

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

**PROCEDURES SPECIALES DU
CONSEIL DES DROITS DE L'HOMME**

**UNITED NATIONS
OFFICE OF THE UNITED NATIONS
HIGH COMMISSIONER FOR HUMAN RIGHTS**

**SPECIAL PROCEDURES OF THE
HUMAN RIGHTS COUNCIL**

Mandates of the Working Group on Arbitrary Detention; the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression; the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health; and the Special Rapporteur on the independence of judges and lawyers.

REFERENCE: UA G/SO 218/2 G/SO 214 (67-17) Health (2002-7) G/SO 214 (3-3-16)
EGY 6/2014

16 May 2014

Excellency,

We have the honour to address you in our capacity as Chair-Rapporteur of the Working Group on Arbitrary Detention; Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression; Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health; and Special Rapporteur on the independence of judges and lawyers pursuant to Human Rights Council resolutions 24/7, 25/2, 24/6, and 17/2.

In this connection, we would like to draw the attention of your Excellency's Government to information we have received regarding **the arrest and detention of Mr. Mohamed Fahmy, a journalist working for Al Jazeera in Egypt.**

We note that on 30 August 2013, a communication on allegations regarding the escalating violence and intimidation against journalists and the media in Egypt, in particular targeting Al Jazeera media group, was sent to your Excellency's Government by the Chair-Rapporteur of the Working Group on Arbitrary Detention; the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression; the Special Rapporteur on the situation of human rights defenders; and the Special Rapporteur on extrajudicial, summary or arbitrary executions.

According to the information received:

Mr. Mohamed Fahmy is a dual citizen of Egypt and Canada ([REDACTED]
[REDACTED]) and usually resides at [REDACTED]

██████████. He is a journalist and works for Al Jazeera English as its Bureau Chief in Egypt.

On 29 December 2013, he was arrested by the State Security Police at Marriott Hotel in Zamalek, Cairo, where Al Jazeera English operated from. He is detained in Al Mulhag Ward of Tora Prison and reportedly charged with broadcasting false news and with belonging to or assisting Muslim Brotherhood, which is banned and designated as a terrorist organization in Egypt. His trial began on 20 February 2014 and there have been seven hearings to date. It is alleged that the charges are fabricated and the prosecution has not presented any concrete evidence to substantiate the charges. The State Security officers who were called as the prosecution's witnesses allegedly did not even know which channel Mr. Fahmy worked for and confused Al Jazeera English with Al Jazeera Mubasher Misr, which is a banned channel in Egypt. Furthermore, specialists called by the prosecution to analyze the content of the audiovisual equipment seized from Mr. Fahmy allegedly provided an exactly identical analysis, which suggests that that they may have been rehearsed to incriminate Mr. Fahmy.

Before his arrest in December 2013, Mr. Fahmy broke his upper right arm. While the authorities reportedly transferred Mr. Fahmy to a public hospital for scans on 22 March 2013, he was returned to Tora Prison on the same day where he is denied medical treatment. The poor conditions in the prison and the lack of access to medical treatment have allegedly exacerbated the injury. While his lawyer repeatedly requested bail, all the requests have been denied.

Concern is expressed that Mr. Fahmy has been arrested and detained on the basis of the legitimate exercise of his right to freedom of expression. We also express concern about the alleged denial of medical treatment for Mr. Fahmy's injury.

While we do not wish to prejudge the accuracy of these allegations or to express an opinion on whether or not the detention of Mr. Fahmy is arbitrary, the above allegations appear to be in contravention of the right not to be deprived arbitrarily of his liberty as set forth in article 9 of the Universal Declaration of Human Rights (UDHR) and the International Covenant on Civil and Political Rights (ICCPR), as well as the right to fair proceedings before an independent and impartial tribunal, as set forth in article 10 of the UDHR and article 14 of the ICCPR.

The above allegations also appear to be in contravention of the right to freedom of opinion and expression as established in article 19 of the UDHR and of the ICCPR.

Furthermore, these allegations appear to be in contravention with your Excellency's Government's responsibility to respect and fulfil Mr. Fahmy's right to the enjoyment of the right to the highest attainable standard of physical and mental health,

including access to medical care while in detention, as enunciated in article 12 of the International Covenant on Economic, Social and Cultural Rights, as well as in the United Nations Standard Minimum Rules for the Treatment of Prisoners, Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment, and Basic Principles for the Treatment of Prisoners.

Likewise, the above allegations appear to be in contravention with the Guidelines on the Role of Prosecutors, 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.

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 urgency of the matter, we would appreciate a response on the initial steps taken by your Excellency's Government to safeguard the rights of Mr. Fahmy in compliance with the above international instruments. We would also welcome assurances that Mr. Fahmy is afforded the medical attention and treatment that he may need while in detention.

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 clarify the legal grounds for the arrest and detention of Mr. Fahmy and explain how such measures are compatible with Egypt's legal obligations under the international instruments that it has ratified.
3. Please provide information on the grounds on which Mr. Fahmy's requests for bail have been denied.
4. Please provide the details, and where available the results, of any investigation, 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 provide the details on the measures taken to ensure Mr. Fahmy's enjoyment of the right to health, including access to adequate medical treatment.

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

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 person responsible of the alleged violations.

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

Mads Andenas
Chair-Rapporteur of the Working Group on Arbitrary Detention

Frank La Rue
Special Rapporteur on the promotion and protection of the right to freedom of
opinion and expression

Anand Grover
Special Rapporteur on the right of everyone to the enjoyment of the highest
attainable standard of physical and mental health

Gabriela Knaul
Special Rapporteur on the independence of judges and lawyers