

(Translated from Arabic)

Reply to the joint communication sent to the Permanent Mission of the Arab Republic of Egypt to the United Nations regarding the cases of Shadi al-Ghazali Harb, Amal Fathy, Wael Abbas, Mohamed Ibrahim Radwan and Haytham Mohamadein

Subject:

The Permanent Mission of the Arab Republic of Egypt to the United Nations received a joint communication from the Working Group on Arbitrary Detention; the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression; the Special Rapporteur on the situation of human rights defenders; the Special Rapporteur on the independence of judges and lawyers; the Special Rapporteur on the right to privacy; the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment; the Special Rapporteur on violence against women, its causes and consequences; and others regarding the cases of Shadi al-Ghazali Harb, Amal Fathy, Wael Abbas, Mohamed Ibrahim Radwan and Haytham Mohamadein. The reply to the communication will be subdivided under the following headings:

- I. Guarantees of a fair trial in Egypt and their compliance with relevant international standards
- II. Guarantees with regard to detention in Egypt and their compliance with international standards
- III. Allegations regarding the use of torture
- IV. State efforts to combat terrorism while respecting human rights
- V. Guarantees for human rights defenders in Egypt and their compliance with international human rights standards
- VI. Provisions to combat harassment and gender-based violence in Egyptian law
- VII. Proceedings against the complainants
- VIII. A summary of legal facts and outcomes

Explanations with regard to these matters are given below.

I. Guarantees of a fair trial in Egypt and their compliance with relevant international standards

Article 54 of the new Constitution of Egypt, issued in 2014, states: “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 issued 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 of their own. 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 before the courts against such restriction of freedom. A decision on the complaint shall be rendered within one week; otherwise, the person shall be released forthwith.

“The law shall regulate preventive detention, its duration and causes, and which cases are eligible for compensation. The State shall award compensation for preventative detention or for penalties that have been enforced pursuant to a sentence that has been definitively overturned. In all cases, accused persons may be tried for offences that attract



imprisonment only in the presence of a lawyer, whether engaged by the party concerned or appointed by the courts.”

According to article 94 of the Constitution: “The rule of law is the basis of governance in the State. The State is subject to the law, and the independence, inviolability and impartiality of the judiciary are essential guarantees protecting rights and freedoms.”

Article 95 reads: “Penalties are imposed on individuals. There may be no offence and no penalty save as prescribed by law, and no penalty may be imposed save by a court ruling. Penalties may only be imposed for actions perpetrated subsequent to the date on which a law enters into force.”

Article 97 states: “The right of all persons to have recourse to law is guaranteed. The State shall undertake to bring litigants together and to work to resolve cases promptly. No action or administrative decision shall be immune from judicial scrutiny and persons may only be tried before their natural judge. Extraordinary courts are forbidden.”

According to article 98 of the Constitution: “The right of defence either in person or by proxy is guaranteed. The independence of the legal profession and the protection of its rights constitute safeguards for the right of defence. By law, financially needy persons shall be provided with the means to seek justice and defend their rights.”

Article 184 states: “The judiciary is independent. Judicial authority is vested in courts of various types and degrees, which issue their judgments in accordance with the law. The powers of the judiciary are defined by law and interference in the administration of justice is an offence not subject to the statute of limitations.”

Article 186 states: “Judges are independent and may not be dismissed. They are subject to no authority other than that of the law and are equal in rights and duties. The conditions and procedures for their appointment, secondment and retirement are governed by law, which also regulates their disciplinary accountability. They may not be assigned, fully or in part, to other bodies or functions except as specified by law and in such a way as to avoid conflicts of interest and maintain the independence and impartiality of the judiciary and of judges. The rights, duties and guarantees granted to them are specified by law.”

Egypt’s domestic legislation respects all the safeguards for persons deprived of their liberty, as provided for in international instruments and the Egyptian Constitution. It is not permissible to arrest any person except on the basis of a judicial order issued for the purposes of an investigation by the investigating authority or the competent judge. Article 130 of the Code of Criminal Procedure stipulates that, if suspects who have been summoned to appear fail to do so without a valid excuse, if they have no known place of residence or if they are apprehended in flagrante delicto, the investigating judge may issue a warrant for them to be arrested and brought in, even in cases in which a suspect’s remand in custody is not permitted. Article 127 of the same Code states: “All warrants issued by the investigating authority must contain the suspect’s name, surname, occupation and place of residence as well as the charges, the date of the warrant, the signature of the judge who issued it and the official stamp. A summons to appear implies that the suspect has an obligation not only to appear but to do so at a specific time, while a warrant for the suspect to be arrested and brought before a judge implies that the public authorities are required to arrest the suspect and bring him before the judge if he refuses to appear promptly and voluntarily.” Under article 40 of the Code: “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.”

Anyone who has been detained in violation of legally prescribed procedures or in a place other than those legally designated for such a purpose, or any person who comes to know of such unlawful detention, is to notify a member of the State Prosecution Office who must proceed immediately to the place of detention, order the detainee’s release and investigate the incident. Under article 43 of the Code of Criminal Procedure, any prisoner has the right to submit a verbal or written complaint to the prison warden at any time and request its transmission to the State Prosecution Office; the warden is duty-bound to accept it and transmit it immediately after entering it in the prison’s record of complaints. Anyone who comes to know of a person being detained unlawfully or in a place other than those

designated for detention must notify a member of the State Prosecution Office who, on being so notified, must proceed immediately to the place where the person is being held, conduct an investigation, order the release of the person being detained unlawfully and draw up a report. Article 41 of the Code stipulates: “No person may be incarcerated except in prisons designated for the purpose and no prison warden may admit a person to prison except pursuant to a warrant signed by the competent authority. No person shall be incarcerated beyond the period 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 appeal court or a court of first instance is authorized to visit central and district 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 and 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 they may request.

Suspects must be informed of the charges against them at the moment of their arrest and before they are questioned. In that regard, article 123 of the Code of Criminal Procedure stipulates that, when suspects first appear for questioning, the investigator must initially establish their identity then inform them of the charges and record their statements.

Under articles 123 and 125 of the Code of Criminal Procedure, a lawyer must be present with the suspect during questioning and, in cases involving felonies or misdemeanours punishable by a mandatory term of imprisonment, the investigating authorities must appoint a lawyer to assist any suspect who does not have one. Accused persons may not be separated from their lawyer, who has the right to examine all documents in the case file. Article 125 of the Code reads: “The lawyer shall be given permission to examine the case file on the day prior to the interrogation or the confrontation, unless the judge decides otherwise. In no case may the accused persons be separated from their lawyer who shall be present during the questioning.”

A suspect may be remanded in custody only by order of the competent judge or the investigating authority and after being questioned. The order, which must be substantiated and issued by an official holding a rank not lower than deputy public prosecutor, is temporary and renewable for a specified period, on the expiration of which the suspect must be released. Other alternative non-custodial precautionary measures may be taken against the suspect, and the State Prosecution Office may release a suspect in preventive detention if, at any time, it deems release to be appropriate in the light of the case file.

II. 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 that connection, article 55 of the Constitution states: “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 appropriate facilities 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 a detainee under pressure of the kind described above, or the threat of such pressure, shall be deemed null and void.”

Article 56 of the Constitution reads: “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 guarantees for persons deprived of their liberty that are consistent with those enshrined in international treaties and the Egyptian Constitution. The State Prosecution Office is an impartial and independent branch of the judiciary that is entrusted with effective law enforcement, investigation, filing charges, launching criminal proceedings, overseeing the enforcement of judgments and inspecting 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 beyond the period 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 appeal court or a court of first instance is authorized to visit central and district 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 they may request.

In addition, in articles 85 and 86 of Prison Regulatory Act No. 396 of 1956, legislators have ensured that law enforcement officers are subject to judicial oversight. The Prosecutor General and his deputies, 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 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 or 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 same 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 also taken steps to educate persons deprived of their liberty and have made provision for the Minister of the Interior to cooperate with the Minister of Education to develop a curriculum for men and women, as set forth in articles 28 and 29 of the Prison Regulatory Act. Other legislative measures to promote the education of persons deprived of liberty include creating prison libraries with books on religious, scientific and moral subjects and allowing persons deprived of liberty to order their own books, newspapers and magazines, pursuant to article 30 of the Act. At the

same time, under article 31, prison authorities are obliged to encourage and facilitate access to education for prisoners who may wish to continue their studies, and to allow them to sit exams.

Prison authorities are obliged to encourage and facilitate access to education for prisoners who may wish to continue their studies, and to allow them to sit exams. They must also provide books and set up examination committees for prisoners at different stages of education, including higher education.

Legislators have granted 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). Moreover, State medical facilities are required to treat prisoners at government and university hospitals so as to ensure that the health care provided is of a high standard.

The health care provided in places of detention is regulated within an integrated and graded structure of preventive and therapeutic medicine overseen by a specialized department of medical services which, acting in collaboration with agencies of the Ministry of Health, is upholding the right of prison inmates to enjoy the same standard of health care and treatment as that enjoyed by the general public outside the prison.

In order to ensure decent living conditions, cells are provided with supplementary ventilation and water coolers. All necessary preventive measures have been taken: cells and facilities at detention centres are cleaned and disinfected, longer exercise periods have been introduced and inmates are educated about the dangers posed by diseases and about ways to prevent them. The Ministry of Health is also working with prison administrations to conduct vaccination campaigns to protect against various diseases.

The information given above shows that guarantees with regard to detention are consistent with international human rights standards and with the Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment, which require that persons deprived of their liberty should be treated in a humane and non-degrading manner. They are also in line with regional human rights standards, specifically paragraph 25 of the relative principles and guidelines of the African Commission on Human and Peoples' Rights (ACHPR).

III. Allegations regarding the use of torture

Legislators in Egypt have given great importance to combating torture and all forms of degrading or inhuman treatment and have surrounded the issue not just with legal guarantees but also with constitutional safeguards. Egypt was quick to address this question by signing the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment under Presidential Decree No. 154 of 1986. The Convention thus became part of applicable domestic legislation, and the State is bound by the provisions thereof. In addition, both the Constitution and the law contain clear provisions to punish anyone responsible for perpetrating such acts.

Articles 51, 52, 55 and 60 of the Constitution state that: dignity is the unfringeable right of all human beings; torture in all its forms is an offence not subject to the statute of limitations; persons who are arrested or detained, or who have had their freedom restricted, are to be treated in a manner that preserves their dignity and may not be subjected to torture,

intimidation or coercion, or to any physical or mental abuse, and they may be confined or detained only in places designated for that purpose and which meet due humanitarian and health standards; and the human body is inviolable and any assault, defilement or mutilation thereof is a crime punishable by law. All the authorities of the State are bound by those provisions and may not violate them.

The Criminal Code designates as crimes all acts of torture that may be perpetrated by public officials. The relevant provisions are contained in articles 126, 127, 129, 280, 281 and 282 of Chapter VI of the Code, entitled: "Coercion and ill-treatment by public officials against individuals". Article 126 of the Criminal Code forbids inflicting torture on accused persons to force them to confess. At the same time, article 127 contains provision to punish public officials and persons entrusted with public service who either order, or themselves inflict, a penalty which is more severe than that imposed by law upon a convicted person, or which is not imposed by law.

It is important to note that the State Prosecution Office investigates all reports of torture and use of force and applies all the procedures involved in any criminal investigation; i.e., as soon as a complaint is received and its validity verified, a member of the Office will examine the corpse (in the case of a death) or the injuries of the person alleging to have suffered torture or ill-treatment. The official will likewise visit the scene of the incident and seize all the instruments alleged to have been used to commit the offence. Moreover, the corpse (in the case of a death) or the person who suffered torture will undergo a forensic medical examination to determine the nature of any injuries, the date they were inflicted and the instruments used. At the same time, witnesses to the incident and supervisors of the place of detention will be questioned, all evidence linked to the offence will be gathered and the person or persons responsible for inflicting the injuries will be interrogated and their statements compared with those of the victim and witnesses, as well as with any other evidence that may emerge. Charges may then be formulated. Depending upon the outcome of the investigation, the case file dealt with either by referral for trial or by suspending the case for reasons set forth in the law. The victim may complain and lodge an appeal against a decision to suspend.

The Arab Republic of Egypt has a legislative system with well-defined procedures for combating torture and punishing perpetrators. The authorities of the State, first among them the State Prosecution Office, investigate such offences with a view to discovering the perpetrators and sending them for criminal trial. Thus, any crimes that do take place are individual cases, and all offices of State make every effort to pursue and punish perpetrators.

Egyptian legislation designed to combat and prevent torture and other cruel, inhuman or degrading treatment is consistent with articles 2 and 16 of the Convention against Torture to which Egypt acceded on 25 June 1986.

IV. State efforts to combat terrorism while respecting human rights

Terrorism and the indiscriminate violence it entails constitute a direct assault on human rights including the right to life and to physical integrity. At the same time, by disseminating fear and terror around the public assertion of views, it also represents an attack on freedom of opinion and expression. Terrorism also affects rights such as the right to security, to property, to housing, to movement, to culture and to education as well as to other economic, cultural, social, civil and political rights.

In recent times, Egypt has been affected by terrorist attacks that have constituted direct assaults on human rights. Targets have included State institutions and individual State officials; law enforcement personnel from the police, the army and the judiciary; religious figures; private property; historical, cultural and tourist sites; places of worship; means of transport; and public utilities. There have been attempts to paralyse the economy and hinder development and to provoke insecurity and political destabilization. Terrorism has also broadened its psychological war against citizens using foreign-based media to broadcast messages intended to foment chaos.

It was therefore incumbent upon the State to take measures to combat terrorism, in accordance with the Constitution and the law. And, despite facing unprecedented threats requiring an extraordinary response, the authorities have been careful to preserve human

rights and fundamental freedoms and to promote the value of freedom of expression as guaranteed by the international treaties Egypt has ratified. This is set forth in article 93 of the Constitution, which stipulates that: “The State shall be bound by the international human rights agreements, conventions and instruments ratified by Egypt.”

The Egyptian Constitution guarantees rights and freedoms without discrimination and promotes freedom of expression in line with the Universal Declaration of Human Rights, which Egypt helped to draft. The Constitution enshrines freedom of expression, thought and opinion, and it exalts human rights values, cultural pluralism and the preservation of identity, all of which are envisaged in the international and regional human rights instruments to which Egypt has acceded. Being set forth in detail in the Constitution, those rights have acquired constitutional force which gives them the highest standing in the Egyptian legal system. As a consequence, all national institutions must abide by those provisions and legislators must take account of them when enacting laws.

The Constitution fences in and protects rights and freedoms with certain guarantees and mechanisms, which are binding upon the authorities of the State. These include the independence of the judiciary and the existence of domestic channels of redress. Furthermore, according to article 99 of the Constitution, any assault on personal rights and freedoms guaranteed under the Constitution is an offence not subject to any statute of limitations for either criminal or civil proceedings.

According to articles 53 to 58 of the Constitution, all citizens are equal before the law and have the same public rights, freedoms and duties. There can be no discrimination between citizens on the basis of religion, belief, gender, origin, race, colour, language, disability, social class, political or geographical affiliation, or for any other reason, and discrimination and incitement to hatred are crimes punishable by law. Furthermore, personal freedom is a natural right that is protected and may not be violated, and 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 laws of Egypt are consistent with those constitutional provisions and comply with the country’s international obligations arising from accession to international human rights instruments and the African Charter on Human and Peoples’ Rights. In addition, the Code of Criminal Procedure embraces all internationally established guarantees relative to impartial and transparent criminal investigations and comprises all necessary standards to ensure a fair trial, including the right to exercise a defence and the right to appeal against verdicts and sentences.

It should be pointed out that Egypt is combating terrorism in order to protect human rights, most importantly, the right to life and the right to security. Since terrorism is a crime against human rights, the preservation and protection of such rights must not become a pretext for constricting States as they confront terrorism.

Measures taken to combat terrorism are consistent with United Nations General Assembly resolutions 49/60, 51/210, 72/123 and 72/180, which call upon States to respect international human rights law and other relevant international law as they combat terrorism and extremism.

V. Guarantees for human rights defenders in Egypt and their compliance with international human rights standards

Article 53 of the Constitution states: “Citizens are equal before the law and have the same public rights and duties. There can be no discrimination between citizens on the basis of religion, belief, gender, origin, race, colour, language, disability, social class, political or geographical affiliation, or for any other reason.” On that basis, persons known as human rights defenders do not enjoy any privilege or immunity with respect to other citizens.

In relation to the measures taken to ensure that human rights defenders are able to carry out their legitimate work, it should be noted that freedom of opinion is a constitutional right in Egypt enshrined in article 65 of the 2014 Constitution, which says that all individuals have the right to express their opinion through speech, writing, imagery,

or any other means of expression and publication. Furthermore, according to articles 73 to 77 of the Constitution, citizens have the right to organize public meetings, marches, demonstrations and all forms of peaceful protest; to form political parties; and to create civil society associations and institutions. They also have the right to set up trade unions and professional federations, which carry out their activities freely and democratically and cannot be dissolved except by a judicial order or placed into receivership. Administrative bodies may not interfere in the affairs of trade unions and professional federations, which are consulted when laws affecting them are being drafted. The Constitution has also set down unified principles governing the activity of civil society associations and institutions, which may not undertake political, religious, military or paramilitary activities, or operate anti-democratically or in secret.

Under article 99 of the Constitution, the State guarantees fair compensation for persons whose personal freedom or private life has been violated. The National Council for Human Rights must inform the State Prosecution Office of any violation of such rights, and may enter into a civil lawsuit on behalf of an injured party at the latter's request. All this takes place in accordance with the law. According to article 214 of the Constitution, a number of independent national councils are to be established by law. They include the National Council for Human Rights, the National Council for Women, the National Council for Childhood and Motherhood, and the National Council for Persons with Disabilities. The law also explains how each of those bodies is to be formed, defines their mandate and provides guarantees for their independence and the neutrality of their members. The councils have the right to inform the authorities of any violation relative to their area of activities. The councils, which have legal personality, are technically, financially and administratively independent and are consulted on any proposed laws or regulations affecting them or their activities.

According to article 93 of the Constitution, the State is bound by the international human rights agreements, covenants and charters ratified by Egypt, which have force of law after they have been published in accordance with prescribed conditions. This provision guarantees the compliance of Egypt with international agreements to protect human rights and freedoms as well as with the principles of equality, political pluralism, citizenship, non-discrimination, etc. thereby also guaranteeing the protection of the rights of human rights defenders in the country.

From the foregoing it is clear that the measures taken by the State to protect human rights defenders are consistent with articles 1, 2, 6 and 12 of the Declaration on Human Rights Defenders, which concern the right of individuals to participate in the protection of human rights and their right to meet and gather peacefully in order to promote human rights at the national and international level.

VI. Provisions to combat harassment and gender-based violence in Egyptian law

In Egypt, all constitutional and legal provisions, and all penalties, are general and abstract and are not directed against one category rather than another or one gender rather than another. They are applicable equally to all persons concerned, be they human rights defenders or anyone else.

Article 11 of the Constitution states: "The State shall undertake to achieve equality between men and women in all civil, political, economic, social and cultural rights, in accordance with the Constitution, and to ensure an appropriate participation of women in representative assemblies, as specified in law. The State shall also guarantee the right of women to hold public office and high-ranking administrative positions of State, and to be appointed to organs of the judiciary, without discrimination. The State also undertakes to protect women from all forms of violence and to empower them to reconcile their duties towards their family with their work."

Egypt has acceded to many international treaties and protocols relative to combating violence and discrimination against women. They include:

- Convention on the Elimination of All Forms of Discrimination against Women;
- Convention on the Political Rights of Women;

- International Convention on the Elimination of All Forms of Racial Discrimination;
- Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children;
- International Covenant on Civil and Political Rights;
- International Covenant on Economic, Social and Cultural Rights;
- Convention on the Rights of Persons with Disabilities and its Optional Protocol.

A number of relevant laws have been amended with a view to affording women greater protection against violence of all kinds. They include:

- Act No. 78 of 2016 which augments the penalty for the offence of female circumcision under article 242 bis of the Criminal Code and widens the scope of criminal responsibility to cover all the perpetrators of that offence;
- Augmentation of the penalty for sexual harassment envisaged in article 306 bis (a) of the Criminal Code, which states that harassment is considered to have taken place if someone, whether in public or in private, accosts a third party with gestures, words, acts or any other means, including cable and wireless communication devices, to suggest or insinuate acts of a sexual or licentious nature. The punishment for such acts is a period of imprisonment of not less than 6 months and/or a fine of between 3,000 and 5,000 Egyptian pounds (LE). The punishment shall be doubled in the case of repeat offences;
- Amendment of article 267 of the Criminal Code, increasing the penalty for rape and adding additional aggravating factors;
- Persons with Disabilities Act No. 10 of 2018, which includes a number of articles to promote women, including Nos. 4, 9, 10, 11, 12 and 20;
- Anti-Human Trafficking Act No. 64 of 2010;
- Criminalization of early marriage under Decree No. 6927 of 2008 of the Minister of Justice, which sets the marriageable age as 18 for both spouses.

Legislators have designated a number of special provisions for crimes against women, including the following:

- Article 249 of the Criminal Code, which admits the right of legitimate self-defence if intended to ward off one of the following:
 - (a) An act that may reasonably be feared to cause death or serious injury;
 - (b) Compelling a woman against her will or committing indecent assault by force;
 - (c) Abduction.
- Article 267 of the Criminal Code, which states that anyone who has intercourse with a woman without her consent shall be liable to the death penalty or to life imprisonment;

The offender is sentenced to death if the victim is under the age of 18, if he is an antecedent of the victim or is responsible for her upbringing or supervision, if he has authority over her, if he is a paid servant in her household or the households of the aforementioned parties, or if the offence is committed by more than one perpetrator.
- Article 268 of the Criminal Code, which states that anyone who commits indecent assault against another using force or threats, or attempts such assault, shall be liable to a term of rigorous imprisonment.

The information given above shows that the measures taken by the State to combat violence against women are consistent with the Convention on the Elimination of All Forms of Discrimination against Women, to which Egypt acceded on 18 September 1981,

and with General Assembly resolution 68/181, which is intended to prohibit systemic and structural discrimination and violence faced by women human rights defenders.

VII. Proceedings against the complainants

1. The accused, Shadi Tareq Mohamed al-Ghazali Harb, was arrested in connection with Supreme State Security Court Case No. 621 of 2018 on charges of illegal membership of a group that called for the subversion of the Constitution and the law and the disruption of the operation of State institutions, while being fully aware of the purposes of the group.

He was further accused of using the Internet for propagating ideologies that encouraged the perpetration of acts of terrorism and for broadcasting false news, information and rumours outside the country regarding conditions inside the country, thereby damaging national interests. The accused person was arrested under an arrest warrant issued by the State Prosecution Office, which then conducted investigations into the matter, delegating the Directorate of Information and Documentation in the Ministry of the Interior to examine the social media accounts belonging to the accused individual.

He was admitted to Al-Qanater Men's Prison No. 1 where he remains on remand, and no definitive sentence against him has yet been passed. He receives regular visits, including one from his brother [REDACTED] and his wife on 1 December 2018. A medical examination [REDACTED].

2. The accused, Amal Fathy, was arrested on 10 May 2018 under an arrest warrant issued by the State Prosecution Office in connection with Maadi District Misdemeanours Case No. 7991 of 2018 on the basis of accusations made by plaintiffs [REDACTED] – employees of [REDACTED] – who deposed that the accused had posted a video on Facebook in which she repeated insulting and injurious expressions against [REDACTED] and its employees, as well as against the State and its institutions. This was upheld by inquiries, which showed that the accused person administered a Facebook page that she used to disseminate videos denigrating State institutions, predicting their ruin and calling on citizens to demonstrate and attack public facilities as a way of overthrowing the governing regime. Questioned before the State Prosecution Office on 11 May 2018, she denied charges of seeking to overthrow the governing regime, disseminating false news and misusing social media but acknowledged that she had disseminated the video in question on her Facebook page. The State Prosecution Office decreed that she be held for 15 days for the purposes of the investigation.

The same accused person is also implicated in Supreme State Security Court Case No. 621 of 2018. Inquiries showed that she was one of a number of persons who had entered into an alliance with terrorist organizations – first among them, the Muslim Brotherhood – for the purposes of putting into effect a plan to subvert the Constitution and the law, threaten national security, create a state of chaos and conflict between the people and the State, foment hatred towards the governing regime and demonstrate that it was weak and incapable of managing the affairs of the nation. This was to be accomplished by fomenting divisions and disseminating lies directly among citizens and via satellite channels and the Internet, with a view to the overthrow of the State. The role of the accused person was to administer a Facebook page – in the name of Amal Fathy – to spread false news about the diminution of rights and freedoms and to post videos insulting State institutions and inciting citizens to gather and foment chaos. The accused was questioned by prosecutors on the charges against her.

She was admitted to Al-Qanater Women's Prison where she remains on remand, and no definitive sentence against her has yet been passed. She receives regular visits, including one from her son and her husband on 29 November 2018. A medical examination of the accused revealed that she was suffering from [REDACTED] for which she receives regular treatment with periodic examinations at a prison facility [REDACTED]. Her general condition is stable.

3. The accused, Wael Abbas, was arrested on 23 May 2018 under a warrant issued by the competent judicial authority – the State Prosecution Office – in connection with Supreme State Security Court Case No. 441 of 2018. He was provisionally detained on

charges of involvement in a plan directed against State institutions by the terrorist Muslim Brotherhood.

The accused person, who has a chronic condition affecting the mitral valve, underwent a medical examination on 5 September 2018 [REDACTED]

[REDACTED] During his detention, the accused received regular visits, most recently by his mother, [REDACTED] on 1 September 2018, and he was allowed outside to exercise for the period set forth in prison regulations. The accused person was released on 4 December 2018 pursuant to a court order issued on 3 December 2018 that replaced provisional detention with a measure whereby he was required to present himself to an appointed police station between 7 p.m. and 9 p.m. twice a week for a period of 45 days.

4. The accused, Mohamed Ibrahim Radwan [REDACTED], was arrested in connection with Supreme State Security Court Case No. 621 of 2018. A summary of the facts as revealed by the inquires shows that the accused had entered into an alliance with terrorist organizations – first among them, the Muslim Brotherhood – for the purposes of putting into effect a plan to subvert the Constitution and the law and threaten internal national security by fomenting divisions and disseminating lies directly among citizens and via the Internet and satellite channels. The accused was arrested under a warrant issued by the State Prosecution Office, which charged him with illegal membership of a group that called for the subversion of the Constitution and the law and the disruption of the operation of State institutions, and with using the Internet for propagating ideologies [REDACTED]

[REDACTED] thereby damaging national interests.

The accused remains imprisoned on remand and no definitive sentence against him has yet been passed. No disciplinary measures have been taken against him. On 5 June 2018, he was visited by the lawyer [REDACTED] but, without giving any reason, he refused to meet with the lawyer. He receives regular visits, including one from his mother on 2 December 2018. A medical examination of the accused revealed no injuries and showed that he enjoys good health and is not suffering from any illnesses.

5. The accused, Haytham Mohamadein, was arrested in connection with Supreme State Security Court Case No. 718 of 2018. A summary of the facts as revealed by the inquires shows that the accused acted on instructions from the leadership of the terrorist Muslim Brotherhood to launch campaigns against State institutions via social media, calling for sit-ins and strikes with a view to fomenting chaos and overthrowing the governing regime. To this end, he used his own Facebook page. The accused was arrested under a warrant issued by the State Prosecution Office, which charged him with illegal membership of a group that called for the subversion of the Constitution and the law and the disruption of the operation of State institutions, while being fully of the purposes of the group. He was also charged with inciting demonstrations with the intention of disrupting public order, endangering citizens, damaging their interests and preventing them from carrying out their work, and with broadcasting false news and information outside the country regarding conditions inside the country, thereby damaging national interests.

He was admitted to Al-Qanater Men's Prison No. 1 and has at no time been placed in a Central Security Forces camp. A medical examination revealed that his vital signs (blood pressure, pulse, body temperature) were within normal parameters and that his general condition is good and stable.

VIII. A summary of legal facts and outcomes

The information given above shows that Egypt is respecting all the international and regional human rights instruments, and that all the allegations made in the communication are untrue. There has been no violation of any provisions of the International Covenant on Civil and Political Rights: article 7, which forbids torture and cruel, inhuman or degrading treatment or punishment; article 9, which protects the right to liberty and security, and places restrictions on detention and arrest; article 10, which envisages detention guarantees and imposes the obligation to treat persons deprived of their liberty humanely; article 14, which protects the right to a fair trial; article 17, which protects the right to privacy; article

19, which protects freedom of opinion and expression admitting only such restrictions as are provided by domestic law and are necessary for respect of the rights or reputations of others or for the protection of national security, public order or public health or morals; article 21, which protects the right of peaceful assembly and places conditions on the restrictions that States may impose on that right; or article 26, which protects the right of equality before the law of all citizens, who are entitled to the equal protection of the law without discrimination.

Similarly, there has been no violation of the African Charter on Human and Peoples' Rights: article 2, which protects the right to equality and non-discrimination; article 6, which protects the right to liberty and security; article 7, which concerns the right to a fair trial; article 9, which protects freedom of opinion; or articles 10 and 11, which protect the right of peaceful assembly and the right to create associations with others.

On the basis of all the foregoing, it can be affirmed that the allegations contained in the communication are untrue, baseless and unproven, and that the measures taken in regard of all the complainants were consistent with international and regional human rights standards.
