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HIGH COMMISSIONER FOR HUMAN RIGHTS

SPECIAL PROCEDURES OF THE
HUMAN RIGHTS COUNCIL

Mandates of the Special Rapporteur on the rights to freedom of peaceful assembly and of association; the Special Rapporteur on violence against women, its causes and consequences; the Special Rapporteur on extrajudicial, summary or arbitrary executions; and the Chairperson-Rapporteur of the Working Group on the issue of discrimination against women in law and in practice.

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Excellency,

We have the honour to address you in our capacity as Special Rapporteur on the rights to freedom of peaceful assembly and of association; Special Rapporteur on violence against women, its causes and consequences; Special Rapporteur on extrajudicial, summary or arbitrary executions; and Chairperson-Rapporteur of the Working Group on the issue of discrimination against women in law and in practice pursuant to Human Rights Council resolutions 15/21, 23/25, 17/5 and 23/7.

In this connection, we would like to bring to the attention of your Excellency's Government information we have received concerning the **alleged absence of police protection for demonstrators and the alleged excessive use of force during protests which resulted in deadly clashes and in at least 90 cases of sexual violence against women since 30 June 2013.**

The violence against women committed in the context of the protests that took place in Cairo in November and December 2011 was the subject of a communication sent on 19 January 2012 by 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 the situation of human rights defenders; the Special Rapporteur on violence against women, its causes and consequences; and the Chairperson-Rapporteur of the Working Group on the issue of discrimination against women in law and in practice. We acknowledge receipt of the reply sent by your Excellency's Government on 4 April 2013.

According to the information received:

Several protests, mostly peaceful, have been taking place in Egypt since 30 June 2013. According to reports, these protests have been characterized by the lack of

protection from police for demonstrators, which in some instances have led to clashes between protesters. On 30 June 2013, at least 24 people died and hundreds were injured as a result of clashes amongst protesters. On 2 July 2013, clashes between local residents and demonstrators supporting former President Mohamed Morsi near Cairo University resulted in the death of at least 18 persons. It is reported that police were briefly at the scene but did not intervene. On 5 July 2013, it is alleged that neither the police nor the military effectively intervened in deadly clashes between pro- and anti-Muslim Brotherhood supporters that led to the death of 36 persons.

Furthermore, on 8 July 2013, the military reportedly used excessive and lethal force against a group of individuals who were gathering outside the military building where former president Morsi was held, resulting in at least 51 casualties.

Moreover, on 30 June 2013, 46 cases of sexual violence against women who participated in a peaceful protest in Tahrir square in Cairo have been reported. On 1 July 2013, 17 attacks of the same nature reportedly took place; and on 2 July 2013, 23 attacks were also reported. Another source confirmed that, prior, another five attacks took place on 28 June 2013.

It is reported that four women subject to these attacks needed medical assistance, including two who were evacuated by ambulance. One woman reportedly required surgery after being raped with a “sharp object”. In other cases, women were reportedly beaten with metal chains, sticks, and chairs, and attacked with knives.

It is reported that police protection for protesters were absent from Tahrir Square on 30 June 2013, when men assaulted at least 46 women. It is also reported that since November 2011, police have stayed away from Tahrir Square during important protests and failed to intervene to protect peaceful protesters and prevent clashes. This situation has reportedly left women protesters unprotected and allowed the assailants to act with impunity. The police reportedly did not carry out any arrest in relation to these acts.

It is reported that in February 2012, some members of the Shura Council, including General Adel Afifi, blamed women for the mob assaults in Tahrir square in Cairo, reportedly saying that “Women contribute 100 percent in their rape because they put themselves in such circumstances.”

Grave concern is expressed about these ongoing acts of violence, including about the resulting deaths and the grave instances of sexual violence against protesters who exercise their right to freedom of peaceful assembly. Further grave concern is expressed about the statement made by an official in February 2012, which seems to indicate that no proper action has been taken to protect women protesters who exercise their right to freedom of peaceful assembly.

While we do not wish to prejudge the accuracy of these allegations, we wish to recall the right of peaceful assembly as recognized in article 21 of the International Covenant on Civil and Political Rights (ICCPR), ratified by the Arab Republic of Egypt on 14 January 1982, 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 connection, we would like to refer to Human Rights Council resolution 21/16, and in particular operative paragraph 1 that “reminds States of their obligation to respect and fully protect the rights of all individuals to assemble peacefully and associate freely, online as well as offline, including in the context of elections, and 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.”

We would also like to draw the attention of your Excellency’s Government to the report A/HRC/20/27 of the Special Rapporteur on the rights to freedom of peaceful assembly and of association, paragraph 89, which state that: “States should facilitate and protect peaceful assemblies, including through negotiation and mediation. Wherever possible, law enforcement authorities should not resort to force during peaceful assemblies and ensure that, “where force is absolutely necessary, no one is subject to excessive or indiscriminate use of force” (Council resolution 19/35, para. 6).”

We would also like to draw to the attention of your Excellency’s Government the Declaration on the Elimination of Violence against Women, which states that women are entitled to the equal enjoyment and protection of all human rights and fundamental freedoms in the political, economic, social, cultural, civil or any other field. These rights include, inter alia, (a) the right to life; (b) the right to equality; (c) the right to liberty and security of person; and (d) the right to equal protection under the law (Art.3).

In addition, article 4 (c & d) 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.

Furthermore, we would like to draw the attention of your Excellency's Government to the Agreed Conclusions of the Commission on the Status of Women adopted in March 2013, whose paragraphs 23, expressed deep concern about violence against women and girls in public spaces, including sexual harassment, especially when it is being used to intimidate women and girls who are exercising any of their human rights and fundamental freedoms. The Commission urges governments to, inter alia: (x) Prevent, investigate and punish acts of violence against women and girls that are perpetrated by people in positions of authority, such as teachers, religious leaders, political leaders and law enforcement officials, in order to end impunity for these crimes; (z) Support and protect those who are committed to eliminating violence against women, including women human rights defenders in this regard, who face particular risks of violence.

We would also like to recall that the Convention on the Elimination of all Forms of Discrimination against Women (CEDAW), which Egypt ratified on 18 September 1981, obligates the State to take all necessary measures to combat discrimination on grounds of sex and to respect, protect and fulfill women's human rights. In this context, we wish to recall that the Committee on the Elimination of Discrimination against Women (CEDAW) in its general recommendation No. 19 (1992), defines gender-based violence against women as impairing or nullifying the enjoyment by women of human rights and fundamental freedoms, and constitutes discrimination within the meaning of article 1 of the Convention on the Elimination of All forms of Discrimination Against Women, whether perpetrated by a State official or a private citizen, in public or private life. Thus, the Committee considers that States parties are under an obligation to act with due diligence to investigate all crimes, including that of sexual violence perpetrated against women and girls, to punish perpetrators and to provide adequate compensation without delay. In general recommendation No. 19, the Committee sets out specific punitive, rehabilitative, preventive and protective measures States should introduce to fulfil this obligation; in paragraph 9, it makes clear that "under general international law and specific human rights covenants, States may also be responsible for private acts if they fail to act with due diligence to prevent violations of rights or to investigate and punish acts of violence, and for providing compensation".

Furthermore article 7(c) of this 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.

With regard to the resulting deaths, we would like to bring to the attention of your Excellency's Government that States have the responsibility to protect persons from human rights violations committed by non-State actors. Article 6 of the ICCPR provides that every human being has the inherent right to life; this right shall be protected by law; and no one shall be arbitrarily deprived of his life. In this regard, the Human Rights Committee has pointed out in its General Comment No. 31 that the positive obligations

on States Parties to ensure Covenant rights will only be fully discharged if individuals are protected by the State, not just against violations of Covenant rights by its agents, but also against acts committed by private persons or entities that would impair the enjoyment of Covenant rights. There are circumstances in which a failure to ensure Covenant rights would give rise to violations by States Parties of those rights. This applies when a State Party permits or fails to take appropriate measures or to exercise due diligence to prevent, punish, investigate or redress the harm caused by such acts by private persons or entities.

Furthermore, the Code of Conduct for Law Enforcement Officials, adopted by General Assembly resolution 34/169 of 17 December 1979, stipulates in article 1 that “Law enforcement officials shall at all times fulfil the duty imposed upon them by law, by serving the community and by protecting all persons against illegal acts, consistent with the high degree of responsibility required by their profession”. Paragraph 4 of the Principles on the Effective Prevention and Investigation of Extra-Legal, Arbitrary and Summary Executions, adopted by the Economic and Social Council resolution 1989/65 also specifies that it is incumbent upon States to provide effective protection through judicial or other means to individuals and groups who are in danger of extra-legal, arbitrary or summary executions.

We would like to further draw the attention of your Excellency’s Government to the duty to investigate, prosecute and punish violations of the right to life, in line with the Principles on Effective Prevention and Investigation of Extra-Legal, Arbitrary and Summary Executions. In particular, principle 9 stipulates that there shall be thorough, prompt and impartial investigation of all suspected cases of extra-legal, arbitrary and summary executions, while principle 18 provides that “Governments shall ensure that persons identified by the investigation as having participated in extra-legal, arbitrary or summary executions in any territory under their jurisdiction are brought to justice”.

In view of the urgency of the matter and the pattern of sexual violence targeting women protesters in recent months (reference is made earlier to a similar communication), we would appreciate a response on the initial steps taken by your Excellency’s Government to safeguard the rights of protesters and women protesters in compliance with the above international instruments.

Moreover, 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, when relevant to the case under consideration:

1. Are the facts alleged in the above summaries of cases accurate?
2. Please indicate what instructions were received or issued by the security forces in relation to the aforementioned incidents with the aim of preventing human rights violations. Kindly specify how the acts of the security forces complied with international standards on exercising due diligence to prevent human rights violations.

3. Please provide the details, and where available the results, of any investigation, medical examination, and judicial or other inquiry which may have been carried out in relation to these cases. If no inquiries have taken place, or if they have been inconclusive, please explain why.

4. In the event that the alleged perpetrators are identified, please provide the full details of any prosecutions which have been undertaken. Have penal, disciplinary or administrative sanctions been imposed on the alleged perpetrators?

5. Please indicate if any measures have been put in place, or are being put in place to immediately guarantee the safety and integrity of women protesters exercising their right to freedom of peaceful assembly, and to provide them with reparation for the harm and suffering caused.

6. Please indicate what measures have been taken, or are being taken to ensure that the right to freedom of peaceful assembly is respected and that the physical and psychological integrity of those exercising this right is guaranteed.

We undertake to ensure that your Excellency's Government's response is 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 protesters and women protesters 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.

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Special Rapporteur on the rights to freedom of peaceful assembly and of
association

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