

Mandates of the Special Rapporteur on the situation of human rights defenders; the Working Group on Arbitrary Detention; the Working Group on Enforced or Involuntary Disappearances; 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 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

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Excellency,

We have the honour to address you in our capacity as Special Rapporteur on the situation of human rights defenders; Working Group on Arbitrary Detention; Working Group on Enforced or Involuntary Disappearances; 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 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 34/5, 42/22, 36/6, 34/18, 41/12, 42/16, 40/16 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 continued arbitrary detention of journalists Mr. Mohamed Al-Yammani and Mr. Mohamed Badr whose charges have not been communicated by authorities, and the detention, torture and ongoing judicial harassment of human rights defender Mr. Patrick George Zaki.**

Mr. **Mohamed Al-Yammani** is an Egyptian freelance journalist who has worked for a number of Egyptian newspapers, some of which have been critical of the Government.

Mr. **Mohamed Badr** is an Egyptian journalist who has written for a number of Egyptian news outlets, including as editor-in chief, for almost forty years. He has also acted as a reporter for high-profile international media platforms.

Mr. **Patrick George Zaki** is an Egyptian national, employed as a gender and human rights researcher at the Egyptian Initiative for Personal Rights (EIPR). He has been involved in several national campaigns against the violations of civil and political rights. He advocates for the rights of detainees, women's rights and the rights of vulnerable groups, including sexual and Christian minorities in the country. Until the

time of his arrest and detention, he had been resident in Italy, where he is a postgraduate student at Bologna University studying Gender and Women's studies. EIPR is an Egyptian-based non-governmental organisation that promotes fundamental freedoms, civil liberties, and social and economic rights in the country.

According to the information received:

Mr. Mohamed Al-Yammani

On 11 February 2014, Mr. Al-Yammani was arrested and charged with “spreading false news” and “joining a terrorist organisation”. He was released over two years later, on 26 April 2016.

On 17 January 2017, Mr. Al-Yammani was detained again and forcibly disappeared. He was allegedly blindfolded and regularly subjected to electroshocks during his first week in prison. According to information received, he suffered mental and physical abuse throughout his incarceration.

Forty days later, in February 2017, Mr. Al-Yammani was brought before a Public Prosecutor in Giza. He was charged with “joining a banned group” and “spreading false information”. He was imprisoned in Giza Central Prison for 30 days, eventually being released on 26 March 2017 after paying a fine.

On 8 December 2019, security forces carried out a raid on the home of Mr. Al-Yammani, confiscating four mobile phones, two computers and a camera. Mr. Al-Yammani was again arrested and forcibly disappeared.

Mr. Al-Yammani’s family has written letters to the Egyptian Attorney General and the Minister of Internal Affairs but have yet to receive a response. On 27 March 2020, the Special Rapporteur on Freedom of Expression and Access to Information in Africa for the African Commission on Human and Peoples' Rights wrote to the President of Egypt seeking clarification on the whereabouts and reasons for the arrest of Mr. Al-Yammani.

Mr. Mohamed Badr

On 29 March 2017, Mr. Badr was arrested at his office in the city of Giza by members of the national security in plainclothes, who allegedly did not present a warrant for his arrest. Mr. Badr was charged with “spreading false news” and “damaging the country’s reputation” for which he spent almost two years in pre-trial detention in Tora maximum-security prison.

During his time in pre-trial detention, Mr. Badr's family was prevented from visiting or providing him with necessary medication. Mr. Badr suffers from different chronic health issues, including heart disease, liver disease and diabetes. He was sent to hospital during his pre-trial detention however, his heart condition has reportedly continued to deteriorate.

On 3 December 2019, the Supreme State Security Prosecution ordered Mr. Badr's release. On 8 December 2019, as part of his release process, he was transferred to the October 2nd police station. Mr. Badr however was not released, and his family discovered on arrival at the police station that he was no longer held there. The family lodged a complaint with the Attorney General and the Ministry of Internal Affairs of Egypt, but did not receive a response.

On 23 February 2020, following three months of enforced disappearance, he appeared before the Supreme State Security Prosecution. He is reportedly under investigation for new crimes, which were not specified by the authorities. Mr. Badr continues to be forcibly disappeared despite having his pre-trial detention renewed. In addition, Mr. Badr has reportedly suffered a heart attack and his health condition has significantly deteriorated. There is no confirmation that Mr. Badr has had access to necessary medical treatment on a regular basis while in detention. His whereabouts remain unknown at the date of issuance of this letter.

Mr. Badr's release order in December was issued as no formal case had been brought against him and after he spent almost the maximum two years that Egyptian law permits for individuals to be held in pre-trial detention. However, the filing of new undisclosed charges could allow the authorities to hold Mr. Badr in pre-trial detention for a further two years.

Mr. Patrick George Zaki

On 7 February 2020, Mr. Patrick Zaki arrived in Cairo airport. It was his first visit to Egypt since the commencement of his studies in Italy in August 2019. On arrival, at approximately 4.30 a.m., he was stopped by immigration security officers and arrested by the National Security Investigations (NSI) of Egypt. He was enforcedly disappeared for a period of 24 hours.

On 8 February 2020, it became known that he had been transferred from the airport to an NSI facility in Cairo. Mr. Zaki was allegedly questioned for several hours without access to lawyers. He was then transferred to NSI offices in Mansoura, about 120 kilometres from Cairo. During this period, he was allegedly blindfolded and handcuffed for a 17-hour interrogation, during which he was

allegedly threatened, received a beating to his abdomen and back, and was tortured with electric shocks to his upper body.

Later on 8 February 2020, Mr. Zaki was taken to the Prosecutor's office in Mansoura, where he was further questioned about his human rights work. This was allegedly the first time since his arrest that he had access to his lawyer, however they were not permitted to consult privately. Mr. Zaki was handed a police report which falsely alleged that his place of arrest was at a checkpoint in Mansoura. He was ordered to undergo 15 days in pre-trial detention in the Mansoura police station. In a statement following the interrogation, police alleged that his arrest was in relation to a warrant issued in September 2019. The warrant was allegedly related to 10 Facebook posts made by Mr. Zaki. Prosecutors did not disclose to his lawyer which posts were implicated.

Mr. Zaki allegedly faces charges of “publishing rumours and false news that aim to disturb social peace and sow chaos” (article 102 of the Criminal Code), “incitement to protest without permission from the relevant authorities with the aim of undermining state authority” (article 18 of the Protest law), “calling for the overthrow of the state” and “promoting the usurpation of the fundamental constitutional tenets” (article 87 and 98(b) of the Criminal Code), “managing a social media account that aims to undermine the social order and public safety” (article 27 of Cybercrime law) and “incitement to commit violence and terrorist crimes (article 28 of the Anti-Terrorism law)”. He faces a prison sentence of up to 13 years.

On 15 February 2020, Mansour II Misdemeanours Appeals Court rejected the appeal filed by Mr. Zaki's lawyer against the detention of the human rights defender. The lawyer argued for his release on the basis of procedural impropriety during his arrest and detention as well as due to lack of evidence. According to the information received, Mr. Zaki gave details at the hearing of the alleged torture he suffered during his detention.

On 22 February 2020, Mr. Zaki appeared before the Mansoura II Prosecution. His pre-trial detention was renewed for a further 15 days, pending further investigation.

On 24 February 2020, Mr. Zaki's family was informed that he had been transferred to Mansoura Public Prison. Exceptional requests to visit him were denied until 5 March 2020, when his first regular visit as a pre-trial detainee was permitted. On 5 March 2020, his family was unable to visit Mr. Zaki, as they were informed that he had been moved to Tora Tahqeeq in the Tora Prison Complex in Cairo.

On 7 March 2020, Mr. Zaki's second detention renewal hearing was held. On this occasion, it was presided over by the Supreme State Security Prosecution in the Fifth Settlement in Cairo. Mr. Zaki's pre-trial detention was renewed for a further 15 days. The Prosecutor issued permission for his family to visit him during the renewal hearing. They visited him on 9 March 2020 at the Tora Prison Complex.

According to the information received, six other members of EIPR have been detained and questioned since the start of protests in Egypt on 20 September 2019. The protests were sparked by opposition to the rule of President Abdel Fattah Al-Sisi, and since then, reportedly over 3,715 individuals are in pre-trial detention pending investigation on various charges including terrorism-related ones, in relation to their participation in the protests and exercise of free speech.

We are deeply concerned by the arrest, enforced disappearance and detention of Mr. Al-Yammani, Mr. Mohamed Badr and Mr. Patrick George Zaki, who appear to have been targeted for exercising their right to freedom of expression and association and in the case of Mr. Zaki, also in connection to his human rights work. In particular, we find deeply concerning the information we received regarding the alleged ill-treatment and torture of Mr. Zaki and previously Mr. Al-Yammani while in detention. Mr. Al-Yammani's renewed enforced disappearance increases the risk of further ill treatment and torture. We are also concerned that Mr. Badr's exact location of detention remains unknown and that he may not be receiving the necessary appropriate and continuous medical treatment for his different chronic conditions, which might lead to a serious deterioration of his health.

While we do not wish to prejudge the accuracy of the allegations of torture, we would like to remind your Excellency's Government of the absolute and non-derogable prohibition of torture and other cruel, inhuman or degrading treatment or punishment as codified in 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 furthermore express our concern at the arrest and use of pre-trial detention to imprison human rights defenders such as Mr. Zaki and Mr. Badr without finding them guilty of any crime. There are concerns that the undisclosed new charges filed against Mr. Badr might lead to yet another pre-trial detention of up to two years.

Of particular concern is the circumventing of limits on pre-trial detention through the filing of new charges against the same individuals. We are concerned that Mr. Zaki's case may follow a similar fate to that of Mr. Badr and Mr. Al-Yammani, keeping him for prolonged duration in detention, unduly delaying his rights to a fair trial. This appears to be a concerted effort by the Egyptian Government to silence human rights defenders and shrink civic space. We would like to remind your Excellency's Government that according to article 9(1) of the ICCPR, no one shall be subjected to arbitrary arrest or

detention, and no one shall be deprived of his or her liberty except on grounds established by law and following legal procedures. The Human Rights Committee has established in its General Comment N° 35 on article 9 that an arrest or detention as punishment for the legitimate exercise of the rights as guaranteed by the Covenant, including freedom of opinion, expression, assembly and association, is arbitrary (CCPR/C/GC/35, para. 17). In addition, we would further like to draw your attention to the United Nations Declaration on the Protection of All Persons from Enforced Disappearance. Most notably article 2, which states that any person deprived of liberty shall be held in an officially recognized place of detention (article 10.1) and that an official up-to-date register of all persons deprived of their liberty shall be maintained in every place of detention (article 10.3).

We are also concerned that the detention of Mr. Al-Yammani, Mr. Zaki and Mr. Badr come amid a renewed crackdown on human rights defenders, lawyers, journalists and individuals expressing any form of dissent in Egypt since the outbreak of mass protests on 20 September 2019 against President Abdel Fattah Al-Sisi. Concerns regarding the arrest of human rights defenders and other individuals have been the subject of a number of recent communications to your Excellency's Government, including on 28 February 2020 (EGY 4/2020), 23 October 2019 (EGY 11/2019), 22 January 2020 (EGY 1/2020), and 6 February 2020 (EGY 3/2020). We would further like to remind your Excellency's Government that the right to freedom of expression protects the right to seek, receive and impart information and ideas of all kinds regardless of frontiers. Any limitation to the right to freedom of expression must meet the criteria established by the the International Covenant on Civil and Political Rights (ICCPR), in particular under article 19 (3). Restrictions must be provided by law, they must be necessary and proportionate, and 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.

More broadly, we express our concern for the misuse of anti-terrorism and national security legislation against human rights defenders, journalists and others expressing dissent. Broad definitions of terrorism and extremism allow for the arbitrary arrest of these actors, and has a chilling effect on civil society in Egypt, discouraging others from legitimately sharing information on the observance of human rights in the country. In this regard, we would like to bring to the attention of your Excellency's Government that in his report to the General Assembly on the 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. National security does not provide a blanket competence to restrict human rights. To the contrary, the State has a burden of proof to demonstrate that the use of national security measures is necessary, appropriate and proportionate in each particular instance, (A/70/371, para 46(c)).

We would further 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.

We would also recall paragraphs 74 to 78 of A/HRC/37/52 reminding States to ensure that emergency measures are in compliance with the prohibition of permanent emergency powers and that in such context it remains under an absolute obligation of the State to protect non-derogable rights. We would also like to refer to paragraphs 36 and 75(a) to (i) of the report of the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism, (A/HRC/40/52) recalling the need to ensure that invocation of national security, including counter-terrorism, is not used unjustifiably or arbitrarily to restrict the right to freedom of opinion and expression and does not negatively affect civil society.

Moreover, 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 Recognized 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. We would particularly like to draw your attention to article 6, which states that everyone has the right (a) "[t]o know, seek, obtain, receive and hold information about all human rights and fundamental freedoms, including having access to information as to how those rights and freedoms are given effect in domestic legislative, judicial or administrative systems" and (c) "[t]o study, discuss, form and hold opinions on the observance, both in law and in practice, of all human rights and fundamental freedoms and, through these and other appropriate means, to draw public attention to those matters."

Finally, we recall Egypt's obligations under article 12 (right to health) of the International Covenant on Economic Social and Cultural Rights, ratified by Egypt in January 1982. Accordingly, States have the obligation to refrain from denying or limiting equal access for all persons, including prisoners or detainees, to health services (Committee on Economic, Social and Cultural Rights, General Comment 14 para. 34). Further, the UN Standard Minimum Rules for the Treatment of Prisoners, adopted unanimously by the UN General Assembly (A/RES/70/175), establish States' responsibility to provide healthcare for prisoners (Rules 24 to 35) and to particularly ensure continuity of treatment and care (Rule 24. 2).

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 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 the observations of your Excellency's Government 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 precise whereabouts of Mr. Badr and Mr. Al-Yammani whose exact place of detention currently remains unknown.
3. Please provide detailed information about the factual and legal grounds for the original charges, as well as the new cases opened against Mr. Al-Yammani and Mr. Badr.
4. Please provide information on investigations conducted into the allegations of enforced disappearance of Mr. Al-Yammani for a period of forty days and details on redress and remedies provided to him.
5. Please provide information on investigations conducted into the allegations of enforced disappearance of Mr. Badr for a period of three months and details on redress and remedies provided to him.
6. Please provide information on why charges related to terrorist acts, incitement to commit violence and offences relating to membership of a terrorist organisation have been levied against Mr. Al-Yammani and Mr. Zaki, and indicate how this complies with United Nations Security Resolution 1373, and a strict understanding of the definition of terrorism as elucidated by international law norms including but not limited to United Nations Security Council Resolution 1566 (2004).
7. Please provide information on the legal and factual basis for the charges against Mr. Zaki, and specifically how his Facebook posts may have amounted to terrorism-related activities.

8. Please provide information in details of how your Excellency's Government's counter-terrorism efforts comply with the United Nations Security Council resolutions 1373 (2001), 1456(2003), 1566 (2004), 1624 (2005), 2178 (2014), 2341 (2017), 2354 (2017), 2368 (2017), 2370 (2017), 2395 (2017) and 2396 (2017); as well as Human Rights Council resolution 35/34 and General Assembly resolutions 49/60, 51/210, 72/123, 72/180 and 73/174, in particular with international human rights law, refugee law, and humanitarian law contained therein.
9. Please provide information on whether Mr. Al-Yammani, Mr. Zaki and Mr. Badr have been able to access their lawyers, including from the moment of their arrest, and whether they were allowed to receive visits from their families throughout their detention.
10. Please provide information on the physical and mental integrity of Mr. Al-Yammani, Mr. Badr, and Mr. Zaki and on whether they have had access to appropriate health care, including continuous medical treatment for pre-existing chronic conditions, while in detention.
11. Please provide the details and, where available, the results of any investigation, and judicial or other inquiries which may have been carried out, or which are foreseen, in relation the allegations of torture and other cruel, inhuman or degrading treatment or punishment against Mr. Zaki and Mr. Al-Yammani with a view to ensure prosecution and redress. If no such measures have been taken, please explain how this is compatible with the human rights obligations of Egypt.

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 for the alleged violations.

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.

We further would like to inform your Excellency's Government that after having transmitted a joint urgent appeal to the Government, the Working Group on Enforced Disappearances may transmit the case through its humanitarian procedure should it be brought to its attention

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.

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Special Rapporteur on the situation of human rights defenders

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

Luciano Hazan
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