

Mandates of the Working Group on Arbitrary Detention; the Special Rapporteur on the right to privacy; the Independent Expert on protection against violence and discrimination based on sexual orientation and gender identity and the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment

Ref.: UA EGY 1/2023
(Please use this reference in your reply)

30 January 2023

Excellency,

We have the honour to address you in our capacity as Working Group on Arbitrary Detention; Special Rapporteur on the right to privacy; Independent Expert on protection against violence and discrimination based on sexual orientation and gender identity and Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, pursuant to Human Rights Council resolutions 51/8, 46/16, 50/10 and 43/20.

In this connection, we would like to bring to the attention of your Excellency's Government information we have received concerning the **alleged arrest of 28 men suspected of homosexuality**, and the subsequent alleged denial of their human rights, including **to freedom from torture and other ill-treatment; to privacy; to liberty and security of person; to freedom from arbitrary arrest and detention; and to freedom from discrimination on the basis of sex or other status, including sexual orientation and gender identity or expression.**

According to the information received:

In the early hours of [REDACTED] January 2023, law enforcement officials from [REDACTED] arrested 28 men in an apartment in the [REDACTED] neighbourhood, allegedly on the discriminatory basis of their real or perceived sexual orientations.

Five or six police officers – who were not wearing uniforms, and initially did not identify themselves as police – reportedly arrested the 28 men without informing them of why they were being arrested or the charges against them. The police forced the 28 men to forfeit their belongings, open their bags, and searched them and the apartment in which they were arrested. The police reportedly conducted the arrests of the 28 men, as well as the searches of the individuals and the apartment, without a warrant for either the arrests or the searches. The officers presented no legal basis to enter the apartment, and did not indicate that they saw any illegal activity occurring within the apartment as a basis to enter it.

On [REDACTED] January, the 28 defendants were presented to the Public Prosecution Office [REDACTED] for interrogation, where they reportedly told prosecutors they were attending a friend's birthday party. During the questioning, the Public Prosecution Office accused the 28 men of "habitual debauchery" in relation to the initial charges against them under law number 10/1961 on

“combating prostitution”. The Public Prosecution Office reportedly ordered their remand detention, and referred all 28 defendants to the Forensic Medical Authority for anal examination and drug testing. no drugs were reportedly seized or confiscated in the apartment where the men were arrested.

On [REDACTED] January, their detention was extended following an online renewal session.

As of [REDACTED] January, the 28 men continued to be held at [REDACTED]
[REDACTED]
[REDACTED].

In light of the above information provided to the Special Procedures mandate holders, we convey our deep concerns about the allegations of discriminatory motives of the arrest and detention of the 28 men in the case, as well as potential violations of the absolute and non-derogable prohibition of torture and other cruel, inhuman or degrading treatment or punishment, including being subjected to forced anal examinations without rational justification and in connection to their real or perceived sexual orientations.

As previously stated by the UN Special Rapporteur on Torture, “Humiliating and invasive body searches may constitute torture or ill-treatment [...]. In States where homosexuality is criminalized, men suspected of same-sex conduct are subject to non-consensual anal examinations intended to obtain physical evidence of homosexuality, a practice that is medically worthless and amounts to torture or ill-treatment” (CAT/C/CR/29/4).

The UN Working Group on Arbitrary Detention has also maintained that: “forced anal examinations contravene the prohibition of torture and other cruel, inhumane and degrading treatment, whether [...] they are employed with a purpose to punish, to coerce a confession, or to further discrimination” (A/HRC/16/47/Add.1, opinion no. 25/2009).

While we do not wish to prejudge the accuracy of these allegations, we are deeply concerned by the information brought to our attention, and by the potential contravention of the human rights of every individual to liberty and security of person, including freedom from arbitrary arrest or detention, freedom from torture and other ill-treatment, as well as the rights to privacy and equality before the law without discrimination, as laid down, *inter alia*, in articles 2, 5, 6, 9, and 12 of the Universal Declaration of Human Rights (UDHR), as well as articles 2, 7, 9, 16, 17, and 26 of the International Covenant on Civil and Political Rights (ICCPR), ratified by your Excellency’s Government on 14 January 1982. We further recall that Egypt has been a State party to the UN Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, since 1986 without reservations. We recall that the right to equal recognition before the law established in article 6 of the UDHR and article 16 of the ICCPR, among other human rights treaties, which is also central to the cross-cutting obligation to realize all human rights without discrimination on the

basis of sex or any other status, as recognized in articles 1 and 2 of the UDHR and article 2 of the ICCPR. We wish to remind the Government of your Excellency that, according to the Working Group on Arbitrary Detention, detention on the basis of the individual's sexual orientation is arbitrary.

The full texts of the human rights instruments and standards recalled above are available on www.ohchr.org or can be provided upon request.

We are issuing this appeal in order to safeguard the physical integrity and other human rights of the aforementioned individuals from irreparable harm, including requesting that the charges in these cases be dropped as they violate fundamental rights, without prejudicing the facts of the situation.

In view of the urgency of the matter, we would appreciate a response on the initial steps taken by your Excellency's Government to safeguard the rights of the above-mentioned persons in compliance with international instruments.

As it is our responsibility, under the mandates provided to us by the Human Rights Council, to seek to clarify all cases brought to our attention, we would be grateful for your observations on the following matters:

1. Please provide any updates, additional information and/or comment(s) you may have on the above-mentioned cases, including all relevant prosecutorial or judicial orders citing the factual and legal basis to justify the arrest, search and ongoing detention of the men arrested, and how these measures are compatible with international human rights norms and standards.
2. Please confirm the current whereabouts of the 28 arrested persons, their personal conditions, and their current conditions of detention.
3. Please confirm whether or not anal examinations have already been carried out upon any of the 28 men arrested; and if so please indicate the legal basis for doing so and how these measures are compatible with Egypt's obligations under international human rights law.
4. Please detail the measures taken to ensure that the rights of these 28 men to due process and a fair trial are respected, and explain how these measures are compatible with Egypt's obligations under international human rights law.
5. If relevant, please provide information on whether any or all of the 28 men arrested have already been released or had the charges against them dropped.
6. Please indicate what measures, including legislative reform, have been taken or are envisaged or needed to ensure citizens of Egypt are not discriminated against based on their sexual orientation or gender

identity and to guarantee their legitimate right to privacy.

While awaiting a reply, we urge that all necessary interim measures be taken to halt the alleged violations and prevent their re-occurrence and in the event that the investigations support or suggest the allegations to be correct, to ensure the accountability of any person responsible of the alleged violations.

We would appreciate receiving a response as soon as is possible, in light of the risk of human rights violations during the protracted remand detentions of the 28 men arrested in the aforementioned cases.

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.

Further, we would like to inform your Excellency's Government that after having transmitted the information contained in the present communication 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 urgent appeal and the regular procedure.

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

Mumba Malila

Vice-Chair of the Working Group on Arbitrary Detention

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Special Rapporteur on the right to privacy

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