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PROCEDURES SPECIALES DU
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HIGH COMMISSIONER FOR HUMAN RIGHTS

SPECIAL PROCEDURES OF THE
HUMAN RIGHTS COUNCIL

Mandates of the Working Group on Arbitrary Detention; the Special Rapporteur on freedom of religion or belief; the Special Rapporteur on the independence of judges and lawyers; 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 capacities as Chair-Rapporteur of the Working Group on Arbitrary Detention; Special Rapporteur on freedom of religion or belief; Special Rapporteur on the independence of judges and lawyers; and Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment pursuant to Human Rights Council resolutions 15/18, 14/11, 17/2, and 16/23.

In this connection, we would like to draw the attention of your Excellency's Government to information we have received regarding the detention and attacks against **Mr. Albert Saber Ayyad** on allegations of "Defamation of Religion" in Cairo, Egypt.

According to the information received:

Mr. Albert Saber Ayyad, a 27 year-old university student at Thebes Academy in Cairo, was born Christian but is now a self-proclaimed atheist. He administers the *Facebook* page called "Egyptian Atheist".

On 13 September 2012, at around 11:00 p.m., a crowd allegedly gathered in front of Mr. Ayyad's apartment in the neighborhood of El-Marg, Cairo, with the intention of attacking him over a video he had posted that was viewed to be "defaming" Islam. Mr. Ayyad's mother, Ms. Kariman Miseha, called the police for protection but when the police arrived, instead of dispersing the crowd they arrested Mr. Ayyad and confiscated his computer and a CD, without a warrant. While he was transferred to the El Marg police station, Mr. Ayyad, who was under police custody at the time, was allegedly attacked by the crowd in front of his house.

At the police station, the arresting officer reportedly put him in a cell with inmates accused of violent crimes and told them that Mr. Ayyad insulted Islam and the

Prophet. As a result, the inmates allegedly beat and slashed Mr. Ayyad's neck with a razor blade.

At 10:00 a.m. on 14 September 2012, a few young men reportedly threatened to kill Mr. Ayyad's mother, Ms. Misheha, and to burn the house down if she did not leave the neighborhood. Consequently, Mr. Ayyad's mother had to be displaced and has not been able to return to her house since.

At 3:00 p.m. on the same day, Mr. Ayyad was allegedly transferred to the Eastern Cairo prosecution office where he was charged with defamation of religion based on Article 98 of the Egyptian Penal Code. He was reportedly interrogated from 3:00 p.m. to 1:30 a.m. about his religious beliefs and his opinion of other religions. We are informed that when one of his lawyers commented on the inappropriateness of the line of questioning, the lawyer was sent out of the room and the interrogation continued without the presence of the lawyer.

On 15 September 2012 at 3:00 a.m., the prosecutor ordered Mr. Ayyad's detention for 4 days pending further investigation and sent him to a forensic doctor to examine the wounds he sustained while in detention at the police station. His laptop was reportedly transferred to the Ministry of Interior and Ministry of Justice for inspection.

It is reported that the police ordered Mr. Ayyad to open his *Facebook* page and did not find any offensive material. They allegedly obtained the username and password of the *Facebook* page and recorded them in the court case. Mr. Ayyad was also interrogated about a CD that contained a video he had made called "Who is the Spokesman of God" in which he reportedly expressed his religious views.

On 16 September 2012, the four day detention was extended for 15 days. On 17 September 2012, neighbours of El-Marg reported that Homeland Security and police officers from El-Marg Police Station broke into Mr. Ayyad's house and confiscated personal effects.

An appeal against the detention order was filed by a group of eight human rights organizations who legally represent Mr. Ayyad. The appeal was reportedly denied on 23 September 2012. We are further informed that one of the eight organizations, Association of Freedom of Thought and Expression, has received a threat on its *Facebook* page for defending Mr. Ayyad.

Concern is expressed that the arrest and detention of Mr. Albert Saber Ayyad represents an ongoing practice of prosecution on charges of defamation against persons who publicly express religious opinions viewed to be defaming Islam. Concern is also expressed at the failure of the Egyptian authorities to protect Mr. Ayyad and his family from threats in his neighborhood and to guarantee Mr. Ayyad's security in jail. Further concern is expressed at the failure to hold the perpetrators accountable and the rising trend of impunity towards sectarian violence.

While we do not wish to prejudge the accuracy of these allegations, we wish to appeal to your Excellency's Government to seek clarification on the information drawn to our attention and share our concerns in relation to present circumstances in light of the applicable international human rights norms and standards.

Without expressing at this stage an opinion on the facts of the case and on whether the detention of Mr. Ayyad is arbitrary or not, we would like to appeal to your Excellency's Government to take all necessary measures to guarantee his right not to be deprived arbitrarily of his liberty and to fair proceedings before an independent and impartial tribunal, in accordance with articles 9 and 10 of the Universal Declaration of Human Rights (UDHR), and articles 9 and 14 of the International Covenant on Civil and Political Rights (ICCPR).

We would further like to appeal to your Excellency's Government to ensure the right to freedom of religion or belief of Mr. Ayyad in accordance with the principles set forth in the Declaration on the Elimination of All Forms of Intolerance and of Discrimination based on Religion or Belief and article 18 of the UDHR and the ICCPR that your Excellency's Government ratified on 14 January 1982.

The Human Rights Committee general comment 22, Para. 2 states that "[A]rticle 18 protects theistic, non-theistic and atheistic beliefs, as well as the right not to profess any religion or belief", and para. 5 provides that "[T]he Committee observes that the freedom to 'have or to adopt' a religion or belief necessarily entails the freedom to choose a religion or belief, including the right to replace one's current religion or belief with another or to adopt atheistic views, as well as the right to retain one's religion or belief."

In addition, we would like to refer to General Assembly resolution 63/181, in which the Assembly urged States to step up their efforts to ensure that no one within their jurisdiction is deprived of the right to life, liberty or security of person because of religion or belief and that no one is subjected to torture or other cruel, inhuman or degrading treatment or punishment, or arbitrary arrest or detention on that account and to bring to justice all perpetrators of violations of these rights.

We would also like to recall that the General Assembly, in its resolution 64/164, urges States to step up their efforts to protect and promote freedom of thought, conscience and religion or belief, and to this end "(b) To ensure that no one within their jurisdiction is deprived of the right to life, liberty or security of person because of religion or belief and that no one is subjected to torture or other cruel, inhuman or degrading treatment or punishment, or arbitrary arrest or detention on that account and to bring to justice all perpetrators of violations of these rights; [...] (g) To ensure, in particular, the right of all persons to worship, assemble or teach in connection with a religion or belief and their right to establish and maintain places for these purposes and the right of all persons to write, issue and disseminate relevant publications in these areas".

Further, the Commission on Human Rights in resolution 2005/40 4 (g) urges States, "[T]o ensure that all public officials and civil servants, including members of law enforcement bodies, the military and educators, in the course of their official duties, respect different religions and beliefs and do not discriminate on the grounds of religion or belief, and that all necessary and appropriate education or training is provided; and in 8 (a) "[T]o step up their efforts to eliminate intolerance and discrimination based on religion or belief, notably by taking all necessary and appropriate action, in conformity with international standards of human rights, to combat hatred, intolerance and acts of violence, intimidation and coercion motivated by intolerance based on religion or belief, with particular regard to religious minorities, [...] including in the exercise of their right to freedom of thought, conscience, religion or belief".

We should like to appeal to your Excellency's Government to seek clarification of the circumstances regarding the case of Mr. Ayyad. We would like to stress that each Government has the obligation to protect the right to physical and mental integrity of all persons. This right is set forth *inter alia* in the UDHR, the ICCPR and the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT).

We would like to refer to the recommendation made by the Special Rapporteur on torture which states "countries should take effective measures to prevent prisoner-on-prisoner violence by investigating reports of such violence, prosecuting and punishing those responsible, and offering protective custody to vulnerable individuals, without marginalizing them from the prison population more than is required by the need for protection and without putting them at further risk of ill-treatment. Training programmes should be considered to sensitize prison officials to the importance of taking effective steps to prevent and remedy prisoner-on-prisoner abuse and to provide them with the means to do so. In accordance with the Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment, prisoners should be segregated according to gender, age and seriousness of the crime, alleged/committed; first-time prisoners should be segregated from repeat offenders and pre-trial detainees from convicted prisoners" (E/CN.4/2003/68, para. 26 (j)).

We would like to draw your Excellency's Government's attention to article 4 of the CAT which requires States Parties to ensure that all acts of torture are offences under its criminal law and to make the offences punishable by appropriate penalties. In this regard we would also like to draw your attention to article 12 of the CAT, which requires the competent authorities to undertake a prompt and impartial investigation wherever there are reasonable grounds to believe that torture has been committed, and article 7 of the CAT, which requires States Parties to prosecute suspected perpetrators of torture. We would also like to draw your Excellency's Government's attention to paragraph 3 of Resolution 2005/39 of the Commission on Human Rights which, "Stresses in particular that all allegations of torture or other cruel, inhuman or degrading treatment or punishment must be promptly and impartially examined by the competent national authority, that those who encourage, order, tolerate or perpetrate acts of torture must be held responsible and severely punished, including the officials in charge of the place of detention where the prohibited act is found to have been committed, and takes note in this

respect of the Principles on the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (the Istanbul Principles) as a useful tool in efforts to combat torture;”.

In this connection, we would like to refer your Excellency's Government to the Basic Principles on the Role of Lawyers, adopted by the Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders, Havana, Cuba, 27 August to 7 September 1990, and in particular principle 8, which states: “All arrested, detained or imprisoned persons shall be provided with adequate opportunities, time and facilities to be visited by and to communicate and consult with a lawyer, without delay, interception or censorship and in full confidentiality. Such consultations may be within sight, but not within the hearing, of law enforcement officials.”

Moreover, 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. Since we are expected to report on these cases to the Human Rights Council, we would be grateful for your cooperation and your observations on the following matters:

1. Are the facts alleged in the summary of the cases accurate?
2. Have complaints been lodged by or on behalf of Mr. Albert Saber Ayyad?
3. Please provide information concerning the legal grounds for the arrest and detention of Mr. Albert Saber Ayyad and how these measures are compatible with international norms and standards as stated, inter alia, in the Universal Declaration of Human Rights and the International Covenant on Civil and Political Rights.
4. Please provide the details, and where available the results, of any investigation, medical examinations, and judicial or other inquiries carried out in relation to this case. If no inquiries have taken place, or if they have been inconclusive, please explain why.
5. Please indicate what measures have been taken by your Excellency's Government to prevent rising sectarian violence and to protect the life and security of Mr. Albert Saber Ayyad and his mother, Ms. Kariman Miseha.
6. Please indicate what measures have been taken by your Excellency's Government to ensure that freedom of religion or belief and freedom of expression are protected in Egypt.

We undertake to ensure that your Excellency's Government's response to each of these questions is accurately reflected in the report we will submit to the Human Rights Council for its consideration

While waiting for your response, we urge your Excellency's Government to take all necessary measures to guarantee that the rights and freedoms of Mr. Albert Saber

Ayyad and his mother, Ms. Kariman Miseha are respected and, in the event that your investigations support or suggest the allegations to be correct, the accountability of any person responsible of the alleged violations should be ensured. We also request that your Excellency's Government adopt effective measures to prevent the recurrence of these acts.

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

El Hadji Malick Sow
Chair-Rapporteur of the Working Group on Arbitrary Detention

Heiner Bielefeldt
Special Rapporteur on freedom of religion or belief

Gabriela Knaul
Special Rapporteur on the independence of judges and lawyers

Juan E. Méndez
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