

Mandates of the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression and the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment

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Excellency,

We have the honour to address you in our capacity as Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression and Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment pursuant to Human Rights Council resolutions 25/2 and 25/13.

In this connection, we would like to bring to the attention of your Excellency's Government information we have received **concerning allegations of torture and ill-treatment during detention, as well as a confession obtained under torture, of Mr Hassan Mahmoud Ragab El Kabany**, a freelance journalist and Egyptian citizen.

According to the information received:

On 22 January 2015, Mr Hassan Mahmoud Ragab El Kabany (born on 27 July 1983), a freelance journalist, who resided in Area 2 Mogamma 6, 6th of October City, Giza Governorate, and married with two children, was arrested by members of Homeland Security and the General Investigations Department.

They searched Mr El Kabany's home and seized his computer, three mobile phones and his identification card. He was then brought to the Security Forces Camp in Sheikh Zayed, 6th of October City where he was detained.

In this camp, Mr El Kabany was interrogated for two consecutive days and tortured in retaliation to his work as a journalist and to force him to confess to crimes imputed to him. Mr El Kabany was subjected to repetitive electric shocks on different parts of his body, [REDACTED]

■ He was also regularly beaten up by officers and thrown on the ground, which caused a permanent injury to his knee and his back. Mr El Kabany was not authorised to see a doctor.

Mr El Kabany was subsequently brought to the Public Prosecutor's office of 6th of October City, where he and his counsel complained to the Prosecution about the torture he was subject to, and requested him to take relevant judicial action. Marks of torture were still visible at this point on his face and body. No action was taken by the Prosecutor.

On 24 January 2015, he was charged with *"spying on behalf of foreign entities and spreading false information"*, *"participation in a criminal conspiracy to commit crimes to destabilize the State and its Constitution"* and *"joining an outlawed group"*. Mr El Kabany has continuously rejected the accusations brought against him and believes that they are the consequence of his work as a journalist critic of the authorities.

Mr. El Kabany's detention order was renewed and he was brought to Tora high security prison (also named Al Aqrab prison) where he remains detained to date. No date for his trial has been set so far.

In February 2015, Mr El Kabany started a hunger strike in protest against his conditions of detention – he was not allowed to exercise and to see his family regularly – as well as the lack of investigation of the torture he was subjected to following his arrest. To preserve his health and as it has not led to any substantive changes, Mr. El Kabani has since ended his hunger strike. Mr El Kabany still suffers from various injuries and has not been allowed to see a doctor.

On 20 September 2015, Mr El Kabany, together with the other detainees in his cell, was again subjected to beatings, in particular on the feet, by an officer in retaliation for a statement that he made that Allah "was witness of his crime [the alleged ill-treatment] and that he would be judged by him". The officer also confiscated their blankets and forced them to sleep on the floor.

Without prejudging the accuracy of the information made available to us, we are **expressing our serious concern that Mr. El Kabany may have been tortured during interrogation, that a confession of guilt may have been extracted under these conditions, that it may be used against him in trial, and that this treatment appears to be in retaliation for the peaceful exercise of his right to freedom of expression, in particular his work as a journalist, including his expression of views deemed critical of the Government.**

Should these allegations be proven, they would appear to contravene article 5 of the Universal Declaration of Human Rights, articles 7 and 10 of the International Covenant on Civil and Political Rights (ICCPR), and key provisions of the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (CAT), which Egypt ratified on 14 January 1982 and on 25 June 1986 respectively. In particular, article 2 of the Convention against torture affirms the absolute and non-derogable prohibition of torture and other ill-treatment; unequivocally prohibits the use of information obtained under torture as evidence in any proceedings (article 15); and provides that each individual who alleges he or she has been subjected to torture has the right to complain to, and to have his case promptly and impartially examined by, a competent judicial authority (article 13).

Articles 19 of the UDHR and of the ICCPR guarantee the right to everyone to freedom of expression. In its General Comment No. 34, the Human Rights Committee has urged States parties to protect against attacks aimed at silencing those exercising their right to freedom of expression (CCPR/C/CG/34, para. 23). In circumstances of public debate concerning public figures and institutions, the value placed by the ICCPR upon uninhibited expression is particularly high and the fact that forms of expression are considered to be critical of public figures is not considered sufficient to justify the imposition of penalties (para. 38). Similarly, the Human Rights Council, in paragraphs 1 and 3 of its Resolution 27/5 has condemned all attacks against journalists and media workers, including torture arbitrary detention, intimidation and harassment and has urged States to promote a safe and enabling environment in which journalists can perform their work independently and without undue interference, as well as bringing those responsible to justice.

The full texts of the human rights instruments and standards recalled above are available on www.ohchr.org or can be provided upon request.

In view of the seriousness of the matter, we would appreciate a response on the initial steps taken by your Excellency's Government to safeguard the rights of the above-mentioned person(s) in compliance with international instruments, in particular those ratified by Egypt (inter alia, ICCPR and CAT) and which constitute some of its international human rights legal obligations.

As it is our responsibility, under the mandates provided to us by the Human Rights Council, to seek to clarify all cases brought to our attention, we would be grateful for your observations on the following matters:

1. Please provide any additional information and any comment you may have on the above mentioned allegations.

2. Please provide information relative to the measures taken to ensure the physical and psychological integrity of Mr. El Kabany,
3. Please provide detailed information about any measures taken to ensure that the allegations of torture, ill-treatment and confession extracted under torture as well as of their use as evidence of guilt in judicial proceedings, are thoroughly investigated by the relevant authorities to ensure that responsible officers are made accountable under the law. We would also welcome any information describing the steps taken by the Egyptian authorities to prevent, in accordance with their obligations under ICCPR and CAT, that similar violations do not reoccur in the future.
4. Please indicate any remedial action taken vis-à-vis the victim, in terms of medical assistance, judicial and other form of reparation.

While awaiting a reply, we urge that all necessary interim measures be taken to fully protect the human rights of Mr. El Kabany and of any other person held in detention so as to prevent their re-occurrence and in the event that the investigations support or suggest the allegations to be correct, to ensure the accountability of any person found responsible.

Your Excellency's Government's response will be made available in a report to be presented to the Human Rights Council for its consideration.

Please accept, Excellency, the assurances of our highest consideration.

David Kaye
Special Rapporteur on the promotion and protection of the right to
freedom of opinion and expression

Juan E. Méndez
Special Rapporteur on torture and other cruel, inhuman or degrading
treatment or punishment