

**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 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 independence of judges and lawyers; the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism and the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment**

REFERENCE:  
AL EGY 5/2019

6 May 2019

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 rights to freedom of peaceful assembly and of association; 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 independence of judges and lawyers; Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism and Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, pursuant to Human Rights Council resolutions 33/30, 34/18, 32/32, 33/9, 34/5, 35/11, 40/16 and 34/19.

In this connection, we would like to bring to the attention of your Excellency's Government allegations we have received concerning the judicial harassment against and alleged arbitrary arrest, detention and ill-treatment of human rights lawyer, **Mr. Mohamed Ramadan**.

Mr. Mohamed Ramadan is a human rights lawyer who has represented victims of torture, human rights defenders, political prisoners, workers and residents of informal settlements in Alexandria. He is also a former member of the Arabic Network for Human Rights Information.

According to the information received:

On 12 April 2017, Mr. Ramadan was sentenced in absentia to ten years in prison, followed by five years of house arrest and Internet ban on charges of “insulting the president”, “misusing social media” and “inciting violence” under articles 1, 2, 6, 9, 18, 29(1), and 37 of the Egyptian Counter-terrorism Law of 2015. Mr. Ramadan was in hospital at the time of his sentencing, however the Court refused to reschedule the hearing. The charges against Mr. Ramadan related to his alleged involvement in protests against Egypt's transfer of the Tiran and Sanafir islands to Saudi Arabia. A retrial, requested by Mr. Ramadan's legal representation, was ordered in July 2017, but was suspended in June 2018 pending

a Supreme Constitutional Court decision on the constitutionality of the articles of the counter-terrorism law under which Mr. Ramadan was charged.

On 10 December 2018, Mr. Ramadan was arrested by three plainclothes National Security officers while on his way home after attending the hearing of one of his clients. He was taken to the National Security Agency headquarters in Alexandria and his whereabouts remained unknown to his family and lawyers until 11 December 2018, when he was presented before the Montazah public prosecution in Alexandria. The public prosecution then ordered his pre-trial detention for a period of 15 days, pending investigation under Criminal Case no. 16576/2018 on charges of “spreading false news”, “membership of a banned organisation” and “provoking social unrest”. The charges allegedly relate to his posting of a picture of himself wearing a yellow vest on Facebook, and the discovery of five yellow vests at his home in Alexandria.

On 16 December 2018, the Alexandria public security directorate refused to bring Mr. Ramadan to court to sign his appeal request, only permitting him to sign the following day. The Montazah public prosecution has renewed Mr. Ramadan’s pre-trial detention in 15 day increments since his arrest. On 8 January 2019, the Ministry of Interior ordered Mr. Ramadan’s transfer from the National Security Agency headquarters in Alexandria to Borg el-Arab prison, where he has remained since.

During Mr. Ramadan’s detention at the National Security Agency headquarters in Alexandria, he was allegedly kept blindfolded and chained to the ground in unsanitary conditions. Mr Ramadan suffers from a number of health complications, including [REDACTED], [REDACTED] and the presence of [REDACTED]. He has allegedly not been provided adequate medical care. In addition, on 17 January 2019, Mr. Ramadan was allegedly beaten in the stomach by a prison guard while defending another prisoner from physical assault.

We wish to express our serious concerns over the allegations of continued judicial harassment of Mr. Ramadan, which has reportedly culminated in his arbitrary arrest and detention, allegedly as a result of his possession and wearing yellow vests. The yellow vest has been linked to protest movements in France and other countries across the world, protests which are protected under international human rights law by the right to freedom of assembly and association, and it is alleged that his arrest and detention are linked to attempts by Egyptian authorities to stifle Mr. Ramadan’s dissenting voice and prevent the dissemination of calls for peaceful protest. Indeed, the possession or wearing of a yellow vest is not illegal in Egypt, and thus the alleged charges against him stemming from this, if confirmed, must be unfounded. We further express concern over the use of counter-terrorism legislation to investigate Mr. Ramadan and we denounce the conflation of legitimate human rights based activities with acts of terrorism or threats to national security.

We wish to express grave concern over reports received on alleged ill-treatment against Mr. Ramadan in custody, along with the alleged denial of access to medical care. We urge your Excellency's Government to investigate these allegations and to ensure that his conditions of detention are compatible with international human rights standards.

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.

In connection with the above alleged facts and concerns, please refer to the **Reference to International Law Annex** attached to this letter which cites international human rights instruments and standards relevant to these allegations.

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/or any comment(s) you may have on the above-mentioned allegations.
2. Please provide detailed information with regards to the legal and factual bases for the arrest, detention and charges against Mr. Ramadan, including information on how his arrest and detention, along with the charges against him, are compatible with international human rights standards.
3. Please provide detailed information regarding any investigation into allegations of the ill-treatment of Mr. Ramadan while in detention. If no investigation has taken place, please explain why not.
4. Please provide information regarding steps which have been taken to ensure that Mr. Ramadan has adequate access to medical care in custody.
5. Please provide information as to what steps have been taken to ensure that human rights defenders in Egypt are able to carry out their peaceful and legitimate work in a safe and enabling environment, free from any physical, judicial or other harassment.

We would appreciate receiving a response within 60 days. Passed this delay, this communication and any response received from your Excellency's Government will be made public via the communications reporting website. 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 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.

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.

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

Clement Nyaletsossi Voule  
Special Rapporteur on the rights to freedom of peaceful assembly and of association

Dainius Puras  
Special Rapporteur on the right of everyone to the enjoyment of the highest attainable  
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Michel Forst  
Special Rapporteur on the situation of human rights defenders

Diego García-Sayán  
Special Rapporteur on the independence of judges and lawyers

Fionnuala Ní Aoláin  
Special Rapporteur on the promotion and protection of human rights and fundamental  
freedoms while countering terrorism

Nils Melzer  
Special Rapporteur on torture and other cruel, inhuman or degrading treatment or  
punishment



## **Annex**

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

In connection with above alleged facts and concerns, we would like to draw your Excellency's Government's attention to articles 7, 9, 14, 19, and 21 of the International Covenant on Civil and Political Rights (ICCPR), ratified by Egypt on 14 January 1982, which protect the right not to be subjected to torture or to cruel, inhuman or degrading treatment or punishment, the right to liberty and security of person, the right to due process, the right to freedom of opinion and expression, and the right to freedom of peaceful assembly.

We furthermore wish to draw to your Excellency's Government articles 12 and 16 of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, acceded to by Egypt on 25 June 1986, which place an obligation on states to prevent acts of cruel, inhuman or degrading treatment or punishment occurring on their territory, or on any other territory under their jurisdiction, and to ensure a prompt and impartial investigation into allegations when there is grounds to believe that such acts have occurred.

Concerning the right to freedom of expression under article 19 of the ICCPR, we would like to refer to the principle enunciated in Human Rights Council Resolution 12/16, which calls on States to refrain from imposing restrictions which are not consistent with the criteria established by international human rights standards. Under these standards, limitations must be determined by law and must conform to the strict test of necessity and proportionality. We would similarly like to recall that, while national security is a legitimate basis for restricting the right to freedom of expression under article 19(3), it is not enough to claim it as a justification to pursue illegitimate purposes such as silencing critical voices. Governments have to demonstrate that the measures adopted are necessary to achieve a legitimate objective, and proportional in the means used to implement them. In any case, article 19(3) may never be invoked as a justification for the hindering of any advocacy of human rights (CCPR/C/G/34).

We further wish to draw your Excellency's Government's attention to the Report of the Special Rapporteur on the promotion of the right to freedom of opinion and expression, in which he raised his concerns that legitimate online expression is being criminalised in contravention of States' international human rights obligations, whether it is through the application of existing criminal laws to online expression, or through the creation of new laws specifically designed to criminalise expression on the Internet. Such laws are often justified on the basis of protecting an individual's reputation, national security or countering terrorism, but in practice are used to censor content that the Government and other powerful entities do not like or agree with. (A/HRC/17/27 para. 34). We also note that Human Rights Committee General Comment No. 34 (2011) highlights that "the application of the criminal law should only be countenanced in the most serious of cases and imprisonment is never an appropriate penalty."

We would also like to draw your Excellency's Government attention to the principles enunciated by Human Rights Council resolution 24/5, and in particular operative paragraph 2, which reminds States that it is their obligation to respect and fully protect the rights of all individuals to assemble peacefully and associate freely, online as well as offline, and to take 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. Any restriction of this right can only be done exceptionally and in cases where this is necessary in a democratic society and 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. In addition, the Human Rights Committee has interpreted these provisions to require States imposing such restrictions to duly consider all less intrusive measures to achieve this purpose (see *Lee v Republic of Korea* (1119/02)).

We would also like to refer to Human Rights Council resolution 22/6, which urges States to ensure that measures to combat terrorism and preserve national security are in compliance with their obligations under international law and do not hinder the work and safety of individuals, groups and organs of society engaged in promoting and defending human rights. (Operative paragraph 10). In this regard, we would like also to bring to your Excellency's Government's attention that in his report to the General Assembly on impact of counter-terrorism measures on civil society, the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism urged States to ensure that their counter-terrorism legislation is sufficiently precise to comply with the principle of legality, so as to prevent the possibility that it may be used to target civil society on political or other unjustified grounds. (A/70/371, para 46(c)). In paragraph 75(b) of her report to the Human Rights Council (A/HRC/40/52), the Special Rapporteur urged UN Member States to ensure that their measures to address the threats of terrorism, violent extremism and protect national security do not negatively affect civil society, in particular, definitions of terrorism and of violent extremism in national laws must not be overly broad and vague. They must be precise and sufficiently narrow to not include members of civil society or non-violent acts carried out in the exercise of fundamental freedoms.

In connection with the above alleged facts and concerns we would 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 Recognised 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 realisation 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.

In particular, we wish to note that articles 5 and 6 of the Declaration reiterate the rights to meet or assemble peacefully; to form, join and participate in non-governmental

organizations, associations or groups; to know, seek, obtain, receive and hold information about all human rights and fundamental freedoms; as well as the right to freely publish, impart or disseminate information and knowledge on all human rights and fundamental freedoms, and to study, discuss and hold opinions on the observance of these rights. We would also like to refer to provisions under article 12, which provides that State must take all necessary measures to ensure the protection of everyone against any violence, threats, retaliation, de facto or de jure adverse discrimination, pressure or any other arbitrary action as a consequence of his or her legitimate exercise of the rights referred to in the Declaration.

We would like to finally refer to article 12 of the International Covenant on Economic Social and Cultural Rights, ratified by Egypt in January 1982, which establishes the right to physical and mental health as well as relevant obligations. General Comment No. 14 of the Committee on Economic, Social and Cultural Rights further indicates the obligation of States to refrain from denying or limiting equal access for all persons, including prisoners or detainees, to health services (para. 34). In this connection, the revised version of the UN Standard Minimum Rules for the Treatment of Prisoners or Mandela Rules, adopted unanimously by the UN General Assembly in 2015 (A/Res/70/175), establish States' responsibility to provide adequate access to health care for prisoners (Rules 24 to 35). In particular, Rule 27 stresses the responsibility to ensure prompt access to medical attention in urgent cases and transfers to specialized institutions or civil hospitals when prisoners require specialized treatment or surgery.