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Child Is Too Young to Be Treated as Criminal Suspect

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(New York) - The Afghan government should immediately relinquish 11-year-old Ahmed Siddiqui to the custody of his family, Human Rights Watch said today. Siddiqui, a US citizen, is believed to be the son of Aafia Siddiqui, a Pakistani woman held on US federal charges in New York. The two were reportedly arrested together in Afghanistan last month.

According to an Afghan Interior Ministry official quoted in the Washington Post, Ahmed Siddiqui was held briefly by the Interior Ministry after the arrest, and then transferred to the custody of the Afghan National Security Directorate (NDS), the countrys intelligence agency. His current whereabouts are unknown. The NDS is notorious for its brutal treatment of detainees.

Under Afghan and international law, Ahmed Siddiqui is too young to be treated as a criminal suspect, said Joanne Mariner, terrorism and counterterrorism program director at Human Rights Watch. He should never have been transferred to the custody of Afghanistans abusive intelligence agency.

Afghan police reportedly arrested Aafia Siddiqui and her son in Ghazni, Afghanistan, on July 17, 2008. US federal prosecutors allege that the day after her arrest, while in Afghan custody, she grabbed a gun from the floor and fired it at a team of US soldiers and federal intelligence agents. In August, she was charged with assaulting and trying to kill US officials.

In a letter sent recently to Aafia Siddiquis family, US prosecutors said photos and DNA tests strongly suggested that the boy arrested with Siddiqui was her son Ahmed.

The federal complaint against Aafia Siddiqui states that the Afghan police officers who arrested her found suspicious items in her handbag, including documents describing the creation of explosives, chemical weapons, and other weapons involving biological material and radiological agents. Siddiquis lawyers reject the official account, suggesting that the charges against Siddiqui are a sham. Whether or not his mother is implicated in criminal acts, Ahmed Siddiqui should not be held responsible. Under both Afghan and international law, he is too young to be considered criminally responsible for his mothers alleged acts.

According to Afghanistans Juvenile Code, the minimum age of criminal responsibility is 13. The Convention on the Rights of the Child, to which Afghanistan is a party, defines a child as any person under the age of 18. In its General Comment on Childrens Rights in Juvenile Justice of February 9, 2007, the United Nations Committee on the Rights of the Child, which monitors states compliance with the Convention on the Rights of the Child, explicitly stated that a minimum age of criminal responsibility below age 12 is considered by the Committee not to be internationally acceptable. Human Rights Watch said that Ahmed Siddiqui should be released to his biological family members, who reside in Pakistan, or to a child welfare organization that can provide proper care until he is reunited with his family.

Human Rights Watch expressed concern not only for Ahmed Siddiqui, but also for two siblings, Mariam, age 10, and Suleman, age 5, who have been missing since March 2003.

Siddiqui, along with her three children (then aged 6 years, 5 years and 6 months), was reportedly apprehended in Karachi, Pakistan on March 28, 2003. Ten days earlier, on March 18, 2003, the FBI had issued an alert requesting information about Siddiqui in an effort to locate and question her.

The US government has alleged that Siddiqui is linked to al Qaeda suspects Majid Khan and Ali Abd al-Aziz Ali (also known as Ammar al-Baluchi), who were both arrested in early 2003 and held for years in secret prisons operated by the Central Intelligence Agency (CIA). A number of reports alleged that Siddiqui had been handed over to US custody after her March 2003 disappearance, raising concerns that she, too, was in secret CIA custody.

Yet on May 26, 2004, then-US Attorney General John Ashcroft and FBI Director Robert Mueller III identified Siddiqui as someone who posed a threat to the United States, suggesting that she was not in custody. For more than five years, until Siddiqui suddenly reappeared in Afghanistan, her whereabouts were unknown.

Since Siddiqui's reappearance this summer, the CIA and the US Department of Justice have denied that the United States had held Siddiqui or her children during the period of her disappearance, calling her a fugitive from American justice. Her family claims that Siddiqui and her children were held in secret US detention during at least part of that period.

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