

Mandates of the Special Rapporteur on the situation of human rights defenders; the Working Group on Arbitrary Detention; the Special Rapporteur on the rights of persons with disabilities; 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 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

REFERENCE:
AL EGY 10/2021

3 September 2021

Excellency,

We have the honour to address you in our capacities as Special Rapporteur on the situation of human rights defenders; Working Group on Arbitrary Detention; Special Rapporteur on the rights of persons with disabilities; 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 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 43/16, 42/22, 44/10, 45/3, 43/4, 42/16, 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 on the ongoing arbitrary detention and alleged ill-treatment of Mr. **Oqaba Alaa Labib Hashad** and Mr. **Mohamed Ibrahim Radwan**.

Mr. Oqaba Alaa Labib Hashad is an Egyptian citizen and university student from the Menoufia Governorate. At the age of 6, he underwent surgery to amputate part of his right leg from below the knee. His disability means that he is unable to walk without his prosthetic limb. Mr. Hashad is not politically active and has no political affiliations. His brother, Mr. Amr Alaa Labib Hashad, is an Egyptian lawyer and human rights defender currently residing abroad who was previously imprisoned in relation to his defence of students rights in Egypt.

Mr. Mohamed Ibrahim Radwan is a human rights defender who runs a YouTube channel and Facebook page called Oxygen Egypt, where he publishes videos, audio-visual and written reports on human rights, political, and socio-economic issues in Egypt.

Mr. Radwan has been the subject of several communications sent by Special Procedures' mandate holders to your Excellency's Government, including EGY 14/2018 and EGY 19/2020, in which we raised concerns about his alleged arbitrary detention. We thank your Excellency's Government for the response to EGY 12/2018, however we regret to inform you that at the time of writing, no response has been received in relation to the allegations raised in EGY 19/2020.

According to information received:

Mr. Oqaba Alaa Labib Hashad

On 20 May 2019, several National Security Agents and policemen forcibly entered Mr. Hashad's student accommodation in Sadat City, Menoufia Governorate. They allegedly proceeded to violently search his residence, breaking furniture in the process and then arrested Mr. Hashad and other students without presenting a warrant. All the other students, except Mr. Hashad, were released in the hours and days following the arrest.

Mr. Hashad was forcibly disappeared for almost 75 days after his arrest, and was taken to an undisclosed location alleged to be the National Security premises inside Menoufia Security Directorate. During this period of enforced disappearance, Mr. Hashad was allegedly subjected to physical and psychological torture, including being stripped of his clothes, hanged from the ceiling of a room, and electrocuted on different areas of his body including his amputated leg and genital areas. It was also reported that an officer tied a rope to his neck and dragged him on the floor referring to him as a dog. During this torture, the officers threatened to arrest and harm other members of his family. Furthermore, Mr. Hashad suffers from haemophilia and as a result of the torture he was subjected to, had to receive urgent medical treatment from a doctor while being held incommunicado .

On 1 August 2019, Mr. Hashad appeared for the first time since his enforced disappearance. He was brought before the Shebein Al-Koum Prosecution and charged with "joining a group established against the rule of law", "participating in demonstrations to overthrow the regime", and "possessing a pistol". It is believed that Mr. Hashad was charged in connection with a case known as Ashmoun case, however the exact case number could not be verified as his lawyer was not allowed to view the case file.

Later that day, on 1 August 2019, Mr. Hashad's lawyer was permitted to attend the interrogation session at the Prosecution office. The date of arrest recorded by the Prosecution office was 1 August 2019, ignoring the previous 75 days during which he was allegedly forcibly disappeared. The prosecutor ordered Mr. Hashad's 15-day pre-trial detention at Shebin Al-Koum deportations prison, subject to renewal.

On 5 September 2019, Mr. Hashad was transferred to Shebin Al-Koum Public Prison where he remains at the time of writing. It has been reported that Mr. Hashad was subjected to inhumane detention conditions and ill-treatment at Shebin Al-Koum Public Prison.

In January 2021, Mr. Hashad was called to the office of the head of investigations in the prison and allegedly was told that he would be punished as a result of a human rights report released by his brother a week earlier. The head officer then ordered for Mr. Hashad's prosthetic leg to be taken away from him. Reportedly, his assistive device still has not been returned to him, making everyday tasks extremely challenging and making him even more vulnerable in the context of his detention. The prison officers only permit Mr. Hashad to wear his prosthetic limb when he attends renewal sessions on

occasion.

On 5 March 2021, it is reported that Mr. Hashad complained about being deprived of the use of his prosthetic leg during a routine inspection by the Prison Authority. The following day, the head of investigations in the prison allegedly slapped him, shaved his head, took away all his personal belongings, and put him in solitary confinement where he remained for three months. Family visits were also prohibited during this time.

Between 16 and 18 June 2021, Mr. Hashad was transferred to Wadi Al Natroun Prison 440 to sit his university exams. When he returned to Shebin Al-Koum Public Prison, he was placed in a 2x3 metres cell with 8 others, where he did not have sufficient access to sanitation facilities. Since the beginning of his detention in August 2019, Mr. Hashad's health condition has seriously deteriorated. It has been reported that Mr. Hashad is now permitted family visits but remains without the use of his prosthetic leg.

Since his initial interrogation on 1 August 2019, Mr. Hashad's pre-trial detention has been continually renewed and extended pending investigation. These renewals were allegedly completed on paper, often without the presence of Mr. Hashad's legal representation or Mr. Hashad himself, who either remained in prison or in the deportation vehicle. No trial date has ever been set. The latest renewal session took place on 1 August 2021, during which the prosecutor ruled for a further 45-day extension. Mr. Hashad allegedly remained in the deportation vehicle during this renewal session.

The case of Mr. Mohamed Ibrahim Radwan

As detailed in previous communications EGY 14/2018 and EGY 19/2020, Mr. Radwan was re-arrested on 21 September 2019 while reporting to a local police station in Cairo, in line with his precautionary measures. On 8 October 2019, the Supreme State Prosecution charged Mr. Radwan with "membership of a terrorist organisation", "defamation", and "misuse of social media". Since then, he has had his preventive detention periodically renewed and continually extended.

On 24 August 2020, he was transferred to Tora Maximum-Security Prison 2 , where he has allegedly been subjected to ill-treatment. Mr. Radwan has been denied family visits and access to his lawyer since March 2020 and has been allegedly denied the ability to access money sent by family members to pay for essential goods within the prison.

On 3 November 2020, the Cairo Criminal Court granted the human rights defender release under precautionary measures. On 10 November 2020, the State Public Prosecutor accused Mr. Radwan of being involved in another case, case No. 855, and charged him with "joining a terrorist group".

It has been reported that during the Eid al'Adha holiday 2021, Mr. Radwan attempted to commit suicide in prison as a result of his ongoing detention and arbitrary measures against him. At the time of writing, Mr. Radwan remains in pre-trial detention in Tora Maximum-Security Prison 2.

While we do not wish to prejudge the accuracy of the information we have received, we remain concerned about the ongoing arbitrary detention of both Mr. Hashad and human rights defender Mr. Radwan, which appear to be in response to either their human rights work or connection to human rights defenders.

In the case of Mr. Hashad, we are concerned that although he is not an active human rights defender himself, he has been targeted, arbitrarily arrested, forcibly disappeared, tortured and detained as a result of his brother's legitimate role as a human rights defender and is at risk of being criminalised on national security related charges. We believe that the targeting of Mr. Hashad illustrates the apparent deliberate pattern of retaliation by the Egyptian authorities against family members of human rights defenders.

We are concerned about the alleged ill-treatment and inhumane conditions of detention of both Mr. Hashad and Mr. Radwan . In Mr. Hashad's case, the allegations of ill-treatment while during his incommunicado detention and allegedly subjected to enforced disappearance may amount to torture and are in contravention of its absolute and non-derogable prohibition. Of particular concern is that the prison authorities have denied access and continue to deprive Mr. Hashad of the use of his prosthetic leg. Further, we are concerned by his inhumane prison conditions, including solitary confinement, physical assault against him, lack of access to adequate sanitary facilities, in an overcrowded prison. Furthermore, we are concerned about the physical and mental well being of Mr. Radwan who has allegedly attempted suicide due to the conditions of detention.

The ongoing, prolonged pre-trial detention of both Mr. Hashad and Mr. Radwan highlights the strategy of the Egyptian authorities in which they continuously renew and extend the detention of imprisoned individuals, including human rights defenders for prolonged periods. (See OL EGY 4/2020). This practice is in direct violation of Egyptian law, which states the amount of time an individual can spend in pre-trial detention without trial is a maximum of two years, after which they must be released or brought to trial. Mr. Hashad has spent more than two years in pre-trial detention, and by September 2021, Mr. Radwan will have too.

We are issuing this appeal in order to safeguard the rights of Mr. Oqaba Alaa Labib Hashad and Mr. Mohamed Ibrahim Radwan from irreparable harm and without prejudicing any eventual legal determination. It is relief *pendente lite*.

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.

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 provide the factual and legal basis for the arrest of Mr. Hashad and for the charges that have been made against him, and explain how

these are compatible with international human rights law.

3. Please provide information that accounts for the whereabouts of Mr. Hashad from 20 May until 1 August 2019. Please provide information on whether an investigation was carried out into the alleged enforced disappearance and torture of Mr. Hashad during this period of time, and whether those responsible have been held accountable.
4. Please provide information on the current state of physical and mental health of Mr. Hashad and Mr. Radwan and the measures taken to ensure that they have access to adequate medical assistance and treatment and to avoid any irreparable damage to their life and personal integrity.
5. Please provide information on the alleged ill-treatment and inhumane conditions Mr. Hashad has been subjected to in Shebin Al-Koum Public Prison. In particular, please explain why he has been deprived the use of his prosthetic leg.
6. Please provide the factual and legal basis for the re-arrest of Mr. Radwan on 21 September 2019 while he was allegedly complying with his precautionary measures. Please also provide information on the alleged inhumane prison conditions he has been subjected to in Tora Maximum-Security Prison 2, and how this treatment is compatible with international human rights law.
7. Please explain how the practice of prolonged pre-trial detention and the continuous renewal and extension of pre-trial detention is compatible with both Egyptian and international law. In the specific cases of Mr. Hashad and Mr. Radwan, please explain why their pre-trial detention has been continually renewed in violation of domestic legal provisions and Egypt's obligations under international human rights law, and why neither of them have been brought to trial.
8. Please outline the measures your Excellency's Government has implemented to ensure that all human rights defenders are able to carry out their legitimate and peaceful work without fear of retaliation. Please outline the measures put in place to protect human rights defenders and their families and ensure that they are not targeted for their defence of human rights in Egypt.

We would appreciate receiving a response within 60 days. Passed this delay, this communication and any response received from your Excellency's Government will be made public via the communications reporting [website](#). They will also subsequently be made available in the usual report to be presented to the Human Rights Council.

While awaiting a reply, we urge that all necessary interim measures be taken to prevent any irreparable damage to the life and personal integrity of Mr. Hasad and Mr. Radwan, to halt the alleged violations and prevent their re-occurrence and in the event that the investigations support or suggest the allegations to be correct, to ensure

the accountability of any person(s) responsible for the alleged violations.

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

Mary Lawlor
Special Rapporteur on the situation of human rights defenders

Miriam Estrada-Castillo
Vice-Chair of the Working Group on Arbitrary Detention

Gerard Quinn
Special Rapporteur on the rights of persons with disabilities

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

Irene Khan
Special Rapporteur on the promotion and protection of the right to freedom of opinion
and expression

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

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 the above alleged facts and concerns, we would like to draw the attention of your Excellency's Government to the International Covenant on Civil and Political Rights (ICCPR), ratified by Egypt on 14 January 1982. In particular, we would like to refer to articles 6, 7, 9, 10, 14 and 16 which set out guarantees that everyone has the inherent right to life and no one should be arbitrarily denied this right, no one should be subjected to torture, cruel, inhuman or degrading treatment or punishment, everyone has the right to liberty and security of person, to a trial within a reasonable time, to challenge the legality of the detention before the courts, to be released subject to guarantees to appear for trial, to a fair and public trial before an independent and impartial tribunal without undue delay and with legal assistance of their choosing, and that everyone shall be granted these rights free of discrimination. We would also like to refer to article 19 and 21, which provide for the rights to freedom of opinion and expression and to freedom of peaceful assembly and association.

Article 19 of the ICCPR guarantees that everyone shall have the right to hold opinions without interference, and the right to freedom of expression, which includes 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 one's choice. As interpreted by the Human Rights Committee in General Comment No. 34 (CCPR/C/GC/34), such information and ideas include, inter alia, political discourse, commentary on one's own and on public affairs, cultural and artistic expression, and discussion of human rights (Paragraph 11) as well as expression of criticism or dissent. Restrictions to freedom of expression can only be imposed if adhering to the strict criteria of legality, necessity and proportionality established in article 19 (3) of the Covenant. As interpreted by the Human Rights Committee, article 19 (3) may never be invoked to justify the muzzling of any advocacy of human rights (*idem*, paragraph 23).

We further draw attention to the provisions of the United Nations Declaration on the Protection of All Persons from Enforced Disappearance. In particular, we would like to make reference to article 2 of the Declaration, which states that no State shall practice, permit or tolerate enforced disappearance, and article 7, which holds 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. Furthermore, article 10 (1) of the Declaration establishes that any person deprived of liberty shall be held in an officially recognized place of detention, article 10 (3) that an official up-to-date register of all persons deprived of their liberty shall be maintained in every place of detention. Additionally, articles 13, 14 and 19 of the Declaration respectively require that allegations that a person has been subjected to an enforced disappearance are promptly, thoroughly and impartially investigated, that perpetrators are held accountable and that victims of acts of enforced disappearance and their family obtain redress and adequate compensation for the damage suffered.

Moreover, we would like to draw your Government attention to the principles enunciated by Human Rights Council resolution 24/5, and in particular operative paragraph 2, which "reminds States of their obligation to respect and fully protect the

[right] of all individuals to... associate freely, online as well as offline... including human rights defenders... seeking to exercise or to promote these rights, and to take all necessary measures to ensure that any restrictions on the free exercise of the [right] to freedom of... association are in accordance with their obligations under international human rights law". We would also like to refer to Human Rights Council resolution 22/6, which urges States to ensure that measures to combat terrorism and preserve national security are in compliance with their obligations under international law and do not hinder the work and safety of individuals, groups and organs of society engaged in promoting and defending human rights. We would also like to bring to remind your Excellency's Government's that the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism urged States to ensure that their counter-terrorism legislation is sufficiently precise to comply with the principle of legality, so as to prevent the possibility that it may be used to target civil society on political or other unjustified grounds. (A/70/371, para 46(b)).

We further wish to remind your Excellency's Government of its obligations under article 12 of the International Covenant on Economic, Social and Cultural Rights, ratified by Egypt on 12 January 1982. In light of article 12, which guarantees the right of all people, including prisoners and detainees, to the highest attainable standard of physical and mental health, States have the obligation to refrain from denying or limiting equal access for all persons, including prisoners or detainees, to health services (see Committee on Economic, Social and Cultural Rights, General Comment 14, para 34).

We would also like to refer to the UN Standard Minimum Rules for the Treatment of Prisoners, also known as the "Mandela Rules", in which enshrined are the provision of healthcare and humane treatment of all prisoners. It is stated here that the State is responsible for ensuring that all prisoners are treated with respect and dignity, and that no one is subjected to torture or ill-treatment while in detention. It also includes the provision for prisoners who have underlying health issues to have immediate and unrestricted access to necessary medications. Rule 27(1) states that in cases of urgent medical emergencies, all prisoners should have prompt access to medical assistance, and rule 58 provides for the prisoners' right to regular and unrestricted communication with family and lawyers. In this regard, we would also like to remind your Excellency's Government of its obligations under article 12 of ICESCR, which guarantees all individuals, including prisoners and detainees, the right to the highest attainable standard of physical and mental health. In addition, we would like to underline the Basic Principles for the Treatment of Prisoners, adopted by the General Assembly in resolution 45/111, according to which prisoners should have access to health services available in the country without discrimination on the grounds of their legal situation (Principle 9).

We refer next to the Convention on the Rights of Persons with Disabilities (CRPD), ratified by Egypt on 14 April 2008. Article 17 recognizes that persons with disabilities have the right to respect for their physical and mental integrity "on an equal basis with others" and article 15 upholds the right of all persons with disabilities to be free from torture or other cruel, inhuman and degrading treatment or punishment. With regard to persons with disabilities in detention, article 14 provides that "States Parties shall ensure that if persons with disabilities are deprived of their liberty through any process, they are, on an equal basis with others, entitled to guarantees in accordance with international human rights law and shall be treated in

compliance with the objectives and principles of the present Convention, including by provision of reasonable accommodation.” Finally, article 20 recognizes the right to personal mobility for persons with disabilities. We also refer to the ‘International Principles and Guidelines on Access to Justice for Persons with Disabilities’, adopted by the UN Special Rapporteur on the Rights of Persons with Disabilities, which states that all persons with disabilities are entitled to all substantive and procedural safeguards recognized in international law on an equal basis with others, and that States must provide the necessary accommodations to guarantee due process.

Furthermore, we bring to your attention 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.

Finally, 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 5 (b) and (c), which provides for the right of all persons to form, join and participate in non-governmental organizations, associations and groups; and to communicate with non-governmental or intergovernmental organizations;
- article 6 point a), which provides for the right to know, seek, obtain, receive and hold information about all human rights and fundamental freedoms;
- article 6 points b) and c), which provides for the right to freely publish, impart or disseminate information and knowledge on all human rights and fundamental freedoms, and to study, discuss and hold opinions on the observance of these rights;
- 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.