

RE: MR IBRAHIM HALAWA

RESPONSES TO “FACT SHEET ON THE CASE OF MR. IBRAHIM HALAWA”

Following proposals for an urgency resolution on the case of Ibrahim Halawa in the European Parliament, the Egyptian authorities have produced a “fact sheet” about the case which has been circulated to members of the European Parliament.

Reprieve and Ibrahim’s international legal team from KRW Law LLP and Doughty Street Chambers would like to make the following comments in response to the points raised in this document:

Point 1: The fact sheet lists a series of charges against Ibrahim, including acts of violence, causing damage to public and private property, disturbing public safety, and possession of illegal weapons.

Reprieve and Ibrahim’s legal team have reviewed the Public Prosecution’s case file and the evidence presented against Ibrahim and the other 493 defendants in this case. The criminal case against Ibrahim lacks any material evidence showing that he participated in any of the offences listed above or in the charging documents. The primary evidence relied upon by the Public Prosecution against the defendants consists of video footage, photographs and witness statements. Ibrahim is not individually named or identified in any of this evidence as having been involved in any acts of violence, nor was he found in possession of weapons upon arrest.

KRW LAW LLP
45 Castle Street
Belfast
BT1 6HE
Telephone: +4428 902 41888
Email: office@KevinRwinters.com
Website: www.KRW-Law.ie

Reprieve
PO Box 72054
London UK
EC3P 3BZ
Telephone +44(0)20 75538140
Email: info@reprieve.org.uk
Website: www.reprieve.org.uk

The fact sheet refers specifically to attacks on the Al Fath Mosque in downtown Cairo, a building in which Ibrahim and his sisters, along with hundreds of others, took shelter on 16th August. Extensive investigations by NGOs including Reprieve and Amnesty International have confirmed that allegations that violence was initiated by the people sheltering inside the Mosque are incorrect, and have also concluded that Ibrahim could not have possibly conducted the from the inside of the Mosque where he was sheltering with his sisters.¹

Point 2: The fact sheet notes that Ibrahim is being held in the prison nearest the court where he is being tried.

This prison is the Wadi al-Natrun Prison complex in Baheira, to the north of Cairo. There have been multiple reports of torture, sexual abuse, routine humiliation and other mistreatment of prisoners in this prison. Accounts have previously been published of the torture and abuse at Wadi Al Natrun Prison, similar to that described by Ibrahim during a meeting with his lawyers, a Reprieve caseworker, and a Member of the European Parliament in August 2015.² Excluding the visit Ibrahim had with his lawyers, Reprieve and Lynn Boylan MEP, he has had no physical contact with his family. He is the only prisoner in this mass trial whom is prevented from physical contact with his family during prison visits.

Point 3: The fact sheet claims that Ibrahim has full access to medical care. This is contradicted by Ibrahim's own reports of his health and the observations of his lawyers, a Reprieve caseworker, and a Member of the European Parliament when they

¹ <https://www.amnesty.ie/news/waiting-freedom-egypt>

² See for example <http://www.madamasr.com/opinion/account-torture-wadi-al-natrun-prison>.

visited him in August of this year. It is also contradicted by a report by the Egyptian Initiative for Personal Rights published in 2014 in which it was observed that *“In light of insufficient health services, prisoners find themselves in a vicious circle of poor health conditions due to the impact of the daily conditions on their health.”*³

Point 4: Although Ibrahim is currently provided with consular access, during the initial phases of his detention he was denied the right to the prompt consular assistance guaranteed by Article 36 of the Vienna Convention on Consular Assistance and in the days following his arrest his family have described periods of several days where no-one was aware of his location including the Embassy. To give context to the assertion that Mr Halawa is in reasonable spirits, one must view the Chairperson’s comments in their entirety: *“I found him a young man in reasonable spirits in what are very trying circumstances”*.

Point 5: Reports of Ibrahim’s recent hunger strike are based on a letter from Ibrahim to his family in which he reported that he had been on hunger strike since **21st October 2015**. There has been no hearing since **4th October 2015** at which Ibrahim could have told the court that he was not on hunger strike, contrary to what is stated in the briefing.

Point 6: It is worth noting that the fact sheet does not refute the fact that Ibrahim is being incorrectly tried as an adult, which Reprieve understands to be the case based on the charging document in the case. The fact that the Egyptian Embassy has used the phrase *“if Mr Halawa was a juvenile at the time of his arrest”* is extremely worrying, given the fact that it is clear from Ibrahim’s Irish passport that he was indeed a juvenile.

³ <http://www.dailynewsegypt.com/2014/06/17/eipr-releases-damning-report-health-conditions-egyptian-prisons/>

Article 37 of the Convention on the Rights of the Child expressly states that: “*The arrest, detention or imprisonment of a child shall be in conformity with the law and shall be used only as a measure of last resort and for the shortest appropriate period of time*”. It also states that children should be held separately from adults and given reasonable opportunity to challenge their detention.⁴

Clearly these rights are not being observed in Ibrahim’s case – he has been held for nearly two and a half years in pre-trial detention in adult prisons, he is being tried alongside 493 others, the majority of them adults, and the grossly unfair nature of this mass trial has meant that he has been denied any meaningful opportunity to challenge the legality of his detention.

Point 7: Witnesses who have attended the trial hearings have informed Reprieve that there is no way for defendants to hear or participate in proceedings in this mass trial. They have said that in the court room, the defendants are held in cages within cages, which are sound proof and made of thick glass. This phenomenon has also been documented during other mass trials in Egypt.⁵ Ibrahim gave a detailed account to his lawyers, Reprieve and MEP of how his co-accused brought bottles of water so that they could throw it over the glass to clear the precipitation so that they could watch the proceedings.

Point 8: Law 140 of 2014 allows for the transfer of foreign prisoners to their home country. The law refers to both “accused” and “convicted” individuals, and specifies that a prisoner can be transferred in order to be “tried” or “detained”. Peter Greste, an Australian journalist, was released and returned to Egypt under this law after an initial sentence against him had been vacated and he was awaiting a re-trial. Chris

⁴ <http://www.ohchr.org/en/professionalinterest/pages/crc.aspx>

⁵ See <https://www.hrw.org/news/2015/04/25/egypt-morsy-trial-badly-flawed>.

Ward, Counsel to Ibrahim Halawa previously addressed the European Parliament on Tuesday 20th October 2015 in which he confirmed that Ibrahim Halawa is in an identical position to his client Peter Greste when he was released; namely he was a prisoner awaiting trial as opposed to a sentenced prisoner.

Point 9: There are serious concerns about the independence of Egypt's judiciary and about the entire judicial process in this case. Similar mass trials have been condemned by UN experts as being "rife with procedural irregularities" and in breach of international law.⁶ The African Commission on Human and People's Rights has twice issued requests for provisional measures aimed at guaranteeing the rights and physical integrity of the defendants in this case on the basis that the facts of the trial as set out in a communication from Reprieve may amount to "blatant violation of the provisions of the African Charter and violations of International human rights law and standards." Among the provisional measures is a request for Ibrahim's release on bail with immediate effect.

Given the serious concerns about the fairness of the judicial proceedings in this case Reprieve and Ibrahim's legal team believe it is essential that action is taken now to end Ibrahim's illegal detention.

Catherine Higham

REPRIEVE

Darragh Mackin

KRW LAW LLP

⁶ <http://www.bbc.co.uk/news/world-middle-east-26726901>



[**REPRIEVE**]

14th December 2015

KRW LAW LLP
45 Castle Street
Belfast
BT1 6HE
Telephone: +4428 902 41888
Email: office@KevinRwinters.com
Website: www.KRW-Law.ie

Reprieve
PO Box 72054
London UK
EC3P 3BZ
Telephone +44(0)20 75538140
Email: info@reprieve.org.uk
Website: www.reprieve.org.uk