

(Translated from Arabic)

**Permanent Mission of the Arab Republic of Egypt
to the United Nations, the World Trade Organization
and other international organizations in Geneva**

Memorandum

in response to the joint communication from the Working Group on Arbitrary Detention, the Working Group on Enforced or Involuntary Disappearances, the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, the Special Rapporteur on freedom of religion or belief, the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment and the Special Rapporteur on the situation of human rights defenders.

Subject

The Committee has received two letters from the Ministry of Foreign Affairs, No. 427 S of 10 May 2018 and No. 722 of 13 August 2018. The letters contain a joint communication in regard of the case of the Egyptian poet Galal el Behairy from the Working Group on Arbitrary Detention, the Working Group on Enforced or Involuntary Disappearances, the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, the Special Rapporteur on freedom of religion or belief, the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment and the Special Rapporteur on the situation of human rights defenders.

In responding to the communication the following matters will be addressed:

1. Legislative and legal status of the Egyptian military judiciary
2. Jurisdiction and powers of the military judiciary
3. Guarantees covering trials before military courts and their compliance with international fair trial standards
4. Trials of civilians before military courts and their compliance with international human rights standards
5. Conformity of the military justice system with the International Covenant on Civil and Political Rights, the International Covenant on Economic Social and Cultural Rights and the Universal Declaration of Human Rights
6. Guarantees with regard to detention in Egypt and their compliance with international standards
7. Guarantees and limitations covering freedom of expression in the Constitution and laws of Egypt
8. Proceedings brought against the accused
9. Established facts

1. Legislative and legal status of the Egyptian military judiciary

Article 1 of Act No. 25 of 1966 promulgating the Code of Military Justice, as amended, states as follows:

- “The military judiciary is an independent judicial body comprising military courts and prosecution offices and other judicial bodies governed by the laws and regulations pertaining to the armed forces.

“The military judiciary has exclusive competence to adjudicate offences falling within its jurisdiction, in accordance with the provisions of the present Act, as well as offences that



fall within its jurisdiction pursuant to other legislation. The military judiciary is administered by a body working under the auspices of the Ministry of Defence.”

Article 2 of the same Act states as follows:

- “The military judiciary consists of a president and a sufficient number of members who shall meet not only the requirements laid down in Act No. 232 of 1959 concerning the conditions of service and promotion of officers of the armed forces, but also the requirements stipulated in article 38 of Judicial Authority Act No. 46 of 1972.

“Holders of posts in the military judiciary enjoy the same standing as their peers in the ordinary judiciary and the State Prosecution Office, as specified in the implementing regulations annexed herewith.”

Article 3 of the Act states as follows:

- “Military judges are independent and are subject to no authority other than the law. Officers of the military judiciary, other than members of the Military Prosecution Service holding the rank of first lieutenant, may be dismissed solely through the disciplinary procedures specified in Act No. 232 of 1959 concerning the conditions of service and promotion of officers of the armed forces. They shall perform the same duties as those specified for judges and public prosecutors under the Judicial Authority Act.

“In cases of flagrante delicto, an officer of the military judiciary may be arrested and held in custody only after permission has been obtained from the Commission of the Military Judiciary.”

Article 25 of the Act states as follows:

- “The Military Prosecution Service shall be headed by a prosecutor who holds the rank of brigadier general or higher. He shall be assisted by a sufficient number of members, who hold the rank of first lieutenant or higher and who meet the conditions laid down in articles 38 and 116 of Judicial Authority Act No. 46 of 1972 and those laid down in Act No. 232 of 1959 concerning the conditions of service and promotion of officers of the armed forces.”

Article 28 of the Act states as follows:

- “In addition to the powers vested in it under the present Act, the Military Prosecution Service shall perform the functions and exercise the powers granted to the State Prosecution Office, judges assigned to an investigation and referral judges under ordinary law.”

Article 43 of the Act states as follows:

- “The military courts are:
 - “the Supreme Military Court of Appeal;
 - “the Supreme Military Court;
 - “the Central Military Court with Supreme Authority;
 - “the Central Military Court.

“Each of them has jurisdiction to consider cases brought before it in accordance with the law.”

Article 66 of the Act states as follows:

- “Once a case has been registered by the registrar, the president of the court shall instruct the State Prosecution Office, the litigants and the witnesses to attend the trial session on a specific date.”

The military judiciary enjoys the same guarantees and safeguards as the ordinary judiciary. The role of the Ministry of Defence is confined to administrative matters. The procedures for the appointment of military judges are the same as those applicable to the appointment of ordinary judges, and they enjoy the same guarantees and safeguards as members of the ordinary judiciary. They enjoy the same right to non-dismissal as their civilian counterparts. Legal proceedings are conducted in accordance with the Code of Criminal Procedure and the Code of Civil Procedure. All guarantees of a fair trial and the rights of the defence are

respected before the courts. Appeals may be filed with the Supreme Military Court against judgments handed down at all levels of jurisdiction, and the rules and procedures concerning appeals in cassation contained in Act No. 57 of 1959 are applicable thereto.

The military judiciary thus enjoys the same independence and impartiality as the ordinary judiciary.

2. Jurisdiction and powers of the military judiciary

In accordance with the provisions of article 204 of the Constitution, the military judiciary is an independent judiciary that is exclusively authorized to consider all offences related to the armed forces, comprising officers, personnel and persons of equivalent status, as well as offences committed by members of the General Intelligence Directorate during and in connection with the performance of their duties. Civilians may be tried before military courts only for offences that constitute a direct assault on military installations, camps or other facilities falling under the authority of the armed forces, on specific military or border zones, or on equipment, vehicles, weapons, ammunition, documents, military secrets, public property or military factories; for offences related to recruitment, or for offences that represent a direct assault on officers or personnel on account of the performance of their duties. Such offences are defined by law, which also specifies other powers of the military judiciary.

Accordingly, the standard on which the jurisdiction of the military judiciary in the Egyptian legal system is based may be characterized as follows:

- (a) It is an objective standard that is not applicable to the perpetrators of offences but to the offences themselves;
- (b) The underlying motivation is the general need for justice, self-preservation and security, and for the effective and equitable confrontation of perpetrators of various offences;
- (c) The ordinary courts may be unable to conduct proceedings concerning certain types of offences, either because of the location in which the offence occurred, the circumstances surrounding its commission or the judicial proceedings.

3. Guarantees covering trials before military courts and their compliance with international fair trial standards

Legislators have provided the same safeguards for the military judiciary as those that cover the ordinary judiciary, in accordance with article 204 of the Constitution.

Article 60 of the Code of Military Justice prohibits “judges from considering cases that fail to meet jurisdictional requirements. These are cases that are regulated by the Code of Civil and Commercial Procedure and the Code of Criminal Procedure, because judges’ jurisdiction is based on the rules governing public order.”

Article 67 of the Code states as follows:

- “Litigants are entitled to review the documents pertaining to the case upon being summoned to appear before the court. They may be prohibited from making copies of confidential documents.”

Article 68 of the Code states as follows:

- “The accused and witnesses shall be ordered to appear before the court by means of a summons issued at least 24 hours prior to the court session.

“Military witnesses may be summoned to appear before the court by means of wire or wireless communication sent via their superiors. Non-military witnesses shall be summoned to appear before the court by means of a summons sent through the administrative authorities.”

Article 69 of the Code states as follows:

- “If a witness fails to appear before the court on being summoned, he or she may be sentenced to the penalties prescribed by law.”

Article 70 of the Code states as follows:

- “The court may, if necessary, postpone its session at the request of the accused or a representative of the Military Prosecution Service, or if it considers that grounds for postponement exist.”

Article 71 of the Code states as follows:

- “Hearings shall be held in public; however, in order to maintain order, protect military secrets or safeguard privacy, the court may decide to hear a case in whole or in part in camera. It may also ban certain individuals from attending the hearing or prohibit the publication of any details thereof.”

Article 72 of the Code states as follows:

- “Details of the court hearing shall be recorded in the minutes, every page of which shall be signed by the presiding judge. The minutes shall specify the date of the hearing, whether it was public or closed, the names of the judges, the clerk, the attending member of the prosecution, the parties and the lawyers and shall include a summary of the witnesses’ testimonies and the parties’ statements. The minutes shall also record all documents read out, proceedings conducted and petitions presented during the hearing, as well as all decisions taken on objections raised, judgments handed down and any other events that occurred during the hearing.”

Article 74 of the Code states as follows:

- “If a defendant accused of a felony or a misdemeanour punishable by a mandatory penalty of imprisonment does not have a lawyer, the court shall appoint a defence counsel.”

Act No. 16 of 2007, amending the Code of Military Justice (Act No. 25 of 1966), included provision for the establishment of the Supreme Military Court of Appeal, which has exclusive competence to hear appeals filed by the military prosecution or by convicted persons, under the terms of final judgments handed down by any military court for offences under ordinary law against military personnel or civilians. Such appeals are governed by the rules and procedures applicable to appeals in cassation, as set forth in Act No. 57 of 1959. The Supreme Military Court of Appeal is also competent to hear petitions for the review of judgments handed down by military courts.

Act No. 12 of 2014, amending the Code of Military Justice, made provision for the establishment of a Military Misdemeanours Court of Appeal which is competent to hear appeals filed by the military prosecution or convicted persons regarding final judgments handed down by the Military Misdemeanours Court.

The Military Criminal Court is empowered to impose a death penalty only by unanimous decision of its members and, before imposing such a penalty, it must transmit the case file to the Mufti of the Republic in order to seek his opinion thereon. If that opinion is not received within 10 days from the date the case file was sent, the Court may pass sentence.

7. Military courts are required to apply the same laws as ordinary courts to all accused persons and to provide them with the guarantees enshrined in those laws.

- Accused persons who appear before military courts enjoy the same safeguards as accused persons before ordinary courts vis-à-vis the right of defence, the right to examine the case file, the public nature of hearings, the right to challenge the judgment before a higher court, etc. Thus, trials before military courts are consistent with all international fair trial standards.

4. Trials of civilians before military courts and their compliance with international human rights standards

• The constitutional status of the Egyptian military judiciary

Article 204 of the 2014 Egyptian Constitution states that:

- “The military judiciary is an independent judicial body vested with sole jurisdiction to adjudicate in all criminal cases related to the armed forces, comprising officers, personnel and persons of equivalent status, or offences committed by members of the General Intelligence Directorate during and in connection with the performance of their duties.

“Civilians may be tried before military courts only for offences that constitute a direct assault on military installations, camps or other facilities falling under the authority of the armed forces, on specific military or border zones, or on equipment, vehicles, weapons, ammunition, documents, military secrets, public property or military factories; for offences related to recruitment, or for offences that represent a direct assault on officers or personnel on account of the performance of their duties. Such offences are defined by law, which also specifies other powers of the military judiciary.

“Members of the military judiciary are independent. They may not be dismissed and they have the same guarantees, rights and obligations as members of the ordinary judiciary.”

Accordingly, under the Egyptian Constitution the military judiciary is an independent judicial body competent to hear and adjudicate cases involving specific offences, and its guarantees and immunities, as well as the rules governing the appointment of its members, are the same as those applicable to members of the ordinary judiciary.

5. Conformity of the military justice system with the International Covenant on Civil and Political Rights, the International Covenant on Economic Social and Cultural Rights and the Universal Declaration of Human Rights

Article 14 of the International Covenant on Civil and Political Rights reads as follows:

“1. All persons shall be equal before the courts and tribunals. In the determination of any criminal charge against him, or of his rights and obligations in a suit at law, everyone shall be entitled to a fair and public hearing by a competent, independent and impartial tribunal established by law. The press and the public may be excluded from all or part of a trial for reasons of morals, public order (ordre public) or national security in a democratic society, or when the interest of the private lives of the parties so requires, or to the extent strictly necessary in the opinion of the court in special circumstances where publicity would prejudice the interests of justice; but any judgement rendered in a criminal case or in a suit at law shall be made public except where the interest of juvenile persons otherwise requires or the proceedings concern matrimonial disputes or the guardianship of children.

2. Everyone charged with a criminal offence shall have the right to be presumed innocent until proved guilty according to law.

3. In the determination of any criminal charge against him, everyone shall be entitled to the following minimum guarantees, in full equality:

(a) To be informed promptly and in detail in a language which he understands of the nature and cause of the charge against him;

(b) To have adequate time and facilities for the preparation of his defence and to communicate with counsel of his own choosing;

(c) To be tried without undue delay;

(d) To be tried in his presence, and to defend himself in person or through legal assistance of his own choosing; to be informed, if he does not have legal assistance, of this right; and to have legal assistance assigned to him, in any case where the interests of justice so require, and without payment by him in any such case if he does not have sufficient means to pay for it;

(e) To examine, or have examined, the witnesses against him and to obtain the attendance and examination of witnesses on his behalf under the same conditions as witnesses against him;

(f) To have the free assistance of an interpreter if he cannot understand or speak the language used in court;

(g) Not to be compelled to testify against himself or to confess guilt.

4. In the case of juvenile persons, the procedure shall be such as will take account of their age and the desirability of promoting their rehabilitation.

5. Everyone convicted of a crime shall have the right to his conviction and sentence being reviewed by a higher tribunal according to law.

6. When a person has by a final decision been convicted of a criminal offence and when subsequently his conviction has been reversed or he has been pardoned on the ground that a new or newly discovered fact shows conclusively that there has been a miscarriage of justice, the person who has suffered punishment as a result of such conviction shall be compensated according to law, unless it is proved that the non-disclosure of the unknown fact in time is wholly or partly attributable to him.

7. No one shall be liable to be tried or punished again for an offence for which he has already been finally convicted or acquitted in accordance with the law and penal procedure of each country.”

An examination of the provisions of the International Covenant on Civil and Political Rights shows that they do not exclude the referral of cases to military courts; they merely affirm the right of the accused to resort to his “natural judge”, who is customarily defined as any judge whose competence was established by law, on a permanent basis, at a time prior to the initiation of the legal proceedings. The court bench must consist of judges who are specialized in law and fulfil all the legally stipulated conditions and safeguards including, in particular, robust independence and non-liability to dismissal, and the court must apply the law in its formal and substantive proceedings and respect all rights and guarantees in regard to defence.

The military judiciary, being part of the judicial authority, consists of judges whose independence, impartiality and legal expertise meet the standards required of a natural judge. The military courts were established and their competence was defined by law prior to the initiation of the proceedings; they apply the Code of Criminal Procedure and respect the same rights and safeguards as the ordinary courts, in a manner consistent with the relevant international instruments.

The same principles are to be found in the provisions of the Universal Declaration of Human Rights, article 10 of which stipulates that “everyone is entitled in full equality to a fair and public hearing by an independent and impartial tribunal, in the determination of his rights and obligations and of any criminal charge against him”.

The provisions governing the military judiciary outlined above clearly illustrate its independent and impartial nature and the respect that it shows for all the requisite safeguards.

6. Guarantees with regard to detention in Egypt and their compliance with international standards

The Egyptian Constitution includes provision for safeguards to protect persons deprived of their liberty, in accordance with article 9 of the International Covenant on Civil and Political Rights. The Constitution also enshrines the right to be tried by an independent judiciary. No exceptions to these guarantees are permitted except in cases that fall under counter-terrorism or emergency legislation. In this context, article 54 of the Egyptian Constitution stipulates that: “Personal freedom is a natural right that is protected and may not be violated. Apart from cases of flagrante delicto, it is not permissible to arrest, search, detain, or restrict the freedom of any person except pursuant to a reasoned judicial order, required for the purposes of investigation. All persons whose freedom is restricted shall be promptly informed of the grounds therefor, shall be notified in writing of their rights, shall be permitted forthwith to contact their relatives and lawyer, and shall be brought before the investigating authority within 24 hours of the time when their freedom was restricted. Questioning may begin only once a person’s lawyer is present. A lawyer shall be appointed for persons who have no lawyer. Persons with disabilities shall be provided with the requisite assistance, in accordance with the procedures prescribed by law. All persons whose freedom is restricted, as well as other persons, shall be entitled to file a complaint with the judiciary. A decision on the complaint shall be rendered within one week; otherwise, the person shall be released forthwith.”

According to article 55 of the Constitution: “All persons who are arrested or detained or whose freedom is restricted shall be treated in a manner that preserves their dignity. They

may not be tortured, intimidated or coerced. They may not be physically or mentally harmed, and they may not be arrested or confined save in designated locations that comply with humanitarian and health standards. The State shall provide means of access for persons with disabilities. Any violation of the aforementioned provisions shall constitute an offence and the perpetrator shall be prosecuted. An accused person shall have the right to remain silent. Any statement that is proven to have been made by the detainee under pressure of the kind described above, or the threat of such pressure, shall be deemed null and void.”

Article 56 states: “A prison is a place designed to promote reform and rehabilitation. Prisons and detention facilities shall be subject to judicial oversight. Actions that undermine human dignity or endanger a person’s health are prohibited. The law shall regulate the procedures for promoting the reform and rehabilitation of convicted persons and for facilitating a decent life once they are released.”

In this context, national legislation provides for all the guarantees for persons deprived of their liberty as enshrined in international treaties and the Egyptian Constitution and is consistent with such standards. The State Prosecution Office is an impartial and independent branch of the judiciary that is entrusted with effective law enforcement, investigation of charges, launching of criminal proceedings, oversight of the enforcement of judgments and inspection of prisons. It is fully aware of the importance of human rights and of the international obligations of the Arab Republic of Egypt pursuant to the binding international treaties the country has ratified and its moral obligations stemming from treaties for which ratification procedures have not yet been completed or from relevant United Nations declarations, rules and guiding principles. These are the key means of access to justice and the key safeguards of personal and general rights and freedoms.

Article 40 of the Code of Criminal Procedure states that: “No person may be arrested or incarcerated except pursuant to a warrant issued by the legally competent authorities. All persons shall be treated with dignity and may not be physically or morally abused.”

Article 41 of the Code reads: “No person may be incarcerated except in prisons designated for the purpose and no prison warden may admit a person to a prison except pursuant to a warrant signed by the competent authority. No person shall be incarcerated for any period of time exceeding that specified in the warrant.”

Under article 42 of the Code, any member of the State Prosecution Office and any president or vice-president of an appellate court or a court of first instance is authorized to visit district and central prisons located within their respective areas of jurisdiction to ensure that no one is detained unlawfully therein; they are entitled to examine the prison records, as well as arrest and detention orders, take copies thereof, communicate with detainees and hear any complaints that they might wish to make; prison wardens and staff are required to provide them with full assistance to obtain any information that they request.

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, in addition to 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 appropriate to ensure that all forms of detention are in line with legal requirements.

Under articles 5 and 6 of the Act, no one may be confined to prison without a written order signed by the legally competent authority and no one may be retained therein after the expiration of the period specified in that order. Before admitting an inmate, the prison director, warden or responsible official must be given a copy of the confinement order after signing the original in acknowledgement of receipt. The original must be returned to the person who

delivered the prisoner and a copy signed by the person who issued the order must be kept in the prison.

Under article 39 of the Act, persons whose liberty has been restricted are permitted to contact and meet with their lawyers in private after permission has been obtained from the competent judicial authority.

Legislators have given persons deprived of liberty the right to send and receive letters and messages, make telephone calls and receive visits from their relatives, including special visits during religious holidays and whenever deemed necessary; they may also be granted temporary leave of absence in emergencies or for compelling reasons and they are allowed to visit their relatives outside the prison for a period of 48 hours during the pre-release transitional period (arts. 64, 64 bis, 71 and 85 of the Implementing Regulations for the Prisons Act, No. 79 of 1961).

With regard to the health-related rights of persons deprived of liberty, under article 33 of the Act every penitentiary or prison must have one or more medical officers, one of whom must be resident, to provide the inmates with health care. If the prison medical officer finds that the treatment facilities required by a prisoner are not available in the prison hospital, he/she must transfer the prisoner to an external hospital, after first referring the matter to the Medical Department of the Prison Service. In urgent or emergency situations, the prison medical officer may take whatever measures necessary to safeguard a prisoner's health (article 37 of the above-mentioned Implementing Regulations).

7. Guarantees and limitations covering freedom of expression in the Constitution and laws of Egypt

Freedom of opinion and expression, freedom of the media and freedom of academic research and innovation are enshrined in the following articles of the Constitution of Egypt:

Article 47: Freedom of opinion is guaranteed. All individuals have the right to express their opinion through speech, writing and imagery, or any other means of expression and publication within the limits of the law. Self-criticism and constructive criticism reinforce the structure of the nation.

Article 48: Freedom of the press, printing, publication and the media are guaranteed. Censorship of newspapers is prohibited, as is suspending, blocking or closing newspapers using administrative means. Exceptionally, during states of emergency or in time of war, newspapers, publications and media outlets may be subject to censorship, which is limited to issues regarding public peace or questions of national security and is regulated by law.

Article 49: The State guarantees citizens freedom of academic research and innovation, and of literary, artistic and cultural creativity, and provides the necessary means to encourage those activities.

The Constitution has an entire section entitled the "Press authority" which includes six articles on that subject (numbers 206 to 211). They cover the independence of the media, the prohibition of censorship and of confiscation, freedom of publication and the right of journalists to access information.

In addition, with its ratification of the International Covenant on Civil and Political Rights in 1982, Egypt gave that instrument the same binding force as domestic laws. Freedom of thought, conscience and belief, and freedom to hold and express opinions are enshrined in articles 18 and 19 of the Covenant.

Egyptian legislators have placed certain limits on freedom of expression, which are enshrined in the Criminal Code:

1. Articles 171 to 201 in chapter 14 regarding media-related and other offences and article 103 regarding the instigation of conflict;
2. Article 102 bis (criminalizing accusations levelled at complainants) regarding the dissemination of false news and rumours liable to compromise public order and harm the public interest;

3. Article 184 (criminalizing accusations levelled at complainants) regarding denigration or defamation of the House of Representatives, the Consultative Council or other national bodies, the army, the courts or the public authorities;

4. Articles 302 to 310 in chapter 7 regarding the offences of slander, defamation and breach of confidentiality.

Those provisions are consistent with article 19 of the International Covenant on Civil and Political Rights, according to which the exercise of freedom of expression carries with it special duties and responsibilities. It may therefore be subject to certain restrictions, but these shall only be such as are provided by law and are necessary for respecting the rights or reputations of others and for protecting national security, public order, public health or morals.

The material, moral and legal foundations underpinning the aforementioned articles of the Criminal Code reflect the six-part threshold test envisaged in the Rabat Plan of Action on the prohibition of advocacy of national, racial or religious hatred that constitutes incitement to discrimination, hostility or violence. They are: context, speaker, intent, content and form, extent of the speech act and likelihood including imminence.

8. Proceedings brought against the accused

He was charged in case No. 4 of 2018 (Military Prosecutor) with the following:

1. Deliberately disseminating false news and rumours. He did this by writing a book entitled “Earth’s Finest Women”, which contains untruthful information about the Egyptian armed forces that is liable to compromise public order and harm the public interest;
2. Defaming the Egyptian army by publishing a book entitled “Earth’s Finest Women”, which contains injurious expressions directed against the army such as constitute defamation and denigration.

He was present at a court hearing held on 31 July 2018 where he was sentenced, on the above charges, to a term of imprisonment of 3 years with hard labour and to a fine amounting to 10,000 Egyptian pounds (LE). It should be noted that he was already being held in preventive custody for case No. 480/2018 (Supreme State Security Court).

A medical examination carried out on 5 September 2018 revealed that he was not suffering from any chronic diseases and that his general state of health was good and stable. He has been receiving visits on a regular basis, most recently from his lawyer [REDACTED] on 30 August 2018 and from his father 9 August 2018. In addition, he is allowed outside to exercise at the prescribed times.

9. Established facts

The Egyptian State respects all international human rights instruments. The accused was arrested in accordance with proper legal procedures and charged on the basis of the results of investigations conducted by the State Prosecution Office, which yielded sufficient evidence from witness statements, legal inspections and technical data.

The Egyptian Constitution protects freedoms, promotes equality of rights and duties without discrimination and upholds human rights values and freedom of opinion and expression. In addition, it guarantees the right of expression and of freedom of thought and opinion, as well as the right of all persons to express their opinions through speech, writing and imagery, or any other means of expression and publication.

At the international level, this right is based on article 6 of the Declaration on Human Rights Defenders as well as on other international instruments such as the Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights, the African Charter on Human and Peoples’ Rights and the Arab Charter on Human Rights.

At the domestic level, this right is based on article 56 of the Constitution whereby freedom of the press, printing and publication — on paper or by audiovisual and electronic means — are guaranteed and the censorship, confiscation, suspension or closure of newspapers is prohibited. The State is committed to ensuring the independence of State-owned press and

the media with a view to guaranteeing their neutrality and ability to express all kinds of political and intellectual views, upholding social interests and promoting equality of opportunity in addressing public opinion.

The allegation that the accused Galal el Behairy was arrested on account of his peaceful exercise of the right to freedom of artistic expression and creativity is unfounded. It is merely a defence ploy and an attempt to sully the case file in order to evade the charges levelled against him. He was arrested for having insulted the Egyptian armed forces and for disseminating false news via his recently published book entitled “Earth’s Finest Women”.

It is necessary to respect the legal measures that have been taken against the accused, who was charged with insulting the Egyptian armed forces, which is a crime punishable by law. In the light of the foregoing, we reiterate that the content of the communication is based on false, unfounded and unsubstantiated allegations, and that the measures taken against the accused were all consistent with international, regional and national human rights standards.

Please accept assurances of our highest consideration.
