

**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; the Special Rapporteur on the situation of human rights defenders; the Special Rapporteur on the rights of indigenous peoples; the Special Rapporteur on minority issues; and the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance**

REFERENCE:  
AL EGY 19/2017

11 December 2017

Excellency,

We have the honour to address you in our capacities as 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; Special Rapporteur on the situation of human rights defenders; Special Rapporteur on the rights of indigenous peoples; Special Rapporteur on minority issues; and Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance, pursuant to Human Rights Council resolutions 33/30, 34/18, 33/9, 34/5, 33/12, 34/6 and 34/35.

In this connection, we would like to bring to the attention of your Excellency's Government information we have received concerning alleged arrests and detentions of at least 24 Nubian protesters, including Mr. **Mohammed Azmy Mohammed Ahmed**, Mr. **Maysara Abdelaziz Mohammed Ali** as well as Mr. **Gamal Sorour** who died in Shalal Central Security Camp, south of Aswan, on 5 November 2017 due to the denial of appropriate and sufficient medical treatment.

Mr. **Mohammed Azmy Mohammed Ahmed** is the former leader of the Nubian General Union and currently the Executive Director of the Border Center for Support and Consulting – a human rights organization working for the rights of the Nubian peoples.

Mr. **Maysara Abdelaziz Mohammed Ali** is a Nubian human rights defender and the Director of the monitoring and documentation unit of the Border Center for Support and Consulting.

Mr. **Gamal Sorour** was a Nubian human rights defender who worked to protect and promote the human rights of the Nubian peoples from land expropriation, forced displacement, cultural marginalization and racial discrimination.

According to the information received:

On 3 September 2017, Mr. Azmy Mohammed Ahmed, Mr. Abdelaziz Mohammed Ali and Mr. Sorour were arrested along with 21 other persons, north of the city of Aswan, while participating in a peaceful march demanding the Nubian peoples'

right of return to their lands from which they had been displaced in the 1960s. The participants reportedly sang traditional songs to mark Eid al-Adha and called for the “right to return” as guaranteed by Article 236 of the Egyptian Constitution, which inter alia reads “The State works on developing and implementing projects to bring back the residents of Nubia to their original areas and develop them within 10 years in the manner organized by law.” The demonstration was scheduled to take place in the centre of Aswan but was relocated to the square of Midan Al-Guzzayra. At Midan Al-Guzzayra, the demonstrators were reportedly met by eight security vehicles and two military tanks. Armed police allegedly physically assaulted protesters and arrested 24 participants, who were then detained at Aswan Central Security Camp in Shalal and charged with inciting protest, disruption of public order, and participating in an unauthorized demonstration.

Mr. Mohammed Azmy Mohammed Ahmed and Mr. Maysara Abdelaziz Mohammed Ali were interrogated on 4 September 2017 without the presence of a lawyer. Lawyers were only able to have access to their defendants as of 6 September 2017. Allegedly, the detention security personnel were present during consultations and the lawyers could only talk to their defendants through a fenced window. In addition, lawyers need to be issued a permit in order to meet with their defendants.

In early October 2017, seven other Nubian human rights defenders were allegedly arrested outside the Shalal Central Security Camp as they peacefully protested for the release of the other detainees.

On 5 November 2017, Mr. Sorour died while in detention, allegedly due to the refusal of the prison authorities to provide him with necessary diabetes medication over the five days preceding his death. The prison authorities claimed that the medication was delayed because its label was in French and required translation in Arabic. Despite the recommendation by Mr. Sorour’s French doctor that his patient needed four doses of insulin daily, the prison doctor decided that Mr. Sorour did not need more than two doses daily. In addition, the doses were allegedly not administered daily. The prison authorities allegedly began withholding medication from prisoners when several of them went on hunger strike in protest against their detention.

The arrested participants of the peaceful march have been kept in detention for more than two months despite the initial decision by the Head of Public Prosecutions and the Secretary of Investigation of Aswan of 5 September 2017, to keep them in detention for only four days.

On 15 November 2017, the Aswan Misdemeanour State Security Emergency Court ordered the release of Mr. Azmy Mohammed Ahmed, Mr. Abdelaziz Mohammed Ali and a number of other Nubian rights defenders, pending trial.

Their trial is scheduled to take place on 12 December 2017. Mr. Azmy Mohammed Ahmed and Mr. Abdelaziz Mohammed Ali face charges on incitement to protest, protesting without a license, carrying leaflets, disrupting public security, blocking traffic and acquiring illegal foreign funds, including under article 167 of the Penal Code and article 11 of the Law 107/2013.

There has been no reported investigation of the Nubian protest case by the authorities since the day of the arrests. It is reported that, following a decision by the Public Prosecutor's Office, the defendants' case has been referred to the Emergency State Security Court of Misdemeanours. Allegedly, since the second three-month extension of the state of emergency by presidential decision No. 510, a number of criminal cases have been directly referred to this emergency judicial body, such as cases of terrorism, disruption of public order, sabotage and cases regarding protests and demonstrations. It is also reported that the decisions of the Emergency State Security Court of Misdemeanours cannot be legally challenged and/or appealed and that they are confirmed by the President.

While we do not wish to prejudge the accuracy of the information made available to us, we would like to express our grave concern at allegations that Mr. Sorour's death occurred as a result of the prison authorities' refusal over a period of five days to provide him with necessary diabetes medication, thereby violating the human rights defender's rights to adequate medical care and to life. Particular concern is expressed at the allegations that the refusal to provide Mr. Sorour with his medication was in retaliation at his peaceful and legitimate human rights activities and more specifically, in retaliation at the hunger strike, which was reportedly started by several detainees.

Concern is also expressed that Mr. Sorour's arrest and subsequent death in detention was the result of intersecting forms of discrimination based on his ethnic identity as well as his work as a defender of the human rights of the Nubian peoples.

We would like to also express our serious concerns at the arrest, the detention, including prolonged pre-trial detention, of members of the Nubian minority, including of Mr. Mohammed Azmy Mohammed Ahmed and Mr. Maysara Abdelaziz Mohammed. In addition, we are concerned about the total absence of due process and the blatant violation of the presumption of innocence of the defendants. In particular, it is of great concern that the initial interrogation took place without the presence of lawyers and that private consultations between the defendants and their lawyers were not allowed.

In this context, serious concern is expressed at allegations that Egyptian forces exercised unwarranted and disproportionate use of force against the persons who participated in the peaceful demonstration of 3 September 2017. We express equal concern at the criminalization of freedom of expression, freedom of association, including advocacy for the rights of minorities.

We express our general concern related to the fact that the excessive use of force against Mr. Mohammed Azmy Mohammed Ahmed, Mr. Maysara Abdelaziz Mohammed,

Mr. Sorour and a number of other persons peacefully exercising their rights to freedom of expression and freedom of assembly, their subsequent arrest and Mr. Sorour's death, allegedly as a result of denial of medical care, could produce a chilling effect on the activities of human rights defenders who are advocating for the promotion of protection of human rights in Egypt, including those working in the protection and promotion of human rights of the Nubian peoples and ethnic minorities.

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 and labour rights instruments and standards relevant to these allegations.

As it is our responsibility under the mandate 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 detailed information about the measures taken to ensure access to adequate healthcare in the Shalal Central Security Camp in Aswan, without discrimination on any grounds, including access to timely and specialized medical treatment for chronic conditions. Please also provide details as to why the prison authorities withheld Mr. Sorour's diabetes medication for a period of five days with the understanding that issues related to translation of the medication's label should not have caused such a significant delay for a life-threatening condition.
2. Please provide the details and where available the results of any investigation and/or inquiry on the protests and the arrests of members of the Nubian minority as well as on the circumstances of Mr. Sorour's death. If no inquiries have taken place, or if they have been inconclusive, please explain why this is the case.
3. Please explain the legal basis according to which Egyptian police deemed it proportionate to use force against persons participating in a peaceful demonstration on 3 September 2017. Please provide information about the directives issued by the Government to law-enforcement personnel concerning the precise circumstances in which the use of force is authorized, and indicate how these directives comply with the international human rights obligations of Egypt under the ICCPR, as well as with the requirements of the Basic Principles on the Use of Force and Firearms by Law Enforcement Officials.
4. Please provide information on the legal grounds for the arrest and detention of the participants of the peaceful demonstration of 3 September 2017 and how these measures are in compliance with Egypt's obligations under international human rights law.

5. Please explain the legal basis for the charges of inciting protest, disruption of public order, and participating in an unauthorized demonstration which were brought against the participants of the peaceful protest of 3 September 2017. Please indicate whether the detainees were granted prompt access to legal counsel of their choosing and how long after their arrest this occurred.
6. Please provide information on the measures undertaken to ensure the respect of due process guarantees, and in particular in the context of the state of emergency, as well as measures undertaken to guarantee the protection of the principles of equality before the law and the presumption of innocence.
7. Please provide information on the measures undertaken to ensure that the imposed state of emergency does not infringe upon the State's international human rights obligations pertaining to personal security, freedom of expression and freedom of association and peaceful assembly, as well as obligations regarding the respect and promotion of the rights of persons belonging to minorities/indigenous peoples.
8. Please provide information on concrete measures undertaken to fulfil the commitments of Article 236 of 2014 Egyptian Constitution regarding the return of Nubians to their historical lands.

We would appreciate receiving a response within 60 days. 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(s) responsible for the alleged violations.

We would like to inform your Excellency's Government that after having transmitted an allegation letter 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 letters in no way prejudice any opinion the Working Group may render. The Government is required to respond separately to the allegation letter and the regular procedure.

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

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

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

Dainius Pūras  
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Fernand de Varennes  
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E. Tendayi Achiume  
Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia  
and related intolerance

## **Annex**

### **Reference to international human rights law**

In connection with above alleged facts and concerns, we would like to draw your attention to the following human rights standards:

The above alleged facts indicate a prima facie violation of the inherent right to life, as set forth in article 6(1) of the International Covenant on Civil and Political Rights (ICCPR), which was ratified by Egypt on 14 January 1982. Furthermore, we would like to draw your Excellency's government's attention to article 9 of the ICCPR, which states that everyone has the right to liberty and security of the person and that no one shall be subject to arbitrary arrest or detention, except on grounds established by law and following legal procedures. Paragraph 4 of the same article states that anyone deprived of his liberty is entitled to bring proceedings quickly before a court, for it to determine the legality of such detention or to order the release of the person concerned without delay. In addition we would like to draw to the attention to articles 10 and 14 of the ICCPR, which state that all persons deprived of their liberty shall be treated with humanity and with respect for the inherent dignity of the human person and that everyone charged with a criminal offence shall be able to communicate with counsel of his or her own choosing.

We would also like to refer your Excellency's Government to articles 19 and 21 of the ICCPR, guaranteeing the rights to freedom of expression and freedom of peaceful assembly. Article 21 states that the right of peaceful assembly should be recognized, and that 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, the protection of public health or morals or the protection of the rights and freedoms of others. Additionally, under the provisions of article 22, everyone shall have the right to freedom of association with others. The Human Rights Committee has established in its General Comment N° 35, article 9 (Liberty and security of person) (CCPR/C/GC/35), that an arrest or detention as punishment for the legitimate exercise of the rights as guaranteed by the Covenant is arbitrary, including freedom of opinion, expression, assembly and association.

We would also like to refer to Human Rights Council resolution 24/5 (operative paragraph 2), in which the Council "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."

Recognizing that the individuals affected are members of an ethnic and linguistic minority, who may also self-identify as indigenous peoples, in Egypt, we would like to bring to your Excellency's Government's attention the international standards regarding

the protection of the rights of persons belonging to minorities, in particular article 27 of the ICCPR and the 1992 Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities, which refers to the obligation of States to protect the existence and the identity of minorities within their territories and to adopt the measures to that end (article 1) as well as to adopt the required measures to ensure that persons belonging to minorities can exercise their human rights without discrimination (article 4). We also wish to draw your attention to the United Nations Declaration on the Rights of Indigenous Peoples, adopted by the General Assembly in 2007 with the affirmative vote of Egypt.

Allegations are also in contravention of article 12 of the International Covenant on Economic, Social and Cultural Rights, which Egypt acceded on 14 January 1982. Article 12 establishes the right to the highest attainable standard of physical and mental health and in this context, General Comment 14 of the Committee on Economic, Social and Cultural Rights, indicates that States are under the obligation to respect the right to health by, inter alia, refraining from denying or limiting equal access for all persons, including prisoners or detainees to preventive, curative and palliative health services.

We would also like to remind your Excellency's Government of its obligations under the International Convention on the Elimination of All Forms of Racial Discrimination (CERD), acceded to by Egypt on 1 May 1967. In particular, we recall the prohibition of racial discrimination as enshrined in articles 1, 2 and 5 of the Convention. Article 2 (1) obliges States to eliminate any act or practice of racial discrimination against any person and/or group and to ensure that all public authorities comply with this obligation. Article 5(b) requires States Parties to guarantee the right of everyone, without distinction as to race, colour, or national or ethnic origin, to equality before the law. This includes the right to personal security and protection against violence or bodily harm; the right to medical care; and the right to freedom of peaceful assembly and association. In this context, the Durban Declaration and Programme of Action (2001) urges States to ensure anti-racist human rights training for public officials, including for personnel in the administration of justice, correctional services and healthcare (para. 133).

Moreover, we would like to recall General Recommendation No 31 of the Committee on the Elimination of Racial Discrimination on the prevention of racial discrimination in the administration and functioning of the criminal justice system. In this recommendation, the Committee urges States to guarantee to all detained persons, whatever the racial, national or ethnic group to which they belong, the rights to which they are entitled under relevant international human rights instruments (paras. 23 and 26). The Committee also urges States to ensure that the use of force by law enforcement officials complies with the general principles of proportionality and strict necessity (para. 22). In this connection, General Recommendation No. 13 on the training of law enforcement officials stresses that national law enforcement officers should be properly informed of, and trained on, their State's obligations under CERD as well as the Code of Conduct for Law Enforcement Officers (General Assembly Resolution 34/169, annex).



We also wish to bring to the attention of your Excellency's Government the Basic Principles for the Treatment of Prisoners, adopted and proclaimed by General Assembly resolution 45/111, according to which "Prisoners shall have access to the health services available in the country without discrimination on the grounds of their legal situation" (Principle 9). Furthermore, the Standard Minimum Rules for the Treatment of Prisoners, the Nelson Mandela Rules, particularly Rules 25 and 27 (A/RES/70/175) state that "Every prison shall have in place a health-care service (...) paying particular attention to prisoners with special health-care needs..." and that "The health-care service shall consist of an interdisciplinary team with sufficient qualified personnel acting in full clinical independence..." In addition, "All prisons shall ensure prompt access to medical attention in urgent cases" and "Prisoners who require specialized treatment or surgery shall be transferred to specialized institutions or to civil hospitals. Where a prison service has its own hospital facilities, they shall be adequately staffed and equipped to provide prisoners referred to them with appropriate treatment and care.

We would also 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, also known as the UN Declaration on Human Rights Defenders. In particular, we would like to refer to articles 1 and 2 of the Declaration which state that everyone has the right 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.

Furthermore, we would like to bring to the attention of your Excellency's Government the following provisions of the aforementioned Declaration:

- article 5 point a) everyone has the right, individually and in association with others, at the national and international levels to meet or assemble peacefully;
- article 6 point a), which provides for the right to know, seek, obtain, receive and hold information about all human rights and fundamental freedoms;
- article 9 (5), which says that the State shall conduct a prompt and impartial investigation whenever there is reasonable ground to believe that a violation of human rights has occurred;
- article 12 (1), which states that everyone has the right to participate in peaceful activities against violations of human rights and fundamental freedoms.

We would also like to refer your Excellency's government to the report of the former Special Representative of the Secretary-General on the situation of human rights defenders to the General Assembly in 2006 (A/61/312), where the Special Representative urges States to ensure that law enforcement officials are trained in and aware of international human rights standards and international standards for the policing of peaceful assemblies and to investigate allegations of indiscriminate and/or excessive use of force by law enforcement officials.