

**“PEOPLE LIKE YOU SHOULD BE  
BURNT ALIVE. YOU DO NOT  
DESERVE TO LIVE.”**

A prosecutor informing a detainee he tested HIV-positive

**“THE HEALTH OF MY PATIENTS  
WILL BE MY FIRST  
CONSIDERATION; ... I WILL NOT  
USE MY MEDICAL KNOWLEDGE  
TO VIOLATE HUMAN RIGHTS AND  
CIVIL LIBERTIES, EVEN UNDER  
THREAT.”**

World Medical Association International Code of Medical Ethics

Since October 2007 Egyptian police have launched a series of arrests in Cairo of people they suspect are HIV-positive. As a result, 12 men have so far been subjected to criminal prosecution. In two separate trials in January and April 2008, nine of the men received prison sentences of one to three years following conviction on charges of “habitual debauchery”, the basis of which was an assumption about their sexual orientation on the basis of their HIV status. The sentences were upheld on appeal. All the men have denied the charges against them. Five of them are HIV-positive and were held in hospital chained to their beds for weeks or even months. Allegations of torture and ill-treatment involving police and medical professionals during the pre-trial detention of the 12 men have not been investigated. Most of the men were subjected to forced anal examinations and HIV testing without their consent. Some were beaten. The nine convicted men are now serving their sentences in prison; three others have been released without charge.

Amnesty International considers the men to be prisoners of conscience and calls for their immediate and unconditional release. It also calls for Egyptian authorities to investigate, fully, promptly and impartially, the allegations of torture and other ill-treatment of the 12 men.

Amnesty International has kept the names of the 12 men confidential, as well as additional information which could lead to their identification.

## **REPRESSION OF DISSENT IN EGYPT**

The prevalence of HIV in Egypt has not been thoroughly assessed or documented, but is believed to be low according to UNAIDS estimates<sup>1</sup>. The arrests of people suspected of infection with HIV and the ensuing human rights violations against the 12 men who were arrested have all taken place in Cairo. Similar patterns of human rights abuses affect people from different sectors of the society across Egypt. Hundreds of Egyptians were detained in the last few months following repeated waves of arrests against members of the outlawed Muslim Brotherhood opposition movement in different provinces. Dozens of activists and bloggers from various political backgrounds have been detained following a call for general strike by opposition movements in April 2008. The call for strike resulted in violent demonstrations in the industrial city of Mahalla, north of Cairo, and dozens of people were injured. Those injured were held in hospital and chained to their beds in the same way as the five men found to be HIV-positive. This raises questions about the involvement and responsibility of medical professionals in these human rights abuses. Many doctors are among the targets of arbitrary arrest and detention because of actual or suspected membership of the Muslim Brotherhood. In March 2008, doctors organized peaceful protests outside their syndicate's headquarters in Cairo demanding better salaries to reflect rising costs of living.

Torture and other ill-treatment in police stations has been a main feature of the Egypt's human rights record. Thousands of Egyptians languish in harsh prison conditions on the basis of administrative orders by the Minister of Interior. These abuses take place as a result of sweeping powers that are granted to security bodies by the Emergency Law and other laws which limit individuals' rights, including restricting freedom of expression, association and assembly. Egypt has lived under a state of emergency for most of the last 40 years. In May 2008, the state of emergency was extended for two more years or until a new law on counter terrorism law is adopted.

## **HIV ARRESTS: POLICING IN IGNORANCE AND FEAR**

The Cairo police crackdown on people suspected of being HIV-positive began in October 2007 when one man, stopped in the street during an altercation, told officers he was HIV-positive. Police arrested him and the man with him, beat and abused them, and began picking up others whose names or contact information they obtained through interrogating the two men. Twelve men were arrested as a result.

All the men were charged with "habitual practice of debauchery" under article 9(c) of Law 10/1961 (the Law on Combating Prostitution), a criminal offence used to prosecute consensual sexual acts between men.

The treatment of the men since their arrest constitutes a violation of the prohibition against torture or other cruel, inhuman, or degrading treatment. Several of the men have told lawyers that police and guards beat them and that they were subjected to forced anal examinations to "prove" they had had sexual relations with other men. Such a test would not be able to confirm the allegations against the men – allegations of acts that should not be criminalised in the first place. The prisoners who tested HIV-positive were chained to their beds in hospitals, some for months. After a domestic and international outcry, the Ministry of Interior finally ordered the men to be unchained on 25 February 2008.

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<sup>1</sup> UNAIDS 2006 Report on the Global AIDS Epidemic:  
[http://data.unaids.org/pub/GlobalReport/2006/2006\\_GR\\_ANN1A-L\\_en.pdf](http://data.unaids.org/pub/GlobalReport/2006/2006_GR_ANN1A-L_en.pdf)

The attitudes of the authorities towards the men have been overtly discriminatory. A prosecutor is reported to have informed one of the men that he had tested positive for HIV by saying: "People like you should be burnt alive. You do not deserve to live." Before issuing the indictments on 4 March, the lead prosecutor told a lawyer for the defendants that the men should not be allowed to "roam the streets freely" because the government considered them "a danger to public health."

## **EGYPT FLOUTS HUMAN RIGHTS OBLIGATIONS**

Amnesty International considers that the use of laws to imprison adult individuals for consensual same-sex relations in private is a violation of human rights and considers individuals held solely on that basis to be prisoners of conscience, who should be released immediately and unconditionally.

Such criminalization is discriminatory and contrary to Egypt's obligations under the International Covenant on Civil and Political Rights (ICCPR), which protects the rights to privacy (article 17), freedom of conscience (article 18) and freedom of expression (article 19).

Differential treatment on the basis of HIV status or imputed sexual orientation constitutes a clear violation of the principle of non-discrimination, recognized in numerous international human rights treaties to which Egypt is a party. The right to privacy is violated through coercive measures such as mandatory testing and the publication of HIV status, and the right to liberty and security of the person (article 9) is violated when HIV status is used to justify deprivation of liberty or detention.

States cannot limit the enjoyment of human rights on the basis of sexual orientation. The UN Human Rights Committee, the Committee on Economic, Social and Cultural Rights, and the Committee on the Elimination of Discrimination Against Women have all called for the repeal of laws criminalizing consensual same-sex conduct between adults, and for states parties to enshrine the prohibition of discrimination based on sexual orientation into their constitutions or other fundamental laws. In 2002, following its examination of Egypt's periodic report of its implementation of the ICCPR, the UN Human Rights Committee issued several recommendations, including that Egypt should "refrain from sanctioning [criminalizing] private sexual relations between consenting adults".<sup>2</sup>

In what was known as the "Queen boat" case in Egypt, the UN Working Group on Arbitrary Detention found in 2002 that the detention of more than 50 men, who were arrested after a the police raided a night club on a boat and prosecuted on the grounds of their sexual orientation, constituted an arbitrary deprivation of liberty, and contravened article 2 of the Universal Declaration of Human Rights [non-discrimination], as well as articles 2 [non-discrimination] and 26 [equality before the law] of ICCPR.<sup>3</sup>

Other UN human rights monitoring bodies, such as the Committee on Economic, Social and Cultural Rights, have repeatedly confirmed that discrimination on the basis of health, including HIV status, is prohibited under international legal standards and have urged states parties to take measures to prevent or eliminate such discrimination.

## **APPEALS TO THE EGYPTIAN AUTHORITIES**

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<sup>2</sup> CCPR/CO/76/EGY, 28 November 2002, para.19

<sup>3</sup> UN Working Group on Arbitrary Detention, Opinion No. 7/2002 (EGYPT) of 21 June 2002.

Please send letters to the Public Prosecutor stating that the nine men currently serving their prison sentences are prisoners of conscience who should be released immediately and unconditionally, and urging him to:

- Investigate promptly, comprehensively and impartially allegations that these detainees were ill-treated by police, other law enforcement personnel or doctors, and hold to account those individuals responsible for such abuses.
- Stop arbitrary arrests based on HIV status.
- Stop testing detainees for HIV without their informed consent.

You can also call on the Public Prosecutor to:

- Implement promptly the recommendations of the UN Human Rights Committee, including the recommendation to remove criminal sanctions against private sexual relations between consenting adults.
- End the practice of considering people living with HIV as criminals and linking HIV status and possible sexual orientation or behaviour.

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## **DOCTORS FAILING IN THEIR MEDICAL RESPONSIBILITY**

Some medical personnel have participated in the crackdown by police on people living with HIV, in violation of medical ethics.

Doctors who helped interrogate the 12 men jailed on suspicion of being HIV-positive violated the oath they took to respect patients' privacy, autonomy, and consent – one of the oldest traditions of medical responsibility, as well as an obligation under human rights law.

The Cairo-based Egyptian Initiative for Personal Rights found a document from the Ministry of Health and Population titled "Questionnaire for Patients with HIV/AIDS" in one of the men's case files. It includes "yes" or "no" questions that doctors from the ministry apparently use to interrogate people arrested in the crackdown. Questions included whether they had sexual relations "with the other sex" or "with the same sex," or "with one person" or "with more than one person." Prosecutors used the men's answers that they had relations "with the same sex" as evidence of their "guilt" before court.

Doctors from the Ministry of Health also subjected all the detainees to HIV tests without their consent. Doctors from Egypt's Forensic Medical Authority performed forcible anal examinations on the men to "prove" they had had sex with other men – tests that Amnesty International believes constitute a violation of the prohibition against torture or other cruel, inhuman, or degrading treatment. Such a test would not be able to 'prove' the allegations against the men – allegations of acts that should never be criminalised in the first place.

The five prisoners who tested HIV-positive were held in hospitals, chained to their beds, for months, until the Ministry of Interior ordered that the chains be removed on 25 February.

On 7 April 2008, 117 organizations worldwide working in the fields of health and human rights condemned the crackdown on people living with HIV and the participation of medical personnel. The organizations led by Human Rights Watch and Amnesty International sent a joint letter to the Minister of Health and Population and the Egyptian Doctor's Syndicate saying that doctors who helped interrogate men jailed on suspicion of being HIV-positive violated their own medical ethics.

## **EGYPT FLOUTS HUMAN RIGHTS OBLIGATIONS**

All physicians in Egypt, including doctors acting as state agents for the Forensic Medical Authority, take an oath based upon the Geneva Declaration of the World Medical Association. Among other things, it says, "The health of my patients will be my first consideration; ... I will not use my medical knowledge to violate human rights and civil liberties, even under threat." The Declaration of Geneva also states that from the time of being admitted as a member of the medical profession, individuals must not permit "considerations of age, disease or disability, creed, ethnic origin, gender, nationality, political affiliation, race, sexual orientation, social standing or any other factor to intervene between my duty and my patient."<sup>4</sup> The International Dual Loyalty Working Group, an international initiative which addresses the medical ethics of physicians, has established guidelines that state that: "The health professional should not perform medical duties or engage in medical interventions for security purposes." The doctors who helped interrogate the 12 men violated the oath they took and were complicit in violating the men's human rights.

In 2002, the UN Committee against Torture expressed concern regarding Egypt over "ill-treatment inflicted on men because of their real or alleged homosexual inclinations, apparently encouraged by the lack of adequate clarity in penal legislation". It recommended to Egypt to "[r]emove all ambiguity in legislation which might underpin the persecution of individuals because of their sexual orientation. Steps should also be taken to prevent all degrading treatment on the occasion of body searches"<sup>5</sup>.

Amnesty International considers that the use of laws to imprison adult individuals for same-sex relations in private is a grave violation of human rights and considers individuals held solely on that basis to be prisoners of conscience, who should be released immediately and unconditionally.

## **APPEALS TO THE EGYPTIAN AUTHORITIES**

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<sup>4</sup> See web site of the World Medical Association: <http://www.wma.net/e/policy/c8.htm>

<sup>5</sup> CAT/C/CR/29/4, 23December2002, paras.5(e) and 6(k).

Please send appeals to Egypt's Ministry of Health and Population stating that the nine men currently serving their prison sentences are prisoners of conscience who should be released immediately and unconditionally, and urging him to:

- End the medically valueless practice of conducting forensic anal examinations to test for same-sex sexual conduct.

- Ensure that personnel affiliated with the Ministry of Health and Population, or the National AIDS Program, neither commit, authorize, acquiesce torture and other ill-treatment, nor criminal interrogations of detainees; and immediately report any instances of torture and other ill-treatment to the appropriate authorities.

- End the practice of forcible HIV testing of detainees without full, informed consent. Ensure that all persons who test positive for HIV receive appropriate and immediate counselling as well as treatment.

You can also call on Egypt's Ministry of Health and Population to:

- Call for the repeal of Article 9(c) of Law 10/1961, the enforcement of which will only damage its own prevention efforts by driving populations already suffering stigma for their sexual conduct still further underground and beyond the reach of prevention or treatment.

- End the practice of chaining detainees in need of medical attention to their hospital beds.

- Remind medical professionals of their duty to respect and safeguard patient confidentiality.

- Ensure that all detainees receive the highest available standard of medical treatment for any health conditions.

- Provide training to all criminal-justice officials on medical facts and international human rights standards in relation to HIV.

- Take action to counter stigma and discrimination against people living with HIV and against people who engage in consensual same-sex sexual activity. Avoid policies which undermine attempts to ensure that people have access to voluntary counselling and testing, information about prevention of infection and access to treatment where needed.

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**CASE TIMELINE**

- **October 2007:** two men were arrested in the street in Cairo after one of them told the police he is HIV-positive. Ten more men were arrested in the following few months. In total five of the men were diagnosed HIV-positive and put in hospital chained to their beds.

- **14 January 2008:** a Cairo court convicted four of the men of "debauchery" charges and sentenced them to a year in prison.

- **2 February 2008:** their sentences were upheld on appeal.

- **25 February 2008:** the Ministry of Interior ordered the removal of the chains of those held in hospital.

- **4 March 2008:** Cairo prosecutors handed down indictments against five more men on charges of “habitual practice of debauchery”. One of them faced an additional charge of facilitating the practice of debauchery for the other men. The charges were dropped for three other men who were released.
- **9 April 2008:** a Cairo court sentenced the five men to three years imprisonment and they were fined 300 Egyptian pounds (US\$55). One man was also convicted on an additional charge of facilitating debauchery.
- **28 May 2008:** their sentences were upheld on appeal.

## REFERENCES

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For more information on Amnesty International’s work on Egypt see:

<http://www.amnesty.org/en/region/middle-east-and-north-africa/north-africa/egypt>