Country Advice

Egypt

Egypt – EGY36002 – Homosexuals – Legal provisions

22 January 2010

1 Please advise whether there have been any significant legal or societal developments in Egypt relating to male homosexuals since mid-2007? If so, please provide a brief overview.


This response will provide a detailed update and analysis of relevant events since 2007.

**Recent Events from 2007 to present**

Homosexuality is not explicitly prohibited under Egyptian Law; however, the local authorities have used existing legal provisions on “prostitution”, “debauchery”, “contempt of religion” and “public morality” to prosecute homosexuals. The most common charge is that of “habitual debauchery” under Article 9(c) of Law 10/1961 which states that “Anyone who habitually engages in debauchery or prostitution is liable to a penalty of three months to three years imprisonment and/or a fine of LE 25-300”\(^4\).

A number of media sources and human rights organisations reported that from October 2007 to early 2008 there had been a new wave of arrests by Egyptian police of homosexual males suspected of having HIV.

By early 2008 a total of twelve men had been detained in Cairo with the same number of men detained in Alexandria. All those detained were allegedly subjected to HIV tests without their consent and forensic anal examinations designed to prove that they had engaged in homosexual conduct. It was reported that those men detained in Cairo who tested positive for HIV were held in a Cairo hospital and handcuffed to their beds for twenty-three hours a day.

A joint statement by Amnesty International and Human Rights Watch in February 2008 reported the initial events as follows:

> Cairo police arrested four more men suspected of having HIV, signaling a wider crackdown that endangers public health and violates basic human rights, Amnesty International and Human Rights Watch said today in a joint statement.

> The recent arrests bring to 12 the number of men arrested in a campaign against people police suspect of being HIV-positive. Four have already been sentenced to a year in jail and eight are still in custody. The two organizations called on Egyptian authorities to respect the men’s

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human rights and to immediately release them so as not to cause lasting damage to the country’s HIV/AIDS prevention efforts.

...The most recent arrests occurred after police followed up on information coerced from men already in detention, according to the Health and Human Rights Program of the Cairo-based Egyptian Initiative for Personal Rights (EIPR). Two of the newly detained men tested positive for HIV. One had his detention extended by 15 days at his February 12 court hearing, with the prosecutor and judge both claiming he was a danger to public health. Another has a hearing scheduled for February 23.

As in all previous cases, authorities forced the new detainees to undergo HIV testing without their consent. All those testing positive have been held in Cairo hospitals, chained to their beds.

....The wave of arrests began in October 2007, when police intervened between two men having an argument on a street in central Cairo. When one of them told the officers that he was HIV-positive, police immediately took them both to the Morality Police office and opened an investigation against them for homosexual conduct. Police demanded the names of their friends and sexual contacts during interrogations.

The two men told lawyers that officers slapped and beat them for refusing to sign statements the police wrote for them. The men spent four days in the Morality Police office handcuffed to an iron desk, and were left to sleep on the floor. Police later subjected the two men to forensic anal examinations designed to “prove” that they had engaged in homosexual conduct.

...Police then arrested two more men because their photographs or telephone numbers were found on the first two detainees. Authorities subjected all four men to HIV tests without their consent. All four are still in detention, pending prosecutors’ decisions on whether to bring charges of homosexual conduct. The first two arrestees, who reportedly tested HIV-positive, are still being held in hospital, handcuffed to their beds.

A prosecutor reportedly told one of the men who tested positive for HIV: “People like you should be burnt alive. You do not deserve to live.”

In November 2007, police raided an apartment where one of these men had previously lived, and arrested four more men. All were charged with homosexual conduct. These men told lawyers that police ill-treated them by beating one across the head, and forcing all four to stand in a painful position for three hours with their arms lifted in the air. Authorities also tested these men for HIV without their consent.

A Cairo court convicted these four men on January 13, 2008 under Article 9(c) of Law 10/1961, which criminalizes the “habitual practice of debauchery [fujur]” – a term used to penalize consensual homosexual conduct in Egyptian law. Defense attorneys told Amnesty International and Human Rights Watch that the prosecution based its case on the coerced and repudiated statements taken from the men, without providing witnesses or other evidence to support the charges, which all the men denied. On February 2, 2008, a Cairo appeals court upheld their one-year prison sentences.5

On 4 March 2008, Human Rights Watch reported that Cairo prosecutors handed down indictments against five of the Cairo men still in detention on charges of “habitual practice of debauchery”. One of the men was also charged with facilitating the practice of debauchery for the other men. The charges were dropped for three other men.6 The three men whose charges

were dropped tested HIV-negative. The case files of the five indicted men included the results of forced anal examinations and also contained the results of the compulsory HIV tests. Four of the five men tested HIV-positive. "Agence France Presse reported that on the 9 April 2008 a Cairo court jailed these five men for three years on charges of “habitual debauchery”. The men were also ordered to pay a small fine. "Afrol News reported that on 28 May 2008 a Cairo appeals court’s ruling upheld the maximum three-year prison terms for each of the five.

Also, in April 2008, Human Rights Watch reported that police in Alexandria arrested twelve men and subjected them to forcible anal examinations, HIV tests, and other abuse; these men were also convicted of the “habitual practice of debauchery and sentenced to two years.” Eleven of the twelve arrested had their two-year prison sentences upheld by an Alexandria Appeals Court in August 2008.

Many media reports and human rights organisations such as Amnesty International and Human Rights Watch interpreted this as a “new” crackdown on people with HIV/AIDS rather than homosexuals. Hossam Bahgat, director of the Egyptian Initiative for Personal Rights, was quoted in Al-Ahram Weekly as saying “This is not a new crackdown against gays in Egypt. This is a calculated attack on those identified as HIV-positive, those suffering from AIDS”. He added “This is the first time that Egyptian individuals in Egypt identified as HIV-positive have been detained. They are regarded as a risk to public health”. One possible explanation for human rights advocates to characterise this as a crackdown on people with HIV (rather than homosexuals) could be their attempt to garner attention to a new human rights issue of concern in Egypt. However, as highlighted in the reporting by Amnesty International and Human Rights Watch, a number of the men convicted of “habitual debauchery” did not test positive for HIV and all those detained were subject to anal examinations to determine their sexuality. This lends credence to the view that this was not...
merely a crackdown on those with HIV but that having HIV was used as evidence to determine whether they engaged in “habitual debauchery” ie homosexual acts.

That the Egyptian authorities continue to target perceived homosexuals is supported by a more recent news item by Almoheet (a Pan-Arab News Internet portal) which claimed that on 5 January 2009 Egyptian police raided another Cairo apartment and arrested eight men on similar charges. Officials said the apartment was set up as a location for men to have sex.  

This latest crackdown does not have the sensationalist characteristics of the last major crackdown on homosexuals during the “Queen Boat Case” in 2001 where the trials became a media circus and the defendants put on display. But like the “Queen Boat Case”, commentators have analysed these latest developments as another attempt by the Egyptian government to placate and “out-moralize” Islamic parties.  

Hani Shukrallah, executive director of the Heikal Foundation for Arab Journalism in Cairo says homosexuality is a convenient target and “Meaningless crackdowns have become a regular thing…If not gays, devil worshippers. If not devil worshippers, apostates. The government needs to outbid Islamic opponents as guardian of morals.” In a 2006 article on gay rights in Egypt, the author wrote:

The persecution of gay men takes place at a time when Egypt has been plagued with significant economic difficulties — in particular, economic recession…. Rather than addressing the legitimate needs of Egyptian society, and in fear of the ever-increasing popularity of the Muslim Brotherhood, the Mubarak Government has tried to divert attention from its failure to address the economic woes of the country. It has done this by capturing allegedly gay men as a means to appease supporters of the Muslim Brotherhood and other religious groups.

Indeed, as predicted by the Mubarak Government, public support increased after the launch of the attack on gay men, since the regime was seen as promoting Islamic values — the very values that the Muslim Brotherhood espouses.

Of interest, and consistent with the above analogies, is the fact that at the same time these men were being arrested and tried, there was a call for a general strike in relation to rising food prices and low wages in April 2008 by opposition movements. This ultimately led to mass arrests of Muslim Brotherhood members, activists and bloggers. 


World Report 2010 reported that a similar strike was called again in April 2009 which resulted in numerous arrests. Thereby, the Egyptian authorities are likely to continue to publicly crackdown on suspected homosexuals at times when attention is being directed towards the current regime on issues such as inflation and increasing poverty.

Community Attitude

DIAC Issues Brief: *Homosexuals and Transsexuals in Egypt* (September 2005) and DIAC Issues Brief: *Sexual Minorities – Egypt: An Update and Addendum to the 2005 Paper ‘Homosexuals and Transsexuals in Egypt’* (July 2009) provide a comprehensive overview of prevailing social attitudes towards homosexuals in Egypt. They note information sources which claim that men who reveal their homosexuality are met with hostility because homosexuality is considered a stigma in Egyptian society and, as a result, many homosexuals do not ‘come out’ to their families. Human Rights Watch has also claimed that the local media has encouraged the perception that homosexuals were a “menacing, manifold group, endangering the nation” and that during the “Queen Boat Case” the men were described as “devil-worshippers” who practised “perverted activities” and took “pornographic photographs”.

Information from a number of recent sources indicate that local Egyptians continue to have a negative attitude towards homosexuality and those perceived to be homosexual. A 2008 article in *Al-Ahram Weekly* confirms that “The social stigma attached to homosexuality, however, remains strong in contemporary Egyptian society”. The US Department of State Country report on Egypt for 2008 also made a note that: “Homosexuals and persons with HIV/AIDS faced significant social stigma in society and in the workplace”.

Current community attitudes is revealed in a news story that described a recent court case whereby in January 2010 an Egyptian court sentenced two journalists to one year imprisonment after finding them guilty of printing a report in their newspaper about the alleged homosexuality of three celebrities. On 7 January 2010, *Gulf News* reported that:

The Misdemeanour Court of Al Sayeda Zainab in southern Cairo also ordered the two journalists — Abdou Maghrabi, Editor-in-Chief of Al Balagh Al Gadida, and Ehab Al Ajami, a journalist for the same weekly — to pay 40,000 Egyptian pounds (Dh26,700) each in fines for the report, which claimed that Egyptian actors Nour Al Sharif, Khalid Abul Naga and Hamdi Al Wazir were caught in a homosexual situation in a Cairo hotel. Homosexuality is...
punishable under Egyptian law and sternly frowned upon in Sharia. Most public figures in Egypt want to avoid being connected to homosexuality, which could damage their popularity among Muslim fans. Al Sharif did not seem bothered by the accusations of belonging to a prostitution network, but was frustrated at being described as a homosexual. “Naming me among homosexuals defamed me and all Egyptian artists. The Journalists Syndicate has to be firm with anyone trying to insult the dignity of Egyptian artists,” he said.29

State Protection

In a lengthy report by Human Rights Watch on Egypt’s crackdown on homosexuals in 2001 to 2003 it notes that because homosexual men are at risk of arrest and abuse by police, they are defenceless against abuse by private actors. It highlighted cases whereby when homosexual men approached police to report crimes against them, they were subjected to blackmail, abuse and even arrest and charge for “habitual debauchery”.30

Research Response EGY15872 notes that gay-related assaults, outside the official realm, are rarely if ever reported. An article on homosexuality in Egypt in The Guardian states that:

…it has never been easy to be gay in Egypt. In poor areas, men who seem feminine or act in a camp manner are ridiculed and sometimes beaten.31

Another article in 2007 on gay Egyptians quotes an interviewee as saying:

I have heard of worse stories, horrible stories of people being mugged and robbed, or tranquilized, drugged and thrown out of cars while driving on the highway.32

Given the recent crackdown in late 2007 and 2008, it could be assumed that, at present, if a homosexual man approaches the local authorities seeking protection, it is likely that the local authorities will not provide any protection. In fact, it is more likely that if a homosexual man reveals himself to the authorities he would be placing himself at real risk of being blackmailed, detained, tortured, subject to an anal examination and a HIV test and possibly charged, convicted and sentenced to imprisonment for “habitual debauchery”.

List of Attachments

1. RRT Research and Information 2003, Research Response EGY15872, 24 April.

30 Human Rights Watch 2004, In a Time of Torture: The Assault on Justice in Egypt’s Crackdown on Homosexual Conduct, p.94 – Attachment 17


