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Lebanon: Trial of Mahmoud Qassem Rafeh

Amnesty International has urged Minister of National Defence, Elias al-Murr, to refer the trial of Mahmoud Qassem Rafah to an ordinary civilian court and called for allegations that he was tortured and otherwise ill-treated in pre-trial detention to be investigated fully and independently without delay.

In a letter dated 17 August 2009, Amnesty International expressed concern that Mahmoud Qassem Rafah, a 62-year-old retired Internal Security Forces (ISF) official, is due to go on trial before a military court on 20 August in Beirut although he is a civilian, not a serving member of the military. The organization considers that civilians should not be tried before military courts, where the judges are predominantly serving military officers, as these are not sufficiently independent to ensure that defendants' rights to fair trial are guaranteed. In this case, the decision to try the accused before a military court is especially inappropriate as the authorities have failed to date to investigate serious allegations that Mahmoud Rafah was abducted and then tortured by Military Intelligence officials who, like the military courts, fall under the responsibility of the Minister of National Defence.

In its letter to the Minister, Amnesty International said it fully recognizes the Lebanese authorities' responsibility to preserve public safety and punish crime, including particularly crimes of the gravity and magnitude alleged in this case. In doing so, however, the Lebanese authorities must abide by their obligations to respect human rights and international law – all the more so in a case involving such serious charges which could incur the death penalty. It is vitally important, in such circumstances, to ensure that his trial is conducted in full conformity with international standards for fair trial and that no evidence obtained through torture is accepted by the court.

Mahmoud Rafah has been in custody since June 2006 when he was apprehended by plain clothed security officials in what first appeared to be an unlawful abduction. He was then held for two years and nine months in the Ministry of Defence detention centre in Beirut by Military Intelligence (*al-Mukhabarat al-'Askariyya*) officials who, he alleges, tortured him and made him sign a "confession" which he has since sought repeatedly to retract. He alleges that he was suspended from the ceiling by his wrists, threatened and degraded and later punished by being deprived of sleep when he complained about his treatment to a Military Investigative Judge.

He was moved to the Roumieh Central Prison in March 2009 and now faces trial on charges of collaborating with Israel over a seven year period and involvement in murdering members of Palestinian groups and Hizbullah officials. These include Mahmoud Majzoub, a member of Islamic Jihad, and his brother Nidal, Hizbullah officials 'Ali Hassan Dib and 'Ali Saleh, and Jihad Jibril, son of the leader of the Popular Front for the Liberation of Palestine-General Command, Ahmad Jibril.

Mahmoud Rafah was detained for some two years before he was permitted access to a lawyer and was then permitted to meet his lawyer only in the presence of Military Intelligence officers. No investigation is known to have been undertaken by the Lebanese authorities into his allegations of

torture and other ill-treatment, although Lebanon is a state party to the UN Convention against Torture which requires that all torture allegations are investigated promptly and thoroughly, The government told a UN expert in January 2008 that there had been no investigation because Mahmoud Rafeh had not registered a formal complaint, although he says he tried to do so and at the time he was being denied access to a lawyer.

Amnesty International is calling for Mahmoud Rafeh to receive a fair trial in a civilian court that is conducted in accordance with international standards and without recourse to the death penalty.

/ENDS

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