

Egypt: Release child imprisoned for alleged sexual orientation

Amnesty International, Defence for Children International, Human Rights Watch and International Federation for Human Rights deplored the conviction and jailing of a 16-year-old Egyptian boy on charges of Aobscene behaviour@. The four international human rights organizations urged for his immediate and unconditional release.

On 31 October Cairo Juvenile Court will hear the appeal case of 16-year-old Mahmud. He was sentenced to three years= imprisonment on 18 September following his arrest in May for alleged homosexual behaviour. During the initial two weeks of detention he was denied the fundamental right to meet his family or be seen by a lawyer. Confessions extracted from Mahmud during that period were used as evidence in a trial leading to his conviction. His lawyer claims that these confessions were extracted under pressure and they were later withdrawn.

AWe are extremely concerned about the conviction and harsh sentencing of a child for his alleged sexual orientation@, Amnesty International, Defence for Children International, Human Rights Watch and International Federation for Human Rights said today. The organizations said that disregard for basic safeguards in detention is extremely dangerous and put Mahmud at serious risk of human rights violations.

AWe are seriously concerned that this child was interrogated in violation of international standards. Such confessions should not have been allowed as evidence before the court.A

According to Article 37 (d) of the UN Convention on the Rights of the Child to which Egypt is a State Party: *AEvery child deprived of his or her liberty shall have the right to prompt access to legal and other appropriate assistance ...@.*

The case of Mahmud is related to the trial of 52 alleged gay men on charges of "obscene behaviour". They are being tried before an exceptional court - based on the emergency legislation - which does not allow for the right to an appeal in violation of international human rights law. The men reported during sessions at the State Security Prosecution Office in May that they had been subjected to torture and ill-treatment during pre-trial detention, in particular during the first days after their arrest. No thorough and impartial investigation is known to having been conducted into these allegations.

Amnesty International, Defence for Children International, Human Rights Watch and International Federation for Human Rights have sent a trial observer to Egypt who will attend the hearing before Cairo Juvenile Court on 31 October 2001.

BACKGROUND

Mahmud was reportedly arrested on 10 May at about 11pm on Ramsis Street in the center of Cairo. He was first held at al-Azbekiya police station, before being transferred to the State Security Intelligence Department in the Misr al-Gadida district of Cairo. There he was questioned in connection with investigations against a group of more than 50 other detainees suspected of consensual sexual activities with persons of the same sex. On 12 May Mahmud and the others were brought before the State Security Prosecution that ordered their detention pending investigations. For more than four months Mahmud was detained at Tora Prison together with adults. Following his conviction on 18 September he was transferred to a Juvenile Punitive Institution in al-Marg near Cairo.

The UN Convention on the Rights of the Child (CRC) provides clear guidelines for the protection of children in detention.
Article 37 (c):

Every child deprived of liberty shall be treated with humanity and respect for the inherent dignity of the human person, and in a manner which takes into account the needs of persons of his or her age. In particular, every child deprived of liberty shall be separated from adults unless it is considered in the child's best interest not to do so ...

International standards give clear guidelines for proceedings in connection with juveniles in pre-trial detention. According to Article 37 (d) of the CRC:

Every child deprived of his or her liberty shall have the right to prompt access to legal and other appropriate assistance, as well as the right to challenge the legality of the deprivation of his or her liberty before a court or other competent, independent and impartial authority, and to a prompt decision on any such action.

According to Article 15 of the UN Standard Minimum Rules for the Administration of Juvenile Justice (The Beijing Rules):

(15.2.) The parents or the guardian shall be entitled to participate in the proceedings and may be required by the competent authority to attend them in the interest of the juvenile...

Article 40.2 b (iv) of the CRC stipulates that no child shall be compelled to give testimony or to confess guilt.

Mahmud spent over four months in pre-trial detention, although Article 37 (b) of the CRC stresses that deprivation of the liberty of a child should be used only as a measure of last resort and for the shortest appropriate period of time. Similar provisions are included in the UN Standard Minimum Rules for the Administration of Juvenile Justice and the UN Rules for the Protection of Juveniles Deprived of their Liberty.

On 18 July 2001 the Emergency State Security Court for Misdemeanours opened trial against 52 alleged gays. This is an exceptional court based on emergency legislation which does not allow for the right to appeal in violation of international human rights law. All defendants are charged with obscene behaviour and two are facing additional charges of expressing contempt for religion. The verdict in this case has been scheduled for 14 November 2001. (For further background on this case please refer to previous statements: Amnesty International: *Egypt: Concerns over detention of alleged gays*, 8 June 2001, AI Index: MDE 12/015/2001; Human Rights Watch: *Egypt: Emergency Court Trials for Homosexuality Suspects*, 4 July 2001)

Basic international safeguards for the protection of detainees, including children, are frequently violated in Egypt.

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For more information please call Amnesty International's press office in London, UK, on +44 20 7413 5566

Amnesty International, 1 Easton St., London WC1X 0DW web : <http://www.amnesty.org>