

**Mandates of the Working Group on Arbitrary Detention; the Special Rapporteur on extrajudicial, summary or arbitrary executions; the Special Rapporteur on minority issues; the Special Rapporteur on freedom of religion or belief and the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment**

REFERENCE:  
UA EGY 14/2020

22 October 2020

Excellency,

We have the honour to address you in our capacities as Working Group on Arbitrary Detention; Special Rapporteur on extrajudicial, summary or arbitrary executions; Special Rapporteur on minority issues; Special Rapporteur on freedom of religion or belief and Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, pursuant to Human Rights Council resolutions 42/22, 44/5, 43/8, 40/10 and 43/20.

In this connection, we would like to bring to the attention of your Excellency's Government information we have received concerning two members of the Coptic Christian minority; **Wael Saad Tawdros Mikhil** ("Father Isiah") who faces an imminent risk of an execution and **Farag Mansour Farag Sa'laab** ("Father Faltaous") currently serving a life sentence. They were both allegedly subjected to torture and convicted in a trial that did not meet international fair trial standards.

Mr. Mikhil and Mr. Sa'laab both reportedly gave up successful careers as a teacher and accountant respectively to commit their lives to religious devotion in 2007 and joined Abu Maqar monastery alongside 130 other Christian Coptic monks.

Concerns regarding the persecution of members of the Coptic Christian minority in Egypt have been raised by Special Procedures mandate holders in a previous communication dated 6 December 2019 (UA EGY 13/2019). We thank you for the response received from your Excellency's Government on 6 March 2020. We regret, however, that the response received did not address our serious concerns with regard to the implementation of Egypt's international legal obligations in this case.

According to the information received:

On 30 July 2018, a bishop was found dead inside the Abu Maqar monastery, in front of the living quarters in what has been described as suspicious. No eyewitnesses to any attack have come forward and the CCTV installed at the monastery was reportedly not working at the time of the incident. On that day, a total of 400 visitors and inhabitants resided within the monastery.

On 5 August 2018, Mr. Mikhil was informed that he had been excommunicated from his monastic rank by the Coptic Pope's office, with immediate effect and on recommendation of the Monks Affairs Committee, for alleged misconduct. Mr. Sa'laab was also denied protection or representation from the Church, and within hours they both were arrested by state security forces, along with four other monks.

Mr. Mikhail was allegedly questioned in the monastery for 96 hours by officials he believed to be members of the State Security forces, without a lawyer present. The officers presented themselves as working for the Criminal Investigation Administration and did not produce a warrant for the monks' arrests or detention. The officials refused to let him use the bathroom forcing him to soil himself. Mr. Sa'laab was allegedly made to witness the ill-treatment of Mr. Mikhail and threatened with the same type of treatment if he did not confess. He was also interrogated for extended periods of time, and his mental health deteriorated during this time, leading to him attempting to take his own life. Mr. Mikhail was then taken to the State Security Office in Alnoubariya City, where he was held for one month. While prosecution documents record that Mr. Mikhail was released from custody on 6 August 2018 and then re-arrested on 10 August 2018, Mr. Mikhail's family report that he was held in secret incommunicado detention continuously. During this period, Mr. Mikhail was beaten and electrocuted until he "confessed" to his and Mr. Sa'laab's involvement in the bishop's death.

As part of this coerced confession, Mr. Mikhail was forced to carry out a "reenactment" of the attack. This was video-taped and presented as evidence at trial. Throughout the tape, instructions and threats from the officials to Mr. Mikhail can be heard.

Discriminatory attitudes were perceptible throughout Mr. Mikhail and Mr. Sa'laab trial, with the judge regularly making derogatory and mocking comments to the monks. These attitudes are also reflected in the judge's failure to investigate their torture allegations, although he and the public prosecutor, had been presented with a memo setting out the full extent of the allegations. Throughout the trial, the monks were also denied visits from either their lawyers or their families until the judgement had already been passed.

On 24 April 2019, without any eyewitnesses or CCTV footage presented in court, the judge reportedly relied almost exclusively on Mr. Mikhail's forced confession and coerced reenactment to convict both Mr. Mikhail and Mr. Sa'laab of murder and sentenced them to death.

The monks subsequently appealed to the Court of Cassation which on 1 July 2020 confirmed Mr. Mikhail's death sentence and reduced Mr. Sa'laab's sentence to life imprisonment in a hearing that lasted 15 minutes. In doing so, the Court used the 2017 amendments to Egypt's Code of Criminal Procedure Law no. 57 of 1959, which limits the two stage process of appeals before the Court of Cassation, abolishing key fair trial guarantees and expediting implementation of the death sentence. The motivation of the Court to do this remains unclear, and is only presumed as a further example of the deeply unjust treatment.

Mr. Mikhail and Mr. Sa'laab are also subjected to discriminatory treatment in prison. They are prevented from practicing religious rituals, prohibited from attending the weekly mass service, and from meeting the priest in charge of the prison service despite this right being guaranteed by the Egyptian Constitution and law. Furthermore, although they are currently 600 kilometers

away from the residence of their family, their requests to be relocated to a prison closer to their parents' residence was rejected without explanation on 28 October 2019. During visits with their families, a prison officer, a representative of the National Security and a police secretary are always present and they are not permitted to meet in private. Their conversations are recorded and every word is written down by the secretary.

The ill-treatment of Mr. Mikhail and Mr. Sa'laab is allegedly part of a wider persecution of Coptic Christians in Egypt. Since 2015, attacks by militant groups have killed more than 140 Egyptian Christians and discrimination in employment, education and healthcare is common. Egypt's security forces have been widely criticized for acquiescing in a pattern of sectarian attack and for failing to prosecute perpetrators of attacks on Coptic Christians.

While we do not wish to prejudge the accuracy of the allegations, we express our grave concern at the allegations of torture and ill-treatment and the use of forced confessions as evidence to sentence the above-mentioned persons, including the imposition of the death penalty and the alleged denial of their religious rights while in detention in contravention of the relevant international standards. We are seriously concerned at the reported use of the Code of Criminal Procedure Law no. 57 of 1959 to expedite the death penalty and circumventing the right of appeal. If confirmed, the above allegations would be in contravention of articles 6, 7, 9, 10, 17, 18, 26 and 27 of the International Covenant on Civil and Political Rights (the "Covenant") ratified by Egypt on 14 January 1982 and articles 2, 15 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 herewith would like to remind your Excellency's Government that the prohibition of torture and other cruel, inhuman or degrading treatment or punishment under international law is absolute, non-derogable and has become a norm of *jus cogens* which is reflected in numerous international human rights instruments. Article 15 of the CAT provides that, "Each State Party shall ensure that any statement which is established to have been made as a result of torture shall not be invoked as evidence in any proceedings, except against a person accused of torture as evidence that the statement was made." Furthermore, in paragraph 7c of Human Rights Council Resolution 16/23 states are urged, "To ensure that no statement established to have been made as a result of torture is invoked as evidence in any proceedings, except against a person accused of torture as evidence that the statement was made, and calls upon States to consider extending that prohibition to statements made as a result of cruel, inhuman or degrading treatment or punishment, recognizing that adequate corroboration of statements, including confessions, used as evidence in any proceedings constitutes one safeguard for the prevention of torture and other cruel, inhuman or degrading treatment or punishment".

The prohibition against arbitrary detention and safeguards to the right to liberty and security of the person, under article 9 of the ICCPR and 3 and 9 of the Universal Declaration on Human Rights. We would like to reiterate the rights of meaningful review of a sentence under article 14(5), and the obligation on judicial authorities to ensure the right to independent and impartial trial provided in article 14(1).

In view of the aforementioned, we urge your Excellency's Government to take action, without delay, with a view to halting any plan to execute Mr. Mikhail and commuting his death sentence. According to the information brought to our attention, the convictions of both Mr. Mikhail and Mr. Sa'laab may be in serious violation of applicable international human rights standards including the prohibition of arbitrary detention, the prohibition of torture and ill-treatment, the prohibition of arbitrary deprivation of life, as well as fundamental guarantees of fair trial and due process, including the right to appeal.

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(s) 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/or comment(s) you may have on the above-mentioned allegations.
2. Please explain how the factual and legal grounds for the arrest and detention of Mr. Mikhail and Mr. Sa'laab are compatible with Egypt's international human rights obligations.
3. Please provide the details, and where available the results, of any investigation, and judicial or other inquiries carried out in relation to the allegations of torture and/or other cruel, inhuman or degrading treatment and any disciplinary or judicial sanctions imposed on the perpetrators. If no such inquiries or measures have been initiated, please explain why and how this is compatible with the international human rights obligations of Egypt.
4. Please provide detailed information about existing laws and procedures in force in Egypt, aimed at ensuring that statements obtained under torture or other ill-treatment from persons accused of criminal offences are not used as evidence against them. In this connection, please provide detailed information about the steps that judges are required to take by law in response to allegations of torture. How are these laws and procedures implemented in practice?
5. Please provide detailed information of the steps taken to guarantee that the judicial proceedings against Mr. Mikhail and Mr. Sa'laab meet the minimum requirements for a fair trial, as established in the Covenant and the Universal Declaration, including the guarantees to the presumption of innocence, access to legal assistance and opportunity to

defend, as well as the prohibition of extract coerced confessions and relying upon them.

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.

We may 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.

We would like to inform your Excellency's Government that after having transmitted this allegations 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. This communication in no way prejudice any opinion the Working Group may render. The Government is required to respond separately for this allegations procedure and the regular procedure of the Working Group.

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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