

**Mandates of the Working Group on Arbitrary Detention; the Working Group on Enforced or Involuntary Disappearances; 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:  
UA EGY 14/2017

3 October 2017

Excellency,

We have the honour to address you in our capacity as Working Group on Arbitrary Detention; Working Group on Enforced or Involuntary Disappearances; 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 33/30, 27/1, 34/18, 32/32, 34/5, 26/7 and 34/19.

In this connection, we would like to bring to the attention of your Excellency's Government information we have received concerning the abduction and subsequent detention of Mr. **Ebrahim Abdelmonem Metwally Hegazy** (ابراهيم عبدالمنعم متولي حجازي), reportedly in reprisal for his activities as a human rights defender and cooperation with the United Nations Working Group on Enforced and Involuntary Disappearances (WGEID).

Mr. **Ebrahim Abdelmonem Metwally Hegazy** is a lawyer and a human rights defender working as a Coordinator for the Association of the Families of the Disappeared in Egypt. Mr. Metwally has documented cases of enforced disappearances for submission to the WGEID. Mr. Metwally is the father of Mr. Amr Ibrahim Abdel Metwally, who was arrested by police and army security forces in El Tiran street on 7 August 2013, and whose fate and whereabouts remain unknown. His case is under the consideration of the WGEID.

According to the information received:

On 10 September 2017, Mr. Ebrahim Abdelmonem Metwally Hegazy, was arrested at Cairo International Airport by State Security forces and Airport Police officers while boarding the flight of EgyptAir n° MS 771 to Geneva. Mr.

Metwally had an appointment with the WGEID in Geneva scheduled for 15 September 2017.

At the airport, at around 8:50 am, before entering the passenger's area, Mr. Metwally told a person accompanying him that he would call him once he would pass the police check. At 9.30 a.m., this person tried to call him but his phone was switched off. It is believed that Mr. Metwally could not respond because he was under arrest.

At around 11.30 a.m the same morning, Mr. Metwally appeared to be online on Whatsapp. A person associated with him sent him a text message, which he answered saying that he was on the plane and telling him not to worry. The person tried to call him directly, but Mr. Metwally did not return his calls.

At around 1.00 p.m., the phone was switched on again. A renewed attempt was made to speak to him directly. An unidentified voice answered the call, said a few words and switched it off. In the following days, no contact could be made with Mr. Metwally and his fate or whereabouts were not known.

Persons associated with him made calls and wrote to the Attorney General and the Ministry of Justice but no answer or explanation was given.

On 12 September 2017, Mr. Metwally reappeared at the State Security court in Cairo. According to the information received, he was charged with three counts, namely:

- "Founding and leading an illegal organisation named *Association of the families of the disappeared*" - the organisation is described as illegal because it is not recorded in the official register.
- "Conspiracy with foreign entities, including the WGEID". Reportedly several NGOs names were also mentioned in the official charge. The visa support letter sent by OHCHR for the meeting with the WGEID was reportedly attached to the criminal file as a piece of evidence; and
- "Spreading false information"

A judge ordered his detention for 15 days pending the investigation. Mr. Metwally is now held in Tora High Security prison.

It is also alleged that Mr. Metwally was subjected to torture during the first two days of his deprivation of liberty at the State Security headquarters of Abbassia, in the Cairo Governorate. The first day he was strip naked and received electric

shocks. On the second day he was kept in underwear and again subject to electric shocks. He was reportedly placed in solitary confinement in a dark cell, without electricity and full of waste.

While he was being interrogated at the State Security Court on 12 September 2017, Mr. Metwally's house was raided by security forces that broke into his home, searched it and damaged furniture. His relatives were not present at the time, but did not return home out of fear of being arrested.

On 15 September 2017, the Government of Egypt reported that Mr. Metwally was arrested following a judicial authorization issued by the Public Prosecutor under two terrorism-related cases.

On 20 September 2017, Mr. Metwally was brought again before the Prosecutor and his detention was extended for another 15 days. That day, persons associated with him filed a complaint with the prison administration and the Ministry of Interior in relation to the allegations that he was tortured and his appalling conditions of detention.

On 25 September 2017, persons associated with Mr. Metwally were denied the right to visit him. The authorities stated that visits were not allowed to Mr. Metwally.

The last time that Mr. Metwally had access to his lawyer was on 20 September 2017, when he appeared in court. It is only at that point (i.e. during that hearing) that the lawyer had access to the criminal file. Since the day of his arrest at Cairo Airport on 10 September 2017 Mr. Metwally's relatives have not been allowed to visit him.

We express our grave concern about the allegations that Mr. Metwally was arrested, arbitrarily detained, disappeared for two days during which he was reportedly tortured, initially denied access to his defence lawyer, and refused family visits, and this in retaliation for his activities as a human rights defender working to seek clarification of enforced disappearances, including of his own son, in Egypt. We are indeed very concerned that these measures seem to constitute acts of reprisal against Mr. Metwally for traveling to Geneva to meet with the WGEID and attend the session of the Human Rights Council, and for having documenting cases of enforced disappearances in Egypt for submission to the WGEID. Given the allegations that he was tortured during the initial phase of his detention, we express further concern that Mr. Metwally may be exposed to further ill-treatment at Tora Prison.

While we do not wish to prejudge the accuracy of these allegations, we are appealing to your Excellency's Government to take all necessary measures to guarantee

to Mr. Metwally all the rights he is entitled to under the International Covenant on Civil and Political Rights (ICCPR) that Egypt ratified in 1982, including the right not to be deprived arbitrarily of his liberty; the right not to be subjected to torture or ill-treatment; the right to fair proceedings before an independent and impartial tribunal; as well as the right to the freedoms of expression and association. These rights are protected by articles 9, 10, 14, 18, 19 and 21 of the ICCPR.

Article 9 (1) of the ICCPR establishes that no one shall be deprived of his liberty except on such grounds and in accordance with such procedure as established by law. Article 9 (2) and (3), anyone who is arrested shall be promptly informed of the reasons for such arrest and be brought promptly before a judge for the purpose of legal assessment and challenge of the detention. Article 14 (3) stipulates that, in the determination of any criminal charge, everyone should have adequate time and means to communicate freely with a counsel of choice and to effectively prepare its defense. The right to have access to a lawyer without delay and in full confidentiality is also enshrined in the Basic Principles on the Role of Lawyers (Principles 7 and 8). We would like to refer your Excellency's Government to the [Basic Principles and Guidelines on remedies and procedures on the right of anyone deprived of their liberty to bring proceedings before a court \(A/HRC/30/37\)](#). These principles and guidelines, elaborated by the Working Group on Arbitrary Detention at the request of State-members of the Human Rights Council, provide universal guidance applicable to persons deprived of their liberty.

We would also like to refer your Excellency's Government to the absolute and non-derogable prohibition of torture and other ill-treatment as codified in article 7 of the ICCPR and articles 2 and 16 of the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (CAT), which Egypt acceded to on 25 June 1986.

Similarly, we would like to stress the call made by the Human Rights Council in Resolution 7/12 for States to ensure the protection of human rights defenders acting against enforced disappearances

As stressed in earlier communications, we refer to article 13 (3) and (5) of the Declaration on the Protection of all Persons from Enforced Disappearance, which states that "Steps shall be taken to ensure that all involved in the investigation, including the complainant, counsel, witnesses and those conducting the investigation, are protected against ill-treatment, intimidation or reprisal"; and that "Steps shall be taken to ensure that any ill-treatment, intimidation or reprisal or any other form of interference on the occasion of the lodging of a complaint or during the investigation procedure is appropriately punished".

The same Declaration proclaims that no State shall practice, permit or tolerate enforced disappearance (article 2); the obligation to take effective legislative, administrative, judicial or other measures to prevent and terminate acts of enforced disappearance (article 3); that no order or instruction of any public authority, civilian, military or other, may be invoked to justify an enforced disappearance (article 6); that no circumstances whatsoever, whether a threat of war, a state of war, internal political instability or any other public emergency, may be invoked to justify enforced disappearances (article 7); the right to be held in an officially recognized place of detention, in conformity with national law and to be brought before a judicial authority promptly after detention and the obligation to make available accurate information on the detention of persons and their place of detention to their family, counsel or other persons with a legitimate interest (article 10); and the obligation to maintain in every place of detention an official up-to-date register of detained persons (article 12).

Last, we are referring 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, 9 (4) and 12.

The full texts of the human rights instruments and standards recalled above are available on [www.ohchr.org](http://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 the above-mentioned person in compliance with international instruments.

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 regards:

1. Please provide any additional information and any comment you may have on the above-mentioned allegations.
2. Please explain how the factual and legal grounds for the arrest and detention of Mr. Metwally are compatible with Egypt international human rights obligations under the ICCPR. In particular, please provide the details the charges against Mr. Metwally, and the related evidence upon which they are based.
3. Please indicate whether the OHCHR letter confirming the meeting with the WGEID to facilitate Mr. Metwally application for a visa was attached to

the criminal file as a piece of evidence. If yes, please clarify the reasons for this.

4. Please describe the conditions under which Mr. Metwally has been given access to his legal counsel in order to prepare his defence, and how these conditions are in accordance with the right to fair trial as provided for in the ICCPR.
5. Please explain the reasons why Mr. Metwally has been denied the right to receive family visits since his arrest.
6. Please provide the details, and where available the results, of any investigation in particular ordered in connection with the allegations that Mr. Metwally was tortured during the first two days of deprivation of liberty when his whereabouts were unknown. If no inquiries have taken place into these allegations, or if they have been inconclusive, please explain why.
7. Please provide information on the measures taken to ensure that Mr. Metwally is protected against any abuse of power while in detention, including torture or any other form of cruel, inhumane or degrading treatment.
8. 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, threats or acts of intimidation and harassment of any sort directed against them, their family members and those associated to them.

While awaiting a reply, we urge that all necessary interim measures be taken to protect Mr. Metwally against any violation of his rights and in the event that the investigations underway support or suggest these allegations to be correct, to ensure the accountability of any person found responsible.

We would like to inform your Excellency's Government that after having transmitted an urgent appeal to the Government, the Working Group on Arbitrary Detention may transmit the case through its regular procedure in order to render an opinion on whether the deprivation of liberty was arbitrary or not. Such urgent appeals in no way prejudice any opinion the Working Group may render. The Government is required to respond separately for the urgent appeal procedure and the regular procedure.

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.

Elina Steinerte  
Chair-Rapporteur of the Working Group on Arbitrary Detention

Bernard Duhaime  
Chair-Rapporteur of the Working Group on Enforced or Involuntary Disappearances

David Kaye  
Special Rapporteur on the promotion and protection of the right to freedom of opinion  
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Annalisa Ciampi  
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