

**Mandates of the Working Group on Arbitrary Detention; the Special Rapporteur in the field of cultural rights; and the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression**

REFERENCE:  
UA EGY 3/2019

7 March 2019

Excellency,

We have the honour to address you in our capacity as Working Group on Arbitrary Detention; Special Rapporteur in the field of cultural rights; 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, 37/12 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 and health deterioration of poet **Galal el Behairy**.

Mr. El Behairy is the author of books *Chairs Factory (Masna'a El Karasy)*, published in 2015, and *Colorful Prison (Segn Bel Alwan)*, published in 2017. He has also written a number of song lyrics.

We refer to the joint urgent appeal referenced 7/2018 sent to your Excellency's Government on 9 May 2018 and we thank the Government of your Excellency for its response on 26 October 2018, yet some concern remain.

According to information received:

Mr. El Behairy was planning to publish a poetry collection in 2018, entitled *The Finest Women on Earth*.

On 3 March 2018, Mr. El Behairy was arrested, with an arrest warrant, for the content of the yet to be published book and for lyrics he composed for another artist in the song called Balaha. Both works are said to contain criticism of the current Government.

Mr. El Behairy was subsequently charged, on the one hand, before the Military Court with "spreading false news" and "insulting the military", under articles 102 and 186 of the Penal Code; on the other hand, he was charged, by the Superior State Security Prosecution, with "joining or supporting a terrorist group", "insulting the president", "spreading false news", "blasphemy of religion" and "abuse of social-media networks".

On 31 July 2018, Mr. El Behairy was convicted by the Military Court for “spreading false news” and “insulting the military”. He was sentenced to three years in prison and a monetary fine. The investigation by the Superior State Security Prosecution is still ongoing. Mr. El Behairy will appear before the Court on 9 March 2018 in connection with the pending investigation.

Mr. El Behairy is currently in held in Tora prison where he initiated a hunger strike on 25 January 2019. In addition, reports indicate that his health is seriously deteriorating. He is scheduled to undergo a surgery for a serious health condition on 7 March 2019.

We express our concern at the arrest, detention, conviction and ongoing prosecution of Mr. El Behairy, which appear to be directly related to the peaceful exercise of his right to freedom of expression through artistic expression. We are concerned that the charges against Mr. El Behairy arise from legal provisions which are incompatible with international human rights law as they criminalize the peaceful exercise of right to freedom of expression. We are equally concerned at the prosecution and conviction of Mr. El Behairy by a Military Court for a matter that is of a civilian nature. We also express our concern about the violation of the principle of *non bis in idem* and about the health deterioration of Mr. El Behairy while in detention.

While we do not wish to prejudge the accuracy of these allegations, we would like to appeal to your Excellency’s Government to take all necessary steps to guarantee, respect and uphold the rights to liberty and personal security and freedom of opinion and expression to Mr. El Behairy, as enshrined in article 9 and 19 of the International Covenant on Civil and Political Rights; the right of everyone to the enjoyment of the highest attainable standard of physical and mental health and the right of everyone to take part in cultural life in accordance with articles 12 and 15 of the International Covenant on Economic, Social and Cultural Rights (ICESCR), both ratified on 14 January 1982. In particular, we are appealing to your Excellency’s Government to release Mr. El-Bahairy on both accounts.

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 steps taken by your Excellency’s Government to safeguard the rights of the above-mentioned person in compliance with Egypt’s obligations under the international human rights treaties it has ratified.

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 information on the factual and legal grounds for the arrest, detention and deprivation of his liberty of Mr. El Behairy, and how this is consistent with his rights as guaranteed by the human rights treaties ratified by Egypt.
3. Please provide information about the guarantees taken to ensure the physical health of Mr. El Behairy while in detention and whether alternative measures to detention, due to his health condition, are being envisaged.
4. Please provide information on the fair trial guarantees applied by the military court and how these proceedings complied with article 9 and 14 of the Covenant.
5. Please provide information regarding the investigations and current charges and how these comply with the right to a fair trial and, in particular, with the principle of *non bis in idem*.
6. Please provide information on how the charges and conviction of Mr. El Behairy comply with the international obligations of Egypt with regard to freedom of artistic expression and the prohibition of arbitrary detention.

While awaiting a reply, we urge that all necessary measures be taken to halt the alleged violations of this person, to 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 violations.

We may publicly express our concerns in the near future as, in our view, the information at hand appears to be sufficiently reliable to indicate a matter warranting immediate attention. We also believe that the wider public should be informed about the human rights implications of the arrest and imprisonment of Mr. El Behairy for the peaceful exercise of his right to freedom of opinion and expression. Any publication of concern on our part will indicate that we have been in contact with your Excellency's Government's to clarify the issue/s in question.

This communication and any response received from your Excellency's Government will be made public via the communications reporting website within 60 days. They will also subsequently be made available in the usual report to be presented to the Human Rights Council.

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.

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

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

Karima Bennoune  
Special Rapporteur in the field of cultural rights

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