

Mandates of the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression; the Working Group on Arbitrary Detention; the Working Group on Enforced or Involuntary Disappearances; the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism and the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment

Ref.: AL EGY 2/2024
(Please use this reference in your reply)

30 July 2024

Excellency,

We have the honour to address you in our capacities as Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression; Working Group on Arbitrary Detention; Working Group on Enforced or Involuntary Disappearances; Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism and Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, pursuant to Human Rights Council resolutions 52/9, 51/8, 54/14, 49/10 and 52/7.

In this connection, we would like to bring to the attention of your Excellency's Government information we have received concerning allegations of arbitrary detention, torture or other cruel, inhuman or degrading treatment or punishment and judicial prosecution, including on terrorism charges, of five Egyptian citizens, Mr. Islam Maamon Maseer Mohamed, Mr. Mohamed Atef Eid Farahat, Mr. Mohamed Ahmed Ali, Mr. Mohamed Farag Mohamed Bioumy and Mr. Mahmoud Ismail Mohamed Abdulhamid, for expressing their opinions about the economic situation in Egypt on social media, through Facebook posts and TikTok videos.

Mr. Islam Maamon Maseer Mohamed's profession and residence are unknown.

Mr. Mohamed Atef Eid Farahat was an electrician and a resident of Mansoria village, Giza governorate.

Mr. Mohamed Ahmed Ali was a corporate employee at the Businessmen's Association in Kafr Sakr and a resident of the Sharqia governorate.

Mr. Mohamed Farag Mohamed Bioumy was a stone fabricator and lived in Quisna center, Munofia governorate.

Mr. Mahmoud Ismail Mohamed Abdulhamid was a painter and decorator, resident of Mansoura City, Dakhalia governorate.

In this context, we wish to recall that previous communications also addressed concerns about the alleged arbitrary detention and judicial prosecution of citizens for expressing critical opinions on social media, including [AL EGY 3/2023](#), [UA EGY 7/2018](#) and [AL EGY 4/2017](#). We thank your Excellency's Government for the reply provided to [UA EGY 7/2018](#), while encouraging a substantive reply to those communications that remain unanswered. We further recall that we have previously expressed our concerns regarding the Egypt Anti-Terrorism law ([OL EGY 4/2020](#)).

While acknowledging the detailed reply provided to OL EGY 4/2020 on [10 March 2021](#), we reiterate our concerns in relation to the use of extensive periods of pre-trial detention, misuse of listing procedures and broad and vague terms in the Anti-Terrorism Law, and continued non-compliance with international standards on fair trial and due process.

According to the information received:

Mr. Islam Maamon Maseer Mohamed, Mr. Mohamed Atef Eid Farahat, Mr. Mohamed Ahmed Ali, Mr. Mohamed Farag Mohamed Bioumy and Mr. Mahmoud Ismail Mohamed Abdulhamid were arrested, detained and judicially prosecuted allegedly in relation to posts they had published on their social media accounts between December 2023 and February 2024 criticising the Government's economic policies and the economic situation in Egypt, in a context of widespread inflation and expectations of devaluation of the Egyptian pound.

Mr. Islam Maamon Maseer Mohamed

In December 2023, Mr. Mohamed published some videos on his 'TikTok' account in which he criticised some of the Government's economic decisions, in a context of price rises and a high inflation rate.

On 20 December 2023, Mr. Mohamed was arrested by officers of the National Security Agency. He was reportedly taken to an unknown location, where he remained detained for 8 days. During these 8 days, Mr. Mohamed's relatives were unaware of his fate and whereabouts. A deprivation of liberty, followed by a refusal to acknowledge such deprivation of liberty or by concealment of the fate or whereabouts of the disappeared person, which place such a person outside the protection of the law, amount to an enforced disappearance, regardless of the duration of the said deprivation of liberty or concealment.

On 28 December 2023, Mr. Mohamed was brought before the State Security Prosecution in the absence of his lawyer and was charged with joining and funding a terrorist group, publishing false news and creating a group on the application 'TikTok' with the aim of harming national security and insulting State symbols. His case is currently being heard by a criminal court, under case No. 3026/2023. These charges suggest that his detention and prosecution may have taken place in retaliation for his criticism of the Government's economic policies on social media.

Mr. Mohamed is currently held in pre-trial detention in is currently held in pre-trial detention in the 10th Ramdan Prison (“سجن العاشر من رمضان”).

Mr. Mohamed Atef Eid Farahat

In early February 2024, Mr. Mohamed Atef Eid Farahat reportedly wrote a post on Facebook with the hashtag ‘#poor_revolution’ (ثورة الغلابة), in which he criticised the economic conditions in Egypt. On 16 February 2024, Mr. Farahat reportedly published another post on social media, using the hashtag “Get out”, where he called for support for Palestine and demanded an end to the current Egyptian Government.

On 16 February 2024, officers of the National Security Agency reportedly raided and searched Mr. Farahat's residence, seized his personal belongings and arrested Mr. Farahat, without showing an arrest warrant. Mr. Farahat was subsequently taken to an unknown place, where he remained detained for 5 days. During these 5 days, Mr. Farahat's relatives were unaware of his fate and whereabouts, thus being placed outside the protection of the law and being subjected to an enforced disappearance.

On 21 February 2024, Mr. Farahat was brought before the State Security Prosecution and charged with joining a terrorist group, publishing false news and misusing social media. His case is currently being heard by a criminal court, under case No. 717/2024. His arrest report was allegedly forged and dated 20 February 2024, while the arrest reportedly took place on 16 February 2024. However, the Prosecution reportedly disregarded his testimony, indicating that he had been a victim of enforced disappearance.

Mr. Farahat is currently held in pretrial detention in Abu-Zaabal Prison.

Mr. Mohamed Ahmed Ali

In February 2024, Mohamed Ahmed Ali expressed his critical views about the economic situation in Egypt, especially in relation to the inflation, in some posts published in his Facebook account.

On 13 February 2024, officers of the National Security Agency reportedly raided and searched Mr. Ali's place of residence, seized his personal belongings and arrested him, without showing an arrest warrant. Mr. Ali was taken to the National Security premises in Zagzig, where he remained detained for 7 days. During this time, his relatives were allegedly unaware of his fate and whereabouts, which could amount to an enforced disappearance.

On 20 February 2024, Mr. Ali was brought before the State Security Prosecution and was accused of joining a terrorist group, publishing false news and misusing social media. His case is currently being heard by a criminal court, under case No. 717/2024. His arrest report was allegedly forged and dated 20 February 2024, while the arrest reportedly took place on 13 February. However, the Prosecution reportedly disregarded his testimony indicating that he had been a victim of enforced disappearance.

Currently, Mr. Ali remains in pretrial detention and is currently held in the 10th Ramdan Prison (“سجن العاشر من رمضان”).

Mr. Mohamed Farag Mohamed Bioumy

On 30 January 2024, Mr. Mohamed Farag Mohamed Bioumy was arrested by a police officer as he was standing holding a sign that said, “Go away, Sisi, poor people are tired,” in Ramses Square, Al Azbakeya, Cairo Governorate.

Mr. Bioumy was subsequently taken to the Azbakeya police station where he remained detained for a week, reportedly being subjected to torture or other cruel, inhuman or degrading treatment, including in the form of beatings and

electric shocks. Mr. Bioumy's relatives were allegedly unaware of his fate and whereabouts during these seven days, which could amount to an enforced disappearance.

On 4 February 2024, Mr. Bioumy was brought before the State Security Prosecution and accused of joining a terrorist group and publishing false news before a criminal court, under case No. 281/2024. Mr. Bioumy's interrogation was reportedly conducted in the absence of his lawyer. Further, his arrest report was allegedly forged and dated 4 February 2024, while the arrest reportedly took place on 30 January 2024. The prosecution reportedly disregarded Mr. Bioumy's testimony indicating that he had been subjected to enforced disappearance and torture.

Mr. Bioumy is currently held in pre-trial detention in the 10th Ramadan Prison ("سجن العاشر من رمضان").

Mr. Mahmoud Ismail Mohamed Abdulhamid

In January and February 2024, Mr. Mahmoud Ismail Mohamed Abdulhamid posted several videos on TikTok in which he reportedly criticised the economic conditions in Egypt.

On 11 February 2024, Mr. Abdulhamid was arrested in his residence and taken to the premises of the National Security Agency in Mansoura. Mr. Abdulhamid remained detained for 8 days, during which he was reportedly subjected to torture or other ill-treatment, including beating, blindfolding, handcuffing for long periods and electric shocks. During these 8 days, Mr. Abdulhamid's relatives were unaware of his fate and whereabouts, which could amount to an enforced disappearance.

On 19 February 2024, Mr. Abdulhamid was brought before the State Security Prosecution and charged with joining a terrorist group and publishing false news. His case is currently being heard by a criminal court, under case No. 717/2024. The prosecution reportedly disregarded Mr. Abdulhamid's testimony that complained that he had been a victim of enforced disappearance and torture.

Mr. Abdulhamid is currently held in pre-trial detention in the 10th Ramadan Prison ("سجن العاشر من رمضان").

Without wishing to prejudge the accuracy of the above-mentioned allegations, we express great concern about the alleged arbitrary detention and judicial prosecution, including on terrorism charges, of Mr. Islam Maamon Maseer Mohamed, Mr. Mohamed Atef Eid Farahat, Mr. Mohamed Ahmed Ali, Mr. Mohamed Farag Mohamed Bioumy and Mr. Mahmoud Ismail Mohamed Abdulhamid, for expressing their opinions about the economic situation in Egypt through Facebook posts and TikTok videos. Furthermore, we express grave concerns about the allegations of torture or other cruel, inhuman or degrading treatment or punishment while in custody including failure to advise relatives of the location of their custody, which may amount to an enforced disappearance.

We are alarmed by what appears to be a misuse of counterterrorism and national security legislation to suppress and punish the free exercise of freedom of opinion and expression in Egypt, targeting individual citizens who express their concerns and opinions about the economic situation in the country. In addition to the allegations of direct violation of the human rights of the individuals concerned, we are concerned that cases such as the ones described above have a notable negative impact on the freedom of expression on the population as a whole, sending a chilling message to all those wishing to express themselves and participate in public affairs.

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, individuals 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 its use to unjustifiably target civil society, human rights defenders, journalists, or other persons on political, religious or other grounds. The use of highly general and 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.

Should they be confirmed, the allegations could amount to violations of several human rights rules and standards contained in the Universal Declaration of Human Rights (UDHR) and the International Covenant on Civil and Political Rights (ICCPR), ratified by Egypt on 14 January 1982. In particular, we refer to the right to liberty and security of person, which includes the right not to be subject to arbitrary arrest or detention, the right to fair proceedings before an independent and impartial tribunal, the right to recognition everywhere as a person before the law, the absolute prohibition of torture and right to humane treatment when deprived of liberty, and enforced disappearance, the right to freedom of opinion and expression and the right to freedom of assembly, outlined in articles 7, 9, 10, 14, 16 19 and 21 of ICCPR, read alone and in conjunction with its article 2(3). With regards to the family of the disappeared, we wish to refer to article 7 of the ICCPR, read alone and in conjunction with its article 2(3). It is further noted that Egypt has obligations to prevent torture and other cruel, inhuman or degrading treatment or punishment, including via the implementation of all necessary legal and procedural safeguards for those held in custody, as a State party to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, which it acceded to in 1986.

The allegations appear to be part of a concerning trend of subjecting citizens to arbitrary detention, enforced disappearance, torture or other ill-treatment and judicial harassment with the apparent purpose of stifling dissent, criticism and opposition, entailing grave breaches of fair trial and rule of law standards in addition to the human rights mentioned. As in all cases their detention and prosecution seem to have taken place in direct connection to the exercise of their freedom of expression, we wish to emphasize that any limitation on this right must meet the criteria established by international human rights standards, including article 4 ICCPR, as applicable, and 19(3) ICCPR. Under these standards, restrictions must be determined by law and must conform to the strict test of necessity and proportionality must be applied only for those purposes for which they were prescribed and must be directly related to the

specific need on which they are predicated. States have a duty under international law to safeguard this right and not to enact arbitrary restrictions going beyond those allowed by article 19(3) ICCPR. With respect to the allegations of enforced disappearance, 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.

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 comment(s) you may have on the above-mentioned allegations.
2. Please provide information as to the legal and factual basis for the arrest and detention of Mr. Mohamed, Mr. Farahat, Mr. Ali, Mr. Bioumy and Mr. Abdulhamid as well as for their subsequent judicial prosecution. Please provide detailed information on the terrorism related charges for which they have been convicted and explain how the principles of legality, necessity, proportionality and non-discrimination were respected.
3. Please indicate how their arrest, detention and judicial prosecution are in line with Egypt's international human rights obligations as well as due process and fair trial standards, including the right not to be subjected to arbitrary arrest or detention, the right to be brought promptly before a judge and to trial within a reasonable time, the prohibition of enforced disappearance, the prohibition of torture or ill-treatment, the safeguards against forced or coerced confessions, the right to a lawyer and the right to a fair trial by an independent tribunal.
4. Kindly provide additional information on how the counter-terrorism measures adopted comply with United Nations Security resolution 1373 and a strict understanding of the definition of terrorism as elucidated by international law norms, including but not limited to United Nations Security Council resolution 1566 (2004) and the model definition of terrorism provided by the mandate of the Special Rapporteur for the promotion and protection of human rights and fundamental freedoms while countering terrorism.
5. Please also provide information about any investigation initiated into the allegations of enforced disappearances of Mr. Mohamed, Mr. Farahat, Mr. Ali, Mr. Bioumy and Mr. Abdulhamid as well as into the allegations of torture or other cruel, inhuman or degrading treatment or punishment of Mr. Bioumy and Mr. Abdulhamid,

including the results of such investigations. If no investigation has been carried out, please explain the reason for not pursuing such cases and how this is compatible with international law and, in particular, with the Convention against Torture and the ICCPR. Please further provide information on the policies, procedures and measures adopted to prevent and investigate enforced disappearances as well as torture, cruel or inhumane treatments carried out by members of State security forces, and the steps taken to ensure the accountability of any person(s) responsible.

6. Please indicate how the detention and prosecution of Mr. Mohamed, Mr. Farahat, Mr. Ali, Mr. Bioumy and Mr. Abdulhamid complies with Egypt's obligation to safeguard and guarantee freedom of expression under international human rights law. Please further provide information about measures taken to ensure that citizens are able exercise their right to freedom of expression, including public criticism of the Government and other public authorities as well as their decisions and policies, in a safe and enabling environment without fear of harassment, criminalisation or acts of intimidation of any kind in retaliation for expressing views critical of the Government.

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 prevent any irreparable damage to the life and personal integrity of Mr. Islam Maamon Maseer Mohamed, Mr. Mohamed Atef Eid Farahat, Mr. Mohamed Ahmed Ali, Mr. Mohamed Farag Mohamed Bioumy and Mr. Mahmoud Ismail Mohamed Abdulhamid.

We also urge your Excellency's Government to adopt the necessary steps to promptly and impartially review Mr. Mohamed, Mr. Farahat, Mr. Ali, Mr. Bioumy and Mr. Abdulhamid's cases and, if found to be unsubstantiated, to release them as soon as possible, discarding the charges brought against them. Additionally, we urge the Government to exhaustively investigate the allegations described above and adopt the appropriate measures to ensure accountability and redress of the human rights breaches that may have been committed. Further, we respectfully ask your Excellency's Government to review the policies, legislation and practices that are having a grave and unjustified impact on the freedom of opinion and expression in Egypt.

Further, we would like to inform 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.

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

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

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

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

Alice Jill Edwards
Special Rapporteur on torture and other cruel, inhuman or degrading treatment or
punishment

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 the right to freedom of opinion and expression as set forth in article 19 of the Universal Declaration of Human Rights (UDHR) and article 19 of the International Covenant on Civil and Political Rights (ICCPR), ratified by Egypt on 14 January 1982. Additionally, we would like to refer your Excellency's Government to articles 7, 9, 10, 14, 16, 17 and 21 of the ICCPR, which provide for the rights to liberty and security of the person, the obligation to treat all persons deprived of their liberty humanity and respect for their dignity, not to be subjected to arbitrary arrest or detention, to be promptly informed of the reasons for the arrest and of any charges against him or her, to be brought promptly before a judge, to a fair trial within a reasonable time, and to peaceful assembly, the right to recognition everywhere as a person before the law, as well as the for the *erga omnes* prohibition of enforced disappearances and of torture, cruel, degrading or inhumane treatment or punishment. These articles shall be read individually and together with article 2.3. of the ICCPR, which provides for the right to an effective remedy for every person whose rights contained in the Covenant have been violated. We would also 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.

Article 19 of the ICCPR guarantees the right to freedom of opinion and the right to freedom of expression, which includes the right "to seek, receive and impart information and ideas of all kinds, either orally, in writing or in print, in the form of art, or through any other media". This right applies online as well as offline and protects the freedom of the press as one of its core elements. Any restriction to the right to freedom of expression must be "provided by law" and meet the criteria established by international human rights standards. Under these standards, limitations must conform to the strict test of necessity and proportionality, must be applied only for those purposes for which they were prescribed and must be directly related to the specific need on which they are predicated.

In its [general comment No. 34](#), the Human Rights Committee, interpreting article 19, stated that States parties to the ICCPR are required to guarantee the right to freedom of expression, including "political discourse, commentary on one's own and on public affairs, canvassing, discussion of human rights, journalism, cultural and artistic expression, teaching, and religious discourse" (paragraph 11). The Committee further asserts that there is a duty of States to put in place effective measures to protect against attacks aimed at silencing those exercising their right to freedom of expression (paragraph 23).

Further, [Human Rights Council resolution 12/16](#) called on States to refrain from imposing restrictions that are not consistent with article 19(3), including: discussion of government policies and political debate; reporting on human rights; engaging in peaceful demonstrations or political activities, including for peace or

democracy; and expression of opinion and dissent, religion or belief, including by persons belonging to minorities or vulnerable groups. We also wish to refer to the Special Rapporteur on freedom expression's report on Disinformation and freedom of opinion and expression ([A/HRC/47/25](#)), where she stated that "in keeping with their obligation to respect human rights, States should (...) refrain from restricting freedom of expression online or offline except in accordance with the requirements of articles 19(3) and 20(2) of the International Covenant on Civil and Political Rights, strictly and narrowly construed". Further, the Special Rapporteur highlighted that "criminal law should be used only in very exceptional and most egregious circumstances of incitement to violence, hatred or discrimination," in the efforts to counter disinformation.

Furthermore, article 5 of the Universal Declaration of Human Rights (UDHR); article 7, read alone and in conjunction with article 2(3), of the International Covenant on Civil and Political Rights (ICCPR); and at least, articles 1, 2, 15 and 16 of the United Nations Convention against Torture and Other Cruel, Inhuman and Degrading Treatment or Punishment (CAT), ratified by Mexico in 1981 and 1986 respectively, establish the absolute and non-derogable prohibition of torture or other cruel, inhuman or degrading treatment or punishment.¹

Attached to such prohibition are obligations to criminalize and investigate all acts of torture or other cruel, inhuman or degrading treatment or punishment, to prosecute suspects, to punish those responsible and to provide remedies to victims.²

States parties to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT) have explicit treaty duties to establish all acts of torture as offences under domestic law (article 4), to exercise jurisdiction over said offences (article 5), to receive complaints and examine them promptly and impartially (article 13), and to investigate those allegations promptly and impartially (article 12).

Defendants cannot rely on orders of a superior or public authority, or states of emergency, to exonerate their actions (articles 2(3) and 2(2)), while any legal mechanisms which interfere with that obligation, such as statutes of limitations, immunities or amnesties, are considered contrary to the non-derogable nature of the prohibition (art. 2(2)). Amnesties provided at domestic law do not remove criminal liability pursuant to international tribunals or universal jurisdiction. Prosecutors and courts have a duty to refuse evidence obtained, or suspected of having been obtained, through torture or other illicit means (article 15).

Victims are to be protected from reprisals or intimidation during said investigations (article 13) and they have an enforceable right to fair and adequate compensation including the means for as full rehabilitation as possible (article 14).

At no time shall torture be used to extract information or a confession (article 1), and any statement which has been obtained via such methods, shall be

¹ For a full explanation on the absolute prohibition of torture and other cruel, inhuman or degrading treatment or punishment and the related States' obligations to criminalize, investigate and prosecute crimes of torture and other ill-treatment, see Report of the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment ([A/77/502](#)) and Report of the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, Good practices in national criminalization, investigation, prosecution and sentencing for offences of torture ([A/HRC/52/30](#)).

² *Ibid.*

excluded from any proceedings except against a person accused of torture as evidence that the statement was made (article 15).

States parties to CAT have overarching obligations to prevent torture and other cruel, inhuman or degrading treatment or punishment via effective legislative, administrative, judicial and other measures (articles 2 and 16), to educate and train relevant personnel on the prohibition (article 10) and to keep all rules, instructions, methods and practices relating to interrogation, custody and treatment under systematic review (article 11).

The standards of conditions and treatment of persons deprived of their liberty are contained in the UN Standard Minimum Rules for the Treatment of Prisoners (Nelson Mandela Rules), which establish that all prisoners shall be treated with dignity and no prisoner shall be subjected to torture or other cruel, inhuman or degrading treatment or punishment.³

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*. We also recall the United Nations Declaration on the Protection of All Persons from Enforced Disappearances 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 7, 9-12, 13 and 19. We also make reference to the Working Group's report on, new technologies and enforced disappearances (A/HRC/54/22/Add.5), in particular paras. 6 and 65(c) and Working Group's study on Enforced disappearance and economic, social and cultural rights (A/HRC/30/38/Add.5), in particular paragraph 33-37 which highlights the chilling effect of the disappearance of journalists and human rights defender.

Regarding the allegations of arbitrary detention, article 9 of the ICCPR states that no one shall be subjected to arbitrary arrest or detention or deprived of his liberty except on such grounds and in accordance with such procedures as are established by law. As interpreted by the Human Rights Committee in its [general comment No. 35](#), the notion of "arbitrariness" should not be equated with "against the law", but should be interpreted more broadly to include considerations of inappropriateness, injustice, unpredictability and due process, as well as considerations of reasonableness, necessity and proportionality (paragraph 12). In addition, the Working Group on Arbitrary Detention has established in its jurisprudence that preventive deprivation of liberty, as a precautionary and non-punitive measure, must also comply with the principles of legality, necessity and proportionality to the extent strictly necessary in a democratic society. It may only proceed in accordance with the limits strictly necessary to ensure that the efficient development of investigations is not impeded and justice is not evaded, and provided that the competent authority substantiates and accredits the existence of the aforementioned requirements. Because of the particularly restrictive nature of pre-trial detention, the imposition of this measure should be the exception rather than the rule.

³ See further Special Rapporteur on Torture's report on Current Issues and Good Practices in Prison Management, A/HRC/55/52: <https://www.ohchr.org/en/documents/thematic-reports/ahrc5552-current-issues-and-good-practices-prison-management-report>

Furthermore, we would like to recall that in accordance with the jurisprudence of the Working Group on Arbitrary Detention, and general comment No. 35, 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, is arbitrary.

Finally, I would like to remind your Excellency's Government of the duty of States to investigate and punish serious human rights violations, as established by the Human Rights Committee in its [general comment No. 31](#), which asserts that failure to take the necessary measures to ensure the investigation and prosecution of such violations may in itself constitute a breach of human rights treaties (CCPR/C/21/Rev.1/Add.13, paras. 15-18). Impunity for such human rights violations can be an essential element contributing to their repetition.

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).

Although there is no agreement on a multilateral treaty on terrorism which would inter alia legally define terrorism, the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism has stressed throughout, and for years, that States should ensure that national counter-terrorism legislation is limited to the countering of terrorism as properly and precisely defined on the basis of the provisions of international counterterrorism instruments and is strictly guided by the principles of legality, necessity and proportionality. Such a position is consistent with Security Council resolutions addressing the use of counter-terrorism by Member States. This is closely related to the important "principle of legal certainty" 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. (A/73/361).

On this basis, the definition of terrorism in national legislation should be guided by the model definition proposed in Security Council resolution 1566 (2004) and also by the Declaration on Measures to Eliminate International Terrorism and the Declaration to Supplement the 1994 Declaration on Measures to Eliminate International Terrorism, which were approved by the General Assembly. The seriousness of, and punishment for, a criminal conviction must be proportionate to the culpability of the perpetrator. No one should be convicted of participating in a terrorist act, or facilitating or funding terrorism, unless it can be shown that that person knew or intended to be involved in terrorism acts as defined under national

law. For these reasons, the Special Rapporteur the promotion and protection of human rights and fundamental freedoms while countering terrorism encourages states to use precise and defined terminology when it comes to counter-terrorism norms so as to comply with the principles of legal certainty, legality and proportionality. Furthermore, we respectfully remind your Excellency's Government 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. The Experts highlight that the targeting of civil society including lawyers under the guise of counter-terrorism is entirely inconsistent with the human rights obligations of Member States.