

Egypt: Verdict due in unfair trial of 52 men prosecuted for alleged sexual orientation

On 14 November 2001 an exceptional court is scheduled to hand down its final verdict in a trial of 52 men tried for their alleged sexual orientation.

"Amnesty International believes that the majority, if not all, of these men are facing imprisonment merely in connection with their alleged sexual orientation. If convicted solely on these grounds the organization would call for their immediate and unconditional release," the international organization said. "We are also extremely concerned that their trial violates some of the most basic international standards for fair trial."

Within the last few weeks, hundreds of people have been referred to exceptional courts established under emergency legislation in connection with a variety of charges, including membership of illegal organizations, contempt for religion and espionage. Recently, such courts have also convicted journalists accused of publishing pictures deemed to violate public morals and of spreading false information.

"Amnesty International is concerned that exceptional courts, which violate basic international standards for fair trial, such as the right to a full review of the case before a higher tribunal, are extensively used to try people in Egypt," Amnesty International said.

According to Article 14 (5) of the UN International Covenant of Civil and Political Rights (ICCPR), to which Egypt is a State Party: "Everyone convicted of a crime shall have the right to his conviction and sentence being reviewed by a higher tribunal according to law."

On 18 July 2001 the Emergency State Security Court for Misdemeanours opened trial against 52 men arrested in May in connection with their alleged sexual orientation. All defendants are charged with "obscene behaviour" while two face additional charges of expressing "contempt for religion."

Proceedings before this court not only violate defendants' fundamental right to appeal but also contravene principles of the independence of the judiciary as its verdicts have to be submitted to the Military Governor who ultimately decides whether to uphold or quash the verdict or to order a retrial. Such interference by the executive powers constitutes a flagrant violation of the UN Basic Principles on the Independence of the Judiciary.

Amnesty International wrote to the Egyptian authorities on 18 May 2001, about a week after the arrest of the men, expressing concerns that they had not been allowed to meet their relatives or be seen by a lawyer. In the light of these restrictions of contact to the outside world, Amnesty International expressed fears that the defendants were at risk of torture and ill-treatment. To this day, the organization has received no response to its communication.

At pre-trial hearings before the State Security Prosecution on 23 and 24 May, several defendants reported that they had been tortured or ill-treated during the first days of their detention. The prosecution ordered the men to be medically examined in order to establish whether they had practised anal sex. During the following days, the defendants were forcibly subjected to forensic medical examinations. According to Amnesty International's information, no thorough and impartial investigations have been conducted into the torture allegations.

In a related case, a 16-year-old boy, Mahmud, was sentenced by Cairo Juvenile Court on 18 September to three years' imprisonment for his alleged sexual orientation. He was reportedly tortured, including being beaten with a stick on the soles of his feet, following his arrest in May. During the first two weeks of his 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 duress and they were later withdrawn. Amnesty International has adopted Mahmud as a prisoner of conscience and calls for his immediate and unconditional release.

Egypt is a State Party to the UN Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT) and the ICCPR which categorically prohibit torture. Under Article 12 of CAT, state parties are obliged to carry out *"prompt and impartial investigations, wherever there is reasonable ground to believe that an act of torture has been committed..."*

BACKGROUND

Recent cases before exceptional courts which violate international standards for fair trial include:

* In October President Hosni Mubarak decreed more than 250 people to be tried in two separate cases before the Supreme Military Court in connection with their alleged affiliation with armed Islamist groups. The majority of the defendants had been held for several years in detention without charge or trial.

* In September, the (Emergency) Supreme State Security Court opened the retrial of Sharif al-Filali under charges of espionage for Israel. He had been tried under the same charges before a different panel of the same court and was acquitted in June. However, President

Mubarak refused to ratify the acquittal upon request of the prosecution and ordered a retrial.

* In September the (Emergency) State Security Court for Misdemeanours in Cairo sentenced the editor-in-chief of *al-Naba'a* newspaper, Mamduh Mahran, to three years' imprisonment in connection with an article about a former Christian Coptic monk on charges including insulting a religion and holy places, spreading false information and publishing pictures which violate public morals. The publication of the article in June 2001 included blurred photographs of alleged sexual activities in a monastery and led to widespread protests by the Coptic community in Egypt against the publication of the article, which was considered offensive.

According to Article 4 of the UN Basic Principles on the Independence of the Judiciary:

"There shall not be any inappropriate or unwarranted interference with the judicial process, nor shall judicial decisions by courts be subjected to revision. This principle is without prejudice to the judicial review or to mitigation or commutation by competent authorities of sentences imposed by the judiciary, in accordance with the law."

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