

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; and the Special Rapporteur on the situation of human rights defenders

REFERENCE:
AL EGY 3/2017

13 April 2017

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; and Special Rapporteur on the situation of human rights defenders, pursuant to Human Rights Council resolutions 25/2, 32/32 and 25/18.

In this connection, we would like to bring to the attention of your Excellency's Government the new information received concerning the intervention and closure of **El Nadeem Center for Rehabilitation of Victims of Violence and Torture** (El Nadeem Center) despite a pending judicial appeal, as well as the adoption by the Egyptian Parliament of severely restrictive legislation on civil associations, though not yet ratified by the President.

El Nadeem Center is an organization established in 1993 and provides medical aid and counselling to victims of torture, including human rights defenders and their families. The Center has been operating as a registered clinic with the Health Ministry of Egypt for the past 24 years.

El Nadeem Center was the object of two joint allegation letters sent on 23 February 2016 (EGY 3/2016) and 24 March 2016 (EGY 4/2016), in relation to the issuance of a closing order against it, and more broadly, to the use of the NGO Law 84 of 2002 on Associations and Foundations in Egypt to restrict civil society space. We thank your Excellency's Government for its reply dated 6 September 2016 addressing issues raised in both letters.

The draft new legislation on civil associations, which, if ultimately approved by the President, will replace NGO Law 84 of 2002 on Associations and Foundations, was the object of a communication sent on 22 November 2016 (EGY 14/2016) at a time when it was awaiting Parliament approval. Several Special Rapporteurs expressed their concern for the grave restrictive impact that this law would have on civil society organizations activity, freedom and space, if it came into force. To date, no answer has been received to this letter.

According to the new information received:

On 9 February 2017, the premises of El Nadeem Center were raided and closed down by the Egyptian police in Cairo. These actions were preceded by a similar attempt to bring its operations to an end in February 2016. However, on that occasion, the Center filed a judicial appeal against the decision before an Egyptian court, which permitted it to carry on its activities. This judicial appeal was still pending at the time these events took place. Likewise, in November 2016, the Center's bank account was the object of a freezing of assets by an order of the Central Bank of Egypt, for alleged non-compliance with Law 84/2002 (the NGO Law).

On 29 November 2016, the Egyptian Parliament adopted a new legislation on civil associations. This legal framework, if ratified by the President, would force non-governmental organizations to obtain official approval in order to conduct field research, publish their findings and seek funding for their activities. Moreover, this law would require foreign non-governmental organizations to be overseen by a regulating agency that includes representatives of Egypt's military, intelligence service and ministry of interior.

Likewise, over the past year, human rights organizations operating in Egypt have been the object of criminal investigations regarding their funding and activities, which according to the Egyptian Criminal Code could lead to fines of up to LE500,000 (US\$ 27,528) and convictions as severe as 25 years imprisonment. During this time, several organizations and human rights defenders have been subject of arbitrary arrests, interrogations, travel bans and asset freezes.

We express our most serious concern at the intervention, closure and harassment of El Nadeem Center, which appear to be related to its work supporting human rights defenders and other victims of torture. The fact that this action was conducted while judicial proceedings were underway in the case, adds an element to our concern. Moreover, the arrests, interrogations, travel bans and asset freezes against human rights defenders in Egypt during the last year depicts an environment of disregard to human rights, which is profoundly disquieting.

In addition, the law on civil associations approved by Parliament and yet to be ratified by the President similarly raises concerns as it disproportionately interferes with the work of civil society organizations and unduly restricts the rights to freedom of assembly, expression and movement. As such, if ratified by the President, this law would pose a significant obstacle to the exercise of basic freedoms in Egypt.

The closure of the El Nadeem center and the new bill adopted by the Parliament on 29 November, appear to contravene articles 19 and 22 of the International Covenant

on Civil and Political Rights (ICCPR), which was ratified by Egypt on 14 Jan 1982. These provisions establish in international law the right to freedom of opinion and expression, and the right to freedom of association, which allows individuals or any legal entities to formally join together in order to collectively act, express, promote, pursue or defend a field of common interest.

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

As it is our responsibility, under the mandates provided to us by the Human Rights Council, we are respectfully seeking from your Excellency's Government the following clarification:

1. Please provide any additional information and any comment(s) you may have on the above-mentioned allegations.
2. Please provide information regarding the legal basis for the intervention and closure of El Nadeem Center by the Egyptian police on 9 February 2017, as well as on the freezing of assets ordered in November 2016 against it. In particular, please explain how the Center's activities provide the ground that justifies such drastic measures, and how this complies with Egypt's obligations under international human rights law, in particular the treaties it has ratified.
3. Please provide information on the status of the judicial appeal launched by El Nadeem Center against its closure and in February 2016, and in particular the reason why your Excellency's Government proceeded to its closure in the absence of a final judicial decision.
4. Please provide additional information on the status and content of the law on associations passed by the Egyptian Parliament on November 2016, including its compatibility with the Egyptian Constitution and Egypt's international obligations, including, among others, articles 19 and 22 of the ICCPR.

We would appreciate receiving a response within 60 days.

While awaiting a reply, we respectfully urge that all necessary measures be taken to halt the alleged violations and to prevent their re-occurrence and in the event that the investigations support that these allegations are correct, to ensure the accountability of any person(s) responsible of them

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

Annex

Reference to international human rights law

In connection with above alleged facts and concerns, we would like to refer your Excellency's Government to articles 19 and 22 of the International Covenant on Civil and Political Rights (ICCPR), ratified by Egypt on 14 Jan 1982. These provisions enshrine the right to freedom of opinion and expression, and the right to freedom of association, which allows individuals or any legal entities to formally join together in order to collectively act, express, promote, pursue or defend a field of common interest.

Paragraph two of article 22 determines that only exceptionally can the right to freedom of association be limited, in cases where this is necessary in a democratic society and in the interests of national security or public safety, public order, the protection of public health or morals, or the protection of the rights and freedoms of others. In addition, the Human Rights Committee has interpreted these provisions to require States imposing such restrictions to duly consider all less intrusive measures to achieve this purpose (see *Lee v Republic of Korea* (1119/02)).

We would also like to refer to Human Rights Council resolution 24/5 of 2013 which "[r]eminds 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".

Reference should be made as well 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, also known as the UN Declaration on Human Rights Defenders. Of particular relevance are Article 5 (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; and article 12, (1) and (3), that provides for the right to participate in peaceful activities against violations of human rights and fundamental freedoms, as well as for the right to be protected effectively under national law in reacting against, or opposing, through peaceful means, activities and acts that result in violations of human rights and fundamental freedoms.

The full texts of the human rights instruments and standards recalled above are available on www.ohchr.org or can be provided upon request.