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PROCEDURES SPECIALES DU
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HIGH COMMISSIONER FOR HUMAN RIGHTS

SPECIAL PROCEDURES OF THE
HUMAN RIGHTS COUNCIL

Mandates of the Special Rapporteur on the situation of human rights defenders; the Special Rapporteur on the independence of judges and lawyers; the Special Rapporteur on extrajudicial, summary or arbitrary executions; and the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment.

REFERENCE: UA G/SO 214 (107-9) G/SO 214 (3-3-16) G/SO 214 (33-27) G/SO 214 (53-24)
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Excellency,

We have the honour to address you in our capacity as Special Rapporteur on the situation of human rights defenders; the Special Rapporteur on the independence of judges and lawyers; the Special Rapporteur on extrajudicial, summary or arbitrary executions; and the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment pursuant to Human Rights Council resolutions 16/5, 17/2, 17/5, and 16/23.

In this connection, we would like to draw the attention of your Excellency's Government to information we have received concerning the circumstances of the death of Mrs. Mahrousa Badawy Ragab, as well as the threats against and intimidation of her son, Mr. Hany Saeed, a lawyer, and his wife.

According to the information received:

Mrs. Mahrousa Badawy Ragab, born on 10 July 1953, married, with children, was living with her family in Sakyet Meki, Al-Zamalek, Cairo, Egypt. On 3 January 2013, at 2:00 a.m. members of security forces in uniform raided the house of Mrs. Ragab's son, Mr. Hany Saeed, who at the time of the raid was not at home. Allegedly, the authorities sought the arrest of Mr. Saeed with regard to his recent activities as a lawyer and member of a defence team working for families of victims killed during forced dispersion of Rabida Al-Adaweya and Al-Nahda sit-ins in August 2013. Allegedly, the members of the security forces did not present an arrest warrant or identification document, nor did they explain the reason of their visit.

It is reported that during the raid the members of the security forces attacked Mr. Saeed's mother and wife. Mrs. Ragab was reportedly hit in the head with a rifle butt which provoked bleeding injury and loss of consciousness. The intruders reportedly dragged her on the floor by the neck of her clothes and locked her in a room inside the house. Mrs. Ragab died reportedly as a result of the injuries she sustained, while she was left without medical assistance.

The intruders also reportedly threatened Mr. Saeed's wife that she and her husband would face the same treatment if she spoke about the incident or complained to authorities. They reportedly accompanied Mrs. Ragab's family members to obtain a death certificate and forced them to certify that she died of natural cause. It is not known whether a forensic examination was conducted into the circumstances of the death.

Grave concern is expressed about the circumstances of the death of Mrs. Ragab. Serious concern is expressed that the beating and subsequent death of Mrs. Ragab as well as the alleged attempt to arrest Mr. Saeed might be linked to his recent activities as a lawyer and member of a defence team working for families of victims reportedly killed during forced dispersion of Rabida Al-Adaweya and Al-Nahda sit-ins in August 2013. Further serious concern is expressed about the imminent threats and intimidation by the members of the security services against Mr. Saeed and his wife.

Without in any way implying any determination on the facts of the case, any conclusion as to the facts of the case, we should like to appeal to your Excellency's Government to seek clarification of the circumstances regarding the cases of the persons named above. We would like to stress that each Government has the obligation to protect the life and the right to physical and mental integrity of all persons. This right is set forth inter alia in the Universal Declaration of Human Rights (UDHR), the International Covenant on Civil and Political Rights (ICCPR), ratified by Egypt on 14 January 1982, and the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.

In this regard, we wish to draw the attention of your Excellency's Government to article 3 of the UDHR and 6(1) of the ICCPR, which respectively guarantee the right of every individual to life and security and provide that these rights shall be protected by law and that no one shall be arbitrarily deprived of his life. In its General Comment on article 6 of the ICCPR, the Human Rights Committee stated that "[t]he protection against arbitrary deprivation of life which is explicitly required by the third sentence of article 6(1) is of paramount importance. The Committee considers that States parties should take measures not only to prevent and punish deprivation of life by criminal acts, but also to prevent arbitrary killing by their own security forces. The deprivation of life by the authorities of the State is a matter of the utmost gravity." (HRI/GEN/1/Rev.9, Vol. I, p. 177, para. 3).

We would like to further refer to the duty to investigate, prosecute and punish all violations of the right to life, in line with the Principles on Effective Prevention and Investigation of Extra-Legal, Arbitrary and Summary Executions (adopted by the Economic and Social Council resolution 1989/65). In particular, principle 9 provides that “[t]here shall be thorough, prompt and impartial investigation of all suspected cases of extra-legal, arbitrary and summary executions, including cases where complaints by relatives or other reliable reports suggest unnatural death in the above circumstances”. Principle 9 further states that “The purpose of the investigation shall be to determine the cause, manner and time of death, the person responsible, and any pattern or practice which may have brought about that death. It shall include an adequate autopsy, collection and analysis of all physical and documentary evidence and statements from witnesses. The investigation shall distinguish between natural death, accidental death, suicide and homicide.”

Furthermore, principle 18 further requires Governments to “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.” We wish to recall also that the families and dependents of victims of extra-legal, arbitrary or summary executions shall be entitled to fair and adequate compensation within a reasonable period of time pursuant to principle 20.

With regard to the threats received by Mr. Saeed and his wife that they might face the same fate as Mrs. Ragab, we would like to refer to Principle 4, stating that effective protection through judicial or other means shall be provided to individuals and groups who are in danger of extra-legal, arbitrary or summary executions, including those who receive death threats.

Furthermore, we would like to draw your Excellency’s Government’s attention to paragraph 7 (b) of Resolution 8/8 of the Human Rights Council, which stated that “Intimidation and coercion, as described in article 1 of the Convention against Torture, including serious and credible threats, as well as death threats, to the physical integrity of the victim or of a third person, can amount to cruel, inhuman or degrading treatment or to torture.”

We would further like to draw your Excellency’s Government’s attention to article 13 of the Convention against Torture, which requires that “Each State Party shall ensure that any individual who alleges he has been subjected to torture in any territory under its jurisdiction has the right to complain to, and to have his case promptly and impartially examined by, its competent authorities. Steps shall be taken to ensure that the complainant and witnesses are protected against all ill-treatment or intimidation as a consequence of his complaint or any evidence given.” In this context, we would also like to draw your Excellency’s Government’s attention to paragraph 6 b and e of Human Rights Council Resolution 8/8 adopted in June 2008 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 persons, 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 ensure that victims of torture or other cruel, inhuman or degrading treatment or punishment obtain redress and are awarded fair and adequate compensation and receive appropriate socio-medical rehabilitation [...].

We would also like to draw your Excellency’s Government’s attention to article 12 of the Convention against Torture, 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 Convention against Torture, which requires State parties to prosecute suspected perpetrators of torture. We would also like to draw your Excellency’s 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”.

With regards to the concern that Mr. Saeed’s wife and mother might have been targeted due to Mr. Saeed’s work as a human rights lawyer, 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 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.

In this context, we would also like to refer your Excellency's Government to the Basic Principles on the Role of Lawyers, adopted by the Eight United Nations Congress on the Prevention of Crime and the Treatment of Offenders held at Havana, Cuba, from 27 August to 7 September 1990, and in particular principle 16, which states: "Governments shall ensure that lawyers (a) are able to perform all of their professional functions without intimidation, hindrance, harassment or improper interference; (b) are able to travel and to consult with their clients freely both within their own country and abroad; and (c) shall not suffer, or be threatened with, prosecution or administrative, economic or other sanctions for any action taken in accordance with recognized professional duties, standards and ethics."; principle 17, which states: "Where the security of lawyers is threatened as a result of discharging their functions, they shall be adequately safeguarded by the authorities."; and principle 18, which states: "Lawyers shall not be identified with their clients or their clients' causes as a result of discharging their functions."

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, 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. Since we are expected to report on these cases to the Human Rights Council, 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 summary of the case accurate?
2. Has a complaint been lodged on behalf of the alleged victims?

3. 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.

4. 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 whether compensation has been provided to the family of the victim.

6. Please provide information on the steps taken to ensure that Mr. Saeed and his wife are protected from violence, threats of violence or any form of intimidation.

7. Please indicate what measures have been taken to ensure that human rights defenders, including human rights lawyers, can operate in an enabling environment and can carry out their legitimate activities without fear of harassment, stigmatization or criminalization of any kind.

We undertake to ensure that your Excellency's Government's response will be available 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.

Margaret Sekaggya
Special Rapporteur on the situation of human rights defenders

Gabriela Knaul
Special Rapporteur on the independence of judges and lawyers

Christof Heyns
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