

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 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 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 15/2020

25 November 2020

Excellency,

We have the honour to address you in our capacities 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 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 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 42/22, 45/3, 44/5, 43/4, 41/12, 42/16, 43/16, 40/16 and 43/20.

In this connection, we would like to bring to the attention of your Excellency's Government information we have received concerning **the arrest and filing of official charges for terrorism and national security related crimes against human rights defenders Gasser Abdel Rakez, Karim Ennarah and Mohamed Basheer in apparent retaliation for a human rights meeting they held with representatives of the diplomatic community, under the auspices of their NGO, the Egyptian Initiative for Personal Rights (EIPR). We also bring to the attention of your Excellency's Government information regarding the continued pre-trial detention of another EIPR staff, Patrick Zaki as well as the ongoing criminalization, travel ban and freeze of assets of Hossam Bahgat founder and former Executive Director of the same organization.**

Mr. Patrick George Zaki has been the subject of two previous communications - EGY 6/2020 and EGY 10/2020 regarding his pre-trial detention in connection to his human rights work. We regret that no reply has been received to EGY 6/2020 since the request for extension of the deadline in May 2020 due to COVID-19 related circumstances, neither to EGY 10/2020.

Mr. Hossam Bahgat has been the subject of two previous communications – EGY 6/2016, in connection to the criminal case against him (and other human rights defenders) regarding foreign funding received by Egyptian human rights organizations and EGY16/2015 concerning his arrest and detention for exercising his rights to

freedom of opinion and expression as a result of his work as journalist and human rights defender. We regret that no replies were received to any of these communications.

We have previously raised concerns, in communication EGY 13/2020 and EGY 4/2020, about Egypt's counter-terrorism legislation, specifically in relation to the broad and conflated definition of terrorism contained within it and its application to a wide range of actors and activities, in particular human rights defenders. We welcome the acknowledgment of receipt from your Excellency dated 8 April 2020 and look forward to a comprehensive response to our analysis. We have also expressed our views about the detentions and other alleged violations committed against civil society actors, including human rights defenders under the guise of national security or terrorism concerns in EGY 13/2020, EGY 10/2020, as well as in previous communications (EGY 14/2017, EGY 10/2019, EGY 11/2019, EGY 12/2019, EGY 13/2019, EGY 14/2019, EGY 1/2020, EGY 6/2020, EGY 10/2014, EGY 10/2015). We thank Your Excellency's government for its responses to EGY 10/2014, EGY 10/2015, EGY 14/2017 and 13/2019.

Mr. **Gasser Abdel Rakez** is a human rights defender and the Executive Director of the Egyptian Initiative for Personal Rights (EIPR).

Mr. **Karim Ennarah**, is a human rights defender and director of criminal Justice in EIPR.

Mr. **Mohamed Basheer** is a human rights defender and the administrative manager of EIPR.

Mr. **Patrick George Zaki** is an Egyptian national, employed as a gender and human rights researcher at the 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 on 7 February 2020, he had been resident in Italy, where he is a postgraduate student at Bologna University studying Gender and Women's studies.

Mr. **Hossam Bahgat** is a journalist for the online news site Mada Masr, a human rights defender and the founder of EIPR. From 2002 to 2013, he was the founding executive director of the EIPR. He has been awarded the Allison des Forges Award for Extraordinary Activism (2010) and the George Alexander Law Prize for his human rights work (2014)

Egyptian Initiative for Personal Rights (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:

Mohamed Basheer

On 15 November 2020, (shortly after midnight), Mr. Mohamed Basheer was arrested from his home by Egyptian security forces and taken to the State Security sector, where he was held for twelve hours and was questioned about

a meeting held on 3 November 2020 at EIPR, without being afforded legal aid. The meeting focused on the situation of human rights worldwide and in Egypt and was attended by foreign ambassadors and diplomats.

Later on, on the same day, Mr. Basheer was transferred to the Supreme State Security Prosecution, where he was ordered into pre-trial detention and was then transferred to the Tora investigation prison (case No. 855 of 2020).

During his questioning at the Supreme State Security Prosecution, he was asked about the work of EIPR, its recent publications and legal aid.

Mr. Basheer was formally accused under Egyptian Counter terrorism law of joining a terrorist organization with knowledge of its purpose and committing a crime involving funding of terrorism. He was also charged under Egyptian Anti-Cybercrime Law for using a personal account on the internet to spread false information that undermines public security and under the Penal Code for broadcasting false news and statements that undermine public security and harm the national interest. No credible evidence was presented.

Karim Ennarah and Gasser Abdel Razek

On 17 November 2020 the family home of Karim Ennarah was raided by Egyptian security forces, who did not show a warrant. The following day, while on vacation in Dahab, South Sinai, he was arrested at a restaurant by plain clothed security men, who identified themselves to be from the State Security Sector. His phone was confiscated and he was taken to the local police station.

On 19 November 2020, twenty-four hours following his arrest, Mr. Ennarah appeared at the Supreme State Security Prosecution, where he was questioned for four hours without being afforded legal aid and ordered into pre-trial detention in the same case as Mr. Mohamed Basheer (case No. 855 of 2020). He was then transferred to Liman Tora prison.

Later on 19 November, Egyptian Security forces arrested Mr. Gasser Abdel Razek from his home in Cairo. The morning after his arrest, on 20 November 2020, he was questioned at the Supreme State Security Prosecution, including in the presence of his lawyers. He was then transferred on the day to the Liman Tora prison. Since then, he has been kept in solitary confinement, with an iron bed, no mattress and no warm clothes.

Mr. Karim Ennarah and Mr. Gasser Abdel Razek have been formally charged under Egyptian Counter terrorism law of joining a terrorist organization with knowledge of its purpose. They were also charged under Egyptian Anti-Cybercrime Law for using a personal account on the internet to spread false information that undermines public security and under the Penal Code for broadcasting false news and statements that undermine public security and harm the national interest.

Mr. Patrick Zaki

On 7 February 2020 at approximately 4.30 a.m. after travelling from Bologna, Mr. Patrick Zaki was arrested by the National Security Investigations (NSI) of Egypt whilst passing through immigration security in Cairo airport. His whereabouts were unknown for a period of 24 hours.

The following day, it became known that Mr. Patrick Zaki had been transferred to the NSI facility in Cairo where he was reportedly questioned for several hours without access to his lawyers. Mr. Patrick Zaki was reportedly interrogated for 17 hours, during which he was allegedly handcuffed, blindfolded, was threatened, received beating to his abdomen and back, and tortured with electric shocks. Later that day, 8 February 2020, Mr. Patrick Zaki was taken to the Prosecutor's office in Mansoura where he was questioned about his human rights activities, allegedly the first time he had access to his lawyer. Following this questioning, he was ordered to undergo 15 days in pre-trial detention in Mansoura police station.

Since 8 February 2020, Mr. Patrick Zaki's pre-trial detention has been renewed most recently on 21 November 2020 for an additional 45 days.

On 24 February 2020, his family were informed he had been transferred to Mansoura Public Prison. The family were informed on 5 March 2020 that Mr. Patrick Zaki had been transferred to Tora investigation prison, where he remains in pre-trial detention. His lawyers have very restrictive access to Mr. Patrick Zaki. Thus far, contacts are limited to few minutes on his way out of the hearing session. Only one member of his family is permitted a twenty minutes visit once a month.

Mr. Patrick Zaki has been formally accused of incitement to commit violence and terrorism-related crimes and of publishing rumors and false news that aim to disturb social peace and sow chaos under Egyptian Counter terrorism law; of managing a social media account that aims to undermine the social order and public safety under Egyptian Anti Cybercrime Law; of calling for the overthrow of the state under the Egyptian Penal Code, and for incitement to protest without permission from the relevant authorities with the aim of undermining state authority under the Egyptian Protest Law.

Mr. Patrick Zaki suffers from asthma; a respiratory condition recognised by the World Health Organisation as putting those who suffer from it at increased risk if they contract the COVID-19 disease. This health condition puts Mr. Zaki at a more vulnerable situation while in extended pre-trial detention, notably as custodial and other detention settings have become worldwide hotspots for the spread of the virus.

Hossam Bahgat

On 17 September 2016, the Cairo Criminal Court confirmed the order to freeze the personal funds and family assets of Mr. Bahgat, accused of illegally receiving foreign funding. Mr. Hossam Bahgat was previously summoned to appear before the Office of the Military Prosecution on 8 November 2015,

where he was interrogated without the presence of his lawyer with regard to his work as a journalist. Mr. Hossam Bahgat was detained at an unknown location before being released on 10 November 2015.

On 18 July 2020 the criminal court rejected the request to cancel the travel ban imposed on him in February 2016.

Without prejudging the accuracy of the above allegations, we are deeply concerned for the arrest of and official charges against the Executive Director, and two other staff members of EIPR in apparent retaliation for their meeting of 3 November 2020 on the human rights situation of Egypt and world-wide with representatives of the diplomatic community. We are particularly concerned that Mr. Gasser Abdel Razek allegedly remains in solitary confinement, and that all of them have been officially charged with crimes related to terrorism as well as crimes related to national security and the broadcasting of false news under national legislation.

We are particularly troubled that their arrest, official charges and pre-trial detention appear directly connected to their legitimate and internationally protected human rights work within EIPR, despite being presented under the guise of terrorism and national security related crimes. Their cases are indicative of a broader pattern of terrorism and national security legislation being used as tools to punish and ultimately silence those working on human rights and sharing information on the observance of human rights in the country and elsewhere.

Furthermore, we are seriously concerned that the criminalization and misuse of anti-terrorism and national legislation against these three human rights defenders and staff of EIPR, has been preceded by the arrest and pre-trial detention of another human rights defender and EIPR staff members, Mr. Zaki, and that EIPR founder and former executive director, Mr. Hossam Bahgat, has also been criminalised and prosecuted also in connection to his human rights work with EIPR, and remains unable to travel outside of Egypt and has his assets frozen. The criminalisation of these five human rights defenders seriously hampers the ability of EIPR to continue its important human rights work, to the detriment, of an already shrinking civic space in Egypt. Their detention and ongoing prosecution represents yet another serious targeting of and attack against human rights organizations and defenders, and has a serious chilling effect on civil society in Egypt, and discourages others from working on human rights.

We also find very concerning the use of extended pre-trial detention, as the norm to persecute and imprison human rights defenders, such as Mr. Mohamed Basheer, Mr. Karim Ennarah, Mr. Gasser Abdel Razek and Mr. Zaki, without finding them guilty of any crime. In this connection, we reiterate that, as stipulated by the Egyptian Criminal Proceedings Code, pre-trial detention should only be used in certain circumstances, as an exception to the rule of provisional release. We reiterate our concern for the continued practice of extended pre-trial detention overlapping with insufficient and inadequate judicial oversight, as well as for the inadequate access to legal counsel. We further note, in the context of the COVID-19 pandemic in particular, that prolonged pre-trial detention should be urgently reviewed and avoided.¹

¹ United Nations Special Procedures and Covid-19 Working Document covering information as of 28 April 2020, https://www.ohchr.org/Documents/HRBodies/SP/COVID19_and_SP_28_April_2020.pdf.

More broadly, the detention of human rights defenders during the COVID-19 pandemic is deeply concerning, particularly as many of them, like Mr. Zaki, suffer from medical conditions that put them at significant and grave risk.

We wish to recall that, by depriving persons of their liberty, States assume responsibility to care for their life and bodily integrity. Due to this heightened duty of care, States must take any necessary measures to protect the lives of individuals deprived of their liberty. Inadequate conditions of detention can be a factor contributing to deaths and serious injury in detention, and when they are seriously inadequate they can constitute an immediate or long-term danger to life. We reiterate that infectious and communicable diseases spread easily in overcrowded detention facilities due to poor hygiene and sanitation and this may adversely impact on the right to life of detainees. Furthermore, States must respect the right to health and ensure equal access for all persons, including those deprived of their liberty, to healthcare at least equivalent to that available in the community, taking into account the additional risks linked to incarceration. Infringements to the right to health contribute to deaths in situations of deprivation of liberty. If not promptly and adequately treated, infections and communicable diseases may lead to lethal consequences².

From the beginning of the COVID-19 pandemic, the UN Inter-Agency Standing Committee (WHO and OHCHR); the Subcommittee on Prevention of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, and numerous Special Procedures mandate holders, have warned against the disproportionate impact of COVID-19 on all persons deprived of their liberty.³ They have called on the authorities to effectively implement their obligations to respect and protect the right to life of detainees, without discrimination. They have specifically requested that States should undertake the immediate, unconditional release of all prisoners whose incarceration is illegal or arbitrary under international law, such as human rights defenders, abandon or exclude detention as a sanction for persons found to be in breach of COVID-19 related measures such as curfews, and help tackle associated overcrowding, through a review of the prison population in order to avoid mass contamination.⁴

In connection with the above alleged facts and concerns, please refer to the **Annex on Reference to international human rights law** 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:

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- ² Report of the High Commissioner for Human Rights, Human Rights in the administration of justice (A/HRC/42/20): https://www.ohchr.org/Documents/Issues/RuleOfLaw/Violence/A_HRC_42_20_AUV_EN.pdf; and Report of the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health, Deprivation of liberty and the right to health (A/HRC/38/36): <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G18/101/42/PDF/G1810142.pdf?OpenElement>.
- ³ <https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=25722>
- ⁴ <https://interagencystandingcommittee.org/system/files/2020-03/IASC%20Interim%20Guidance%20on%20COVID-19%20-%20Focus%20on%20Persons%20Deprived%20of%20Their%20Liberty.pdf>; <https://undocs.org/CAT/OP/10>; https://www.ohchr.org/Documents/Issues/Executions/HumanRightsDispatch_2_PlacesofDetention.pdf

1. Please provide any additional information and/or comment(s) you may have on the above-mentioned allegations.
2. Please provide information on the basis for the accusations against and pre-trial detention of Mohamed Basheer, Karim Ennarah, Gasser Abdel Razek, and Patrick Zaki and explain how their pre-trial detention hearings and detentions are compatible with articles 9, 14, 19 and 22 of the ICCPR.
3. Please provide further information on the basis for maintaining the travel ban and freeze of assets of Hossam Bahgat, and other human rights defenders affected by the same measures in his legal case.
4. Please provide information on why charges related to terrorist acts, raising funds for terrorist acts, conspiracy, membership of a terrorist organisation have been levied against these named human rights defenders 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).
5. Please provide further information as to whether Egypt's Terrorist Circuit Courts are the tribunals responsible to try Mohamed Basheer, Karim Ennarah, Gasser Abdel Razek, and Patrick Zaki.
6. 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.
7. Please explain how the systematic imposition of pre-trial detention, particularly in cases of human rights defenders, and under the current COVID-19 context, is consistent with the human rights obligations of Your Excellency's Government.
8. Please indicate what specific legal and administrative measures have been taken to ensure that human rights defenders, journalists, as well as members of religious or others minorities in Egypt will be able to carry out their legitimate work and activities, including through the exercise of their right to freedom of opinion and expression, and their rights to freedom of association, in a safe and enabling environment without fear of being designated a "terrorist".

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.

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 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 cases 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.

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.

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

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

Tae-Ung Baik
Chair-Rapporteur of the Working Group on Enforced or Involuntary Disappearances

Agnes Callamard
Special Rapporteur on extrajudicial, summary or arbitrary executions

Irene Khan
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

Tlaleng Mofokeng
Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health

Mary Lawlor
Special Rapporteur on the situation of human rights defenders

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 respectfully call your Excellency's Government's attention to the relevant provisions enshrined in the Universal Declaration of Human Rights (UDHR) and in the International Covenant on Civil and Political Rights (ICCPR) that the Arab Republic of Egypt (Egypt) signed on 4 August 1967 and ratified on 14 January 1982. More specifically, we consider the international human rights standards applicable under article 9 of the ICCPR and article 9 of the UDHR, which guarantee that individuals will not be subjected to arbitrary arrest or detention; articles 19, 21 and 22 of the ICCPR and articles 19 and 20 of UDHR, which guarantee the universally-recognized rights to freedom of opinion and expression and freedom of peaceful assembly and association; and article 14(2) of the ICCPR and article 11(1) of the UDHR, by which any undue delay in pre-trial detention is inconsistent with international legal standards on the presumption of innocence. We also consider article 2 of the ICCPR, whereby the State is under a duty to adopt laws that give domestic legal effect to the rights and adopts laws as necessary to ensure that the domestic legal system is in compliance with the Covenant. In addition the prohibition of torture and other cruel, inhuman or degrading treatment or punishment codified under article 7 of the ICCPR and 5 of the UDHR. Egypt also signed the African Charter on Human and People's Rights on 16 November 1981 and ratified it on 20 March 1984, which prohibits, in article 6, arbitrary arrest and detention and enshrines, in its article 7(1-4) the right to be tried within a reasonable time by an impartial court or tribunal. We further make reference to the United Nations Declaration on the Protection of All Persons from Enforced Disappearance which establishes that any person deprived of liberty shall be held in an officially recognised 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).

Right to a fair trial and deprivation of liberty

We would like to refer your Excellency's Government to the right liberty and security of person, the rights of the defense and to a fair trial set forth in articles 9, 10 and 11 of the UDHR and articles 9, 10 and 14 of the ICCPR.

Article 9(1) of the Covenant requires that no one is deprived of his liberty except on such grounds and in accordance with such procedure as established by law. This would normally require the issuance and presentation of a warrant for and during the arrest. In addition, we would like to remind that pursuant to article 9(3) of the Covenant that pre-trial detention is an exceptional measure and must be assessed on an individual basis. The rationale in paragraph 3 of article 9 also indicates that alternative measures including house arrest, judicial monitoring, release on bail shall not be regarded as compulsory vis-à-vis a pretrial detention but rather optional. The consideration of alternative non-custodial measures allows it to be ascertained whether the principles of necessity and proportionality have been met (see A/HRC/19/57, para. 54). The current public health emergency puts an additional onus of consideration upon the authorities, as they must explain the necessity and proportionality of the measure in the circumstances of the pandemic. The Working Group recalls in particular that automatic pre-trial detention of persons is incompatible with international law. The circumstances

of each instance of pre-trial detention should be assessed; at all stages of proceedings, non-custodial measures should be taken whenever possible, and particularly during public health emergencies (Deliberation No. 11 on prevention of arbitrary deprivation of liberty in the context of public health emergencies, para. 14). Moreover, we would like to recall that article 9.3 requires that the arrested person shall be brought promptly before a judge. The decision on the need to subject the accused to pre-trial detention shall be taken by a judge or immediately subjected to judicial oversight. The fact that the prosecution, as the investigative authority, decides on the need to impose the pretrial detention represents a conflict of interest, which can negatively affect the rights and guarantees of the individual under the Covenant.

Article 9 (4) of the Covenant provides that “[a]nyone who is deprived of his liberty by arrest or detention shall be entitled to take proceedings before a court, in order that that court may decide without delay on the lawfulness of his detention and order his release if the detention is not lawful”. In this respect, “[t]he right to bring proceedings applies in principle from the moment of arrest and any substantial waiting period before a detainee can bring a first challenge to detention is impermissible. In general, the detainee has the right to appear in person before the court, especially where such presence would serve the inquiry into the lawfulness of detention or where questions regarding ill-treatment of the detainee arise. The court must have the power to order the detainee brought before it, regardless of whether the detainee has asked to appear” (CCPR/C/GC/35, para. 42). Moreover, “[t]o facilitate effective review, detainees should be afforded prompt and regular access to counsel. Detainees should be informed, in a language they understand, of their right to take proceedings for a decision on the lawfulness of their detention” (Ibid, para. 46).

We would also like to recall that the deprivation of liberty as punishment for the legitimate exercise of the rights to freedom of opinion and expression and freedom of assembly and association is arbitrary. Moreover, enforced disappearances violate numerous substantive and procedural provisions of the Covenant and constitute a particularly aggravated form of arbitrary detention and imprisonment after a manifestly unfair trial is arbitrary. (CCPR/C/GC/35, para. 17)

Definition of Terrorism

In regard to the definition of terrorism employed by the Terrorism Circuit Courts, we respectfully remind your Excellency’s Government of the relevant provisions of the United Nations Security Council resolutions 1373 (2001), 1456(2003), 1566 (2004), 1624 (2005), 2178 (2014), 2242 (2015), 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 and 72/180.

All these resolutions require that States ensure that any measures taken to combat terrorism and violent extremism, including incitement of and support for terrorist acts, must comply with all of their obligations under international law. We would also like to recall 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 and 2 which state that everyone has the right to promote and strive for the protection and realization 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, as well as to articles 5(a) and (b), 6(b) and (c) and 12, paras 2 and 3. In this regard, we also wish to refer to the 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.⁵

We would like to bring to the attention of your Excellency's Government that counter-terrorism legislation should be sufficiently precise to comply with the principle of legality recognised in international human rights law, so as to prevent the possibility that it may be used to target civil society on political, religious or other unjustified grounds.⁶ We recall that the principle of legal certainty expressed in article 11 of the UDHR and in the ICCPR, requires that criminal laws are sufficiently precise so it is clear what types of behaviour and conduct constitute a criminal offence and what would be the consequence of committing such an offence.⁷ This principle recognizes and seeks to prevent that ill-defined and/or overly broad laws are open to arbitrary application and abuse. The Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism has highlighted the dangers of overly broad definitions of terrorism in domestic law that fall short of international treaty obligations.⁸ To be "prescribed by law," the prohibition must be framed in such a way that the law is adequately accessible so that the individual has a proper indication of how the law limits his or her conduct; and the law is formulated with sufficient precision so that the individual can regulate his or her conduct accordingly.⁹ The failure to restrict counter-terrorism laws and implementing measures to the countering of conduct which is truly terrorist in nature, has the potential to restrict and infringe upon the enjoyment of rights and freedoms in absolute ways including exercising freedoms of expression, opinion, and assembly.¹⁰ To minimize the risks of counter-terrorism legislation being misused, criminal offences must be in "precise and unambiguous language that narrowly defines the punishable offence".¹¹

Freedom of opinion and expression

We would also like to appeal to your Excellency's Government to take all measures to guarantee the right to freedom of opinion and expression, as provided in article 19 of the ICCPR. Freedom of expression entails that "everyone shall have the right to hold opinions without interference" as well as that "everyone shall have the right to freedom of expression; this right shall include freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art, or through any other media of his choice." This right includes not only the exchange of information that is favorable, but also that which may shock or offend.

⁵ A/HRC/RES/22/6, para. 10; See also E/CN.4/2006/98, para. 47.

⁶ A/70/371, para. 46(c).

⁷ UA G/SO 218/2 Terrorism.

⁸ A/73/361, para. 34.

⁹ Human Rights Committee, General Comment 34, para. 25; E/CN.4/2006/98, para. 46.

¹⁰ E/CN.4/2002/18, Annex, para. 4(b).

¹¹ E/CN.4/2006/98, para. 37.

Article 19(2) of the ICCPR furthermore guarantees an expansive right to “seek, receive and impart information and ideas of all kinds”, one which must be protected and respected regardless of frontiers or type of media. Enjoyment of the right to freedom of expression is intimately related to the exercise of other rights and foundational to the effective functioning of democratic institutions, and accordingly the duties it entails include the promotion of media diversity and independence, and the protection of access to information.

Human rights defenders

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 realization 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.

Furthermore, we would like to bring to the attention of your Excellency's Government the following provisions of the UN Declaration on Human Rights Defenders:

- article 9, paragraph 1, which provides for the right to benefit from an effective remedy and to be protected in the event of the violation of those rights;
- article 12, paragraphs 2 and 3, which provides that the State shall 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.

The right to health, COVID-19 and places of detention

We recall Egypt's obligations under article 12 of the International Covenant on Economic, Social and Cultural Rights ratified by Egypt on 14 January 1982, which protects the right to health of everyone, including prisoners or detainees. In this connection, the Committee on Economic, Social and Cultural Rights, in its Statement on the COVID-19 pandemic, stressed the great risk of contagion of prisoners and persons in detention facilities and established that, in responding to the pandemic, States must respect and protect the inherent dignity of all people. In the COVID-19 difficult context, access to justice and to effective legal remedies is not a luxury, but an essential element to protect human rights (E/C.12/2020/1, para 12). Furthermore, the Subcommittee on Prevention of Torture in its Advice relating to COVID-19 (CAT/OP/10) urged States to identify those individuals most at risk within the detained populations; to reduce prison populations and other detention populations by early, provisional or temporary release, and to review all cases of pretrial detention, extending the use of bail for all but the most serious of these cases.

The right not to be subjected to torture and other ill-treatment

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). The freedom from torture and other cruel, inhuman or degrading treatment or punishment is a non-derogable right under international law that must be respected and protected under all circumstances. In this context, we would also like to draw the attention of your Excellency's Government to resolution 3452 (XXX), the General Assembly rightly declared any act of torture or ill-treatment is an offence to human dignity and "a denial of the purposes of the Charter of the United Nations" (annex, para. 2) and paragraph 1 of General Assembly Resolution 68/156, which "[c]ondemns all forms of torture and other cruel, inhuman or degrading treatment or punishment, including through intimidation, which are and shall remain prohibited at any time and in any place whatsoever and can thus never be justified, and calls upon all States to implement fully the absolute and non-derogable prohibition of torture and other cruel, inhuman or degrading treatment or punishment".