

**Mandates of the Working Group on Arbitrary Detention; the Special Rapporteur on extrajudicial, summary or arbitrary executions; the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression; and the Special Rapporteur on the situation of human rights defenders**

REFERENCE:  
UA EGY 5/2018

12 March 2018

Excellency,

We have the honour to address you in our capacity as Working Group on Arbitrary Detention; Special Rapporteur on extrajudicial, summary or arbitrary executions; Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression; and Special Rapporteur on the situation of human rights defenders, pursuant to Human Rights Council resolutions 33/30, 35/15, 34/18 and 34/5.

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 the prosecutor's decision to seek the death sentence against him.**

Mr. 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. Mr. 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. Mr. Abou Zeid has been charged with, among others, weapon possession, illegal assembly, murder and attempted murder. He has denied all charges. To date, he remains in detention in Tora prison.

The Working Group on Arbitrary Detention has previously issued an Opinion (41/2016) on the deprivation of liberty of Mr. Abou Zeid and found it to be arbitrary.

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). Similarly, concerns about the continued detention of Mr. Mahmoud Abou Zeid were also raised in a joint communication sent on 5 January 2018 (EGY 1/2018).

According to the new information received:

Between his arrest in 2013 and October 2017, Mr. Abou Zeid has had 64 court hearings. Since then, he attended more trial sessions, the last of which was on

3 March 2018, where the Prosecutor issued a decision to seek the death sentence against him.

We express grave concern at the continued detention of Mr. Abou Zeid and most recently, at the prosecutor's decision to seek the death sentence against him, which constitute a criminalization of the exercise of the right to freedom of expression as a photojournalist. We are dismayed that covering protests in the course of a journalistic activity can reportedly lead to years of pre-trial detention and even to the death sentence following a trial which does not meet fair trial and due process guarantees. Given this, any death sentence implemented against him would constitute an arbitrary execution under international law. Mr. Abou Zeid's detention itself is a disproportionate restriction on his freedom of expression and the pursuit or implementation of a capital sentence against him would be an outrageous and blatantly unlawful use of criminal law against a journalist. Finally, we once again reiterate our serious concerns at the deteriorating space for journalist and other media workers in Egypt.

While we do not want to prejudge the accuracy of these allegations, they appear to violate the right to life, 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 6, 9, 14 and 19 of the International Covenant on Civil and Political Rights (ICCPR), ratified by Egypt on 14 January 1982.

We would like to remind your Excellency's government of article 6(2) of the ICCPR which provides that countries which have not abolished the death penalty may only impose it for the most serious crimes. This provision has consistently been interpreted by the Human Rights Committee to mean that the death sentence may only be imposed in respect of intentional killing. Moreover, article 5 of the United Nations Safeguards Protecting the Rights of those Facing the Death Penalty provides that capital punishment may only be carried out following a legal process which gives all possible safeguards to ensure a fair trial. Only full respect for stringent due process guarantees distinguishes capital punishment from an arbitrary execution.

As regard to the right to freedom of expression, any limitation to its exercise 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, 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 once again 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.

We would also like to refer to the report of the former Special Representative of the Secretary-General on the situation of human rights defenders to the General Assembly in 2007 (A/62/225, paras. 91 and 93), which underlines the importance of human rights monitors during demonstrations in providing an impartial and objective account of what takes place and in deterring human rights violations.

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 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 be grateful for your observations on the following matters:

1. Please provide any additional information and any comment you may have on the above-mentioned allegations.
2. As requested previously, please provide information on the grounds justifying the continued detention of Mr. Abou Zeid, in spite of the recommendations of the Working Group of Arbitrary Detention referred to above.
3. Please provide information about the charges brought against Mr. Abou Zeid and explain how his detention and request for death sentence is compatible with Egypt obligations under the ICCPR.

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.

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

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

Agnes Callamard  
Special Rapporteur on extrajudicial, summary or arbitrary executions

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

Michel Forst  
Special Rapporteur on the situation of human rights defenders