

Mandates of the Special Rapporteur on the situation of human rights defenders; the Working Group on Arbitrary Detention; the Working Group on Enforced or Involuntary Disappearances; 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 7/2023

(Please use this reference in your reply)

22 January 2024

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; Working Group on Enforced or Involuntary Disappearances; 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 52/4, 51/8, 54/14, 53/12 and 49/10.

In this connection, we would like to bring to the attention of your Excellency's Government updated information we have received concerning the enforced disappearance and the use of repeated charges against human rights defenders Ms. **Hoda Abdel-Moneim** and Mr. **Moaaz Al-Sharqawy**, in a practice commonly known as "rotation." We would also like to bring to the attention of your Excellency's Government updated information we have received concerning the lack of medical treatment for Ms. Abdel-Moneim's increasingly poor health; the absence of due process in the arrest without a warrant of Mr. Al-Sharqawy in May 2023; his alleged ill-treatment and second enforced disappearance in five years, his first having occurred in 2018; and the ratification of a ten-year sentence against him by the Emergency Court following a trial lacking in due process guarantees.

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 reportedly 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 in order to carry out its aims in case No. 1552/2018. Her alleged case of enforced disappearance was transmitted by the UN Working Group on Enforced or Involuntary Disappearances to the Government of Egypt on 9 November 2018, pursuant to its humanitarian mandate (██████████) and is still outstanding. In prison, her health deteriorated significantly, and she reportedly did not receive full medical attention for a condition of kidney failure and a suspected heart attack.

On 5 March 2023, the Terrorism Circuit at the Emergency State Security Court (ESSC) sentenced Ms. Abdel-Moneim to five years in prison, backdated to her arrest in October 2018, on the charge of joining an unspecified terrorist organization. She was acquitted on the charge of receiving foreign funds.

On 2 September 2021, the Criminal Court at the Cairo Court of Appeal decided to include Ms. Abdel-Moneim on a list of terrorists for five years after the end of her sentence, based on a request by the Public Prosecutor. This would ban her from travel and freeze her assets. She is also to be placed under police monitoring as a

precautionary measure to be applied for five years after the end of her prison term. Ms. Abdel-Moneim was held in Al-Qanater women's prison to serve her sentence and was allowed only a single family visit in the presence of security agents more than three years after her detention.

Ms. Abdel-Moneim has been the subject of four previous communications sent by Special Procedures mandate holders to your Excellency's Government, EGY 2/2023 sent on 24 May 2023; EGY 12/2021 sent on 5 November 2021; EGY 5/2021 sent on 16 June 2021; and EGY 6/2019 sent on 28 May 2019. 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 responses to the communications referenced EGY 2/2023, received on 2 August 2023, and EGY 13/2020, received on 10 March 2021. We regret that no replies were received to the five remaining communications.

In addition, on 15 November 2021, the Working Group on Arbitrary Detention adopted Opinion 45/2023 that found Ms. Abdel-Moneim's deprivation of liberty to be arbitrary. It 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.

Mr. **Moaaz Al-Sharqawy** is a student rights' defender and a former member of Tanta University's student union. He focused on defending student rights to freedom of expression and assembly on campus, supporting students detained in relation to political cases, and he campaigned for fair university regulations. He resigned from the student union in 2017 after the government decided to cancel student elections and disregarded the students' proposals.

In February 2018, the Attorney General included Mr. Al-Sharqawy's name in a list of 16 people accused of allegiance to a political party headed by a former Muslim Brotherhood member, and of recruiting students to engage them in armed terrorist activity. The Muslim Brotherhood is listed as a terrorist entity based on Law No. 8 of 2015.

On 19 September 2018, Mr. Al-Sharqawy was arrested at a checkpoint, blindfolded and taken to the National Security Agency premises of his hometown, Tanta. He was reportedly beaten and had electric shocks administered to him, was forced to stand naked in front of an air conditioner and was threatened with death. He was moved 20 days later to the Central Security Camp in Tanta where he remained for four days with no communication with the outside world.

On 13 October 2018, the SSSP charged him with joining a terrorist group under case No. 440/2018, after an eight-hour interrogation in the absence of his lawyer during which he complained about the torture to which he had been subjected. The terrorist group referred to is the Muslim Brotherhood. As cited above, Mr. Al-

Sharqawy was accused in February 2018 of allegiance to a political party headed by a former Muslim Brotherhood member.

On 4 March 2020, the criminal court of Cairo ordered the release of Mr. Al-Sharqawy under precautionary measures and pending investigation. He was released four days later and returned to his home. He sought medical treatment and was diagnosed with post-traumatic stress disorder.

On 21 January 2021, the Criminal Court at the Cairo Court of Appeal decided to include Mr. Al-Sharqawy on the list of terrorists.

On 25 August 2021, Mr. Al-Sharqawy was referred to the ESSC under the same case, which was re-registered as Case No. 1059/2021. The charge was that of joining the Muslim Brotherhood with knowledge of its aims, and alleged that he was recruited to the group as a young student.

On 26 February 2022, the Court of Cassation upheld the decision made by the Criminal Court on 13 January 2021 to keep Mr. Al-Sharqawy on the terrorist list for five years from the date of the decision.

On 28 May 2022, the ESSC, without his presence but in the presence of his lawyer, sentenced Mr. Al-Sharqawy to 10 years' imprisonment and five more years under police surveillance post-conviction. Mr. Al-Sharqawy did not attend voluntarily, but as his lawyer was present in court, the verdict was enforceable, and upon ratification by the President of the Republic, Mr. Al-Sharqawy was to be arrested. Although the state of emergency in Egypt was lifted on 26 October 2021, the ESSC remains in place for cases referred to it beforehand. Emergency Court verdicts are not subject to appeal and can only be commuted or overturned by the President of the Republic.

Mr. Al-Sharqawy was the subject of a previous communication sent by Special Procedures mandate holders to your Excellency's Government, EGY 6/2022, regarding the alleged violations of due process and fair trial standards in his arrest and sentencing, as well as his enforced disappearance, torture and ill-treatment in 2018, and the continued inclusion of his name on the terrorist watch list despite a lack of evidence. We thank your Excellency's Government for the response to the communication, received on 9 February 2023. His alleged case of enforced disappearance was transmitted by the UN Working Group on Enforced or Involuntary Disappearances to the Government of Egypt on 22 May 2023, pursuant to its humanitarian mandate (██████████) and is still outstanding.

According to the new information received:

Regarding Ms. Abdel-Moneim's renewed charges

In early June 2023, Ms. Abdel-Moneim was transferred from Al-Qanater prison to the 10th Ramadan Prison.

On 31 October 2023, Ms. Abdel-Moneim had completed her five-year sentence in Case No. 1552/2018 for joining an unspecified terrorist group and was due to be freed on 1 November 2023 as she had been in detention since 1 November 2018.

That same day, Ms. Abdel-Moneim was summoned by the SSSP, in the presence of her lawyer. She was informed of two new charges against her and that her name had also been added to an earlier SSSP case, No. 730/2020. This case involves a number of political activists who are currently being held in pre-trial detention, and which was opened while Ms. Abdel-Moneim was in prison.

One of the charges against Ms. Abdel-Moneim, that of joining an unspecified terrorist organization, is identical to the charge for which she had just completed the sentence in her previous case, No. 1552/2018. The second charge, that of receiving foreign funds in order to carry out its aims, is identical to the charge she had been acquitted of in her previous case. If convicted, Ms. Abdel-Moneim could face up to life in prison. No evidence regarding the new charges was provided.

Ms. Abdel-Moneim was ordered to remain in pre-trial detention on the new charges for 15 days, renewable. According to new regulations, all pre-trial detention renewal hearings are conducted by remote communication, thereby not allowing for any direct contact between defendants and their lawyers.

Regarding Ms. Abdel-Moneim's conditions of detention

The prison conditions of Ms. Abdel-Moneim during and after her pre-trial detention in Case No. 1522/2018, and since her renewed detention in October 2023 did and do not reportedly meet international minimum rules for the treatment of prisoners, as she was denied adequate medical care and family visits. Ms. Abdel-Moneim was allowed one family visit in the presence of security agents three years after her initial detention, and intermittent visits since then.

In June 2023, Ms. Abdel-Moneim was transferred from Al-Qanater prison to the 10th Ramadan Prison, a new establishment built on the outskirts of Cairo, without the knowledge of her family or lawyer.

On 26 June 2023, Ms. Abdel-Moneim's husband and daughter visited her for the first time in almost one year. She told them that prison conditions were better than in Al-Qanater jail but that her health had deteriorated further. In addition to her kidney problem and high blood pressure, she had acute pain and numbness in parts of her body due to nerve damage in a condition known as peripheral neuropathy. Prison authorities have allegedly not provided her with adequate medical treatment or transfer to a hospital when needed. They have also allegedly denied her family access to her medical records for possible independent consultation.

Regarding Mr. Al-Sharqawy's arrest, enforced disappearance and torture

On 12 May 2023, Mr. Al-Sharqawy was arrested at his home in Al-Mokattam district, Cairo governorate by National Security Agents (NSA) who allegedly did not produce an arrest warrant, and who took him to an unidentified location. His family and lawyer contacted the Ministry of Interior and the public prosecutor for information on his whereabouts but received no

response.

On 3 June 2023, Mr. Al-Sharqawy appeared before the SSSP, in the presence of his lawyer. He complained that he had been blindfolded during interrogation by the NSA and handcuffed and beaten during his 23 days of enforced disappearance; the prosecutor did not investigate the allegations made by Mr. Al-Sharqawy.

Regarding Mr. Al-Sharqawy's renewed charges

On 3 June 2023, SSSP charged Mr. Al-Sharqawy with two charges: that of joining a terrorist group, a charge for which he was already convicted and sentenced on 28 May 2022 in Case No. 1059/2021, and a new charge, that of funding a terrorist group. He was ordered to be held in pre-trial detention.

Regarding Mr. Al-Sharqawy's long-term detention

On 22 October 2023, Mr. Al-Sharqawy's lawyers learned that his ten-year sentence in Case No. 1059/2021, handed down by the ESSC in May 2022, was ratified by the President of the Republic on 13 June 2023. Mr. Al-Sharqawy's lawyers had not been informed of the ratification.

Mr. Al-Sharqawy is, therefore, currently serving a ratified sentence in Case No. 1059/2021 while awaiting trial by a terrorism circuit of the Cairo Criminal Court on the same charge, in addition to a new charge.

Regarding Mr. Al-Sharqawy's conditions of detention

Mr. Al-Sharqawy is currently held in the new Badr 3 Prison. He has been allowed family visits but not visits by his lawyer. According to new regulations, all pre-trial detention renewal hearings are conducted by remote communication, thereby not allowing for any direct contact between defendants and their lawyers.

Human rights defenders held in Badr Prison 3 have reportedly been 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, conditions that are proscribed by the United Nations Standard Minimum Rules for the Treatment of Prisoners (Mandela Rules).

Without prejudging the accuracy of the information received, we express serious concern that on the last day of her five-year prison sentence, Ms. Abdel-Moneim was presented with new charges, one of which she had previously been acquitted of, and the other one of which she had already completed the sentence of. We are equally concerned at the new charges against Mr. Al-Sharqawy, which include a charge for which he has been convicted and is currently serving a sentence. Both cases involve apparent violations of the principle of non bis in idem under article 14(7) of the ICCPR, ratified by Egypt on 14 January 1982, which guarantees that individuals may not be tried or punished twice for the same act in respect of which they have already been finally convicted or acquitted.

It is worth noting that the practice of using old charges in new cases by combining them with new accusations has been previously used against human rights defenders. This method was the subject of a previous communication sent by Special Procedures mandate holders to your Excellency's Government, EGY 5/2021, which addressed the extremely lengthy periods of arbitrary pre-trial detention through the attachment of the human rights defenders to new cases wherein they face similar accusations as initially brought against them. In its concluding observations of Egypt's last review in March 2023, the UN Human Rights Committee expressed concern at the practice of "rotation," used to extend pre-trial detention of human rights defenders, among others (CCPR/C/EGY/CO/5, para. 31). It recommended that your Excellency's Government ensure that "statutory limits to the duration of pre-trial detention are enforced, including by putting an end to the involvement of security agencies in the decision-making process on the release of detainees and the practice of 'rotation, 'under which detainees are added to new cases on similar charges'" (CCPR/C/EGY/CO/5, para. 32 (b)).

We are further concerned at the apparent lack of proper medical care provided to Ms. Abdel-Moneim and the restricted family visits. We 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 individual has intermittently 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 under article 7 of the ICCPR and the Convention against Torture. 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 further express our concern about the intended inclusion of Ms. Hoda Abdel-Moneim on the terrorist watchlist at the end of her sentence, which would impose a travel ban and freeze her assets. We recall, in line with our concerns highlighted in EGY 8/2021 and EGY 5/2023, that the inclusion of individuals on a terrorist watch list must be strictly necessary and proportionate and, therefore, only in response to an actual, distinct and measurable act of terrorism or a demonstrated threat of an act of terrorism. The order to place her on the terrorist watchlist, and to subject her to police monitoring, after she completed her five-year sentence was made at the time of her sentencing. As such, it could not be known that these measures would be necessary in five years' time since they were not based on any contemporaneous assessment of any risk she may actually pose upon the expiry of her sentence. It also contradicts the assumption of the criminal law that the completion of a criminal sentence signifies that the punishment, deterrence and rehabilitation of an offender is fulfilled and that the person can be readmitted to society with full rights. In addition, we have previously expressed concern about the lack of transparency, due process and judicial safeguards in listing and delisting procedures. Targeted sanctions in the form of asset freeze, travel bans, and other restrictions can also have severe consequences for the enjoyment of the civil and political and economic and social rights of the individuals concerned and their families. Any restrictions on rights must be strictly necessary and proportionate, factually substantiated and subject to rigorous and continuous review.

We express serious concern regarding the allegations that Mr. Al-Sharqawy was subjected to, for a second time since 2018, enforced disappearance for a period of 23 days, during which he was subjected to ill treatment and to what may amount to torture. We wish to recall that, under international law, a deprivation of liberty (including in the form of incommunicado detention), followed by the failure or refusal to acknowledge a deprivation of liberty by State agents or the concealment of the fate and whereabouts of the person, are constitutive elements of an enforced disappearance, regardless of the duration of the deprivation of liberty or concealment concerned.

Regarding the allegations of torture, we respectfully remind your Excellency's Government that under the Convention Against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (CAT), to which Egypt acceded in 1986, State parties are required to conduct a prompt and impartial investigation whenever there is reasonable ground to believe that an act of torture has been committed in any territory under its jurisdiction, and on the basis of any claim lodged by an individual who alleges they have been subjected to torture. We further recall that steps shall be taken to ensure that the complainant and witnesses are protected against ill-treatment or intimidation, which could result from filing a complaint or submitting evidence.

In line with our previous communications (EGY 4/2020, EGY 1/2022) we also reiterate our concerns about the vagueness of the counter-terrorism and national security legislation in Egypt. We note with concern that this legislation is reportedly being misused to target, inter alia, human rights defenders critical of the government. We underscore to your Excellency's Government that counter-terrorism legislation should be sufficiently precise to comply with the principle of legality recognised under article 15 of the ICCPR so as to prevent that it is used to unjustifiably target human rights defenders, civil society, journalists, or other persons on political, religious or other grounds. The use of highly general and broad emergency or counter-terrorism measures to limit the freedom of association has a profound and detrimental effect on rights of association, assembly and expression (A/HRC/40/52). Counter-terrorism should not be used unjustifiably or arbitrarily to restrict the right to freedom of opinion and expression and to negatively affect civil society.

Furthermore, we reiterate our concerns expressed in EGY 4/2020 and EGY 3/2023 regarding the continued trial of civilians in emergency courts despite the state of emergency having been lifted since October 2021, as well as the exceptionality of the ESSC, which does not allow for any judicial appeal process of their decisions. In this regard, we recall that the Human Rights Committee, in its General Comment No. 32, has stressed that although the ICCPR does not prohibit the trial of civilians in special courts, it requires that such trials must fully comply with the requirements of article 14 and that their guarantees may not be limited or modified because of the military or special character of the court concerned (CCPR/C/GC/32, para. 22).

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 on the measures taken by your Excellency's Government to ensure Ms. Abdel-Moneim's right to the highest standard of health through access to medical assistance and treatment.
3. Please provide information as to the legal and factual basis for the detention and prosecution of Ms. Abdel-Moneim and Mr. Al-Sharqawy. Please clarify the safeguards that were granted to them from the outset of their prosecution and throughout judicial proceedings to ensure a fair trial according to due process standards, in particular their prompt and confidential access to lawyers, contact with the family, and medical examination by an independent expert. Please indicate the manner in which these actions comply with the principle of non bis in idem.
4. Please provide detailed information on any inquiry or investigation, judicial or otherwise that may have been undertaken in connection with the allegations that Ms. Abdel-Moneim and Mr. Al-Sharqawy were subjected to enforced disappearance, to torture or ill-treatment and on the conclusions of such inquiries. If no inquiry took place, please explain how this is compatible with international law and, in particular, with the Convention against Torture that Egypt acceded to on 25 June 1986 and the International Convention on Civil and Political Rights, ratified by Egypt on 14 January 1982.
5. Please provide detailed information on what steps have been taken to ensure that the conditions of detention of Ms. Abdel-Moneim and Mr. Al-Sharqawy 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.
6. Please provide further information on the basis for adding Ms. Abdel-Moneim and Mr. Al-Sharqawy to a terrorist list. Please also indicate how these measures are necessary and proportionate and the manner in which they can challenge their inclusion on the terrorist list.

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 after having transmitted the information contained in the present communication to the

Government, the WGAD may also transmit cases through its regular procedure in order to render a further 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.

While awaiting a reply, we urge that all necessary interim measures be taken to prevent any irreparable harm to the life and physical integrity of Ms. Abdel-Moneim and Mr. Al-Sharqawy, 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

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

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

Margaret Satterthwaite
Special Rapporteur on the independence of judges and lawyers

Ben Saul
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 draw the attention of your Excellency's Government to articles 7, 9, 10, 14, 16, 19, 21 and 22, to be read alone and in conjunction with article 2.3 of the International Covenant on Civil and Political Rights (ICCPR), ratified by Egypt on 14 January 1982, as well as articles 3, 5, 9 and 19 of the Universal Declaration of Human Rights (UDHR), which guarantee that 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 a 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 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). As per article 12 of the International Covenant on Economic Social and Cultural Rights, ratified by Egypt on 14 January 1982, States parties recognize the right of everyone to the enjoyment of the highest attainable standard of physical and mental health and take steps to achieve the full realization of this right, including those necessary for improvement of all aspects of environmental hygiene and the creation of conditions which would assure to all medical service and medical attention in the event of sickness. In particular, States are under the obligation to respect the right to health by refraining from denying or limiting equal access for all persons, including prisoners (CESCR, general comment no. 14 (2000), para. 34). The Basic Principles for the Treatment of Prisoners, adopted by the General Assembly in resolution 45/111, provide that prisoners shall have access to health services available in the country without discrimination on the grounds of their legal situation (principle 9). Under the rule 24(f) the United Nations Standard Minimum Rules for the Treatment of Prisoners (Nelson Mandela Rules), the provision of health care for prisoners is a state responsibility, free of charge, without discrimination and at the same level as the health care services provided in the community. Rule 27 provides that prisoners requiring specialized treatment or surgery shall be transferred to specialized institutions or to civil hospitals. Rule 46 stresses that health-care personnel shall "pay particular attention to the health of prisoners held under any form of involuntary separation, including by visiting such prisoners on a daily basis and providing prompt medical assistance and treatment at the request of such prisoners or prison staff".

With regard to article 9 of the ICCPR, we would also like to remind your Excellency's Government that incommunicado detention that prevents prompt presentation before a judge inherently violates paragraph 3. In addition, incommunicado detention may also violate other rights under the Covenant, including articles 6, 7, 10 and 14 (CCPR/C/GC/35, para 35). Furthermore, article 9(3) of the Covenant requires that detention pending trial shall be the exception, not the rule, and it should be based on the individual circumstances of the case and subject to judicial oversight.

Furthermore, the 1992 United Nations Declaration on the Protection of All Persons from Enforced Disappearance sets forth States' obligations to prevent and eradicate this practice. In particular, articles 2 and 3 state that no State shall practice, permit or tolerate enforced disappearances and 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 are further drawing your Excellency's Government's attention to the absolute and non-derogable prohibition of enforced disappearances (articles 2 and 7), which has attained the status of jus cogens. Moreover articles 9-13 of the Declaration spell out 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; and to ensure that all involved in the investigations are protected against ill-treatment, intimidation or reprisal. Article 14 further establishes that States should take any lawful and appropriate action to bring to justice persons presumed to be responsible for acts of enforced disappearance. Furthermore, article 19 of the Declaration establishes the victims or family relatives have the right to obtain redress, including adequate compensation.

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.

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).

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.

Finally, with respect to the alleged violations of the right to a fair trial, we remind your Excellency's Government that in its General Comment 32 (2007) on article 14, the Human Rights Committee stressed that the right to equality before the courts and tribunals and to a fair trial is a key element of human rights protection and serves as a procedural means to safeguard the rule of law. (CCPR/C/GC/32, para 2). Article 14 of the ICCPR, ratified by Egypt, provides inter alia for the principle of equality before competent, independent, and impartial courts and tribunals, the presumption of innocence, the provision of adequate time and facilities for the preparation of the defense, and the right of accused persons to communicate with counsel of their own choosing. The guarantees of a fair trial may never be made subject to measures of derogation that would circumvent the protection of non-derogable rights (CCPR/C/GC/32, para 6). We further recall your Excellency's Government that paragraph 7 of resolution A/HRC/RES/42/18 affirms the need to ensure "access to independent and adequate legal representation" in the context of countering terrorism. And where the detainee has access to counsels, such access must be meaningful (EGY 4/2020).