

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

Ref.: AL EGY 10/2022
(Please use this reference in your reply)

11 November 2022

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 and Working Group on Enforced or Involuntary Disappearances, pursuant to Human Rights Council resolutions 43/16, 42/22 and 45/3.

In this connection, we would like to bring to the attention of your Excellency's Government information we have received concerning the repeated enforced disappearance, torture and ill treatment, and medical negligence, of human rights defender, **Dr. Ahmed Shawky Abdelsattar Mohamed Amasha**.

Dr. Ahmed Shawky Abdelsattar Mohamed Amasha is an Egyptian human rights defender, and an environment rights defender. He has campaigned for and supported families of victims of enforced disappearance in Egypt through the League for Families of the Disappeared, a non-governmental organization that he co-founded and which provides legal advice and awareness raising. He is a veterinary physician by profession and a former head of the veterinarian syndicate.

Dr. Amasha was previously arrested in March 2017 and conditionally released without trial in October 2019. Dr. Amasha was the subject of a previous communication (UA EGY 5/2017), dated 3 May 2017, sent to your Excellency's Government concerning the abduction, enforced disappearance, detention, torture and ill-treatment of Dr. Amasha, reportedly in retaliation for his activities as a human rights defender, which included documenting cases of enforced disappearances for the Special Procedures of the Human Rights Council of the United Nations. We regret that no response to this communication has been received to date. Dr. Amasha was also the subject of Opinion No. 78/2017, regarding his arrest on 10 March 2017, in which the Working Group on Arbitrary Detention found his detention to be arbitrary. The Working Group called on your Excellency's Government to release Dr. Amasha and accord him an enforceable right to compensation and other reparations, in accordance with international law. The Working Group also requested your Excellency's Government to provide information on action taken in follow-up to the recommendations made in its Opinion. We regret that no such information was received.

According to the information received:

On 17 June 2020, Dr. Amasha was arrested for a second time from his home in the Cairo suburb of Helwan and forcibly disappeared for a second time. His lawyer and family members filed complaints with the Prosecutor General and the Minister of Interior to report his arrest and enforced disappearance but his whereabouts were not disclosed for over 25 days.

On 12 July 2020, Dr. Amasha was interrogated at the office of the Supreme State Security prosecution (SSSP) on an existing case (number 1360/2019), on charges of joining a terrorist organization. He was then held in incommunicado detention in Tora high security prison, known as Scorpion 2, where he was not allowed legal counsel or family visits.

During the interrogation, Dr. Amasha complained that he was electrocuted and badly beaten during his arrest. The SSSP ordered a forensic examination of him.

His family later learned that he had been badly beaten during his arrest and subsequent enforced disappearance, to the point where his ribs were broken, and that he had received no medical care.

On 20 July 2020, he was examined by a forensic specialist who verified that he was in stable condition, that there was no evidence of any recently inflicted injuries, but that he complained of pain in his ribs. The specialist recommended that Dr. Amasha be referred to hospital for an X-ray. His family have stated that he did not have the X-ray.

On 23 March 2021, the prison authorities wrote to the general prosecutor requesting permission for Dr. Amasha to undergo surgery for the removal of his gall bladder. This was refused, even though Dr. Amasha's family offered to cover the costs.

On 21 August 2022, when Dr. Amasha appeared in court with his lawyer for the renewal of his detention, he was barely able to walk, had lost weight and complained of medical negligence. He was told by an examining physician that his condition was stable.

On 29 August 2022, he was referred to the terrorism circuit of the Supreme State Criminal Court (SSCC) on charges of "knowingly joining and funding a terrorist group," and his name was added to the existing Case No 1360/2019, which includes another 37 defendants. The evidence presented by the prosecution include his admission to joining a demonstration by the Muslim Brotherhood on 3 July 2013¹, documents indicating his membership in the League for Families of Victims of Enforced Disappearance and other rights organizations focusing on torture, and his contact with foreign media and other concerned groups on enforced disappearance. The media or the groups that the prosecution referred to were not specified, and Dr. Amasha was mainly questioned during his interrogation about his allegiance to the Muslim Brotherhood.

On 24 September 2022, the first hearing was to take place at the terrorism circuit of the SSCC; Dr. Amasha and others did not attend, and the hearing was adjourned to 3 October 2022 to allow for all defendants to appear in court.

On 3 October 2022 and on 22 October 2022, Dr. Amasha appeared in court for hearings, having been transported from Badr prison, a new establishment located about 65 km east of Cairo where most prisoners and detainees held in Tora have been moved. The hearing was adjourned to 26 November 2022.

¹ In December 2013, the Muslim Brotherhood was banned and declared a terror organisation.

Since his detention in Badr prison in September 2022, Dr. Amasha has allegedly been held in isolation in a cell with continuous electric lights on and 24-hour camera surveillance, and he is allowed little time for outdoor exercise. His physical condition has been deteriorating; he suffers from diabetes and other age-related ailments and has not received medical attention. Furthermore, he has not been allowed visits by his lawyer or family members from the start of his detention in July 2020, when he was held in Tora high security prison before being moved in September 2022 to the new Badr prison. Dr Amasha's lawyer sees his client when he appears in court, but cannot speak to him or have no direct contact with him as the detainees are kept behind a glass screen.

On 25 October 2022, Dr. Amasha's family learned that he had joined other detainees in Badr prison in a hunger strike to protest prison conditions, which were described as being worse than those at the Tora prison. Detainees complained that prison staff had removed cleaning material from their cell, and would awaken them by loudspeakers early in the morning, move them handcuffed out of their cell in order to transfer a number of them to court, and then return the rest to their cell. Detainees were given a limited amount of food, and one bottle of water per week. The cell door has no window for observation, which is conducted through camera surveillance while communication is conducted through loudspeakers; in one instance, a detainee was ordered via loudspeaker to remove his clothes from a line, indicating continuous monitoring.

Without wishing to prejudge the accuracy of the information received, we express serious concern at the allegations of enforced disappearance and arbitrary detention of Dr. Amasha, in recurrence of similar acts taken against him previously, and which appear to be related to his activities as a human rights defender.

We express further concerns about the physical and psychological integrity of Dr. Amasha due to the alleged torture and ill- treatment that he was subjected to during his arrest, his subsequent enforced disappearance, and his detention. We are concerned at the lack of adequate medical care provided to him over serious injuries to his ribs allegedly sustained as a result of the torture.

We are also concerned at the alleged torture of Dr. Amasha, in detention, by keeping him in solitary confinement and exposing him to continuous bright light and a 24-hour camera surveillance, and at the continued lack of medical attention paid to him despite his various ailments.

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.

We are issuing this appeal in order to safeguard the rights of Dr. Amasha from irreparable harm and without prejudicing any eventual legal determination.

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 provide information on the factual and legal grounds for the arrest and detention of Dr. Amasha and how these measures are compatible with international norms and standards as stated.
3. Please provide detailed information on the state of health of Dr. Amasha and on the measures taken to ensure that he has access to medical care and treatment as needed.
4. Please also explain what measures have been taken to ensure that the rights of Dr. Amasha to due process and to a fair trial have been upheld. Please explain how these measures are consistent with Egypt's obligations under international human rights law;
5. Please provide the details, and where available the results, of any investigation, medical examinations, and judicial or other inquiries which may have been carried out in relation to this case, in particular in connection with the allegations of ill-treatment and torture, and in accordance with the Manual on Effective Investigation and Documentation of Torture and Other cruel, Inhuman or Degrading Treatment or Punishment (the Istanbul Protocol). If no inquiries have taken place, or if they have been inconclusive, please explain why.
6. Please explain how Dr Amasha treatment and conditions of detention are compliant with the international norms and standards, notably the Standard Minimum Rules for the Treatment of Prisoners (the Mandela Rules). In particular, how is the Government upholding its responsibility to provide adequate medical care and abide by 15 days maximum period of solitary confinement.
7. Please provide information on the inquiries conducted on two instances of enforced disappearance to which Dr. Amasha was subjected, including to identify those responsible and to hold them accountable. If no inquiries have taken place, or if they have been inconclusive, please explain why.
8. In the event that the alleged perpetrators are identified, please provide the full details of any prosecution which have been undertaken. Have penal, disciplinary or administrative sanctions been imposed on the alleged perpetrators?
9. Please provide information on the measures undertaken by your Government to guarantee the right to form and participate freely in organizations and associations concerned with attempting to establish the circumstances of enforced disappearances and the fate of disappeared persons, and to assist victims of enforced disappearance.

We would appreciate receiving a response within 60 days. Past 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.

We would like to inform your Excellency's Government that having transmitted an allegation letter to the Government, the Working Group on Arbitrary Detention may also transmit the case through its regular procedure in order to render an opinion on whether the deprivation of liberty was arbitrary or not. The present communication in no way prejudices any opinion the Working Group may render. The Government is required to respond separately to the allegation letter and the regular procedure.

While awaiting a reply, we urge that all necessary interim measures be taken to prevent any irreparable damage to the life and physical integrity of Dr. Amasha and, especially, to ensure that he has access to adequate medical care, 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

Mumba Malila
Vice-Chair of the Working Group on Arbitrary Detention

Aua Baldé
Chair-Rapporteur of the Working Group on Enforced or Involuntary Disappearances

Annex

Reference to international human rights law

In connection with the above alleged facts and concerns, we call your Excellency's Government's attention to the absolute and non-derogable prohibition of torture or degrading treatment 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 in 1986; and in article 7 of the International Covenant on Civil and political Rights (ICCPR), which Egypt acceded to in 1982. Similarly, we recall the absolute nature of the prohibition of enforced disappearance pursuant to article 7 of the Declaration on the Protection of All Persons from Enforced Disappearance. Moreover, the prohibition of enforced disappearance and the corresponding duty to investigate and prosecute those responsible have attained the status of *jus cogens*.

We would also like to recall that, in its resolution 7/12, the Human Rights Council urged Governments to take steps to provide adequate protection to witnesses of enforced or involuntary disappearances, human rights defenders acting against enforced disappearances and the lawyers and families of disappeared persons against any intimidation or ill-treatment to which they might be subjected. The protection of families of disappeared persons should be carried out regardless of the existence of criminal investigation.

Furthermore, we draw your Excellency's Government's attention to the United Nations Declaration on the Protection of All Persons from Enforced Disappearances, which establishes that no State shall practice, permit or tolerate enforced disappearances. The Declaration also proclaims that each State shall take effective legislative, administrative, judicial or other measures to prevent and terminate acts of enforced disappearance in any territory under its jurisdiction. We further recall that the Declaration sets out the necessary guarantees to be offered by the State. In particular, articles 9, 10, 11, 12, 13 relate to the rights to a prompt and effective judicial remedy to determine the whereabouts of persons deprived of their liberty; to access of competent national authorities to all places of detention; to be held in an officially recognized place of detention, and to be brought before a judicial authority promptly after detention; to accurate information on the detention of persons and their place of detention being made available to their family, counsel or other persons with a legitimate interest; to the maintenance in every place of detention of official up-to-date registers of all detained persons and on the States obligation to promptly, thoroughly and impartially investigate complaints of enforced disappearance. We reiterate Article 13, paras 3 and 5 which states that steps should be taken to protect all concerned persons against ill-treatment, intimidation or reprisal. We also make reference to the Working Group's study on Enforced disappearance and economic, social and cultural rights (paras. 33 - 40).

We would also like to refer your Excellency's Government to article 9 of the Universal Declaration of Human Rights (UDHR), prohibiting arbitrary detentions, and article 9 of the ICCPR, enshrining the right to liberty and security of person. The latter establishes, in particular, that no one shall be deprived of his or her liberty except on such grounds and in accordance with such procedure as are established by law. As per the jurisprudence of the Working Group on Arbitrary Detention, any detention due to the peaceful exercise of rights may be arbitrary, and enforced

disappearances constitute a particularly aggravated form of arbitrary detention. We would like to further remind your Excellency's Government that the right to challenge the lawfulness of detention before a court, protected under article 9 of the ICCPR is a self-standing human right and a peremptory norm of international law, which applies to all forms of deprivation of liberty and the absence of which constitutes a human right violation.² It is a judicial remedy designed to protect personal freedom and physical integrity against arbitrary arrest, detention, including secret detention, exile, forced disappearance or risk of torture and other cruel, inhuman or degrading treatment or punishment. It is also a means of determining the whereabouts and state of health of detainees and of identifying the authority ordering or carrying out the deprivation of liberty.³ In its jurisprudence, the Working Group on Arbitrary Detention has also reiterated that giving prompt and regular access to family members, and to independent medical personnel and lawyers, is an essential and necessary safeguard for the prevention of torture as well as protection against arbitrary detention and infringement of personal security.⁴

We also wish to bring to the attention of your Excellency's Government article 14 of the ICCPR, which enshrines the right to a fair trial and due process. In particular, article 14(3) of the ICCPR guarantees the right of detainees to have adequate time and facilities for the preparation of their defence and the right to communicate with counsel of their choosing. The right to have assistance of legal counsel, at any time during the detention, including immediately after the moment of apprehension, and to communicate and consult with such counsel is also enshrined in principles 17 and 18 of the Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment, and principles 7 and 8 of the Basic Principles on the Role of Lawyers.

We also wish to refer to Human Rights Council resolution 22/6, which calls 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. (A/HRC/RES/22/6, para 10)

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, adopted in 1998 by consensus by the UN General Assembly.⁵ 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.⁶

² See A/HRC/30/37, paras. 2, 3 and 11.

³ See A/HRC/30/37, para. 2.

⁴ See Opinion No. 87/2020, para. 116.

⁵ A/RES/53/144

⁶ <https://www.ohchr.org/sites/default/files/Documents/Issues/Defenders/Declaration/declaration.pdf>