

**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 the situation of human rights defenders; 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**

REFERENCE: AL  
EGY 16/2015:

10 November 2015

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 the situation of human rights defenders; 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 25/2, 24/5, 25/18, 26/7, 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 on the arrest and detention of **Mr. Hossam Bahgat**.

Mr. Hossam Bahgat is a journalist for the online news site, Mada Masr, and the Founder of the human rights organisation, **Egyptian Initiative for Personal Rights**. He is also a Board Member of the Open Society Justice Initiative and a member of UNDP's Global Civil Society Advisory Council. In 2010, Mr. Hossam Bahgat was awarded the Allison des Forges Award for Extraordinary Activism, and in 2014, he was awarded the George Alexander Law Prize for his human rights work.

According to the information received:

In October 2015, Mr. Hossam Bahgat published several articles about the military, including about the trial of 26 military officers accused and convicted of planning a coup to overthrow the Government.

On 5 November 2015, Mr. Hossam Bahgat received a summons, while at his home in Alexandria, to appear before the military intelligence authorities for interrogation, unaccompanied by a lawyer and without his mobile phone. On 8

November 2015, he appeared before the Military Intelligence Headquarters in Nasr City in compliance with the summons. He was transferred from the Military Intelligence Headquarters to the Office of the Military Prosecution. After seven hours of interrogation, he was provided with access to his lawyer. It is reported that the interrogation by the Military Prosecution was solely concerning his writing and work as a journalist. He was permitted to make a short phone call to his colleagues, informing them that he is going to be charged by the Military Prosecutor for publishing false information that harms the national interest and disseminating information that disturbs public peace.

It is alleged that the motivation for his detention and the charges to be brought against him are for the articles he has written about the Egyptian Army in October 2015.

On 9 November 2015, the Military Prosecutor decided that Mr. Hossam Bahgat will remain in detention for a further four days pending investigation, at a hearing where Mr Hossam Bahgat was not present. Mr. Hossam Bahgat remained in detention at an unknown location until his release on 10 November.

Several reports also indicate that at least 3000 civilians have been tried before military courts since November 2014. It is also reported that the number civilians tried before military courts, accused of “damaging state property”, has significantly increased since the adoption of a Presidential decree allowing the military to protect, along with police forces, critical and sensitive facilities in Egypt. This decree was allegedly issued following consultations with the National Defence Council, following two deadly attacks in the Sinai Peninsula that killed some 33 soldiers.

While we take note of the release of Mr. Hossam Bahgat, we wish to express grave concern at his arrest and detention in an unknown location, for exercising his rights to freedom of opinion and expression as a result of his legitimate work as a journalist and human rights defender. We express particularly concern at the situation of fear and intimidation, including criminalization, that may inhibit the legitimate work of journalists, human rights defenders and members of associations in Egypt. Additional concerns relate to due process and the right to fair trial of Mr. Hossam Bahgat, including delayed access to a lawyer of his choice. We also express concerns at the allegations of increasing number of civilians being brought before military courts.

In connection with the above alleged facts and concerns, please refer to the **Reference to international law Annex** attached to this letter which cites international human rights instruments and standards relevant to these allegations.

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 therefore be grateful for your observations on the following matters:

1. Please provide any additional information and/or comments you may have on the above-mentioned allegations.
2. Please provide information concerning the legal grounds for the arrest and detention, at an unknown location, of Mr. Hossam Bahgat and how these 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. Please provide information on the possible charges that may have been brought against Mr. Bahgat.
3. Please provide information relative to the measures taken to ensure the physical and psychological integrity of Mr. Hossam Bahgat, while in detention.
4. Please indicate the measures taken to ensure the right of Mr. Hossam Bahgat to a fair trial before an independent and impartial tribunal under the ordinary civilian jurisdiction, in accordance with international human rights norms and standards, as well as information about the access he had to his family and lawyers during his detention.
5. Please indicate what measures have been taken to ensure that human rights defenders in Egypt are able to carry out their legitimate work in a safe and enabling environment without fear of threats or acts of persecution and harassment of any sort.

We would appreciate receiving a response within 60 days.

While awaiting a reply, we urge that all necessary interim measures be taken to halt the alleged violations and 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 persons responsible for the alleged violations.

In view of the seriousness of the allegations, we will publicly express our concerns in the course of the day, as we are of the view that the information upon which the press release is going to be based is sufficiently reliable to indicate a matter warranting immediate attention. Please find enclosed copy of the press release to be issued tomorrow.

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

Maina Kiai

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

Michel Forst

Special Rapporteur on the situation of human rights defenders

Mónica Pinto

Special Rapporteur on the independence of judges and lawyers

Juan E. Méndez

Special Rapporteur on torture and other cruel, inhuman or degrading  
treatment or punishment

## **Annex**

### **Reference to international human rights law**

In connection with above alleged facts and concerns, we would like to remind your Excellency's Government of the right to freedom of opinion and freedom of expression, as contained in article 19 ICCPR of the International Covenant on Civil and Political Rights (ICCPR), ratified by Egypt on 14 January 1982 and article 19 of the Universal Declaration of Human Rights (UDHR). Similarly, we would like to refer to article 22 of the ICCPR and article 20 of the UDHR which provide that everyone has the right to freedom of association.

Without expressing at this stage an opinion on the facts of the case and on whether the deprivation of liberty of Mr. Hossam Bahgat 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 14 of the ICCPR and articles 9 and 10 of the UDHR.

We also would like to recall that military tribunals, when they exist, should only be competent to try military personnel accused of military offences or breaches of military discipline. The trial of civilians by military tribunals should be prohibited, subject only to the narrow exceptions, such as cases strictly limited to civilians assimilated to military personnel by virtue of their function and/or geographical presence (A/68/285).

Without expressing at this stage any allegations of ill-treatment of Mr. Bahgat, we would like to remind your Excellency's Government of the absolute and non-derogable prohibition of torture and other ill-treatment as codified in articles 2 and 16 of the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (CAT), which Egypt ratified on 25 June 1986 and would furthermore refer to paragraph 27 of General Assembly Resolution 68/156, which reminds states that prolonged incommunicado detention can facilitate the perpetration of torture and other cruel, inhuman or degrading treatment or punishment and can in itself constitute a form of such treatment.

We would also like to refer to 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, also known as the UN Declaration on Human Rights Defenders, in particular articles 1, 2, 6, and 9.