

**Mandates of the Special Rapporteur in the field of cultural rights; the Working Group on Arbitrary Detention; the Working Group on Enforced or Involuntary Disappearances; the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression and the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism**

Ref.: AL EGY 3/2024  
(Please use this reference in your reply)

9 September 2024

Excellency,

We have the honour to address you in our capacities as Special Rapporteur in the field of cultural rights; Working Group on Arbitrary Detention; Working Group on Enforced or Involuntary Disappearances; Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression and Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism, pursuant to Human Rights Council resolutions 55/5, 51/8, 54/14, 52/9 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 alleged arrest and enforced disappearance for 48 hours, followed by the arbitrary detention and prosecution, including on charges of terrorism, of Mr. Ashraf Omar, for his work as a political cartoonist at AlManassa, an independent news website based in Cairo.**

In this context, we wish to recall that previous communications also addressed concerns about the alleged arbitrary detention and prosecution of journalists and other individuals for publicly expressing critical opinions, including AL EGY 2/2024, [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. Ashraf Omar is a political cartoonist at AlManassa, an independent news website based in Cairo. Some of his cartoons relate to the economic situation in Egypt.

On 22 July 2024, Mr. Ashraf Omar was reportedly arrested at his home in the Dar Misr residential compound in Giza during the night, and his home was raided by a group of security men in uniform and in plainclothes, some of them masked and believed to be State security agents. He was handcuffed and blindfolded, and was escorted away to an unknown destination, where he was subjected to an enforced disappearance for more than 48 hours. Notably,

in order to constitute an enforced disappearance, the deprivation of liberty of a person must be 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, regardless of the duration of the said deprivation of liberty or concealment.

On 24 July 2024, Mr. Ashraf Omar reappeared before the Supreme State Security Prosecution in Cairo, a special branch of the Public Prosecution responsible for prosecuting crimes that relate to “State security”. He was interrogated for 6 hours, in particular on the content of his cartoons published on AlManassa, the reasons why he drew, and whether his cartoons were intended to incite the public. The Supreme State Security Prosecutor reportedly denied the requests of both the Journalists Syndicate lawyer and the AlManassa lawyer to attend the interrogation.

The same day, Mr. Ashraf Omar was ordered 15 days of detention on the charges of joining a terrorist group while being aware of its purposes; disseminating and publishing rumours and false news and information; and abuse of social media. His 15-day custody has been renewed twice already. The charge of belonging to a terrorist group could carry the highest penalty, meaning a sentence of up to ten years of imprisonment with hard labour according to article 12 of the Anti-Terrorism Law.

He is currently held at Tenth of Ramadan prison.

Without wishing to prejudge the accuracy of the above-mentioned allegations, we express great concern about the alleged arbitrary detention and prosecution of Mr. Ashraf Omar, including on terrorism charges, for expressing his opinions as a political cartoonist. Furthermore, we express grave concerns about the allegations of his enforced disappearance for two days.

We reiterate our concern at 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, including in the form of art, targeting individuals 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 individual concerned, we are alarmed that cases such as the one 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, EGY 2/2024), we also reiterate our concerns about the vagueness of the counterterrorism and national security legislation in Egypt. We note with concern that this legislation is reportedly being misused to target, inter alia, individuals who are critical of the government. We underscore to your Excellency’s Government that counterterrorism legislation should be sufficiently precise to comply with the principle of legality recognised under article 15 of the International Covenant on Civil and Political Rights, so as to prevent its use to unjustifiably target civil society, human rights defenders, journalists, or other persons on political, religious or other grounds. Counter-terrorism laws should not be used unjustifiably or arbitrarily to restrict the right to freedom of opinion and expression, including in the form of art, 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), the International Covenant on Civil and Political Rights (ICCPR) and the International Covenant on Economic, Social and Cultural Rights (ICESCR), both ratified by Egypt on 14 January 1982. In particular, we refer to the right to liberty and security of the 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 enforced disappearance, the right to freedom of opinion and expression, including in the form of art, outlined in articles 9, 10, 14, 16 and 19 of ICCPR, read alone and in conjunction with its article 2(3); and the right to participate in cultural life including the freedom indispensable for creative activities, as outlined in article 15 of ICESCR. With regards to the family of Mr. Ashraf Omar, we wish to refer to article 7 of the ICCPR, read alone and in conjunction with article 2(3).

The allegations appear to be part of a concerning trend of subjecting individuals to arbitrary detention, enforced disappearance, 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, including in the form of art, we wish to emphasize that any limitation on this right must meet the criteria established by international human rights standards, including article 4 ICESCR, as applicable, and 19(3) ICCPR. Under these standards, restrictions must be determined by law, 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. States further have an obligation to put in place effective measures to protect against attacks aimed at silencing those exercising their right to freedom of expression. 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.

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

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

1. Please provide any additional information and/or comment(s) you may have on the above-mentioned allegations.

2. Please provide information as to the legal and factual basis for the arrest and detention of Mr. Ashraf Omar as well as for his subsequent prosecution. Please provide detailed information on the terrorism related charges for which he has been convicted and explain how the principles of legality, necessity, proportionality and non-discrimination were respected.
3. Please indicate how his arrest, detention and 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 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 disappearance of Mr. Ashraf Omar, including the results of such investigations. If no investigation has been carried out, please explain the reason for not pursuing such investigations and how this is compatible with international law and, in particular, with the ICCPR. Please further provide information on the policies, procedures and measures adopted to prevent and investigate enforced disappearances 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. Ashraf Omar complies with Egypt's obligation to safeguard and guarantee freedom of expression, including in the form of art, under international human rights law. Please further provide information about measures taken to ensure that individuals 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. Ashraf Omar.

We also urge your Excellency's Government to adopt the necessary steps to promptly and impartially review Mr. Ashraf Omar's case and, if found to be unsubstantiated, to release him as soon as possible, discarding the charges brought against him. 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, including in the form of art, in Egypt.

Further, we would like to inform you 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.

Alexandra Xanthaki  
Special Rapporteur in the field of cultural rights

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

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

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 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 9, 10, 14, 16, and 17 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 recognition everywhere as a person before the law, as well as the *erga omnes* prohibition of enforced disappearances. 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, to liberty and to the security of his person and shall have the right to have his cause heard.

#### *Freedom of opinion and expression, including in the form of art*

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.

With respect to the speech related offences, we call on your Excellency's Government to implement the Rabat Plan of Action threshold test, which sets the right balance between protecting freedom of expression and prohibiting incitement to hatred, based on a case-by-case assessment of the context, speaker, intent, content, extent of dissemination and likelihood of harm. We further recall the 'best practices' on incitement to terrorism of the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism (A/HRC/16/51, paras. 29-32), which recommend that that laws on incitement to terrorism must: (a) be limited to the incitement of conduct that is genuinely terrorist in nature in line with international standards; (b) be strictly necessary and proportionate in pursuit of a legitimate security aim; (c) be clearly defined by law and avoid vague terms such as "glorifying" or "promoting" terrorism; (d) involve an objective risk that the act incited will be committed; (e) require an intent to communicate the message and an intent that the message incite the commission of a terrorist act; and (f) preserve legal defences and justifications.

*The right to take part in cultural life, including freedom indispensable for scientific research and creative activity*

We would like to refer your Excellency's Government to article 15 of International Covenant on Economic, Social and Cultural Rights (ICESCR), which Egypt ratified on 14 January 1982, recognizing the right of everyone to take part in cultural life. Under this provision, States Parties have also undertaken to respect inter alia the freedom indispensable for scientific research and creative activity. The Special Rapporteur in the field of cultural rights stressed that all persons enjoy the right to freedom of artistic expression and creativity, which includes the right to freely experience and contribute to artistic expressions and creations, through individual or joint practice, to have access to and enjoy the arts, and to disseminate their expressions and creations. States should respect the right of artists to dissent, to use political, religious and economic symbols as a counter-discourse to dominant powers, and to express their own belief and world vision. (A/HRC/23/34, paras. 85 and 89 d)

*Prohibition on enforced disappearances*

We are further drawing your Excellency's Government's attention to the absolute and non-derogable prohibition of enforced disappearances 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 be ordered 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.

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. We further wish to underline that the Working Group on Arbitrary Detention has reiterated that enforced disappearances constitute an aggravated form of arbitrary detention.

Finally, we 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.

#### *Right to a fair trial*

With respect to the alleged violations of the right to a fair trial, we remind your Excellency's Government that in its general comment No. 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).

#### *Definition of "terrorism"*

Although there is no agreement on a multilateral treaty on terrorism which, *inter alia*, defines "terrorism", States should ensure that counter-terrorism legislation is limited to criminalizing conduct which is properly and precisely defined on the basis of the international counter-terrorism instruments,<sup>1</sup> Security Council resolution 1566 (2004) and the Declaration on Measures to Eliminate International Terrorism (1994).<sup>2</sup> We further 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,
- b) 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 organization to do or to abstain from doing any act,
- c) Such acts constitute offences within the scope of and as defined in the international conventions and protocols relating to terrorism.<sup>3</sup>

We also bring your Excellency's Government's attention to the principle of legal certainty under article 15(1) of the ICCPR, which requires that criminal laws are sufficiently precise so that it is clear what types of behaviour and conduct constitute a criminal offence and the legal consequences of committing such an offence. This principle recognizes and seeks to prevent ill-defined and/or overly broad laws which are open to arbitrary application and abuse, including to target members of civil society on political or other unjustified grounds.<sup>4</sup>

---

<sup>1</sup> See [https://treaties.un.org/Pages/DB.aspx?path=DB/studies/page2\\_en.xml](https://treaties.un.org/Pages/DB.aspx?path=DB/studies/page2_en.xml).

<sup>2</sup> S/RES/1566; A/RES/51/210.

<sup>3</sup> E/CN.4/2006/98, para 37.

<sup>4</sup> [A/70/371](#), para. 46(b).