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**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 rights to freedom of peaceful assembly and of association; the Special Rapporteur on the situation of human rights defenders; and the Special Rapporteur on violence against women, its causes and consequences.**

REFERENCE: UA G/SO 218/2 G/SO 214 (67-17) Assembly & Association (2010-1) G/SO 214 (107-9) G/SO 214 (89-15)  
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3 December 2013

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 rights to freedom of peaceful assembly and of association; Special Rapporteur on the situation of human rights defenders; and Special Rapporteur on violence against women, its causes and consequences pursuant to Human Rights Council resolutions 24/7, 16/4, 24/5, 16/5, and 23/25.

In this connection, we would like to bring to the attention of your Excellency's Government information we have received concerning **arrests of peaceful protestors, women and men, including journalists and human rights defenders**, following peaceful assemblies organized on 26 November 2013 in Cairo's city centre and outside the Shura Council.

It is alleged that the said arrests resulted from the enforcement of the newly adopted Law No. 107 "For organizing the right to peaceful public meetings, processions and protests" (the "Law"), introduced by Presidential Decree on 24 November 2013.

The Law was the subject of a news release from the United Nations High Commissioner for Human Rights Navi Pillay on 26 November 2013. The High Commissioner urged the authorities "to amend or repeal this seriously flawed law" and she warned that the said law "could lead to serious breaches of the right to freedom of peaceful assembly". She further expressed particular concern for the provisions on the use of force by law enforcement officials and the excessive sanctions, including massive

finances as well as prison sentences, imposed on individuals found to be in breach of this law.

According to the information received:

On 26 November 2013, a peaceful protest took place in Cairo's city centre to commemorate the death of Mr. Gaber "Gika" Salah, a human rights activist, and to demand the prosecution of those responsible for the killing of peaceful demonstrators in November 2011. The security forces dispersed the assembly as this was not authorized.

Furthermore, on 26 November 2013, another peaceful assembly took place in front of the Parliament's upper house, the Shura Council, calling for the abrogation of the Law and expressing dissent against the inclusion in the Constitution of an article that would allow military trials of civilians. Security forces dispersed peaceful protestors using water cannons and tear gas. In addition, some police officers physically assaulted protestors and unidentified men in civilian clothes assisted the security forces in carrying out the arrests. The security forces reportedly arrested and held for up to 4 days before release approximately 50 peaceful protestors, pending investigation, on allegations of hooliganism, attacks against public employees, pillaging, and protesting without permission from the Interior Ministry. The arrested protestors included journalists covering the protest and prominent human rights activists, today released, comprising:

1. Ms. Mona Seif, co-founder of the No Military trials for civilians group and Final Nominee in 2013 of the Martin Ennals Award for Human Rights Defenders;
2. Mr. Ahmad Harara, human rights activist;
3. Ms. Rasha Azab, human rights youth activist;
4. Mr. Mohamed Abdelaziz, Lawyer and member of the Front to Defend Egypt's Protesters; and
5. Ms. Salma Said, member of the Mosreen group, an association actively involved in human rights' issues.

Additionally, on 27 November 2013, the prosecution office ordered and carried out the arrest for inciting protests of the two following prominent human rights activists who took part in the demonstrations:

1. Mr. Ahmed Maher, head of the April 6 Youth Movement (released since); and

2. Mr. Alaa Abdel Fattah, human rights activist and symbol of the popular uprising in January 2011 (currently in detention).

Grave concerns are expressed about the alleged arbitrary arrests by the Egyptian security forces of peaceful demonstrators, women and men, in particular journalists and human rights defenders. Similar concerns are expressed for the physical and psychological integrity of Alaa Abdel Fatah held in custody since his arrest. Serious concerns are expressed about the alleged disproportionate use of force by the Egyptian security forces to disperse the aforementioned demonstrations. We are also deeply concerned that the Law and its implementations lead to a serious breach of the right to peaceful assembly.

Without expressing at this stage an opinion on the facts of the case and on whether the detention of the abovementioned persons is arbitrary or not, we would like to appeal to your Excellency's Government to take all necessary measures to guarantee their right not to be deprived arbitrarily of their 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, and articles 9 and 14 of the International Covenant on Civil and Political Rights.

We would also like to refer to the right to freedom of opinion and expression as set forth in article 19 of the International Covenant on Civil and Political Rights, 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."

We would like to refer to article 21 of the International Covenant on Civil and Political Rights, 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.”

The Special Rapporteur on the rights to freedom of peaceful assembly and of association stressed in his thematic report to the Human Rights Council that "According to article 4 of the International Covenant on Civil and Political Rights, the right of peaceful assembly and the right to freedom of association are not absolute rights. Resolution 15/21 (OP 4) makes clear that they “can be subject to certain restrictions, which are prescribed by 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 [...]The Special Rapporteur emphasize[d] that only “certain” restrictions may be applied, which clearly means that freedom is to be considered the rule and its restriction the exception. He refer[ed] to general comment No. 27 (1999) of the Human Rights Committee on freedom of movement: “in adopting laws providing for restrictions ... States should always be guided by the principle that the restrictions must not impair the essence of the right ... the relation between right and restriction, between norm and exception, must not be reversed”. As a result, when States would like to restrict these rights, all the above conditions must be met. Any restrictions must therefore be motivated by one of the above limited interests, have a legal basis (be “prescribed by law”, which implies that the law must be accessible and its provisions must be formulated with sufficient precision) and be “necessary in a democratic society”(A/HRC/20/27, paragraphs 15 and 16).

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 points b) and c) which provide that everyone has the right, individually and in association with others as provided for in human rights and other applicable international instruments, freely to publish, impart or disseminate to others views, information and knowledge on all human rights and fundamental freedoms; and to study, discuss, form and hold opinions on the observance, both in law and in practice, of all human rights and fundamental freedoms and, through these and other appropriate means, to draw public attention to those matters; 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.

In addition, we would like to refer to the 2006 report to the General Assembly (A/61/312) (of the Special Representative of the Secretary-General on the situation of human rights defenders) and in particular to paragraph 98 which states that “in conformity with article 15 of the Declaration [on Human Rights Defenders], the Special Representative urges States to ensure that law enforcement agencies and their members are trained in and aware of international human rights standards and international standards for the policing of peaceful assemblies, including the Declaration on Human Rights Defenders, the Code of Conduct for Law Enforcement Officials and other relevant treaties, declarations and guidelines. The Special Representative also advises all States that all allegations of indiscriminate and/or excessive use of force by law enforcement officials should be properly investigated and appropriate action taken against the responsible officials”.

We appeal to your Excellency’s Government to take all necessary measures to guarantee to Ms. Seif, Ms. Said and Ms. Azab, the right to be free from any gender-based violence, discrimination and abuse. Towards that end, we would like to draw your Excellency’s Government attention article 1 of the United Nations Declaration on the Elimination of Violence against Women which provides that the term "violence against women" means any act of gender-based violence that results in, or is likely to result in, physical, sexual or psychological harm or suffering to women, including threats of such acts, coercion or arbitrary deprivation of liberty, whether occurring in public or in private life. We would also wish to recall article 4 (b) of the Declaration, which stipulates that

States should pursue by all appropriate means and without delay a policy of eliminating violence against women and, to this end, should refrain from engaging in violence against women. Furthermore, article 4 (c & d) of the Declaration 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.

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 (ratified by your Excellency's Government on 18 September 1981) 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".

We would also like to bring to your Excellency's Government's attention to article 7 (c) of the Convention on the Elimination of all Forms of Discrimination against Women, which requires States Parties to take all appropriate measures to eliminate discrimination against women in the political and public life of the country and, in particular, shall ensure to women, on equal terms with men, the right: (c) To participate in non-governmental organizations and associations concerned with the public and political life of the country.

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, 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 summary of the case accurate?

2. Has a complaint been lodged by or on behalf of the alleged victims?
3. Please provide information on the orders concerning the use of force and whether they are compatible with international standards.
4. Please provide information concerning the legal grounds for the disruption of the peaceful assemblies referenced here.
5. Please provide information concerning the legal grounds for the arrest and detention of Alaa Abdel Fatah and how such measures are compatible with international human rights norms and standards as mentioned above.
6. 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.
7. Please provide the full details of any prosecutions which have been undertaken. Have penal, disciplinary or administrative sanctions been imposed on the alleged perpetrators?
8. Please indicate whether compensation has been provided to the victims or the families of the victims.
9. Please provide information on the measures taken to ensure the safety of peaceful protestors, women and men, in the Arab Republic of Egypt, in particular journalists and human rights defenders from individuals or groups of individuals, including agents provocateurs and counter-demonstrators, who aim at disrupting or dispersing such assemblies; and to actively protect and not unduly interfere with the right of peaceful assembly.

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 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.

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

Frank La Rue  
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opinion and expression

Maina Kiai  
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