

NATIONS UNIES  
HAUT COMMISSARIAT DES NATIONS UNIES  
AUX DROITS DE L'HOMME

PROCEDURES SPECIALES DU  
CONSEIL DES DROITS DE L'HOMME

Mandates of the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression; the Special Rapporteur on the rights to freedom of peaceful assembly and of association; the Special Rapporteur on freedom of religion or belief; the Special Rapporteur on the situation of human rights defenders; 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 the Special Rapporteur on extrajudicial, summary or arbitrary executions

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HIGH COMMISSIONER FOR HUMAN RIGHTS

SPECIAL PROCEDURES OF THE  
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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; Special Rapporteur on the rights to freedom of peaceful assembly and of association; Special Rapporteur on freedom of religion or belief; Special Rapporteur on the situation of human rights defenders; Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment; Special Rapporteur on violence against women, its causes and consequences; and the Special Rapporteur on extrajudicial, summary or arbitrary executions pursuant to Human Rights Council resolutions 16/4, 15/21, 14/11, 16/5, 16/23, 16/7 and 17/5.

In this connection, we would like to draw the attention of your Excellency's Government to information we have received regarding the **alleged violence that unfolded in the context of protests in Cairo on 5 and 6 December 2012, including several killings, injuries and acts of torture and sexual harassment inflicted on demonstrators and human rights defenders.**

According to the information received:

On 4 December 2012, following mass peaceful opposition demonstrations, a large number of protesters had declared a sit-in in front of Al Ettehadaya Palace (hereafter Presidential Palace) for the following day. In response, the Muslim Brotherhood and the Freedom and Justice Party allegedly convened a pro-government march at the same place and at the same time.

According to sources, on 5 December 2012 pro President Morsi groups, largely composed of Muslim Brotherhood members and other Islamist groups, met in two

areas near the sit-in, allegedly in preparation for attacking anti President Morsi protesters. Two groups of President Morsi supporters gathered in Cairo near Al Orouba Tunnel, at the intersection between Marghani Street and Salah Salem Street, and at Al Marghani Street in front of Heliopolis Sporting Club. The attack against government opposition protesters allegedly started at around 4 pm, when protesters at the sit-in were cornered by groups of angry and armed government supporters running towards them from different directions. Clashes between the two groups reportedly continued until the early hours of the following day.

According to reports, the attackers were armed with electric and wooden batons, rocks, and chains. Later through the day, live and rubber bullets were also allegedly used. Sources state that participants at the sit-in were beaten, their tents were destroyed, and they were driven away from the Presidential Palace premises by pro-government protesters, who were chanting slogans like “the People demand the enforcement of Shariah” and other chants against non Islamist political groups calling them Kuffar or infidels.

According to sources, a total of five individuals were killed (**Mohamoud Mohamed Ibrahim**, 25 years old, **Mohamed Khalaf Eissa**, 32 years old, **Mohamed Mamdouh Ahmed El Hussein**y, 33 years old, **Mohamed Mohamed El Senoussi**, 22 years old and Dr. **Karam Guirguis**, 45 years old) in addition to another 697 injured, including 12 with live bullets and 29 with rubber and shot gun bullets. These cases were reportedly all investigated by forensic doctors. Moreover, three more deaths have been reported from Al Zahraa Hospital (**Hani Mohamed Sayed Al Imam**, 25 years old, **Alaa Tewfiq** and an unidentified body).

Pro President Morsi groups allegedly resorted to the use of extensive torture of protesters whom they were able to capture. The area next to one of the gates of the Presidential Palace was reportedly used to torture anti-government protesters, including children. Moreover, information received indicates that the premises of the Presidential Palace were used as a detention facility for captured pro-democracy activists. It is alleged that dozens of protesters were kept as “hostages” for several hours after being acutely beaten, and were only released the evening of the following day, 6 December. In fact, anyone who was believed to be from the opposing camp was allegedly arrested by pro-government groups and severely tortured and beaten. It has been specifically reported that **Mina Philip Gad**, an engineer working with Orange telecommunications international company, believed to be among the protesters, was stripped of his clothes, beaten by dozens of pro-government protesters, and held for several hours.

Police forces reportedly did not intervene to stop the clashes or prevent acts of torture until later on 5 December. It is alleged that at 9:30 pm, over five hours after the clashes started, police forces made their first attempt to hold a cordon between the two groups of protesters. Six police tanks attempted to make way amongst the protesters, but they all shortly withdrew, when protesters started chanting against them. It is further reported that, at around 11:30 pm, another

attempt was made by police forces, this time firing extensive tear gas to disperse protesters.

Physical attacks, abductions and torture reportedly were committed against women activists. It has been alleged that **Ola Shebaya**, a woman human rights defender, was brutally beaten, sexually harassed, and abducted by pro President Morsi groups. It is further reported that she sustained major head and eye injuries, in addition to several cuts and bruises to her neck, back and legs. In addition, it is alleged that she was put into an ambulance, but she was not allowed to leave, being forcefully removed and held in a nearby military police kiosk, where a police officer stood by and watched her getting tortured without intervening.

According to sources, pro-government protesters specifically stated that they had arrested two opposition protesters because they were found to be Christians. The protesters were later handed to police. Moreover, Ola Shebaya was allegedly detained, accused of being a traitor and sworn at. It is further alleged that detainers kept looking at the palm of her hands, searching for a cross, thinking that she was Christian.

Reports state that journalists were also targeted by pro President Morsi groups. These groups were allegedly attacked as soon as they arrived to the Presidential Palace, and pro-Government groups attempted to destroy the Satellite transmission units set up around the scene to cover the sit-in for the Egyptian state television. **Al Housseiny Abu Deif**, a journalist with Al Fagr newspaper, was allegedly shot with live and rubber bullets in his head at 1:00 am on 6 December 2012. His camera was stolen after he was shot. He is reported to be in hospital at the moment of this communication, in a highly critical situation.

It has been alleged that a number of public hospitals, including Mansheyat Al Bakri hospital, lacked a lot of the medical staff and equipment needed to deal with the injuries from the clashes. Additionally, several cases of preventing ambulances and medics from reaching injured protesters were reported.

Of the 141 protesters arrested, 90 people were allegedly referred to Heliopolis Prosecution on early morning of 6 December 2012 and the others were referred later in the evening. It is alleged that 27 out of the 141 are children between the ages 15 and 18, while 4 more (whose names are known to the mandate holders) are less than 15 years old.

Grave concern is expressed about the reported killings, injuries and acts of torture and sexual harassment inflicted on demonstrators and human rights defenders, including some women. Grave concern is also expressed about the lack of intervention of the police and security agents to protect demonstrators. Serious concern is expressed about the alleged attacks on media workers, which could constitute a serious violation of the right to freedom of expression. Grave concern is expressed about the fact that some individuals appear to have been the target of violence, arrests and torture due to their personal

religious beliefs. Serious concern is also expressed about the repeated denial of access to health care.

While we do not wish to prejudge the accuracy of these allegations, we wish to draw your Excellency's attention to the right to physical and mental integrity of the above-mentioned persons.

We would like to draw your Excellency's Government's attention to the International Covenant on Civil and Political Rights (ICCPR), ratified on 14 January 1982, provides that every individual has the right to life and security of the person, that right shall be protected by law, and that no person shall be arbitrarily deprived of his or her life (article 6). Additionally in its General Comment No. 31, the Human Rights Committee has observed that there is a positive obligation on States Parties to ensure protection of Covenant rights of individuals against violations by its agents and by private persons or entities. States Parties permitting or failing to take appropriate measures or to exercise due diligence to prevent, punish, investigate and bring perpetrators to justice or redress the harm caused by private persons or entities could give rise to a breach of the Covenant (CCPR/C/21/Rev.1/Add.13, paras. 8 and 18).

We would also like to draw your Government's 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 State parties to prosecute suspected perpetrators of torture. We would also like to draw your Government's attention to paragraph 6b of Human Rights Council Resolution 8/8, which urges States "To take persistent, determined and effective measures to have all allegations of torture or other cruel, inhuman or degrading treatment or punishment promptly and impartially examined by the competent national authority, to hold those who encourage, order, tolerate or perpetrate acts of torture responsible, to have them brought to justice and severely punished, including the officials in charge of the place of detention where the prohibited act is found to have been committed, and to take 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".

We would further like to draw your Excellency's Government's attention to paragraph 18 of the General Comment No. 2 of the Committee against Torture (CAT/C/GC/2, 24 January 2008), where the Committee has made clear that where State authorities or others acting in official capacity or under colour of law, know or have reasonable grounds to believe that acts of torture or ill-treatment are being committed by non-State officials or private actors and they fail to exercise due diligence to prevent, investigate, prosecute and punish such non-State officials or private actors consistently with the Convention, the State bears responsibility and its officials should be considered as authors, complicit or otherwise responsible under the Convention for consenting to or acquiescing in such impermissible acts. Since the failure of the State to exercise due diligence to intervene to stop, sanction and provide remedies to victims of torture facilitates and enables non-State actors to commit acts impermissible under the

Convention with impunity, the State's indifference or inaction provides a form of encouragement and/or de facto permission.

In this context, we would like to draw the attention of your Excellency's Government to paragraph 1 of Human Rights Council Resolution 16/23 which "Condemns all forms of torture and other cruel, inhuman or degrading treatment or punishment, including through intimidation, which are and shall remain prohibited at any time and in any place whatsoever and can thus never be justified, and calls upon all States to implement fully the absolute and non-derogable prohibition of torture and other cruel, inhuman or degrading treatment or punishment."

We would also like to bring to the attention of your Excellency's Government Article 4 (c & d) of the United Nations Declaration on the Elimination of Violence against Women, which notes the responsibility of states to exercise due diligence to prevent, investigate and, in accordance with national legislation, punish acts of violence against women, whether those acts are perpetrated by the State or by private persons. To this end, states should develop penal, civil, labour and administrative sanctions in domestic legislation to punish and redress the wrongs caused to women who are subjected to violence. Women who are subjected to violence should be provided with access to the mechanisms of justice and, as provided for by national legislation, to just and effective remedies for the harm that they have suffered. States should, moreover, also inform women of their rights in seeking redress through such mechanisms.

We deem it appropriate to make reference also to article 7(c) of the Convention on the Elimination of all Forms of Discrimination against Women which explicitly provides for the promotion and protection of women in freely participating in public matters. States agreed to take all appropriate measures to eliminate discrimination against women in the political and public life of the country and, in particular, to ensure to women, on equal terms with men, the right to participate in non-governmental organizations and associations concerned with the public and political life of the country.

We would also like to refer your Excellency's Government to article 19 of the ICCPR, which provides that "Everyone shall have the right to freedom of expression; this right shall include freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art, or through any other media of his choice."

Similarly, we would like to remind your Excellency's Government of article 21 of the ICCPR, which provides that "The right of peaceful assembly shall be recognized. No restrictions may be placed on the exercise of this right other than those imposed in conformity with the law and which are necessary in a democratic society in the interests of national security or public safety, public order (ordre public), the protection of public health or morals or the protection of the rights and freedoms of others.

In this context, we would like to refer to Human Rights Council resolution 15/21, and in particular operative paragraph 1 that "Calls upon States to respect and fully protect the rights of all individuals to assemble peacefully and associate freely... including

persons espousing minority or dissenting views or beliefs, human rights defenders, trade unionists and others, including migrants, seeking to exercise or to promote these rights, and to take all necessary measures to ensure that any restrictions on the free exercise of the rights to freedom of peaceful assembly and of association are in accordance with their obligations under international human rights law.”

Furthermore, we would like to draw your Excellency’s Government’s attention to the thematic report of the Special Rapporteur on the rights to freedom of peaceful assembly and of association (A/HRC/20/27), which states that:

30. (...) In the case of counter-demonstrations, which aim at expressing discontent with the message of other assemblies, such demonstrations should take place, but should not dissuade participants of the other assemblies from exercising their right to freedom of peaceful assembly. In this respect, the role of law enforcement authorities in protecting and facilitating the events is crucial.

33. The Special Rapporteur stresses that States have a positive obligation to actively protect peaceful assemblies. Such obligation includes the protection of participants of peaceful assemblies from individuals or groups of individuals, including agents provocateurs and counter-demonstrators, who aim at disrupting or dispersing such assemblies (...).

In this connection, we would like to refer your Excellency's Government to the fundamental principles set forth in the Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms, and in particular articles 1 and 2 which state that "everyone has the right individually or in association with others, to promote and to strive for the protection and realization of human rights and fundamental freedoms at the national and international levels" and that "each State has a prime responsibility and duty to protect, promote and implement all human rights and fundamental freedoms, inter alia, by adopting such steps as may be necessary to create all conditions necessary in the social, economic, political and other fields, as well as the legal guarantees required to ensure that all persons under its jurisdiction, individually and in association with others, are able to enjoy all those rights and freedoms in practice”.

Furthermore, we would like to bring to the attention of your Excellency’s Government the following provisions of the Declaration:

- article 5 point a) which establishes that for the purpose of promoting and protecting human rights and fundamental freedoms, everyone has the right, individually and in association with others, at the national and international levels, to meet or assemble peacefully;
- article 6 point a) which provides that everyone has the right, individually and in association with others to know, seek, obtain, receive and hold information about all human rights and fundamental freedoms, including having access to

information as to how those rights and freedoms are given effect in domestic legislative, judicial or administrative systems; and

- article 12 paras 2 and 3 of the Declaration which provide that the State shall take all necessary measures to ensure the protection by the competent authorities of everyone, individually and in association with others, against any violence, threats, retaliation, de facto or de jure adverse discrimination, pressure or any other arbitrary action as a consequence of his or her legitimate exercise of the rights referred to in the Declaration. In this connection, everyone is entitled, individually and in association with others, to be protected effectively under national law in reacting against or opposing, through peaceful means, activities and acts, including those by omission, attributable to States that result in violations of human rights and fundamental freedoms, as well as acts of violence perpetrated by groups or individuals that affect the enjoyment of human rights and fundamental freedoms.

Furthermore, we would like to appeal to your Excellency's Government to ensure the right to freedom of religion or belief 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.

Finally, we would like to refer to General Assembly resolutions 63/181 and 64/164, 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.

In view of the urgency 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 persons in compliance with the above international instruments.

Moreover, since 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 cooperation and your observations on the following matters, when relevant to the case under consideration:

1. Are the facts alleged in the above summary of the case accurate?
2. 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.

3. Please specify whether urgent measures have been taken to protect both the physical and psychological integrity of all the above mentioned alleged victims, and especially women and children victims.
4. Has your Excellency's Government received information concerning detentions of Christians in this context? Please list the measures that have been taken to ensure that religious beliefs shall not motivate detentions of any kind. If no action has been taken, please explain why.
5. Please indicate whether compensation will be provided to the victims or their families.

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 the above mentioned persons are respected and, in the event that your investigations support or suggest the above 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.

Frank La Rue

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Maina Kiai

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