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Egypt: free those imprisoned for their sexual orientation

The verdict in the retrial of 50 men, tried for their alleged sexual orientation, is expected on 15 March before a criminal court in the Qasr al-Nil district of Cairo. The trial takes place amid a continued clampdown by the Egyptian authorities on men on the basis of their actual or perceived sexual orientation.

Amnesty International is extremely concerned that the imprisonment of people solely for their actual or perceived sexual orientation constitutes a violation of the right to freedom from discrimination as guaranteed in international human rights treaties.

"The Egyptian authorities must release immediately and unconditionally anyone imprisoned solely for their actual or perceived sexual orientation," Amnesty International said.

The initial trial, which came to be known as the 'Queen Boat case', opened in 2001. Following their sentencing, Amnesty International adopted those sentenced solely for their actual or perceived sexual orientation as prisoners of conscience and campaigned for their immediate and unconditional release.

Several of the men alleged that they were subjected to torture or ill-treatment, including beatings with a stick on the soles of the feet (falaka), during the first stages of their detention. Gays - or those perceived to be gay - face a heightened risk of torture or ill-treatment in police stations and prisons in Egypt.

Shortly after his arrest, one of the 50 men informed the prosecutor that he had been subjected to torture in detention and showed him the resulting marks on his body. The prosecutor noted "red vertical lines on the middle of the back...which the accused alleged were the result of beating with a thin stick...". However, no investigations are known to have been conducted into their allegations.

During the examination of Egypt's report to the UN Committee for Human Rights, in October 2002, the Egyptian delegation stated that in Egypt "homosexuality was not a criminal offence in itself". However, ongoing trials and imprisonment of people solely for their actual or perceived sexual orientation demonstrate that charges of "habitual debauchery" continue to be used to criminalize consensual homosexual relations in private.

Over the past year, there have been several cases of alleged gays who have been detained and

tried after having agreed to meet people contacted over the internet who turned out to be security officers or police informants.

On 17 February 2003 a court of appeals in Cairo upheld a sentence of 15-months' imprisonment of prisoner of conscience Wissam Tawfiq Abyad, a 26-year-old Lebanese national, for his alleged sexual orientation. On 16 January 2003 Wissam Tawfiq Abyad went to meet a contact he had made on an Internet website for homosexuals. The person he met, in the Heliopolis district of Cairo, is believed to be a security officer or police informant. Wissam Tawfiq Abyad was detained and charged with 'habitual debauchery'. Electronic conversations which they had exchanged over the Internet in private were used as evidence against him.

In another instance, prisoner of conscience Zaki Sayid Zaki 'Abd al-Malak was detained in similar circumstances on 25 January 2002 in Cairo. On 7 February 2002 he was sentenced to three years' imprisonment for 'habitual debauchery' by the Agouza Criminal Court in Cairo and the verdict was upheld on 31 March 2002. He was reportedly ill-treated in detention.

Background

In May 2001 some 60 men were arrested in Cairo, the majority of them while at a night club on a boat known as the Queen Boat. In June 2001, 52 of them were referred by presidential decree to the Emergency State Security Court for Misdemeanours in Cairo, an exceptional court established under emergency legislation. In November the court sentenced 23 men to prison terms of between one and five years. Twenty-one were convicted of 'habitual debauchery', one of 'contempt of religion' and another on both charges. (see Amnesty International: Egypt: Torture and imprisonment for actual or perceived sexual orientation, December 2001 - [AI Index: MDE 12/033/2001]).

In May 2002 President Mubarak annulled the verdict of 50 of the 52 men tried in 2001 in connection with their alleged sexual orientation and as a consequence 21 prisoners of conscience were released. However, he upheld prison terms imposed on two men in the same case. A retrial of the 50 other men opened in July 2002 before a criminal court in the Qasr al-Nil district of Cairo.

The Egyptian judiciary has on many occasions applied the term 'habitual debauchery' to same sex relations in the context of consensual sexual relations between men in private. Charges of 'habitual debauchery' are based on Law 10 of 1961 on the Combat of Prostitution.

Different UN human rights bodies have expressed their concerns regarding the treatment of men on the grounds of their actual or perceived sexual orientation. For example, in November 2002 the UN Committee for Human Rights issued several recommendations after having examined Egypt's periodic report of its implementation of the International Covenant on Civil and Political Rights, including that Egypt should 'refrain from sanctioning private sexual relations between consenting adults'.

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