdiction of military tribunals must be restricted solely to specifically military offenses committed by military personnel, to the exclusion of human rights violations, which shall come under the jurisdiction of the ordinary domestic courts.” The Inter-American system of human rights protection has opposed the use of military tribunals to try military personnel in cases of human rights violations.

In its long-term work in [Mexico](#) and [Chile](#) for example, Human Rights Watch has found that restricting jurisdiction over human rights abuses committed by military personnel to military tribunals will lead to impunity. A 2006 report by the United Nations special rapporteur on violence against women, its causes and consequences, held that after asserting jurisdiction to investigate and prosecute cases in which members of the military had raped women in southern Mexico, “rather than carrying out full and impartial investigations, military investigators have reportedly delayed criminal proceedings and tried to disprove the allegations thereby placing the burden of proof on the victim.”

In its [report](#) “The Road Ahead: A Human Rights Agenda for Egypt’s New Parliament,” Human Rights Watch identified the Code of Military Justice as one of the priorities for legislative reform to end trials of civilians before military courts and to allow civilian courts to try military officers for serious human rights abuses. It said:

- The Egyptian parliament should amend the Code of Military Justice to restrict the jurisdiction of military courts to trials of only military personnel charged with offenses of an exclusively military nature; and
- The Code of Military Justice should be amended to explicitly state that the public prosecutor shall be competent to investigate complaints regarding military abuse and that members of the military can be tried before civilian courts in cases of abuse and ill-treatment.

Copyright notice: © Copyright 1992-2011, Human Rights Watch