Mandates of the Working Group on Arbitrary Detention; the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression; the Special Rapporteur on the rights to freedom of peaceful assembly and of association; the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health; and the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment

REFERENCE:
AL EGY 7/2017

7 June 2017

Excellency,

We have the honour to address you in our capacities as Working Group on Arbitrary Detention; Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression; Special Rapporteur on the rights to freedom of peaceful assembly and of association; Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health; and Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, pursuant to Human Rights Council resolutions 33/30, 34/18, 32/32, 33/9 and 34/19.

In this connection, we would like to bring to the attention of your Excellency's Government information we have received concerning the recent conviction to five years of imprisonment and the continued arbitrary detention of Mr. **Abdullah Ahmed Mohammed Ismail Alfakharany**, Mr. **Samhy Mostafa Ahmed Abdulalim**, Mr. **Mohamed Mohamed Aladili** and Mr. **Youssouf Talat Mahmoud Mahmoud Abdulkarim**, for reasons related to their work as journalists covering the violent dispersal of supporters of the Muslim Brotherhood from the Rabaa al-Adawiya Square in Cairo on 14 August 2013.

Mr. Alfakharany, Mr. Abdulalim, Mr. Aladili and Mr. Abdulkarim, as well as five other journalists, were the subject of opinion No. 7/2016 adopted by the Working Group on Arbitrary Detention on 9 May 2016. In this opinion, the Working Group found that the deprivation of liberty of these nine individuals was arbitrary as they were prosecuted for acts falling under their right to freedom of expression as journalists (category II) and because of the serious violations of international norms relating to their right to a fair trial (category III). The Working Group requested the Government to release them immediately and grant them an enforceable right to compensation.

Mr. Abdullah Ahmed Mohammed Ismail Alfakharany is a journalist, co-founder of the news outlet Rassd News Network in Cairo, and project officer at the Euro-Mid Observer for Human Rights and a member of the American and Middle Eastern Network for Dialogue at Stanford University.

Mr. Samhy Mostafa Ahmed Abdulalim is a journalist and, was a member of the Rassd News Network Board before his arrest.

Mr. Mohamed Mohamed Aladili is a journalist, and was working with Misr25 and the Amjad Channel as a technical producer before his arrest.

Mr. Youssouf Talat Mahmoud Mahmoud Abdulkarim is a journalist and was a television presenter and the director of the Alshabab television channel before his arrest.

According to the information received:

Mr. Alfakharany, Mr. Abdulalim, Mr. Aladili and Mr. Abdulkarim along with five other journalists were arrested between August 2013 and April 2014, reportedly for having covered the killing of more than a thousand protesters by security forces on 14 August 2013. The protesters were supporters of the Muslim Brotherhood who had organized a sit-in in the Rabaa al-Adawiya Square.

On 11 April 2015, following a mass trial, eight journalists were sentenced to life imprisonment, while one of them was sentenced to death. In December 2015, the sentences were quashed by the Court of Cassation which ordered a re-trial.

On 8 May 2017, after several postponements, the Criminal Court of Cairo sentenced Mr. Alfakharany, Mr. Abdulalim, Mr. Aladili and Mr. Abdulkarim to five years of imprisonment for "spreading false information" and "spreading chaos". The five other journalists were acquitted of all charges.

In the cases of Mr. Alfakharany, Mr. Abdulalim, and Mr. Aladili, the grounds for their convictions allegedly relate to an interview they conducted on 25 August 2013 with one of the demonstrators who witnessed and survived the events at Rabaa al-Adawiya Square. The interview was never published because of their arrest on that same day.

In the case of Mr. Abdulkarim, he was arrested and detained on the night of 19 August 2013, during a raid of Alshabab Television Channel, which had been covering and broadcasting the events of Rabaa al-Adawiya Square to the public. During and after the raid, Mr. Abdulkarim was allegedly seriously beaten and subjected to torture, resulting in permanent physical damage, including not being able to stand still, and regularly fainting and suffering from migraines.

Mr. Alfakharany, Mr. Abdulalim, Mr. Aladili and Mr. Abdulkarim are currently being detained at the Al Aqrab prison in the Cairo governorate, reportedly in overcrowded cells lacking electricity and toilets. They have had limited access to medical care, and are allegedly at risk of being subjected to torture and other forms of ill-treatment, including beatings, solitary confinement and deprivation of food, water, sleep and sunlight. It has also been reported that Mr. Abdulkarim had been denied the medical care needed to alleviate the consequences of the torture he had been subjected to.

We express concern at the conviction to five years' imprisonment of Mr. Alfakharany, Mr. Abdulalim, Mr. Aladili and Mr. Abdulkarim, in spite of opinion 7/2016 of the Working Group on Arbitrary Detention that deemed their detention

arbitrary. Their conviction under the charges referred to above appears to be incompatible with Egypt's obligations under international human rights law, and represents an unlawful interference with the right to freedom of expression. We express concern at the targeting of journalists and journalistic activities, in particular in relation to the demonstrations in Rabaa al-Adawiya Square on 14 August 2013. Furthermore, we express our serious concern at the allegations regarding the grievous conditions under which they are currently being held in Al Aqrab prison, which include lack of access to medical care and the continuing risk of being subject to torture and other forms of ill-treatment. Lastly, we express our dismay with regard to the allegations of permanent physical damage provoked to Mr. Abdulkarim through torture, and the consequent denial by the authorities of access to medical treatment.

While we do not want to prejudge the accuracy of these allegations, and acknowledging the findings by the Working Group on Arbitrary Detention in opinion 7/2016, they appear to be in contravention of the rights not to be subjected to torture or cruel, inhumane and degrading treatment or punishment, the right to liberty and security of person, which includes the right not to be subject to arbitrary arrest or detention, and the right to freedom of expression, guaranteed under articles 7, 9 and 19 of the International Covenant on Civil and Political Rights. Egypt ratified the Covenant on 14 January 1982. They equally seem to contravene articles 11 and 12 of the International Covenant on Social, Economic and Cultural Rights, ratified by Egypt on 14 January 1982, which establish the rights to an adequate standard of living, including adequate food and water, and right of everyone to the enjoyment of the highest attainable standard of physical and mental health.

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 therefore 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 additional information regarding the conviction of Mr. Alfakharany, Mr. Abdulalim, Mr. Aladili and Mr. Abdulkarim, including the legal basis and evidence presented for their convictions. Please explain the compatibility of these judgments with article 19 of the ICCPR.

3. Please provide information on the steps taken by the Government to implement opinion 7/2016 adopted by the Working Group on Arbitrary Detention.

4. Please provide your comments regarding the allegations that Mr. Alfakharany, Mr. Abdulalim, Mr. Aladili and Mr. Abdulkarim are being held in inadequate detention conditions, including overcrowded cells lacking electricity and toilets, and limited access to health care, and explain how this is compatible with Egypt's obligations under international human rights law, including article 10 of the ICCPR and articles 11 and 12 of the ICESCR.

5. Please provide additional information on the allegations of torture and cruel, inhumane and degrading treatment of punishment against Mr. Alfakharany, Mr. Abdulalim, Mr. Aladili and Mr. Abdulkarim since their arrest in August 2013.

6. Please provide information on the measures adopted by your Excellency's Government to ensure that Mr. Alfakharany, Mr. Abdulalim, Mr. Aladili and Mr. Abdulkarim are free from torture and any other form of ill-treatment while in detention.

7. Please provide information on the measures adopted by your Excellency's Government to guarantee Mr. Abdulkarim's access to adequate healthcare and medical treatment while in detention.

8. Please provide information on the measures adopted by your Excellency's Government to guarantee that freedom of opinion and expression is respected in Egypt, and that journalists are permitted to conduct their work in a free and unhindered manner. In particular, please provide information on the measures adopted by your Excellency's Government to guarantee that all testimonies and all information concerning the events of 14 August 2013 in Rabaa al-Adawiya Square can be published and publicly known.

We would appreciate receiving a response within 60 days.

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

Your Excellency's Government's response will be made available in a report to be presented to the Human Rights Council for its consideration.

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

Elina Steinerte
Vice-Chair of the Working Group on Arbitrary Detention

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

Annalisa Ciampi
Special Rapporteur on the rights to freedom of peaceful assembly and of association

Dainius Puras
Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health

Nils Melzer
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 your attention to the following human rights standards:

In connection with above alleged facts and concerns, we would like to refer your Excellency's Government to articles 7, 9, 14, 19 and 21 of the of the International Covenant on Civil and Political Rights (ICCPR), ratified by Egypt on 14 Jan 1982, which establish the prohibition of torture and arbitrary detention, as well as the rights to freedom of opinion and expression and freedom of assembly. Furthermore, we would like recall articles 1, 2 and 16 of the Convention against Torture and other Cruel, Inhuman and Degrading Treatment or Punishment, acceded by your Excellency's Government on 25 June 1986, which establish the absolute and non-derogable prohibition of torture and other ill-treatment. We would also like to refer your Excellency's Government to articles 11 and 12 of the Covenant on Economic, Social and Cultural Rights. Article 11 determines that everyone has the right to an adequate standard of living, including adequate food, clothing and housing, and to the continuous improvement of living conditions, while article 12 establishes that an obligation to respect the right to health.

We also wish to reiterate the principle enunciated in Human Rights Council Resolution 12/16, which calls on States to recognize the exercise of the right to freedom of opinion and expression as one of the essential foundations of a democratic society. This right applies online as well as offline. Any limitation to the right to freedom of expression must meet the criteria established by international human rights standards, such as article 4 and 19 (3) of the ICCPR and 29 (2) of the Universal Declaration on Human Rights. Under these standards, limitations 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.

Similarly, we would also like to make reference to Human Rights Council resolution 24/5 of 2013 which "[r]eminds States of their obligation to respect and fully protect the rights of all individuals to assemble peacefully and associate freely, online as well as offline, including in the context of elections, and including persons espousing minority or dissenting views or beliefs, human rights defenders, trade unionists and others, including migrants, seeking to exercise or to promote these rights, and to take all necessary measures to ensure that any restrictions on the free exercise of the rights to freedom of peaceful assembly and of association are in accordance with their obligations under international human rights law".

We would further like to recall that international human rights law and standards require States to treat all persons under any form of detention or imprisonment with humanity and with respect for the inherent dignity of the human person (article 20, Arab Charter on Human Rights; Principle 1, Body of Principles for the Protection of All

Persons under Any Form of Detention or Imprisonment, and General Assembly resolution 43/173 of 9 December 1988).

Finally, regarding the right to health, we would like to remind your Excellency's Government of the obligation of States to refrain from denying or limiting equal access for all persons, including prisoners or detainees to preventive, curative and palliative health services (General Comment 14, Para. 34). In addition, we would like to underline the Basic Principles for the Treatment of Prisoners, adopted by the General Assembly in resolution 45/111, according to which prisoners should have access to health services available in the country without discrimination on the grounds of their legal situation (Principle 9); and draw your attention to the UN Standard Minimum Rules for the Treatment of Prisoners (reviewed on 5 November 2015 and renamed the "Mandela Rules") in particular to Rule 27(1), which provides that all prisons shall ensure prompt access to medical attention in urgent cases as well as Rule 58 which establishes that prisoners shall be allowed to communicate with their family and friends.

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