

Mandates of the Working Group on Arbitrary Detention and the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression

REFERENCE:
UA EGY 1/2018

5 January 2018

Excellency,

We have the honour to address you in our capacity as Working Group on Arbitrary Detention and Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, pursuant to Human Rights Council resolutions 33/30 and 34/18.

In this connection, we would like to bring to the attention of your Excellency's Government information we have received concerning the continued detention of photojournalist Mahmoud Abou Zeid and journalist Mahmud Hussein in Egypt.

Concerns about the arrest and conviction of several journalists covering the protests in Rab'a Al-Adawiya Square in 2013, were raised in a joint communication by Special Procedures sent on 7 June 2017 (EGY 7/2017). We regret that we have not received any response to this communication from your Excellency's Government.

According to the information received:

Case of Mr. Mahmoud Abou Zeid (Shawkan)

Mahmoud Abou Zeid, known as "Shawkan", is a photojournalist. He has contributed to the UK based citizen journalism site Demotix, and the digital media company Corbis. In 2016, the Committee to Protect Journalists awarded him the International Press Freedom Award.

Mr. Mahmoud Abou Zeid was arrested on 14 August 2013, while covering clashes between Egyptian security forces and supporters of ousted President Mohamed Morsi during the dispersal of the pro-Morsi sit-in in Rab'a Al-Adawiya Square in Cairo. He remains in detention to date.

Mr. Abou Zeid has been charged with, amongst others, weapons possession, illegal assembly, murder, and attempted murder. He has denied all of the charges.

The Egyptian criminal code stipulates a two-year maximum for individuals jailed without a trial. In September 2015, Mr. Abou Zeid's case was finally referred to court, but the trial has repeatedly been delayed.

Mr. Abou Zeid is being held in Tora Prison in Cairo. His health has reportedly deteriorated in prison and he has been diagnosed with Hepatitis C. He has reportedly been denied treatment.

The Working Group on Arbitrary Detention has previously issued an Opinion (41/2016) on the deprivation of liberty of M. Abou Zeid and found it to be arbitrary. Specifically, the Working Group found that “[t]he arrest and deprivation of liberty of Mahmoud Abdel Shakour Abou Zeid Attitallah, being in violation of articles 9 and 10 of the Universal Declaration of Human Rights and of articles 9 and 14 of the International Covenant on Civil and Political Rights, is arbitrary and falls within category II of the arbitrary detention categories referred to by the Working Group when considering cases submitted to it”. The Working Group recommended to “immediately release” him and to accord him an enforceable right to reparation.

Case of Mr. Mamoud Hussein

Mr. Mahmoud Hussein is a news producer for Al-Jazeera Arabic. He is an Egyptian national residing in Qatar.

On 20 December 2016, while on vacation in Egypt, security officers arrested Mr. Mahmoud Hussein. He was charged with disturbing public security and spreading false news. The Ministry of Interior said in a statement that it had arrested Mr. Hussein for provoking sedition on behalf of Al-Jazeera which the authorities consider a mouthpiece of the Muslim Brotherhood. The authorities have reportedly identified Mr. Hussein as the person implementing the plan of sedition on behalf of Al-Jazeera.

Mr. Hussein was held in solitary confinement until 20 March 2017. His health has deteriorated during his detention. On 13 June 2017, while in prison, he fractured his elbow. He has reportedly not received proper medical attention.

On 14 December 2017, Mr. Hussein’s detention was renewed for the 10th time.

The Working Group on Arbitrary Detention has in its Opinion 83/2017 found that the deprivation of liberty of Mr. Hussein, is in contravention of articles 2, 3, 5, 6, 7, 9, 10, 11, 12, 13, 19, and 20 of the Universal Declaration of Human Rights and of articles 2, 7, 9, 10, 12, 14, 16, 17, 19, 20 and 26 of the International Covenant on Civil and Political Rights, is arbitrary and falls within categories I, II, III and V. The Working Group considered that the appropriate remedy would be to

release Mr. Hussein immediately and accord him and his family an enforceable right to compensation and other reparations.

We express concern at the arrest and the continued detention of Mr. Hussein and Mr. Abou Zeid, which represent a criminalization of the exercise of the right to freedom of expression in the course of their profession as journalists. We reiterate our concerns at the deteriorating space for media workers in Egypt and at the chilling effect of such arrests and detentions for freedom of expression and access to information in the country.

While we do not want to prejudge the accuracy of these allegations, they appear to violate the right to liberty and security of person, which includes the right not to be subject to arbitrary arrest or detention and to fair proceedings before an independent and impartial tribunal, as well as the right to freedom of expression, guaranteed under articles 9,14 and 19 of the International Covenant on Civil and Political Rights (ICCPR), ratified by Egypt on 14 January 1982. Any limitation to the right to freedom of expression must meet the criteria established by international human rights standards, such as article 4 and 19 (3). Under these standards, limitations must be determined by law and must conform to the strict test of necessity and proportionality must be applied only for those purposes for which they were prescribed and must be directly related to the specific need on which they are predicated.

We wish to reiterate as well the principle enunciated in Human Rights Council Resolution 12/16, which calls on States to refrain from imposing restrictions which are not consistent with article 19(3), including on discussion of government policies and political debate; reporting on human rights, engaging in peaceful demonstrations or political activities, including for peace or democracy; and expression of opinion and dissent, religion or belief, including by persons belonging to minorities or vulnerable groups.

The full texts of the human rights instruments and standards recalled above are available on 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 persons 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 therefore be grateful for your observations on the following matters:

1. Please provide any additional information you may have on the above allegations.

2. Please provide information about the charges brought against Mr. Abou Zeid and Mr. Hussein, as well as the factual and legal basis for the continued detention and explain how their detention is compatible with Egypt obligations under the ICCPR.
3. Please provide information on the grounds justifying the continued detention of these two persons, in spite of the recommendations of the Working Group of Arbitrary Detention in the two Opinions referred to above;
4. Please provide information about the allegation that Mr. Abou Zeid and Mr. Hussein have not received medical attention while in detention.

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 responsible of the alleged violations.

We intend to publicly express our concerns in the near future as, in our view, the information upon which they are based is sufficiently reliable to indicate a matter warranting immediate attention. We also believe that the Government has had ample time to consider the implications for its human rights obligations of these cases and that the wider public should be alerted about them. Any public statement on our part will indicate that we have been in contact with your Excellency's Government's to seek clarification about the issue/s in question.

Your Excellency's Government's response will be made available in a report to be presented to the Human Rights Council for its consideration.

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 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.

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

