

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 rights to freedom of peaceful assembly and of association; the Special Rapporteur on the situation of human rights defenders; the Special Rapporteur on violence against women, its causes and consequences; and the Working Group on the issue of discrimination against women in law and in practice

REFERENCE:
UA EGY 9/2018

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Excellency,

We have the honour to address you in our capacity 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 rights to freedom of peaceful assembly and of association; Special Rapporteur on the situation of human rights defenders; Special Rapporteur on violence against women, its causes and consequences; and Working Group on the issue of discrimination against women in law and in practice, pursuant to Human Rights Council resolutions 33/30, 34/18, 32/32, 34/5, 32/19 and 32/4.

In this connection, we would like to bring to the attention of your Excellency's Government information we have received concerning the recent arrest and continuous harassment of a woman human rights defender, Ms. **Amal Fathy**.

Ms. Amal Fathy is a prominent women's human rights defender and a former member of the April 6 Youth Movement. She is a member of the Egyptian Commission for Rights and Freedoms (ECRF), which campaigns against the use of torture, enforced disappearance and extrajudicial killings and provides legal assistance to prisoners of conscience and political detainees. Ms. Fathy's husband, Mr. Mohamed Lotfy, is the founder and Executive Director of ECRF. A travel ban against Mr. Lotfy and the denial of NGO registration to the ECRF were the subject of a previous communication (EGY 10/2015) sent to your Excellency's Government by several Special Procedures mandate holders. We regret that the reply received from Your Excellency's Government did not substantively address the travel ban against Mr. Lotfy or the reasons for denying registration to the ECRF.

According to the information received:

On 9 May 2018, Ms. Fathy posted a 12-minute video on Facebook. The video highlighted the prevalence of sexual harassment against women in Egypt and criticized the Government for lack of action around this issue. It mentioned that on that day Ms. Fathy had personally experienced two instances of sexual

harassment, once by a taxi driver and the other by the security officer of a state-run bank.

On 11 May 2018, officers of the National Security Agency and the Special Forces raided Ms. Fathy and Mr. Lotfy's apartment in Maadi, arrested Ms. Fathy and Mr. Lotfy, and detained them, together with their 3 year-old child, at the Maadi Police Station. After several hours Mr. Lotfy and the child were released, but Ms. Fathy continued to be held in detention. She was interrogated and eventually the Maadi General Prosecutor ordered her preventive detention for 15 days pending investigation of charges of "advocating the overthrow of the ruling government in Egypt", "spreading false news on Facebook", and "misusing social media".

On 13 May 2018, the State Security Prosecution questioned Ms. Fathy and subsequently ordered her preventive detention for a further 15 days during investigation of charges of "joining a terrorist group and using the internet to call for terrorist acts" and "spreading false news and rumours to disrupt public security and harm national interests." She was then transferred to Qanater women's prison.

On 24 May 2018, the Maadi General Prosecutor ordered a further 15 days of preventive detention for the charges detailed above.

The orders of the General Prosecution and the State Security Prosecution are cumulative, thus Ms. Fathy has been ordered to be held for a total of 45 days while the charges against her are investigated. The information received indicates that Ms. Fathy suffers from serious health conditions.

We wish to express serious concern at the arrest, the investigation and the continued detention of Ms. Amal Fathy, which appear to be motivated by her work as a women human rights defender and her legitimate human rights activities. We express concern that the charges against Ms. Fathy are not compatible with Egypt's obligations under international human rights law. We would also like to express our grave concern at the arrest and detention of the child of Ms. Fathy and Mr. Lotfy.

We also express concerns about the broader negative implications of these actions on the independent Egyptian human rights movement and reiterate our deep concern at the increasing and continuing harassment and targeting of human rights defenders, including women human rights defenders, and human rights NGOs in Egypt, through repressive measures.

While we do not wish to prejudge the accuracy of these allegations, we would like to draw the attention of your Excellency's Government to the relevant international

norms and standards that are applicable to the issues brought forth by the situation described above.

The arrest, detention and investigation against Ms. Fathy, which appear to be in breach of article 14 (c) of the International Covenant on Civil and Political Rights (ICCPR) on the right to be tried without undue delay, would also lead to violations of Ms. Fathy's rights to freedoms of opinion, expression, peaceful assembly, association and movement, as well as her right to freely participate without discrimination based on sex, in the public and political life in her country. The investigation against Ms. Fathy also seems to be in contradiction with the presumption of innocence provided in article 14 of the ICCPR.

Therefore, we would like to refer your Excellency's Government to the fundamental principles as set forth in articles 19, 21 and 22 of the ICCPR, which state that all State Parties shall take all necessary steps to secure the rights to freedom of opinion, expression, peaceful assembly and association. While national security is a legitimate basis for restricting the right to freedom of expression under article 19(3) of the ICCPR, it is not enough to simply claim it as a justification to pursue illegitimate purposes such as silencing critical voices. The state has to demonstrate that it is necessary to do so to achieve a legitimate objective. We reiterate the statement by the Human Rights Committee in General Comment 34 that article 19(3) may never be invoked as a justification for the muzzling of any advocacy of human rights (CCPR/C/G/34).

We would also like to draw your attention to Article 12 of the International Covenant on Economic, Social and Cultural Rights, ratified by Egypt on 4 August 1967, which guarantees the right of everyone to the enjoyment of the highest attainable standard of physical and mental health, including the provision of medical service and medical attention to all, including those held in detention facilities. Further, Article 7 of the ICCPR requires that no one be subjected to torture or to cruel, inhuman or degrading treatment or punishment. Refusal of prompt and regular access to necessary medical treatment can constitute a violation of this right.

We would like to recall that article 7 of the Convention on the Elimination of all Forms of Discrimination against Women, ratified by Egypt on 18 September 1981, stipulates that States Parties shall take all appropriate measures to elimination discrimination against women in the political and public life of the country and shall ensure women's equal right to participate in non-governmental organization and associations concerned with the public and political life of the country.

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. Articles 1, 2 and 12, paragraphs 2 and 3, of the Declaration are particularly relevant in this case.

In addition General Assembly resolution 68/181 and Human Rights Council resolution 31/32 expressed particular concern about systemic and structural discrimination and violence faced by women human rights defenders (OP5, 19 and 20).

Finally, we would like to recall to Your Excellency's Government Article 37(b) of the Convention on the Rights of the Child, ratified by Egypt on 6 July 1990, which states that: "no child shall be deprived of his or her liberty unlawfully or arbitrarily"

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 Ms. Fathy in compliance with international human rights 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. Please provide detailed information on the investigation and legal proceedings against Ms. Fathy, including the preliminary charges brought against her and the legal grounds for her arrest.
3. Please explain how her human rights activities and the exercise of her profession would amount to "advocating the overthrow of the Egyptian government" or "disrupting national security and harming national interests". Please provide information about the evidence supporting this preliminary charge brought against Ms. Fathy.
4. Please provide details regarding the conditions of Ms. Fathy's detention, especially evidence that her health has not deteriorated and an accounting of the steps that are being taken to ensure that she has adequate to adequate medical care and treatment in accordance with her right to health.
5. Please provide information on measures taken to bring the above-mentioned criminal provisions in this case into line with Egypt's obligations under international human rights law.

6. Please indicate what measures have been taken to ensure that human rights defenders in Egypt, including women human rights defenders, are able to carry out their legitimate work in a safe and enabling environment without fear of threats or acts of intimidation and harassment of any sort.

While waiting for your response, we urge your Excellency's Government to halt the alleged violations and take all necessary measures to guarantee the rights and freedoms of Ms. Fathy. In the event that your investigations support or suggest the above allegations to be correct, we request that your Excellency's Government adopt effective measures to prevent the recurrence of these acts.

We intend to publicly express our concerns in the near future as, in our view, the information upon which the press release will be based is sufficiently reliable to indicate a matter warranting immediate attention. We also believe that the wider public should be alerted to the potential implications of the above-mentioned allegations. The press release will indicate that we have been in contact with your Excellency's Government's to clarify the issues 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

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and expression

Clement Nyaletsossi Voule
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