

(Translated from Arabic)

Reply to the complaint from the Chair of the Working Group on Arbitrary Detention, the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health, and others concerning the case of Ms. Ola Yusef al-Qaradawi and her husband Hosam al-Din Khalaf

Subject:

A joint urgent appeal was issued by the Chair of the Working Group on Arbitrary Detention, the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health, and the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment concerning the case of Ms. Ola Yusef al-Qaradawi and her husband Hosam al-Din Khalaf. It alleged that they had been arrested without an arrest warrant and placed in incommunicado detention for two days. The following is our response to these allegations:

I. Egypt is a State party to many international human rights treaties, including the International Covenant on Civil and Political Rights of 1976, which it ratified in 1982, the Convention on the Elimination of All Forms of Discrimination against Women of 1971, which it ratified in 1982, the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment of 1986, which it ratified in 1987, and the Convention on the Rights of the Child of 1990, which it ratified in 1990.

The Constitution reaffirms a number of rights and duties that must be respected at the local and international level, including the absolute right to dignity, personal freedom and physical integrity, the independence of the judiciary, freedom of opinion and expression, and the right to a fair and impartial trial. These rights are enshrined in detail in articles 52, 65 and 86 and in articles 94 to 100 of the Constitution. They constitute a symbol of democracy, guarantee full respect for human rights, and are directly related to the reply concerning the unsustainability of the allegations contained in the pending complaint.

II. The procedures involving the complainants

The outcome of the investigations undertaken by the National Security Department are contained in the records dated 19 February 2017, 26 February 2017, 4 April 2017, 13 May 2017, 24 May 2017 and 29 June 2017. The investigations confirmed reports to the effect that there was an agreement by the Muslim Brotherhood within the country and abroad, led by the [REDACTED], the Supreme Guide of the organization, and [REDACTED], the Deputy Guide responsible for the organization's international outreach, on the establishment of a military wing to perpetrate attacks on the State leadership, the judiciary, the armed forces, the police, and public institutions with a view to overthrowing the existing administration and coordinating attacks on Christians with the terrorist Ansar Bayt al-Maqdis. They also agreed to establish an organizational wing composed of a Supreme Administrative Committee, supported by an Advisory Council, administrative offices and specific committees. They are tasked with organizational management of the group and with assisting the military wing in setting up armed groups, and in planning, implementing and supporting hostile operations.

The plan is being implemented with support from the Qatari Government, which provided the organization with monthly financial support amounting to more than US \$30 million. It is coordinated by the accused [REDACTED]. Financial support is also provided by the Turkish Government and is coordinated by the accused [REDACTED].

Furthermore, the late leader [REDACTED] took steps under the plan to establish armed groups known as the Revolution Brigade. The members of the groups received military training before returning to the country to undertake hostile operations.



The investigations also found that the organization's committees included the following political, media, financial, sharia law, agitation, mobilization, information-gathering and monitoring committees in addition to the groups responsible for implementing the armed operations:

- The political committee is tasked with communicating with political and other forces that are opposed to the existing administration and with developing a future vision for the organization.
- The media committee is tasked with promoting incitement through the Internet and the organization's satellite channels with a view to implementing terrorist operations against the armed forces, the police and the judiciary, and disseminating fake news aimed at disturbing the peace.
- The financial committee is tasked with providing financial and material support for enforcement groups, and with supplying firearms and explosives. The members of the committee transfer huge sums of money from abroad to their members within the country through a number of enterprises owned by the members of the organization within the country and abroad.
- The sharia law committee is tasked with preparing programmes and training courses for members of the organization in order to establish the ideological basis for terrorist operations and to attract new members to the organization.
- The agitation committee is tasked with exploiting crises to stir up public opinion and to incite people to overthrow the existing administration.
- The mobilization committee is tasked with mobilizing weapons for members of the organization at the national level and transferring them to the leadership.
- The monitoring and information-gathering committees are tasked with gathering information on important and vital State institutions, and with monitoring public figures and prominent State officials, keeping track of their movements and using the results to select targets for hostile operations.

The investigations concluded that the accused Ola Yusef Abdullah Ali al-Qaradawi and Hosam al-Din Ali Ali Khalaf had forwarded assignments from leaders of the Muslim Brotherhood who had fled to the State of Qatar to their counterparts within the country, taking advantage of the fact that the former accused was employed in the Qatari Embassy in Egypt. They also smuggled funds from the State of Qatar to finance the organization's hostile operations. The accused Ola Yusef Abdullah Ali al-Qaradawi used a seaside resort dwelling at 3 Al-Rowwad Street, Ramsis Village, Km. 45 on the coastal road, Borg al-Arab, in Alexandria Governorate to hold organizational meetings with leaders of the Muslim Brotherhood in order to forward assignments and to transfer smuggled funds. In addition, she and the accused Hosam al-Din Ali Ali Khalaf possessed many of the organization's documents and funds in the seaside resort dwelling and used the latter's vehicle No. SB 541 for purposes relating to the organization.

Pursuant to a warrant issued by the Public Prosecution Office on 30 June 2017 for the arrest and inspection of the persons and residence of the accused Hosam al-Din Ali Ali Khalaf and Ola Yusef Abdullah Ali al-Qaradawi, they were arrested on 1 July 2017. The records were filed as case No. 316 of 2017 of the Supreme State Security Court.

The Public Prosecution Office charged the accused with membership of a terrorist group established illegally for the purpose of calling for the suspension of the Constitution and the law, preventing State institutions and the public authorities from performing their duties, attacking the public and private rights and freedoms of citizens, undermining national unity, breaching law and order, using terrorism as a means of achieving those aims, and supplying the terrorist group with material assistance, while being fully aware of its objectives and the means of achieving them.

The Public Prosecution Office issued an order on 1 July 2017 to place the two accused in pretrial detention for 15 days pending investigations. The accused are still in custody in connection with the case.

With regard to the allegations that the complainants were denied medical care, we wish to state the following:

The right to health care for persons deprived of their liberty is enshrined in article 33 of Prison Regulatory Act No. 396 of 1956. It requires all prisons and penitentiaries to have one or more doctors, one of whom must be resident, who are responsible for prisoners' health. If the facilities for treating prisoners are not available in the prison hospital and the prison doctor considers that certain prisoners should be treated in another hospital, they must be transferred pursuant to an order issued by the Prison Service Medical Administration. In urgent or emergency cases, the prison doctor can take all measures he deems necessary to preserve the prisoners' health.

- A medical examination certificate was signed for the detainee Ola Yusef Abdullah Ali al-Qaradawi, who was detained in Qanater Women's Prison. According to the prison doctor's report, she was in good and stable health and had no complaints and her vital signs were normal. She regularly visited the prison cafeteria and spent [REDACTED] there last October. According to the record of prison visits, none of her relatives have visited the detainee since she was placed in custody.
- A medical examination certificate was signed for the detainee Hosam al-Din Ali Ali Khalaf, who was detained in Tora maximum security prison. According to the prison doctor's report, his vital signs were normal. However, he suffered from [REDACTED]. He was referred to the ophthalmological division and offered appropriate treatment. His general condition is stable. He regularly visited the prison cafeteria and spent [REDACTED] there last October. According to the record of prison visits, none of his relatives have visited the detainee since his admission to the prison.
- The two detainees were offered all forms of care, just like other detainees, in accordance with the Prison Regulatory Act and its internal regulations.

This is consistent with article 12 of the International Covenant on Economic, Social and Cultural Rights, which stipulates that:

- “1. The States Parties to the present Covenant recognize the right of everyone to the enjoyment of the highest attainable standard of physical and mental health.
2. The steps to be taken by the States Parties to the present Covenant to achieve the full realization of this right shall include those necessary for:
 - (a) The provision for the reduction of the stillbirth-rate and of infant mortality and for the healthy development of the child;
 - (b) The improvement of all aspects of environmental and industrial hygiene;
 - (c) The prevention, treatment and control of epidemic, endemic, occupational and other diseases;
 - (d) The creation of conditions which would assure to all medical service and medical attention in the event of sickness.”

In light of the foregoing, the allegations in this regard contained in the communication are clearly unfounded.

III. Detention safeguards in Egypt and their consistency with international standards

Egyptian law seeks to ensure that safeguards for persons deprived of their liberty are respected, in accordance with article 9 of the International Covenant on Civil and Political Rights, which stipulates that:

- “1. Everyone has the right to liberty and security of person. No one shall be subjected to arbitrary arrest or detention. No one shall be deprived of his liberty except on such grounds and in accordance with such procedure as are established by law.
2. Anyone who is arrested shall be informed, at the time of arrest, of the reasons for his arrest and shall be promptly informed of any charges against him.

3. Anyone arrested or detained on a criminal charge shall be brought promptly before a judge or other officer authorized by law to exercise judicial power and shall be entitled to trial within a reasonable time or to release. It shall not be the general rule that persons awaiting trial shall be detained in custody, but release may be subject to guarantees to appear for trial, at any other stage of the judicial proceedings, and, should occasion arise, for execution of the judgement.
4. Anyone who is deprived of his liberty by arrest or detention shall be entitled to take proceedings before a court, in order that that court may decide without delay on the lawfulness of his detention and order his release if the detention is not lawful.
5. Anyone who has been the victim of unlawful arrest or detention shall have an enforceable right to compensation.”

The Egyptian Constitution recognizes personal freedom as a natural right that is safeguarded and cannot be infringed upon save in cases of flagrante delicto or based on a reasoned judicial warrant necessitated by an investigation. All persons whose freedoms have been restricted shall be immediately informed of the grounds therefor, notified of their rights in writing, allowed to contact their family and lawyer forthwith, and brought before the investigating authority within 24 hours of the time at which their freedom was restricted. Questioning of persons may only begin once their lawyer is present. If they have no lawyer, a lawyer shall be appointed. Persons with disabilities shall be provided with all necessary assistance, in line with the procedures laid down by law. Persons whose freedom has been restricted and other persons are entitled to have recourse to the judiciary. A judgment must be handed down within a week of such recourse; otherwise the petitioner shall be immediately released. Persons who are arrested or detained or who have their freedom restricted shall be treated in a manner that preserves their dignity. They may not be subjected to torture, intimidation or coercion, or to any physical or mental abuse, and they shall be confined or detained only in places designated for that purpose and which comply with humanitarian and health standards. The State shall undertake to provide appropriate facilities for persons with disabilities. Any violation of the aforementioned provisions constitutes an offence and the perpetrator shall be liable to punishment in accordance with the law. Accused persons have the right to remain silent. Any statement shown to have been made by a detainee under any of the conditions described above, or the threat of such, shall be considered null and void. These provisions are enshrined in articles 54, 55 and 56 of the Constitution.

In addition, the legislature has provided for oversight of law enforcement officers by the judiciary in articles 85 and 86 of Prison Regulatory Act No. 396 of 1956. The Prosecutor General and his deputies in their areas of jurisdiction and representatives of the judiciary, that is to say presidents of appeal courts and courts of first instance and investigating judges, may enter prisons in their areas of jurisdiction at any time. The President of the Court of Cassation and his Deputy may also visit all prisons to ascertain that nobody has been unlawfully detained and to examine the prison records and arrest and detention warrants. Representatives of the judiciary may communicate with detainees and listen to their complaints, and the prison authorities are required to assist the representatives of the judiciary in obtaining any information that they request. In light of the aforementioned rights granted by the legislature to the judiciary, there are no grounds for alleging that the situation of detainees has deteriorated and that their living and health-care conditions are inadequate, since the law requires the judiciary to take whatever steps it deems to be appropriate to ensure that all forms of detention are in line with legal requirements.

The legislator gives persons deprived of their liberty the right to send and receive letters and to receive visits from their families. They also have the right to exceptional visits on feast days if necessary, the right to make telephone calls, the right to obtain permission to leave the prison in cases of force majeure or necessity, and the right to visit their families outside the prison for 48 hours during the transitional period prior to release, in accordance with articles 64, 64 bis, 71 and 85 of the internal regulations of the Prison Regulatory Act.

With regard to the procedures followed in the case of the accused, they were arrested, as already noted, on 30 June 2017 pursuant to a decision by the Public Prosecution Office and appeared before the Public Prosecution Office on 1 July 2017. The Office decided to place them in detention in connection with the legal proceedings instituted against them. They have

received all necessary medical care and they are treated in accordance with the legislation applicable to persons deprived of their liberty. Their health condition is normal. Hence, all the procedures followed in the case of the accused were consistent with international treaties, the Constitution and the law, so that the allegations contained in the communication are unfounded and devoid of legal and factual support.
