

## JOINT STATEMENT

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# EGYPT: ON WORLD CHILDREN'S DAY, THE EGYPTIAN GOVERNMENT MUST TAKE STEPS TO PROTECT CHILDREN AND ENSURE ACCOUNTABILITY FOR VIOLATORS

The Egyptian authorities must uphold their legal obligation to protect the rights of children, in particular those arrested or detained, said Amnesty International and the Egyptian Front for Human Rights on World Children's day.

Egyptian security forces have forcibly disappeared at least 12 and physically tortured at least six children since 2015 in relation to political cases. Prison officials have failed to separate children from adults in places of detention, while both civilian and military courts regularly prosecuted and sentenced children along with adults in military trials and even sentenced at least three to death.

Egypt has ratified and is therefore bound by the international Convention on the Rights of the Child and should follow guidelines on the treatment of children in detention. Article 80 of the Egyptian Constitution identifies anyone under the age of 18 as a child and sets a number of guarantees and protections for children. Law number 12/1996, known as "the Child law", provides the framework for the treatment of children including in criminal justice. Laws 150/1950 for legal procedures and the "Instructions to the Public Prosecution" also have provisions governing criminal justice for children.

Amnesty International and the Egyptian Front for Human Rights conducted interviews between September and November 2018 with the families and lawyers of 13 children arrested or detained by the authorities and reviewed documentation around their cases.

## ENFORCED DISAPPEARANCES

Amnesty International and the Egyptian Front for Human Rights documented how the Egyptian security forces have subjected at least 12 children to enforced disappearances and at least six to torture since 2015.

All 12 children, who were arrested separately between 2015 and 2018, were held incommunicado by security forces for periods of up to seven months. When their families and lawyers attempted to inquire about their fate or whereabouts in police stations, security officials denied that they were in custody at that time. The families sent letters to different government bodies, including the office of the Public Prosecutor and Ministry of Interior, but they did not receive any information about their fate or whereabouts. The children later appeared in front of prosecutors and were charged with a range of offences including "membership in banned groups".

The Egyptian authorities failed to investigate allegations of torture by five of the children and their lawyers. Their families reported that during their detention, Egyptian security force subjected the children to electric shocks including to the genitalia, as well as prolonged suspension by the wrists or forearms with the arms extended backward at the shoulder joint and beatings. In three cases, the children said that they were tortured in order to coerce them to "confess" to offences they did not commit. The children told the courts their "confessions" were based on torture, but neither

prosecutors nor judges struck down the “confessions” or ordered investigations into the allegations of torture or enforced disappearance.

Beyond the physical brutality, the subjection of children to incommunicado detention for long weeks and months is cruel, inhuman and degrading, inevitably inflicting severe mental pain and suffering on them. If these measures were imposed intentionally for purposes such as punishment, coercion or intimidation, such prolonged incommunicado detention of children in and of itself constituted torture.

**Aser Mohamed** was 14 when a mixed force of armed police and National Security Agency (NSA) officers arrested him from his family house in the 6 October district of Greater Cairo in January 2016. The officers, who did not show a judicial arrest or search warrant, refused to inform his parents where they were taking him but told them that they would return him after two hours or so. But they did not return him, and for the next 34 days, despite making frantic efforts to locate him, his family did not know where he was and had no contact with him. They visited five Cairo and Giza police Stations. All denied that he was in their custody. The family also wrote to the Public Prosecutor and Ministry of Interior but received no response.

Aser stated that during that period NSA officers tortured him, including by giving him electric shocks and suspending him from his limbs for hours in order to “confess” to crimes that he did not commit. Although Aser reported this treatment to the State Security prosecutor, he did not open an investigation into the allegations of torture and enforced disappearance. Instead, Aser said that the prosecutor threatened that he would send him back to the NSA to face further torture if he tried to retract his “confessions”.

Egypt is obliged under the International Covenant on Civil and Political Rights and Convention on the Rights of the Child, to ensure that every child who is deprived of their liberty is treated humanely and in a manner that takes account of their age, and has “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.”

The Convention on the Rights of the Child also requires the Egyptian government to ensure that no child is “subjected to torture or other cruel, inhuman or degrading treatment or punishment”. Article 126 of the Egyptian Penal Code makes torture punishable by up to 10 years of imprisonment, or longer if the torture results in death.

## CONDITIONS OF DETENTION

Research by Amnesty International and the Egyptian Front for Human Rights found that the Egyptian authorities have failed to protect children in detention in at least seven cases. Prison officials imprisoned children along with adults in the same cells and in solitary confinement, while failing to provide them with adequate medical care. Children in detention also suffered from a lack of adequate food and overcrowded cells.

Children imprisoned with adults are at higher risk of abuse and physical harm.<sup>1</sup> Some of the children were held in cells with nearly 100 adult inmates. Some families reported that they were not allowed to visit their children for prolonged periods during their detention. The authorities also held children in prolonged solitary confinement, in one case for over four months. Prolonged solitary confinement is prohibited absolutely under international law, and bearing in mind that the victims were children, it is most likely to have amounted to torture in these cases.

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<sup>1</sup> Human Rights Committee, concluding observations: Jamaica (CCPR/C/JAM/CO/3), para. 23; Committee on Economic, Social and Cultural Rights, concluding observations: Sri Lanka (E/C.12/LKA/CO/2-4), para. 32; Committee on Migrant Workers, concluding observations: Senegal (CMW/C/SEN/CO/1), para. 15

The authorities also failed to ensure that detained children have access to adequate medical care in at least four cases. Conditions of detention have also contributed to worsening the medical situation of some children. The authorities also failed to take into account the pre-conditions of detained children in three separate cases, including those suffering from mental as well as physical medical issues. Children detained with adults are especially vulnerable to second-hand smoking, as adults smoke in prison cells. The lawyer of one child said that that his detention with several adults who smoked in the cell led to him suffering shortness of breath and repeated and severe bleeds from his nose.

**Abdallah Boumidan** was 12 years old when Egyptian military forces arrested him from his home in Arish City in Northern Sinai and forcibly disappeared and tortured him. After police forces arrested him on 31 December 2017, they detained him incommunicado for six months in the headquarters of military “battalion 101”, before a State Security prosecutor examined his case on 2 July 2018 and ordered his detention on the charges of “membership of a terrorist group”.

Security forces then transferred Abdallah to Azbakeya police station in Cairo, where they kept him in a solitary cell for over 140 days. During that period, he contracted a rash and his nutrition consisted solely of bread and cheese, according to his family. Abdallah also has asthma and his right hand requires medical intervention. He has remained in solitary confinement since then.

Under international law and standards, all prolonged solitary confinement, that is solitary confinement imposed for periods beyond 15 days, constitutes cruel, inhuman or degrading treatment or punishment. International standards also refer to the prison regime of solitary confinement and prison conditions as two major elements in determining whether solitary confinement amounts to torture or other ill-treatment. The UN Human Rights Committee has stated that “prolonged solitary confinement of the detained or imprisoned person may amount to acts prohibited by Article 7”<sup>2</sup> of the International Covenant on Civil and Political Rights (prohibiting torture and other ill-treatment). Further, the UN Convention on the Rights of the Child prohibits detaining children with adults. Article 112 of Egypt’s Children law criminalizes imprisoning children with adults in the same location. It establishes prison sentences and fines for any official who is responsible for holding a child along with more than one adult.

## UNFAIR TRIALS

The Egyptian authorities subjected children to unfair trials. Prosecutors relied on “confessions” obtained under torture to press charges against children and interrogated children without their lawyers and legal guardians present. Prosecutors and judges also kept children in prolonged pre-trial detention for up to three years in some cases. Courts regularly tried children along with adults. Civilian and military courts have issued extremely long sentences against children including in mass trials. Courts have sentenced at least three children to death since 2013. The Court of Cassation struck down two of them, ordering a retrial. The remaining one is in appeals.

Prosecutors regularly relied on “confessions” extracted under torture, interrogations without lawyers, and NSA investigations to hold individuals including children in prolonged pre-trial detention. Examination of case files shows that prosecutors and courts have relied on apparently “coerced” confessions. Children were not able to retract these “confession”, and in one case, a child stated that the prosecutor threatened to return him to the NSA for further torture, if he insisted on retracting this “confession”. At least two children spent over two years of their lives in pre-trial detention. One was acquitted after four years in pre-trial detention.

**Ahmed Sadoma**, who was 17 when the alleged crime took place, was sentenced to death following an unfair mass trial. According to his family, the police arrested Ahmed on 2 March 2015, when he was 17, and held him incommunicado for two months. A prosecutor interrogating him on 20 May 2015 stated that Ahmed had been arrested on 17 May 2015,

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<sup>2</sup> UN Human Rights Committee, General Comment No. 20, para. 6.

apparently in order to conceal the fact that the authorities had forcibly disappeared him. His family reported that he was tortured in detention with electric shocks and beatings, and that he was not afforded a lawyer during his first interrogation. He was initially held in detention with adults in a central security camp, then later moved to a solitary cell in Qanater prison in Greater Cairo.

The prosecutor relied on his “confessions” made under coercion and NSA investigations to accuse him of “membership of a terrorist group” and attempted murder and referred him to trial. The court then sentenced him along with three adults to death.

The Committee on the Rights of the Child has determined that States should apply juvenile justice rules to all persons under the age of 18 years, meaning that they should not be treated like adults by the criminal justice system. The Committee has also stated that prolonged pre-trial detention of children is a grave violation of the Convention.

While Egyptian law identifies children as anyone under 18, it does however allow for the imprisonment of children between the age of 15 and 18 and for children between 15 and 18 to be tried by criminal and supreme state security courts, if there are adults involved in the case. The Military Judiciary law and “Instructions to the Public Prosecution” also state that children can be tried by military courts.

## **RECOMMENDATIONS**

Amnesty International and the Egyptian Front for Human Rights call on the Egyptian authorities to show their commitment to protecting children through:

- Immediately releasing Aser Mohamed;
- Release other children that are arbitrarily detained unless they are charged with internationally recognizable offences, remanded by an independent juvenile court and held in humane conditions;
- Quashing the convictions and sentences, including death sentences, issued by non-juvenile courts against children and where there is sufficient admissible evidence retry them in front of juvenile courts;
- Immediately launch independent, impartial and effective investigations into all allegations of enforced disappearances and torture including against children and hold those responsible accountable in fair trials without resorting to the death penalty;
- Ensure that the arrest of children is only done as a measure of last resort, that children are not detained with adults, that they are treated humanely and are not held in prolonged pre-trial detention; and
- Amend Egyptian law and procedures to ensure their full compliance with international law and standards on the rights of children, in particular the Convention on the Rights of the Child.