

**Mandates of the Working Group on Arbitrary Detention; the Working Group on Enforced or Involuntary Disappearances; 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; the Special Rapporteur on the situation of human rights defenders and the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment.**

REFERENCE:  
UA EGY 12/2019

13 November 2019

Excellency,

We have the honour to address you in our capacity as Working Group on Arbitrary Detention; Working Group on Enforced or Involuntary Disappearances; Special Rapporteur on extrajudicial, summary or arbitrary executions; Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression; Special Rapporteur on the situation of human rights defenders and Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, pursuant to Human Rights Council resolutions 42/22, 36/6, 35/15, 34/18, 34/5 and 34/19.

In this connection, we would like to bring to the attention of your Excellency's Government information we have received concerning the ongoing detention of Mr. **Ibrahim Abdelmonem Metwally Hegazy** (ابراهيم عبدالمنعم متولي حجازي), in reprisal for his activities as a human rights defender and cooperation with the United Nations Working Group on Enforced and Involuntary Disappearances (WGEID).

Mr. **Ibrahim Abdelmonem Metwally Hegazy** is a lawyer and a human rights defender, working as a Coordinator for the Association of the Families of the Disappeared in Egypt, which he created following the disappearance of his son in 2013.

Mr. Metwally's case was already brought to the attention of your Excellency's Government through an urgent appeal dated 3 October 2017 (UA EGY 14/2017), to which your Excellency's Government answered on 8 November 2017. In its letter, your Excellency's Government underlined that Mr. Metwally was charged in particular with heading a terrorist group and that while denying the charges, he admitted participating in the Muslim Brotherhood group's trade union activities and to joining other related groups. The letter also stated that the items in his possession at the time of his arrest had not been inspected yet and that as a consequence it could not be confirmed whether he was in possession of a letter from the Office of the High Commissioner for Human Rights confirming he was traveling for a meeting with the Working Group on Enforced and Involuntary Disappearance.

An Opinion by the Working Group on Arbitrary Detention was adopted on 14 August 2019 (A/HRC/WGAD/2019/41), in which it found Mr. Metwally's

detention to be arbitrary and requested the Government of Egypt to remedy the situation without delay, in particular by releasing him immediately.

As stated in these previous communications, Mr. Metwally has been in pre-trial detention since his arrest on 10 September 2017. After two days when his relatives had no information on his whereabouts, a first hearing with the High State Security Prosecutor was held on 12 September 2017. Mr. Metwally allegedly signed documents he was not allowed to read and his lawyer did not have access to the file and as a consequence could not be sure what Mr. Metwally had actually admitted.

He was then detained in solitary confinement at Tora prison in Cairo, where his detention was regularly renewed by the Prosecutor. Mr. Metwally was reportedly subjected to enforced disappearance and torture on the first two days of his detention, and has been detained in conditions which amount to torture. He was detained in a cell with no light, poor sanitary conditions and no bed. His family was allowed to visit once a month for 5 minutes and under surveillance of a National Security Agent. In addition, Mr. Metwally has reportedly been suffering from severe inflammation of the prostate and from nerve tremors, in particular hand tremors and loss of vision due to light and sun deprivation, and he has lost a significant amount of weight. He has however been denied medical assistance since his arrest.

According to the new information received:

On 12 March 2019, Mr. Metwally's lawyer filed a complaint to demand his transfer to Kasr Al-Eini Teaching Hospital to receive the necessary treatment for the symptoms he developed while in detention, to no effect.

On 14 October 2019, the Cairo Criminal Court held Mr. Metwally not guilty of the charges he was accused of and ordered his immediate release. This was the first substantive hearing since his arrest on 10 September 2017 in State Security case 900/2017.

However, on 15 October 2019, Mr. Metwally was transferred from Tora prison to the State Security (Amn Eddawla) Cairo Headquarters (Nasser City), then to the National Security (Amn Al-Watani) Cairo Headquarters. He was detained there until 20 October 2019, and was then transferred to the State Security Tanta Headquarters until 23 October 2019. Since 23 October 2019, Mr. Metwally has been detained at the State Security Headquarters of Kafr-Al-Cheikh, close to an area where he used to live with his family.

Mr. Metwally was reportedly brought before the Prosecutor and charged with membership of and financing of a terrorist group during a hearing on 5 November 2019, in case 1470/2019. He was then allegedly transferred on 10 November to Tanta Prison (Ggarbiya Governorate). His health status is extremely degraded and worrying.

We express our grave concern about this new development in apparent contradiction with the Cairo Criminal Court's acquittal verdict. According to this verdict, Mr. Metwally should have been immediately released. The allegations that he was again charged for facts seemingly identical to those he had been acquitted of by the Cairo Criminal Court is deeply concerning. We are also concerned at allegations regarding his worsening and untreated health conditions.

We additionally renew our grave concern about the allegations that Mr. Metwally was arrested, arbitrarily detained, disappeared for two days during which he was reportedly tortured, initially denied access to his defense lawyer, and refused family visits, and this in retaliation for his activities as a human rights defender working to seek clarification of enforced disappearances, including of his own son, in Egypt. As previously communicated to your Excellency's Government, we are very concerned that these measures seem to constitute acts of reprisal against Mr. Metwally for traveling to Geneva to meet with the WGEID and attend the session of the Human Rights Council, and for having documented cases of enforced disappearances in Egypt for submission to the WGEID. Given the allegations that he was tortured during his first two years of his pre-trial detention and given his state of health, we express further concern that Mr. Metwally may be exposed to further ill-treatment at the State Security Headquarters.

While we do not wish to prejudge the accuracy of these allegations, we are appealing to your Excellency's Government to take all necessary measures to guarantee to Mr. Metwally all the rights he is entitled to under the International Covenant on Civil and Political Rights (Covenant) that Egypt ratified in 1982, including the right not to be deprived arbitrarily of his liberty; the right not to be subjected to torture or ill-treatment; the right to fair proceedings before an independent and impartial tribunal; as well as the right to the freedoms of expression and association. These rights are protected by articles 9, 10, 14, 18, 19 and 21 of the Covenant.

Article 9 (1) of the Covenant establishes that no one shall be deprived of his liberty except on such grounds and in accordance with such procedure as established by law. Article 9 (2) and (3) specify that anyone who is arrested shall be promptly informed of the reasons for such arrest and be brought promptly before a judge for the purpose of legal assessment and challenge of the detention. Article 14 (3) stipulates that, in the determination of any criminal charge, everyone should have adequate time and means to communicate freely with counsel of choice and to effectively prepare their defense; while paragraph 7 provides that no one shall be liable to be tried or punished again for an offence for which he has already been finally convicted or acquitted in accordance with the law and penal procedure of each country. The right to have access to a lawyer without delay and in full confidentiality is also enshrined in the Basic Principles on the Role of Lawyers (Principles 7 and 8). We would like to refer your Excellency's Government to the Basic Principles and Guidelines on remedies and procedures on the right of anyone deprived of their liberty to bring proceedings before a court (A/HRC/30/37). These principles and guidelines, elaborated by the Working Group on Arbitrary Detention at the request of Member

States of the Human Rights Council, provide universal guidance applicable to persons deprived of their liberty.

We would also like to refer your Excellency's Government to the absolute and non-derogable prohibition of torture and other ill-treatment as codified in article 7 of the of the Covenant and articles 2 and 16 of the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (CAT), which Egypt acceded to on 25 June 1986.

We would also like to recall article 12 of the International Covenant on Economic, Social and Cultural Rights (ICESCR), ratified by Egypt in 1982, which recognizes "the right of everyone to the enjoyment of the highest attainable standard of physical and mental health".

Moreover, as outlined by the UN Standard Minimum Rules for the Treatment of Prisoners (see the revised version adopted on 5 November 2015 and renamed "Mandela Rules), the provision of health care is the responsibility of the state authorities and prisoners should enjoy the same standards of health care that are available in the community (Rule 24(1)). Rule 27(1) furthermore provides that all prisons shall ensure prompt access to medical attention in urgent cases. Prisoners who require specialized treatment or surgery shall be transferred to specialized institutions or to civil hospitals.

Similarly, we would like to stress the call made by the Human Rights Council in Resolution 7/12 for States to ensure the protection of human rights defenders acting against enforced disappearances.

We would like to stress once again that the Declaration on the Protection of all Persons from Enforced Disappearance proclaims that no State shall practice, permit or tolerate enforced disappearance (article 2); the right to be held in an officially recognized place of detention, in conformity with national law and to be brought before a judicial authority promptly after detention and the obligation to make available accurate information on the detention of persons and their place of detention to their family, counsel or other persons with a legitimate interest (article 10); that persons deprived of liberty must be released in a manner permitting reliable verification that they have actually been released and, further, have been released in conditions in which their physical integrity and ability fully to exercise their rights are assured (article 11); that no order or instruction of any public authority, civilian, military or other, may be invoked to justify an enforced disappearance (article 6); that no circumstances whatsoever, whether a threat of war, a state of war, internal political instability or any other public emergency, may be invoked to justify enforced disappearances (article 7); and the obligation to maintain in every place of detention an official up-to-date register of detained persons (article 12).

As stressed in earlier communications, we refer to articles 13 (3) and (5) of the Declaration, which requires that "Steps shall be taken to ensure that all involved in the investigation, including the complainant, counsel, witnesses and those conducting the

investigation, are protected against ill-treatment, intimidation or reprisal”; and that “Steps shall be taken to ensure that any ill-treatment, intimidation or reprisal or any other form of interference on the occasion of the lodging of a complaint or during the investigation procedure is appropriately punished”.

Lastly, we are referring to 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, in particular articles 1, 2, 9 (4) and 12.

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 person 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. Please also provide any additional information you may have related to the fact that Mr. Metwally is subject to continued detention in reprisal for his work with the Working Group on Enforced and Involuntary Disappearance, and in particular if a letter from the High Commissioner for Human Rights confirming a meeting with the Working Group was found in his possession at the time of his arrest and used against him.
3. Please explain how the factual and legal grounds for the arrest and detention of Mr. Metwally are compatible with Egypt’s international human rights obligations under the Covenant. In particular, please provide the details of the charges against Mr. Metwally, and the related evidence upon which they are based, and the grounds for his continued detention and related opening of a new case on related charges following the acquittal verdict rendered by the Cairo Criminal Court.
4. Please describe the conditions under which Mr. Metwally has been given access to his legal counsel and especially since his acquittal, and how these conditions are in accordance with the right to fair trial as provided for in the Covenant.
5. Please explain the reasons why Mr. Metwally has been denied the right to receive family visits since his arrest.

6. Please provide the details, and where available the results, of any investigation in particular ordered in connection with the allegations that Mr. Metwally was tortured during the first two days of deprivation of liberty when his whereabouts were unknown. If no inquiries have taken place into these allegations, or if they have been inconclusive, please explain why.
7. Please provide information on the measures taken to ensure that Mr. Metwally is and was protected against any abuse of power while in detention, including torture or any other form of cruel, inhuman or degrading treatment.
8. Please indicate what measures have been taken to ensure that human rights defenders in Egypt are able to carry out their legitimate work in a safe and enabling environment without fear, threats or acts of intimidation and harassment of any sort directed against them, their family members and those associated to them.

While awaiting a reply, we urge that all necessary interim measures be taken to halt the alleged violations and prevent their recurrence 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 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 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.

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

Leigh Toomey  
Vice-Chair of the Working Group on Arbitrary Detention

Luciano Hazan  
Chair-Rapporteur of the Working Group on Enforced or Involuntary Disappearances

Agnes Callamard  
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David Kaye  
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Nils Melzer  
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