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Egypt: New Indictments in HIV Crackdown. Persecuting People Living with HIV/AIDS Feeds the Epidemic

(New York, March 11, 2008) – The Egyptian government’s new indictments against several men arrested apparently on suspicion of having HIV violate their basic rights and deeply undermine Egypt’s fight against HIV/AIDS, Amnesty International and Human Rights Watch said today.

Human Rights Watch and Amnesty International called on Egyptian officials to quash the indictments and overturn the convictions of four others who were sentenced in February 2008 to one-year prison terms.

On March 4, 2008, Cairo prosecutors handed down indictments against five men on charges of “habitual practice of debauchery,” a term used under Egyptian law to prosecute consensual sexual acts between men. One of them faces an additional charge of facilitating the practice of debauchery for the other men. The trial date is set for March 12. The charges were dropped for three other men.

Before issuing the indictment, 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.”

“These misguided prosecutions reveal official ignorance and prejudice about HIV,” said Joseph Amon, director of the HIV/AIDS Program at Human Rights Watch. “Prosecuting people for their HIV serostatus will frighten Egyptians from seeking treatment for HIV/AIDS, or information about prevention.”

The five indicted men are among 12 men detained on grounds of HIV since October 2007, in what appears to be a widening police crackdown (<http://hrw.org/english/docs/2008/02/15/egypt18064.htm>). According to human rights activists in Cairo, police arrested the first two men after stopping them during an altercation in the street, when one told police officers that he was HIV-positive. The defendants’ lawyers told Human Rights Watch and Amnesty International that officers detained both men, beat them and subjected them to abusive and intrusive physical examinations, trying to prove they had engaged in homosexual conduct. They then arrested other men whose names or personal information were found in the two men’s possession.

According to the Cairo-based Egyptian Initiative for Personal Rights (EIPR), doctors from Egypt’s Ministry of Health and Population subjected all 12 detainees to HIV tests without their consent. Authorities kept those who tested HIV-positive confined in hospitals for weeks. They were chained to their beds until February 25, when the ministry ordered them unchained after domestic and international outcry.

The case files of the five indicted men included the results of forced anal examinations, which are not only medically spurious but constitute torture. The results indicate that they were inconclusive, not revealing any sexual activity, but contained a standard caveat that it is possible to engage in anal sex without leaving any traces. The case files also contained the results of the compulsory HIV tests. Four of the five men tested HIV-positive. The three men whose charges were dropped tested HIV-negative.

The prosecutor's office detained two of the five men beyond the 90-day limit in Egyptian law.

"These men have been treated as if they are a national threat simply because four of them were found to be HIV-positive," said Malcolm Smart, director of Amnesty International's Middle East and North Africa Programme. "The authorities should not be prosecuting them, but rather investigating the abuse and ill-treatment meted out against them and taking steps to ensure that such abuse does not happen again."

Four of the 12 men known to have been arrested in the HIV crackdown since October 2007 have already been sentenced to prison terms. On January 13, 2008, a Cairo court convicted them of the "habitual practice of debauchery," imprisoning all four for one year. An appeals court confirmed their sentences on February 2.

The imprisonment of individuals for actual or alleged consensual same-sex relations between adults is a serious violation of human rights. The Egyptian law used to prosecute adult consensual same-sex sexual conduct violates protections for privacy and against discrimination in the International Covenant on Civil and Political Rights (ICCPR). The UN Human Rights Committee holds that both sexual orientation and HIV serostatus are grounds protected against discrimination under the ICCPR's provisions. Individuals held solely on the basis of alleged consensual same-sex relations between adults in private are victims of arbitrary detention who should be released immediately and unconditionally.

The use of the Egyptian law on "debauchery," both to detain people on the basis of their declared or suspected HIV status and to subject them to HIV tests without their consent, also violates those international protections and the prohibition of arbitrary detention.

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<http://www.hrw.org/doc?t=mideast&c=egypt>

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