

Mandates of the Working Group on Arbitrary Detention; the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression; the Special Rapporteur on the situation of human rights defenders; the Special Rapporteur on the independence of judges and lawyers and the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism

Ref.: AL EGY 2/2023
(Please use this reference in your reply)

24 May 2023

Excellency,

We have the honour to address you in our capacities as Working Group on Arbitrary Detention; Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression; Special Rapporteur on the situation of human rights defenders; Special Rapporteur on the independence of judges and lawyers and Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism, pursuant to Human Rights Council resolutions 51/8, 52/9, 52/4, 44/8 and 49/10.

In this connection, we would like to bring to the attention of your Excellency's Government information we have received concerning the sentencing of three human rights defenders by the Terrorism Circuit of the Emergency State Security Court in a trial that lacked due process after they were arrested arbitrarily in 2018 and subjected to enforced disappearance, ill treatment amounting to torture, and poor detention conditions.

Ms. **Hoda Abdel-Moneim** is a lawyer, a woman human rights defender and a former member of the National Council for Human Rights. She was arrested on 1 November 2018 and forcibly disappeared until 21 November 2018, when she was brought before the Supreme State Security Prosecution (SSSP) on charges of joining an unspecified terrorist organization and receiving foreign funds. Her alleged case of disappearance was transmitted by the WGEID to the Government of Egypt on 9 November 2018. In prison, her health has deteriorated significantly and she reportedly did not receive full medical attention for a condition of kidney failure and a suspected heart attack.

Ms. **Aisha al-Shater** is a woman human rights defender and a board member of the Egyptian Coordination for Rights and Freedoms (ECRF). She was arrested in November 2018 and forcibly disappeared for three weeks during which she was allegedly subjected to physical and psychological ill treatment amounting to torture. She was reportedly subjected to long periods of solitary confinement. Her health has deteriorated significantly in prison and has not received full medical attention. She has been denied her right to family visits throughout her detention.

Mr. **Mohamed Abu-Horaira Mohamed Abdel-Rahman**, the husband of Ms. Al-Shater, was arrested in November 2018 and forcibly disappeared for three weeks during which he was allegedly physically and psychologically tortured. He has been denied his rights to family visits throughout his detention.

All three were charged by the Supreme State Security Prosecution with leadership, membership, or support of a terrorist organization, receiving foreign funds

in order to carry out its aims, and promoting its ideas, under articles 2 and 3 of the Anti-terrorism law and articles 68, 68bis and 78 of the Egyptian Penal Code, and publishing false news on the ECRF social media pages which would “disturb public security and harm national interest, and supplying international institutions with false information.” Allegedly, their pre-trial detention was repeatedly renewed on a periodic and arbitrary basis for three years.

Ms. Hoda Abdel-Moneim, Ms. Aisha al-Shater and Mr. Abu-Horaira have been the subject of three previous communications sent by Special Procedures mandate holders to your Excellency’s Government, EGY 12/2021 sent on 5 November 2021; EGY 6/2019 sent on 28 May 2019; and EGY 5/2021 sent on 16 June 2021. Special Procedures mandate holders also communicated their specific concern regarding the health and conditions in prison of Ms. Abdel-Moneim in a communication sent to your Excellency’s Government on 17 February 2021 (EGY 2/2021). In addition, Special Procedures mandate holders expressed their concern regarding the alleged incompatibility of Egypt’s Terrorism Circuit Courts (hereinafter TCCs) with international due process guarantees in a communication to your Excellency’s Government (EGY 13/2020) on 2 October 2020, as well as a communication (EGY 4/2020) regarding Egypt’s anti-terrorism law sent on 28 February 2020. We thank your Excellency’s Government for the response to the communication referenced EGY 13/2020, received on 10 March 2021, and regret that no replies were received to the seven remaining communications.

On 15 July 2021, a UN expert expressed concern at the extended pre-trial detention of human rights defenders in Egypt who had been arrested without warrant, held incommunicado and accused of multiple spurious offences. These defendants included Mr. Abu Horaira, Ms. Al-Shater and Ms. Abdel-Moneim.¹

In addition, on 15 November 2021, the Working Group on Arbitrary Detention adopted Opinion 45/2023 regarding three individuals, including Ms. Abdel-Moneim. In its Opinion, the Working Group found her deprivation of liberty to be arbitrary, urged your Excellency’s Government to immediately take steps to remedy the situation of Ms. Abdel-Moneim to bring it into conformity with the relevant international norms, including by releasing her immediately, and to ensure a full and independent investigation of the circumstances surrounding her arbitrary detention.

According to the information received:

Indictment and sentencing of Ms. Hoda Abdel-Moneim, Ms. Aisha al-Shater and Mr. Mohamed Abu-Horaira

On 23 August 2021, Egypt’s Supreme State Security issued an indictment for the three human rights defenders to jointly stand trial before the Terrorism Circuit at the Emergency State Security Court (ESSC). On 11 September 2021 their trial began as case no. 1552/2018.

On 13 September 2021, they appeared for trial before the ESSC. Both Ms. Abdel-Moneim and Ms. Al-Shater appeared visibly fatigued and Ms. Abdel-Moneim was transported to and from the court by ambulance. Defence lawyers attended the hearing where they were allowed to read the

¹ <https://www.ohchr.org/en/press-releases/2021/07/egypt-human-rights-defenders-held-incommunicado-face-spurious-charges-says?LangID=E&NewsID=27314>

indictment sheet for the first time. The trials for both Ms. Hoda Abdel-Moneim and Ms. Aisha al-Shater were postponed by the court until 11 October 2021.

On 5 March 2023, the ESSC passed judgement on the three in Case No. 1552/2018. The Court sentenced Ms. Abdel-Moneim to five years in prison, and acquitted her of the charge of receiving foreign funds in order to carry out the aims of a terrorist group. The remaining two defendants received long-term prison sentences: Ms. Al-Shater was sentenced to ten years in prison and Mr. Abu-Horaira to 15 years. The three were placed on the list of terrorists for five years after the end of their prison terms, which places them under a travel ban and an asset freeze. They will also be under police monitoring as a precautionary measure to be applied for five years after the end of their prison terms.

The ruling also included a five-year police surveillance of all those convicted after the completion of the sentence, with their inclusion and the entity to which they are affiliated (the Egyptian Coordination for Rights and Freedoms) on the “terror lists”, the closure of the “ECRF” website, and its removal from communication sites, as well as the confiscation of the items seized from their offices.

Mr. Abu-Horaira is serving his sentence in the new Badr 3 prison, around 70 km northeast of Cairo. Ms. Abdel-Moneim and Ms. Al-Shater are held in Al-Qanater women’s prison.

Due process and fair trial

The interrogation of the defendants was allegedly carried out in the absence of their lawyers, who were prevented from accessing the case files of their clients during nearly three years of pre-trial detention and had access to them for the first time when their trial began on 13 September 2021.

Lawyers also were not allowed to speak to their clients during the court sessions, and could only view them from behind a glass barrier. Family members were not allowed to attend the hearings.

The prosecution and the court did not investigate claims by the defendants of forcible disappearance, and torture.

In addition, the court relied on records from the national security agency without cross-examination and did not allow the defendants to speak in any of the hearings.

Rulings by the ESSC are not subject to appeal, and only the President of the Republic has the power to ratify, quash, or commute sentences or order a retrial. Despite the fact that Egypt’s state of emergency was lifted on 25 October 2021, the ESSC continue to judge defendants assigned to it prior to that date.

Prison conditions

Prison conditions of the defendants during the period of pre-trial detention reportedly did not meet international minimum rules for the treatment of prisoners, by denying them proper medical care and family visits, with the exception of Ms. Abdel-Moneim, who was allowed a single family visit in the presence of security agents more than three years after her detention. All three defendants attended the final hearing to which Ms. Abdel-Moneim, and Ms. Al-Shater were transported by ambulance.

In addition, Mr. Abu-Horaira is serving his sentence in the new Badr 3 prison, where HRDs are reportedly subjected to conditions that may amount to torture, including continuous camera surveillance under bright electric lights, limited amounts of food and water, and limited visits by family and lawyers. These alleged prison conditions are in contradiction with United Nations Standard Minimum Rules for the Treatment of Prisoners (Mandela Rules) including among other, rule 1 that calls for all prisoners to be protected from, torture and other cruel, inhuman or degrading treatment or punishment; rule 22.1 and 22.2 regarding the provision of prisoners with food and water; rules 24 to 27 and 30 to 34 regarding the provision of appropriate medical care to prisoners, rule 58 allowing for family visits and communication, and rule 61 allowing access to legal council. Constant exposure to electric light is proscribed under rule 43.1(c).

Without wishing to prejudge the accuracy of the above-mentioned allegations, we are concerned that the three human rights defenders have been sentenced based on counterterrorism legislation that criminalises the exercise of freedom of expression and association; they were additionally indicted for documenting rights violations and publishing false news on the ECdRF social media accounts. Specifically, we are especially concerned about characterizations of documentation of rights violations and discussion of human rights issues as a threat to national security. We reiterate our serious concern that the allegations may represent the current and ongoing systematic use of Egypt's counter-terrorism and criminal law frameworks to sanction the legitimate act of defending human rights through the criminalization and arbitrary detention of human rights defenders (EGY 5/2021). We reiterate our concern regarding what appears to be the continued misuse of anti-terrorism and national security legislation to criminalise legitimate activities by human rights defenders and other citizens including lawyers, journalists, and civil society actors in the country for the chilling effect it has already had and will continue to have on civil society more broadly (EGY 8/2021). We further reiterate our concern regarding the repeated and continued use of this legislation to shrink civic space in Egypt. We are also concerned that despite the lifting of Egypt's state of emergency on 25 October 2021, the emergency state security court has continued to judge defendants who were assigned to it prior to that date. In addition, we reiterate our concern, expressed in communication EGY 12/2021, that the criminalization of these individuals in apparent retaliation for exercising their rights to freedom of expression and association to discuss human rights violations and to criticise judicial independence does not appear to meet the strict test of necessity and proportionality to warrant a legitimate restriction of these freedoms, as established by international human rights law and standards.

In this connection, we reiterate our previous concerns (EGY 4/2020) regarding the lack of conformity of your Excellency's Anti-Terrorism legislation with the State's international human rights law obligations or best practices in relation to counter-terrorism law and practice. We kindly reiterate our recommendations to review the concerned legislation in order to bring it in line with international human rights standards.

We are further concerned at the apparent lack of fair trial and of due process guarantees, including the interrogation of the defendants without the presence of their lawyers, the prevention of lawyers' access to their files, as well as a lack of proper medical care and family visits while in detention, and the alleged disregard by the court of claims of enforced disappearance and torture. Mr. Abu-Horiaira is held in Badr 3, a prison where human rights defenders are reportedly subjected to conditions that may amount to torture or other cruel, inhuman or degrading treatment or punishment, including continuous camera surveillance under bright electric lights, limited amounts of food and water, and limited visits by family and lawyers, as well as a lack of access to healthcare.

We also reiterate our concerns expressed in communication EGY 13/2021 that trials before TCCs raise a wide range of substantive and procedural issues, including the systematic imposition of arbitrary and/or prolonged pre-trial detention, the lack of proper judicial oversight, and a systematic non-observance of fair trial safeguards, such as the right to have a prompt access to a lawyer of one's choice, the right to communicate with him/her in full confidentiality, a general lack of transparency, and the right to adequate time and facilities to prepare one's defence. Noting the special features of the TCCs, we bring your Excellency's Government attention to general comment 32 in which the Human Rights Committee has highlighted that although the ICCPR does not prohibit the trial of civilians in special courts, such trials are exceptional and the Human Rights Committee requires that such trials are in full conformity with the requirements of article 14 and that its guarantees cannot be limited or modified because of the military or special character of the court concerned ([CCPR/C/GC/32, para 22](#)). The Committee also stresses the importance to take all necessary measures to ensure that such trials take place under conditions which genuinely afford the full guarantees stipulated in article 14. Furthermore, national authorities should provide evidence that such trials are necessary and justified by objective and serious reasons and that the regular civilian courts do not have the competence to undertake trials related to a specific category of criminal offences.

We also express particular concern at the listing of the three defendants for five years after the end of their prison terms, which places them under a travel ban and an asset freeze. We reiterate that the process of designating or listing individuals into the terrorism watchlist directly relates to the compounding human rights concerns raised and previously communicated to your Excellency's Government, including on the overly broad and ill-defined definition of terrorism, arbitrary detention, lack of due process, absence of judicial oversight and infringements upon the rights to a fair trial, freedom of peaceful assembly, opinion and expression, and to be free from enforced disappearance (EGY 8/2021). In our view, your Excellency's Government's policy would appear to confirm an alarming pattern, whereby the "listing" of individuals to the terrorism watchlist is conducted on the basis of limited information or notice to the accused or their legal representatives and appear to be conducted in conjunction with prolonged patterns of arbitrary arrest and pre-trial detention. We are concerned about what seems to constitute a systemic pattern of abuse in the use of

counter-terrorism legislation to suppress dissent and curtail the work of human rights defenders in Egypt.

Importantly, we also wish to reemphasize that the amendments to the 2015 national Counter-Terrorism Law, including the practices of “listing” individuals and organizations may profoundly impinge on a wide range of fundamental rights. The placement of individuals or groups on a terrorism watchlist implicates a range of human rights, including freedom of movement, association, expression, the rights to privacy, property, health, due process, family life, and social and economic rights, including the right to work. Under the current legislation, the implications for listing to a terrorism watchlist include a wide range of severe penalties and deprivations of liberty that ultimately impact the immediately sanctioned areas of life, but also affect a range of other human rights, including those of family members, including dependent children and associates. The implications for being listed include a range of measures that function as de facto deprivations of liberty that should be considered through a proportionality determination so as to ensure that human rights are infringed upon only when strictly necessary and in line with international human rights obligations.

Whilst we would like to reiterate that the discussion of and sharing of information about human rights issues should never be considered as a threat to national security, we recall that the use of vague legal provisions to criminalise the exercise of the right to freedom of expression and to peaceful assembly and association, through the prohibition of the spreading of false information, and the alleged misuse of social media, noting that such provisions blatantly fail to comply with the key principle of legal clarity under international human rights law. We further note that the imprisonment of individuals for defamation may constitute a violation of article 19 of the ICCPR.

We also wish to express our deep concern that the listing proceedings are currently not only based on the use of evidence that the detained individual and counsel cannot examine but are conducted in a manner that violates the presumption of innocence, in breach of article 14(2) of the ICCPR. Such lack of ability to review evidence, or to mount any defence at all in response to a judicial process infringes upon a wide range of human rights and does not meet the international standards of due process and fundamental fairness.

We further emphasise that those charged with terrorism related offences are entitled to the same standard of care in prison as all other inmates (EGY 12/2021). We are seriously troubled by the information received that the abovementioned individuals have been denied family visits, and access to necessary medical care, which may amount to a violation of the absolute and non-derogable prohibition against torture and other cruel, inhuman or degrading treatment or punishment. In this connection, we would like to reiterate that the State has a duty of care to individuals in their custody, as established by article 10 of the ICCPR, to ensure humane conditions of detention and respect for the dignity of individuals deprived of their liberty.

We are issuing this appeal to urge you to preserve the alleged victims’ rights from irreparable harm and without prejudicing any eventual legal determination.

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:

1. Please provide any additional information and/or comments you may have on the above-mentioned allegations.
2. Please provide information as to the legal and factual basis for the arrest, detention and prosecution of Ms. Hoda Abdel-Moneim, Ms. Aisha al-Shater and Mr. Abu-Horaira. Please clarify the safeguards that were granted to these individuals from the outset of their arrest and throughout judicial proceedings to ensure their trial is fair and in respect of due process standards, in particular their prompt and confidential access to lawyers, contact with the family, and medical examination by an independent expert.
3. Please provide detailed information on the terrorism-related charges against the three individuals. Please explain how their conviction respected the principles of legality, necessity, proportionality and non-discrimination.
4. Please provide information as to the legal and factual basis for the “listing” of the three defendants, as well as the legal process required to support such a determination and how these measures are compatible with Egypt’ international human rights obligations.
5. Please provide detailed information on the available mechanisms allowing listed individuals and their legal representatives to access the evidence collected, and used as grounds for listing, and elaborate on judicial mechanisms available to challenge the listing.
6. Please provide detailed information on any investigations initiated into the alleged cases of enforced disappearances and alleged acts of physical and psychological torture detailed above. Please also explain what steps have been taken to bring the perpetrators to justice. If no investigations have been ordered, please explain why not.
7. Please provide detailed information on what steps have been taken to ensure that the conditions of detention of all of the above-mentioned individuals meet the international human rights standards enunciated in the Standard Minimum Rules for the Treatment of Prisoners (the Nelson Mandela Rules), including the provision of adequate medical care where necessary, and the ability to meet with family members, and lawyers when necessary.
8. Please explain what measures have been taken by Your Excellency’s Government to implement the Working Group on Arbitrary Detention’s Opinion no. 45/2021, concerning *inter alia* the arbitrary deprivation of liberty of Ms. Hoda Abdel-Moneim.

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.

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.

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 allegation letter and the regular procedure.

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

Matthew Gillett

Vice-Chair on communications of the Working Group on Arbitrary Detention

Irene Khan

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

Mary Lawlor

Special Rapporteur on the situation of human rights defenders

Margaret Satterthwaite

Special Rapporteur on the independence of judges and lawyers

Fionnuala Ní Aoláin

Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism

Annex

Reference to international human rights law

In connection with above alleged facts and concerns, we would like to refer your Excellency's Government to articles 7, 9, 10, 14, 19 and 22 of the International Covenant on Civil and Political Rights (ICCPR), ratified by Egypt on 14 January 1982, which guarantee that no one should be subjected to torture or to cruel, inhuman or degrading treatment as punishment, the right to liberty and security of person, that all persons deprived of their liberty shall be treated with humanity and respect, the right to a fair trial, the right to freedom of expression and the freedom to seek, receive and impart information and ideas of all kinds, and the right to freedom of association with others. Such rights are also provided for by articles 3, 9, 10, 19 and 20 of the Universal Declaration of Human Rights (UDHR).

We also wish to make specific reference to Egypt's obligations under article 19 of the ICCPR, which provides for the right to freedom of opinion (1), and absolute right, and the right to freedom of expression (2), subject to limitation in strict accordance with paragraph 3 of the provision. The right to freedom of expression includes the right to seek, receive and impart information and ideas of all kinds, which not only applies to information that is favourable, but also to information that may shock or offend. Any restriction to the rights under article 19(2) must pursue a legitimate aim, in accordance with a law that is sufficiently clear, and conform to the requirements of necessity and proportionality. As established by the Human Rights Committee in its general comment 34, any State party seeking to invoke a legitimate ground for restriction of freedom of expression on the basis of a perceived threat to national security or public order, must demonstrate in specific and individualized fashion the precise nature of the threat and the necessity and proportionality of the specific action taken, in particular by establishing a direct and immediate connection between the expression and the threat (CCPR/C/GC/34, para 35). We also wish to underline that under article 19(3) of the ICCPR, the prohibition of false information is not in itself a legitimate aim for restricting freedom of expression (A/HRC/47/25, para 40). As mentioned above, and repeatedly underlined in previous communications, we further emphasize that attacks against individuals, such as through arbitrary detention, torture and ill-treatment, for the exercise of freedom of expression is incompatible with the Covenant.

We would furthermore like to refer to article 9 of the ICCPR, which provides that no one shall be subjected to arbitrary arrest or detention or deprived of their liberty except on such grounds and in accordance with such procedure as are established by law. As interpreted by the Human Rights Committee in general comment no. 35 (CCPR/C/GC/35), the notion of "arbitrariness" is not to be equated with "against the law" but must be interpreted more broadly to include elements of inappropriateness, injustice, lack of predictability and due process of law, as well as elements of reasonableness, necessity, and proportionality (paragraph 12). According to the same general comment (paragraph 17) and the jurisprudence of the Working Group on Arbitrary Detention, arrest or detention of an individual as punishment for the legitimate exercise of the rights guaranteed by the ICCPR, including freedom of opinion and expression and freedom of association, is arbitrary. Further, the Working Group on Arbitrary Detention has reiterated that a deprivation of liberty is arbitrary when it constitutes a violation of international law on the grounds of discrimination

based on birth, national, ethnic or social origin, language, religion, economic condition, political or other opinion, gender, sexual orientation, disability, or any other status, that aims towards or can result in ignoring the equality of human beings. In this respect, the Working Group on Arbitrary Detention has concluded that being a human rights defender is a protected status under article 26 of the ICCPR.

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(1) of the ICCPR sets out a general guarantee of equality before courts and tribunals and the right of every person to a fair and public hearing by a competent, independent, and impartial tribunal established by law. As emphasised by the Human Rights Committee in general comment no. 32 (CCPR/C/GC/32), all trials in criminal matters must in principle be conducted orally and publicly (paragraph 28). (Id.). Article 14(3) of the ICCPR also guarantees the right of any individual charged with a criminal offence to have adequate time and facilities for the preparation of their defence, to communicate with counsel of their own choosing, to be tried without undue delay, to defend themselves through legal assistance of their own choosing, and not to be compelled to testify against themselves or to confess guilt

We further recall Egypt's obligations under article 12 of the International Covenant on Economic Social and Cultural Rights, ratified by Egypt in January 1982, which guarantees the right of everyone to the enjoyment of the highest attainable standard of physical and mental health. Accordingly, States have the obligation to refrain from denying or limiting equal access for all persons, including prisoners or detainees, to health services (Committee on Economic, Social and Cultural Rights, general comment 14 para. 34). Further, the UN Standard Minimum Rules for the Treatment of Prisoners (Mandela Rules), adopted unanimously by the UN General Assembly (A/RES/70/175), establish States' responsibility to provide healthcare for prisoners (rules 24 to 35) and to particularly ensure continuity of treatment and care (rule 24. 2).

We also wish to refer your Excellency's Government to articles 2 and 16 of the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (CAT), which Egypt acceded to on 25 June 1986, and which stipulate that no exceptional circumstances, including internal political instability or any other public emergency, may be invoked as a justification of torture, and that each State Party shall undertake to prevent other acts of cruel, inhuman or degrading treatment or punishment which do not amount to torture, when such acts are committed by or at the instigation of or with the consent or acquiescence of a public official. Furthermore, we wish to refer to articles 12 and 13, which state that when there is reasonable ground to believe that an act of torture has been committed in any territory under its jurisdiction, State parties will conduct a prompt and impartial investigation, and ensure that the same is guaranteed for any individual who alleges he has been subjected to torture. Steps shall also be taken to ensure that the complainant and witnesses are protected against all ill treatment or intimidation as a consequence of his complaint or any evidence given.

We would further 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.

In reference to the Terrorist Entities Law (law 8 of 2015) and the Anti-Terrorism Law, (law 94 of 2015), as amended in March 2020, constituting the legal basis for the administration of the terrorism watchlist, we reiterate that vaguely and broadly worded provisions undermine the principle of legality, cannot qualify as *lex certa*, and violate due process of law. In this regard, we bring your Excellency's Government attention to the "principal of legal certainty" under international law which 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. This principle recognizes that ill-defined and/or overly broad laws are susceptible to arbitrary application and abuse. 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 their obligations under international law. As the General Assembly noted in the United Nations Global Counter-Terrorism Strategy (resolution 60/288), effective counter-terrorism measures and the protection of human rights are not conflicting goals, but complementary and mutually reinforcing. We recall the model definition of terrorism advanced by the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism, which provides clear guidance to States on appropriate conduct to be proscribed and best practice. Those elements include:

- a) Acts, including against civilians, committed with the intention of causing death or serious bodily injury, or the taking of hostages, and
- b) Irrespective of whether motivated by considerations of a political, philosophical, ideological, racial, ethnic, religious or other similar nature, also committed for the purpose of provoking a state of terror in the general public or in a group of persons or particular persons, intimidating a population, or compelling a Government or an international organisation to do or to abstain from doing any act, and
- c) Such acts constituting offences within the scope of and as defined in the international conventions and protocols relating to terrorism.

We also recall paragraph 22 of the general comment 32 according to which: "The provisions of article 14 apply to all courts and tribunals within the scope of that article whether ordinary or specialized, civilian or military. The Committee notes the existence, in many countries, of military or special courts which try civilians. While the Covenant does not prohibit the trial of civilians in military or special courts the Committee identifies their exceptional use and it requires that such trials are in full conformity with the requirements of article 14 and that its guarantees cannot be limited or modified because of the military or special character of the court concerned. The Committee also notes that the trial of civilians in military or special courts may raise serious problems as far as the equitable, impartial and independent administration of justice is concerned. Therefore, it is important to take all necessary measures to ensure that such trials take place under conditions which genuinely afford

the full guarantees stipulated in article 14. Trials of civilians by military or special courts should be exceptional, i.e. limited to cases where the State party can show that resorting to such trials is necessary and justified by objective and serious reasons, and where with regard to the specific class of individuals and offences at issue the regular civilian courts are unable to undertake the trials”.

We would 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. Article 6 of the Declaration also provides that everyone has the right to freely publish, impart or disseminate to others, information and knowledge on all human rights and fundamental freedoms (b), and to study, discuss, form and hold opinions on the observance, both in law and in practice, of all human rights and fundamental freedoms, and to draw public attention to those matters (c).

Finally, we would like to refer to articles 4, 5, 6 and 7 of the African Charter on Human and Peoples' Rights (African Charter), ratified by Egypt on 20 March 1984, which guarantee respectively that every human being shall be entitled to respect for his life and the integrity of his person, all forms of exploitation and degradation of man, particularly slavery, slave trade, torture, cruel, inhuman or degrading punishment and treatment shall be prohibited, shall have the right to liberty and to the security of his person and shall have the right to have his cause heard.