|  |  |  |  |
| --- | --- | --- | --- |
|  |  | A/HRC/WGAD/2021/1 | |
|  | **Advance Edited Version** | | Distr.: General  10 June 2021  Original: English |

**Human Rights Council**

**Working Group on Arbitrary Detention**

Opinions adopted by the Working Group on Arbitrary Detention at its ninetieth session, 3–12 May 2021

Opinion No. 1/2021 concerning Esraa Abdel Fattah, Solafa Magdy, Hisham Fouad, Hossam Moanis, Adel Sabry, Moataz Wednan, Badr Mohammed Badr, Mahmoud Hussein, Mohamed Ibrahim Radwan and Ismail al-Sayed Mohamed Omar Tawfik (Egypt)

1. The Working Group on Arbitrary Detention was established in resolution 1991/42 of the Commission on Human Rights. In its resolution 1997/50, the Commission extended and clarified the mandate of the Working Group. Pursuant to General Assembly resolution 60/251 and Human Rights Council decision 1/102, the Council assumed the mandate of the Commission. The Council most recently extended the mandate of the Working Group for a three-year period in its resolution 42/22.

2. In accordance with its methods of work,[[1]](#footnote-2) on 4 December 2020 the Working Group transmitted to the Government of Egypt a communication concerning Esraa Abdel Fattah, Solafa Magdy, Hisham Fouad, Hossam Moanis, Adel Sabry, Moataz Wednan, Badr Mohammed Badr, Mahmoud Hussein, Mohamed Ibrahim Radwan and Ismail al-Sayed Mohamed Omar Tawfik. The Government has not replied to the communication. The State is a party to the International Covenant on Civil and Political Rights.

3. The Working Group regards deprivation of liberty as arbitrary in the following cases:

(a) When it is clearly impossible to invoke any legal basis justifying the deprivation of liberty (as when a person is kept in detention after the completion of his or her sentence or despite an amnesty law applicable to him or her) (category I);

(b) When the deprivation of liberty results from the exercise of the rights or freedoms guaranteed by articles 7, 13, 14, 18, 19, 20 and 21 of the Universal Declaration of Human Rights and, insofar as States parties are concerned, by articles 12, 18, 19, 21, 22, 25, 26 and 27 of the Covenant (category II);

(c) When the total or partial non-observance of the international norms relating to the right to a fair trial, established in the Universal Declaration of Human Rights and in the relevant international instruments accepted by the States concerned, is of such gravity as to give the deprivation of liberty an arbitrary character (category III);

(d) When asylum seekers, immigrants or refugees are subjected to prolonged administrative custody without the possibility of administrative or judicial review or remedy (category IV);

(e) When the deprivation of liberty constitutes a violation of international law on the grounds of discrimination based on birth, national, ethnic or social origin, language, religion, economic condition, political or other opinion, gender, sexual orientation, disability, or any other status, that aims towards or can result in ignoring the equality of human beings (category V).

Submissions

Communication from the source

4. The source presents the cases of 10 journalists detained in Egypt, alleging that these cases constitute examples of a general pattern of arbitrary detention against those exercising freedom of expression in the country.

Esraa Abdel Fattah and Solafa Magdy

5. Esraa Abdel Fattah, born in 1978, is an Egyptian journalist and activist. According to the source, after participating in the protests in 2011, Ms. Fattah founded the Egyptian Democratic Academy, an organization to promote democracy and women’s political participation. Her status as an independent journalist and political activist reportedly made her a prime target in the repression of independent voices in Egypt.

6. On 12 October 2019, Ms. Fattah was allegedly abducted from her car by Egyptian security forces while she was driving to a cinema. She was reportedly taken to an undisclosed place of detention managed by the National Security Agency. Prevented from contacting her family or lawyers, she was subjected to torture, ill-treatment, humiliation and threats.

7. According to the information received, upon Ms. Fattah’s arrival at the detention facility, a National Security Agency officer threatened her with torture if she refused to provide the access code to her mobile phone. Following this refusal, several men came in and started beating her in the body and face. The officer then returned and repeated his request for her to unlock her phone. Ms. Fattah refused again and the officer took off her sweatshirt and began strangling her with it, saying “your life in exchange for the phone”, until she gave him her password. The officer then secured her hands and legs to prevent her from sitting or kneeling, and kept her in that position for almost eight hours. Another officer warned that she would face further torture if she reported her ill-treatment to the prosecutor.

8. Ms. Fattah was presented the next day to the Supreme State Security Prosecutor’s Office, to which she reported the torture. The prosecutor ordered her to be remanded in custody for 15 days, for the investigation of charges of participation in a terrorist group, dissemination of false news and misuse of the media. She is currently being held in pretrial detention at Qanater women’s prison near Cairo, pending investigations into case No. 488/2019.

9. It is reported that no measures appear to have been taken by the prosecutor to punish the perpetrator or to protect Ms. Fattah from further torture. Ms. Fattah had no access to a doctor following the incident. She decided to go on hunger strike on 13 October 2019, the day after her arrest, to protest against the torture and ill-treatment that she had suffered during her interrogation.

10. On 13 October 2019, Ms. Fattah began her hunger strike. One month later, she told her lawyers, during a visit, that she was going to go on a partial thirst strike. She interrupted her strike on 22 November 2019, because of her health conditions. She restarted her hunger strike on 9 December 2019 and stopped again in January 2020.

11. Since 21 October 2019, Ms. Fattah’s lawyers have made repeated requests to have her transferred to hospital. However, she was brought to the hospital only once, on 17 December 2019.

12. The news of Ms. Fattah’s arrest and subsequent torture allegedly generated a public outcry. Several journalists denounced her ill-treatment in detention and called for her immediate release. The authorities have responded by arresting those journalists who spoke out in her defence, including Solafa Magdy.

13. Solafa Magdy, born in 1987, is an Egyptian journalist and videographer. Ms. Magdy established a school to teach mobile-phone journalism. She was arrested for writing about fellow journalist, Ms. Fattah. Ms. Magdy published an article on Facebook in which she recounted the details of Ms. Fattah’s torture in detention. This article was shared on other news platforms, but has since been deleted.

14. According to the source, Ms. Magdy and her husband were arrested in a cafe in Cairo on 26 November 2019. The authorities confiscated their mobile phones and Ms. Magdy’s car and took them to Dokki police station. Ms. Magdy was then transferred, blindfolded and with her hands bound, to the offices of the National Security Agency. She was detained in an unknown location and interrogated about her previous journalistic work, employers and income, and about her activism defending Ms. Fattah.

15. During this initial interrogation, the National Security Agency officers allegedly assaulted Ms. Magdy, verbally and physically, with a view to forcing her to unlock her and her husband’s mobile phones. When Ms. Magdy refused to provide the access code to her mobile phone, the officers allegedly beat her on her right arm and side, evidence of which Ms. Magdy was later able to provide during the investigation.

16. Reported missing for nearly 24 hours, Ms. Magdy finally appeared before the prosecutor of the State security court, in case No. 488/2019, the same case in which Ms. Fattah and several others are being charged. Ms. Magdy faces charges of joining a terrorist group and spreading false news. She was placed in pretrial detention in Qanater women’s prison.

17. The source claims that the detention of Ms. Fattah and Ms. Magdy is motivated solely by their legitimate exercise of the universally recognized right to freedom of expression and information. The fact that they are being charged with press-related offences (spreading false news) allegedly indicates that they are being targeted for their journalistic work.

18. According to the source, in both cases, during the initial interrogation and for a period of at least 24 hours, the journalists were disappeared and unable to contact their family or lawyers to inform them of their whereabouts. The source refers to the general comment No. 35 (2014) of the Human Rights Committee in this regard, according to which certain conditions of detention (such as denial of access to counsel and family) may result in procedural violations of article 9 (3) and (4) of the Covenant, and enforced disappearances violate numerous substantive and procedural provisions of the Covenant and constitute a particularly aggravated form of arbitrary detention.

19. The source states that the right of both Ms. Fattah and Ms. Magdy to a fair trial has been violated because during their interrogations, they were subject to torture in order to extract information that would later be used to discredit them. In Ms. Fattah’s case, torture was also used after she gave the password to her phone, reportedly meant as punishment to intimidate her and discourage her from reporting the ill-treatment.

20. The source claims that invoking information obtained under unlawful forms of coercion amounts to a violation of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, article 15 in particular, and of the Covenant.

21. The source recalls that the Human Rights Committee notes, in its general comment No. 32 (2007), that article 7 of the Covenant is non-derogable in its entirety, and that no statements or confessions or, in principle, other evidence obtained in violation of this provision may be invoked as evidence in any proceedings covered by article 14 of the Covenant.

22. The source claims that the prosecutors’ dismissal of these torture allegations is in violation of article 12 of the Convention against Torture, under which a State party must ensure that its competent authorities proceed to a prompt and impartial investigation, wherever there is reasonable ground to believe that an act of torture has been committed in any territory under its jurisdiction.

23. According to the information received, the hearings for these two cases were held at the State security court and lasted no more than 10 minutes, during which no new questions were asked and no evidence was presented to prove the charges. The source submits that the length of the proceedings and the absence of any discussion based on evidence attests to the highly political and arbitrary nature of the detention.

Hisham Fouad and Hossam Moanis

24. Hisham Fouad, born in 1968, is an Egyptian journalist for Sputnik news agency, a member of the Revolutionary Socialists party and a trade union activist. He is actively involved in efforts of the Egyptian Syndicate of Journalists to defend journalists and their freedoms. In August 2016, as part of a seminar for a research institute, Mr. Fouad gave an interview to the news website Masr al-Arabia in which he spoke at length of the repressive laws against workers and their working conditions. Mr. Fouad’s journalistic activities have often complemented his work as a member of the Egyptian Syndicate of Journalists. Throughout his career, he has contributed to numerous articles and activities, on the mobilization and protests occurring in different sectors and on the working conditions in Egypt. Mr. Fouad has frequently denounced attacks on freedom of the press. He wrote an article on the partial strike and mobilization of the Egyptian Syndicate of Journalists, denouncing violations of press freedom in Egypt.

25. Hossam Moanis, born in 1982, is an Egyptian journalist for Al-Karama agency. He has written on a variety of issues, including public policy and journalist safety. He has frequently expressed opinions critical of the government leadership and its policies. He has written articles critical of the current President and the former President, including articles in which he denounced the unjustified detention of Egyptian prisoners and criticized the retrocession of Tiran and Sanafir islands. He has regularly published articles on different political and social issues on his blog. In one article, Mr. Moanis wrote about the link between the protests that took place in Cairo on 15 April 2016 and those in January 2011: he maintained that the will of the people should be prioritized, and that the authorities’ reaction to protests against the retrocession of the islands show that the governing powers did not tolerate any form of internal dissent.

26. On 25 June 2019, Mr. Fouad and Mr. Moanis were allegedly arrested during a wave of arrests targeting trade unionists, journalists and politicians accused of being members of a plot supposedly planning to overthrow the State and its institutions. These arrests took place in anticipation of 30 June 2019, the anniversary of the deposition of the former President, Mohamed Morsi.

27. The source reports that, after the arrests, the National Security Agency published a warrant for investigation, following which the Ministry of the Interior issued a statement full of baseless allegations against Mr. Fouad and Mr. Moanis, including being members of a banned group (Muslim Brotherhood), contributing to the funding of that group and collaborating with its fugitive members fighting the State from abroad, seeking to topple the State, using social media to incite people against the State, calling for disruption to efforts to implement the provisions of the Constitution and legislation, and preventing State institutions from carrying out their duties. The two journalists are also accused of publishing false news about the political and economic situation in the country with a view to disturbing public peace and unsettling the national economy.

28. Both Mr. Fouad and Mr. Moanis have been accused by the Supreme State Security Prosecution of collaborating with a terrorist group to achieve its objectives with prior knowledge of its purposes, and publishing false news with the aim of disrupting security and stability in the country, as part of case No. 930/2019. They are currently being held in pretrial detention pending investigations by the Supreme State Security Prosecution.

29. The prosecution’s investigation statement outlined the charges as follows: creating pages on social media and WhatsApp groups and using their personal accounts to publish false news, and spreading information about protests inside the country to influence citizens and public opinion abroad, thus tarnishing the reputation of the country. However, the prosecution never indicated which “fake news” in particular they allegedly published.

30. The source stresses that Mr. Fouad is being charged with press-related offences of spreading false news, indicating that he is being targeted for his journalistic work. He is also accused of belonging to a terrorist group (Muslim Brotherhood), a charge that is systematically used by the authorities against its critics. Mr. Fouad has nothing to do with the Muslim Brotherhood and in fact, opposes it. The source claims that the real reasons for his arrest are related to his activities as a journalist and his affiliation with the Egyptian Syndicate of Journalists. Like Mr. Fouad, Mr. Moanis has no involvement with the Muslim Brotherhood. The source claims that the real reasons for their arrest are related to their journalistic, political and syndicate activities.

31. The source claims that the conditions of detention for both journalists are in violation of international standards. At Mr. Moanis’s hearing on 14 August 2019, during which his detention was once again extended, he reported that he had been forced to sleep on the floor, and then on wooden and iron boards, and had been allowed to leave his cell for only one hour a day.

32. Meanwhile, Mr. Fouad was allegedly locked in a narrow cell without adequate ventilation. For the first 15 days, he was allowed to leave the cell for only one hour a day. He has been forced to sleep without a mattress, causing severe back pain. Mr. Fouad’s family has reportedly expressed alarm over his health condition and requested that he be permitted to see a doctor outside the prison, given the lack of sufficient medical care within the prison. However, he has still not received such care. Mr. Fouad’s lawyer sent a medical report to the prosecutor, but the prison authorities have failed to provide adequate medical care for Mr. Fouad. The source recalls that according to the Human Rights Committee in its general comment No. 35 (2014) – which relates to article 9 of the Covenant, to which Egypt is a party – prompt and regular access should be given to independent medical personnel.

Adel Sabry

33. Adel Sabry, born in 1962, is an Egyptian journalist and editor-in-chief of the news website Masr al-Arabia.

34. According to the information received, on 1 April 2018, the Supreme Council for Media Regulation issued a decision against Masr al-Arabia and imposed a fine of 50,000 Egyptian pounds, following its publication of a translation of an article in the *New York Times* about the Egyptian presidential elections. Two days later, on 3 April 2018, police broke into the website’s offices and inspected the computers, before arresting Mr. Sabry.

35. At the time of his arrest, Mr. Sabry was charged with running a website illegally without a licence issued by the administrative district. However, the website reportedly does have a commercial licence and is registered under Act No. 180 of 2018. The charges were quickly changed. After appearing before the prosecutor, Mr. Sabry was accused in case No. 4861/2018 on new charges of promoting alterations to the Constitution by means of text and visual material, inciting demonstrations, publishing false news and being a member of a banned group.

36. After being released on bail (10,000 Egyptian pounds) on 9 July 2018, he was accused again just four days later, on 13 July 2018, with the same charges in another case under a different number (No. 441/2018). Most of the defendants in this case, including Mr. Sabry, were accused of the same charges, based on article 35 of the Counter-Terrorism Act (No. 94 of 2015).

37. The source alleges that Mr. Sabry was detained for his exercise of the right to freedom of expression as a journalist. The investigation minutes reportedly indicate that the reason for his arrest was the publication of a story on the coverage of the presidential elections, referring to details of possible bribery. The article was translated from the website of the *New York Times*, and included the response of the Supreme Electoral Commission.

Moataz Wednan

38. Moataz Wednan, born in 1980, is an Egyptian journalist who worked for the news website HuffPost Arabi. He is reportedly being detained in Tora prison.

39. According to the information received, Mr. Wednan was arrested on 16 February 2018 by the National Security Agency officers. He was beaten and taken to a police station for interrogation. Mr. Wednan remained forcibly disappeared for a week. He is charged with membership of a banned group and publication of false news, as part of State Security case No. 441/2018, on the basis of article 35 of the Counter-Terrorism Act. All appeals against his provisional detention have been rejected. His pretrial detention has exceeded the two-year maximum length, in violation of his right to a fair trial.

40. The source alleges that Mr. Wednan has been and remains detained because of his exercise of the right to freedom of expression. Reportedly, there are many indicators that Mr. Wednan’s journalistic activities are the underlying reason for his deprivation of liberty. He was arrested after publishing a video interview with a spokesperson for a presidential candidate, who had run against the current President in the 2018 elections. The source claims that by “false news”, the charges are referring to the answers that Mr. Wednan provided in his interview during the investigation phase.

Badr Mohammed Badr

41. Badr Mohammed Badr, born in 1958, is the editor of the newspaper *Al-Osra Al-Arabiya*. He is reportedly being held in Tora prison.

42. According to the information received, Mr. Badr was arrested on 29 March 2017. He spent more than two years in pretrial detention, charged with being a member of a terrorist group and spreading false news. His release was initially authorized by a Cairo security court in July 2019, but the order was rescinded on appeal from the prosecution. His release was once again authorized by the court on 24 November 2019, but the release order was not acted upon.

43. Instead, it is reported that Mr. Badr went missing on 3 December 2019, the date when the prison administration stopped providing any information about his case, leaving his family with no news of him for nearly three months. Mr. Badr finally resurfaced on 25 February 2020, when he was brought before a Cairo security court on the grounds that he was to be the subject of a new investigation on suspicion of unspecified crimes. The source alleges that Mr. Badr was the victim of enforced disappearance from 3 December 2019 to 25 February 2020.

44. According to the source, Mr. Badr was arrested because of his work as a correspondent for the news organization Al-Jazeera. The mere fact of working for Al-Jazeera would have been reason enough for the authorities to arrest him, as it is financed by a country with which Egypt has severed diplomatic ties.

Mahmoud Hussein

45. Mahmoud Hussein, born in 1966, is a producer in Doha for Al-Jazeera. He was reportedly arrested on 23 December 2016, accused of publishing false information, receiving foreign funding and belonging to a banned group. He is reportedly being held in Tora prison.

46. According to the information received, in May 2019, after two and a half years of temporary detention without trial or investigation on accusations of divulging false news and obtaining external funding, Mr. Hussein’s release was finally ordered. However, the release order was not acted upon and, several days later, was rescinded on the grounds that a new investigation had been ordered (case No. 1365/2018). He is now accused of joining an illegal group, divulging false news and obtaining funding, presumably during the time that he was still in prison. Mr. Hussein has spent several months in solitary confinement and his health has greatly deteriorated.

47. Mr. Hussein worked for Al-Jazeera at its office in Cairo, where he covered local news. However, when Egypt severed ties with Qatar, the Al-Jazeera office in Cairo was permanently closed, and Mr. Hussein travelled to Qatar to continue working for Al-Jazeera. Mr. Hussein is reportedly accused of publishing false news and supporting the Muslim Brotherhood, supposedly as part of Al-Jazeera’s agenda to harm Egyptian interests. The source claims that there is no indication that Mr. Hussein said or did anything in this regard.

48. In addition, it is reported that Mr. Hussein was subjected to solitary confinement for a long period. Mr. Hussein broke his arm in June 2017, but he has been denied surgery ever since. He still suffers from pain and a tremor in his arm. His family provides him with painkillers and nerve injections, but surgery is necessary to mend his broken arm. Mr. Hussein is allowed visits on a weekly basis, but they are supervised by a prison observer who transcribes all the conversations between him and his relatives, as visitors are not permitted to be alone with him.

Mohamed Ibrahim Radwan

49. Mohamed Ibrahim Radwan, born in 1986, is an independent journalist and blogger, graduate of the Workers University, publishing house employee and owner of the blog Oxygen Egypt. He is reportedly being held in Tora prison.

50. Mr. Radwan was first arrested on 6 April 2018, 24 hours after an interview with a former ambassador. He then disappeared for 11 days, and resurfaced on 17 April 2018, before the prosecutor, accused of joining a terrorist group and publishing false news (case No. 621/2018). The source submits he was granted conditional release on 22 July 2019, after more than 15 months of arbitrary detention. However, he was not released until 31 July 2019, having been detained for an additional 10 days without explanation.

51. On 21 September 2019, less than two months after his release, Mr. Radwan was arrested again, along with five other journalists, for covering the anti-Government protests. According to the source, Mr. Radwan was detained at the National Security Agency centre in Maadi after sharing photographs and videos of demonstrations on his personal account and page. Mr. Radwan was forcibly disappeared for 18 days, after which he appeared before the Supreme State Security Prosecutor’s Office, charged in a new case with collaborating with a terrorist group to achieve its objectives, divulging false news and fake statements, and misusing social media to spread false news.

52. According to the source, Mr. Radwan is being punished for his journalistic reporting on political events. Prior to his first arrest, Mr. Radwan was brought in for questioning numerous times and was threatened by authorities while carrying out his work as a journalist. His second arrest was as a result of his journalistic coverage of the demonstrations of September 2019, which he published on his Facebook page and YouTube channel. Mr. Radwan became well known for his sidewalk interviews with members of the public and for his interviews with well-known figures, addressing political and social issues. He has hundreds of thousands of followers on Facebook and YouTube.

53. The source alleges that, during his first detention, Mr. Radwan was subjected to numerous violations, including beating, denial of visits and solitary confinement. It is reported that there have been calls for an investigation into repeated crimes against Mr. Radwan, such as attacks and beatings, the prosecutor’s refusal to allow his lawyer to pay him visits, and solitary confinement in violation of the law.

Ismail al-Sayed Mohamed Omar Tawfik

54. Ismail al-Sayed Mohamed Omar Tawfik, born in 1983, is a journalist and researcher. He has reported for newspapers, media platforms and think tanks such as *Mada Masr*, Assafir al-Arabi, Al-Jazeera, the Forum for Arab and International Relations and Orient XXI. He is apparently being held in Tora prison.

55. According to the source, Mr. Tawfik is well known as a journalist and researcher, specialized in writing about jihadi groups in North Sinai. He is also known as a critic of the Government and of the army’s role in politics. A nominee for a press freedom prize in 2016, he is a research fellow with the Arab Reform Initiative in Paris and was a visiting fellow in the United States of America. In 2009, he won a global essay contest organized by the World Youth Movement for Democracy, before being named as a member of the jury for the same contest. Mr. Tawfik has since won numerous national and international awards for his articles and short stories and for press freedom.

56. According to the information received, Mr. Tawfik was detained on 29 November 2015 by police at Ghardaqah airport, upon his return from a conference in Germany. He was charged with being a member of an illegal organization (Muslim Brotherhood) and publishing and disseminating false news and statements about the situation in the Sinai region. He was kept in pretrial detention for more than three years.

57. After one year’s imprisonment, on 20 November 2016, the court reportedly decided to release Mr. Tawfik. However. the public prosecution’s appeal against the decision was accepted, meaning Mr. Tawfik remained in pretrial detention for more than two years, contrary to what is stipulated by law. Mr. Tawfik completed his second year in prison on 29 November 2017, still without a trial, which should have put an end to his detention as the case had not yet been referred to a competent court. However, on 6 January 2018, Mr. Tawfik’s lawyers saw his case referred to the military prosecutor.

58. The source reports that Mr. Tawfik’s sentence was passed in his absence and without his knowledge on 22 May 2018, at a hearing at which a total of 20 defendants were convicted (18 of them in absentia) for divulging secrets involving national security on the Sinai Peninsula and for belonging to a banned group. The day after the reported sentencing, the prison authorities had not been notified of any change in Mr. Tawfik’s status, further demonstrating the arbitrariness of the handling of his case.

59. On 25 December 2018, the Cairo military court upheld Mr. Tawfik’s conviction on charges of joining an illegal organization (Muslim Brotherhood), participating in a criminal plot, illegally obtaining and divulging State secrets, intentionally divulging rumours abroad about the internal situation of the Sinai region and harming the national interest, and sentenced him to 10 years in prison.

60. According to the source, under article 143 of the Code of Criminal Procedure, pretrial detention must not exceed 6 months for defendants accused of crimes punishable by up to 3 years’ imprisonment, 18 months for defendants accused of crimes punishable by up to 15 years’ imprisonment and 2 years for defendants accused of crimes punishable by life imprisonment or death. Article 9 of the Covenant provides that anyone arrested or detained on a criminal charge is entitled to trial within a reasonable time or to release, and that it must not be the general rule that persons awaiting trial are detained in custody. The source submits that Mr. Tawfik’s pretrial detention for more than three years prior to his conviction exceeded the time limit set by the Code of Criminal Procedure and failed to respect the requirement of a “reasonable time”.

61. The source alleges that there are many indications that Mr. Tawfik’s arrest and eventual sentence is the result of his activities as a journalist and his exercise of the right to freedom of expression. The verdict was based on his journalistic work, his investigations, his articles in a Lebanese newspaper, his television interviews with Al-Jazeera, the journalistic information on his computer, his publications on his personal social media accounts, and his attendance at and participation in lectures and conferences.

Final remarks

62. The source claims that the situation of press freedom in Egypt is becoming more and more alarming, and that the country is now one of the world’s most prolific jailers of journalists. Press freedom and freedom of expression and information in Egypt have sharply declined in recent years. Since 2013, the authorities have targeted journalists suspected of supporting the Muslim Brotherhood. The Internet is the only place left where independently reported information can circulate, but more than 500 websites have been blocked and increasing numbers of people are being arrested because of their social network posts.

63. According to the information received, journalists and human rights defenders are banned from much of the Sinai region and prohibited from providing independent coverage of any military operation. Coverage of many economic subjects, including inflation and corruption, can also result in imprisonment. The 2018 presidential election reportedly led to intensified censorship and an acceleration in the pace at which media outlets were being closed. The foreign media are also targeted, with articles blocked online or attacked by officials, and reporters expelled or banned from visiting Egypt.

64. Reportedly, in April 2020, at least 29 journalists and bloggers were being arbitrarily detained in Egyptian prisons, simply for exercising their right to freedom of opinion and expression. The individuals are often not presented with a warrant at the time of their arrest. Police officers appear in plain clothes and abduct individuals. The individuals are then forcibly disappeared for several days, during which time they are taken to unknown locations, interrogated, coerced into confessing, denied access to any legal remedies and, in some cases, subjected to ill-treatment and torture.

65. Most of the journalists are charged with spreading false news or membership of a terrorist group. Some spend years in detention without being charged or tried, while others have been sentenced to long jail terms or even life imprisonment in iniquitous mass trials. Most are being held in pretrial detention for far longer than the maximum periods provided for by law.

66. The source alleges that under the Counter-Terrorism Act, adopted in August 2015, journalists are obliged to report only the official version of “terrorist” attacks. In 2018, new cybercrime and media laws enshrined Government control over the media and made it possible to prosecute and imprison journalists and close websites for sharing independently-reported information online. Some news websites chose to shut down rather than try to comply with such legislation.

67. Reportedly, both the situation of press freedom, and the situation of detained journalists have worsened with the coronavirus disease (COVID-19) pandemic. The Supreme Council for Media Regulation has blocked dozens of websites that allegedly spread “false information” about the COVID-19 crisis. A reporter’s press credentials were withdrawn on 16 March 2020 for allegedly quoting “exaggerated” estimates of the number of cases.

68. The COVID-19 pandemic allegedly makes the situation of detained journalists even more dire and dangerous. With the overcrowded cells, unhygienic conditions and lack of access to medical care that are characteristic of Egyptian prisons, journalists who are kept in detention in spite of the pandemic face increased risks of falling ill with COVID-19. Their immediate release from prison is therefore both timely and absolutely necessary in order to preserve life.

69. The source claims that the 10 cases detailed above illustrate an increasingly dire situation for journalists and media workers in the country. Journalists are regularly and systematically arrested for exercising their right to freedom of expression, and punished for allegedly holding opposing views that are critical of the State and for speaking out against injustices committed against their fellow journalists.

Response from the Government

70. On 4 December 2020, the Working Group transmitted the allegations from the source to the Government under its regular communications procedure. The Working Group requested the Government to provide, by 2 February 2021, detailed information about the current situation of the 10 journalists, and to clarify the legal provisions justifying their continued detention and its compatibility with the obligations of Egypt under international human rights law, in particular with regard to the treaties ratified by the State. Moreover, the Working Group called upon the Government of Egypt to ensure the journalists’ physical and mental integrity.

71. The Working Group regrets that it did not receive a response from the Government. The Government did not request an extension of the time limit for its response, as provided for in the Working Group’s methods of work.

Discussion

72. In the absence of a response from the Government, the Working Group has decided to render the present opinion, in conformity with paragraph 15 of its methods of work.

73. In determining whether the deprivation of liberty of Ms. Fattah, Ms. Magdy, Mr. Fouad, Mr. Moanis, Mr. Sabry, Mr. Wednan, Mr. Badr, Mr. Hussein, Mr. Radwan and Mr. Tawfik is arbitrary, the Working Group has regard to the principles established in its jurisprudence to deal with evidentiary issues. If the source has presented a prima facie case for breach of the international norms protecting against arbitrary detention, the burden of proof should be understood to rest upon the Government if it wishes to refute the allegations.[[2]](#footnote-3) In the present case, the Government has chosen not to challenge the prima facie credible allegations made by the source.

i. Category I

74. The source has submitted, and the Government has not contested, that Ms. Fattah was abducted on 12 October 2019 by State security agents. By engaging in such actions, the State authorities clearly failed to invoke any legal basis to justify the detention of Ms. Fattah, which is a fundamental requirement of article 9 (1) of the Covenant. The Working Group also considers that through those actions, Ms. Fattah was placed outside the protection of the law, and therefore that her rights under article 6 of the Universal Declaration of Human Rights and article 16 of the Covenant were violated.

75. The source has further alleged, and the Government has not contested, that Ms. Fattah was held at an undisclosed location. The Working Group recalls that no jurisdiction should allow for individuals to be deprived of their liberty in secret for potentially indefinite periods, held outside the reach of law, without the possibility of resorting to legal procedures, including habeas corpus.[[3]](#footnote-4) Indeed, the Human Rights Council has stressed that no one should be held in secret detention, and called upon States to investigate all alleged cases of secret detention, including under the pretext of countering terrorism.[[4]](#footnote-5) The Working Group consequently finds a breach of articles 3, 8 and 9 of the Universal Declaration of Human Rights and articles 2 (3) and 9 of the Covenant.

76. Further, the source has argued, and the Government has chosen not to contest, that Ms. Fattah and Ms. Magdy were disappeared for 24 hours upon their respective arrests; that Mr. Wednan was disappeared for a week upon his arrest on 16 February 2018; that Mr. Badr was disappeared, while in prison, from 3 December 2019 to 25 February 2020; and that Mr. Radwan was disappeared twice, first for a period of 11 days from 6 April 2018 and then, following his second arrest, for a period of 18 days from 21 September 2019. The Working Group recalls that enforced disappearance breaches article 9 (1) of the Covenant, as no legal basis can be invoked. Enforced disappearance is prohibited by international law and constitutes a particularly aggravated form of arbitrary detention.[[5]](#footnote-6) The Working Group therefore finds a violation of article 9 (1) of the Covenant in relation to these individuals. The Working Group refers the present case to the Working Group on Enforced or Involuntary Disappearances, for appropriate action.

77. Additionally, following their respective arrests, Ms. Fattah, Ms. Magdy, Mr. Fouad, Mr. Moanis, Mr. Sabry and Mr. Radwan were presented before the public prosecutor. The Government has chosen not to address these allegations.

78. According to article 9 (3) of the Covenant, anyone arrested or detained on a criminal charge must be brought promptly before a judge. As the Human Rights Committee has stated, 48 hours is ordinarily sufficient to transport the individual and to prepare for the judicial hearing, thus satisfying the requirement of bringing a detainee “promptly” before a judge following arrest, and any delay longer than 48 hours must remain absolutely exceptional and be justified under the circumstances.[[6]](#footnote-7) In the present case, the six individuals do not appear to have been brought before a judicial authority within 48 hours of their arrest. Rather, they were arrested and held in police custody under the supervision of, and with extensions approved by, the public prosecutor. As the Working Group has stated, a public prosecutor cannot be considered an officer authorized by law to exercise judicial power, for the purposes of article 9 (3) of the Covenant.[[7]](#footnote-8) As a result, the legal basis for the detention of the six individuals was not established in accordance with the requirements of the Covenant.

79. Moreover, the source has alleged, and the Government has not contested, that the prosecutor ordered that Ms. Fattah and Ms. Magdy be held in pretrial detention in hearings lasting no more than 10 minutes, without providing any reasons. The source has also alleged, and the Government has not contested, that Mr. Wednan and Mr. Tawfik were remanded in custody by the prosecution pending trial and that their pretrial detention lasted in excess of two and three years respectively, which is longer than is permissible under the national law.

80. The Working Group recalls that it is a well-established norm of international law that pretrial detention should be the exception and not the rule, and that it should be ordered for as short a time as possible.[[8]](#footnote-9) Article 9 (3) of the Covenant provides that it must not be the general rule that persons awaiting trial be detained, but release may be subject to guarantees to appear for trial and at any other stage of the judicial proceedings. It follows that liberty is recognized as a principle and detention as an exception in the interests of justice.[[9]](#footnote-10)

81. To give effect to this principle, pretrial detention must be based on an individualized determination that it is reasonable and necessary, for such purposes as to prevent flight, interference with evidence or the recurrence of crime.[[10]](#footnote-11) The courts must examine whether alternatives to detention, such as bail, would render custodial measures unnecessary.[[11]](#footnote-12) In the present case, the Government, despite having had the opportunity, chose not to explain the reasons that warranted the pretrial detention of these four individuals and how the imposition of pretrial detention in each of the cases of these four individuals complied with the requirements of article 9 (3) of the Covenant. The Working Group therefore finds that the imposition of pretrial detention upon Ms. Fattah, Ms. Magdy, Mr. Wednan and Mr. Tawfik breached article 9 (3) of the Covenant and therefore lacked legal basis.

82. Noting that Mr. Wednan and Mr. Tawfik were held in pretrial detention beyond the period permitted by the national law, the Working Group further finds that their pretrial detention also violated article 9 (1) of the Covenant.

83. The source has submitted, and the Government has chosen not to contest, that Mr. Badr’s release was ordered on 24 November 2019, but that the release order was not implemented. Similarly, Mr. Hussein’s release was ordered, but the release order was not implemented and a few days later was rescinded. Lastly, Mr. Radwan’s release was ordered on 22 July 2019, but he was not released until 31 July 2019.

84. The Working Group therefore considers that the detention of these three individuals, for even a day after their release was ordered, constitutes arbitrary detention, as there was no legal basis justifying their further deprivation of liberty following the release orders.[[12]](#footnote-13) This was a clear violation of article 9 (1) of the Covenant.

85. The Working Group – taking into account all the above, especially the enforced disappearance of Ms. Fattah, Ms. Magdy, Mr. Wednan, Mr. Badr and Mr. Radwan; noting the failure to present Ms. Fattah, Ms. Magdy, Mr. Fouad, Mr. Moanis, Mr. Sabry and Mr. Radwan before a judge or other officer authorized by law to exercise judicial power; considering the imposition of pretrial detention upon Ms. Fattah, Ms. Magdy, Mr. Wednan and Mr. Tawfik in violation of article 9 (3) of the Covenant; and recalling the failure to release Mr. Badr, Mr. Hussein and Mr. Radwan when their release was ordered – finds that the detention of all 10 individuals is arbitrary and falls under category I as lacking legal basis.

ii. Category II

86. The source has submitted, and the Government has not contested, that the detention of all 10 individuals was solely as a result of their professional activities as journalists.

87. The Working Group reiterates that it applies a heightened standard of review in cases in which the freedom of expression and opinion is restricted or in which human rights defenders are involved.[[13]](#footnote-14) In the present case, consistent and credible allegations have been submitted, which the Government has chosen not to address.

88. The Working Group notes that freedom of opinion and freedom of expression, as provided for in article 19 of the Covenant, are indispensable conditions for the full development of the person; they are essential for any society and in fact constitute the foundation stone for every free and democratic society.[[14]](#footnote-15) According to the Human Rights Committee, no derogations may be made from article 19, since it can never become necessary to derogate from those freedoms during a state of emergency.[[15]](#footnote-16)

89. The right to freedom of expression includes the right to seek, receive and impart information and ideas of all kinds regardless of frontiers, which in turn includes the expression and receipt of communications of every form of idea and opinion capable of transmission to others, including political discourse and journalism.[[16]](#footnote-17) Moreover, article 19 (2) of the Covenant protects all forms of expression and the means of their dissemination, including all forms of audiovisual, electronic and Internet-based modes of expression.[[17]](#footnote-18)

90. The Working Group recalls the principle enunciated by the Human Rights Council in its resolution 12/16, in which the Council called on States to refrain from imposing restrictions not consistent with article 19 (3) of the Covenant, including on 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.

91. In the present case, the Government has had the opportunity, but failed, to explain the threat posed by the journalistic work of any of the 10 individuals or how their work could have affected the legitimate interests that States may invoke under article 19 (3) of the Covenant, namely respect for the rights or reputations of others, or for the protection of national security public order, public health or morals. It has also failed to explain how the detention of these 10 journalists was a necessary and proportionate response to protect any of those interests. Importantly, there is no information to suggest that the activities of any of the 10 journalists advocated violence or war, or incited discrimination or hostility. The Working Group thus finds a violation of article 19 of the Covenant in relation to all 10 journalists.

92. Additionally, the Working Group notes the uncontested allegations that the arrests of Mr. Fouad and Mr. Moanis were due to their association with the Egyptian Syndicate of Journalists, in further violation of their rights under article 22 of the Covenant.

93. The Working Group recalls that detention as a punishment for the peaceful exercise of the rights protected by the Covenant is arbitrary.[[18]](#footnote-19) It concludes that this applies to Ms. Fattah, Ms. Magdy, Mr. Fouad, Mr. Moanis, Mr. Sabry, Mr. Wednan, Mr. Badr, Mr. Hussein, Mr. Radwan and Mr. Tawfik. Accordingly, the Working Group finds that their detention was arbitrary and falls under category II. In making this determination, the Working Group is also mindful of the charges levied against all 10 journalists of divulging false news and fake statements and misusing social media to spread false news. The Working Group recalls that general prohibitions on the dissemination of information based on vague and ambiguous ideas, including false news or information, are incompatible with international standards for restrictions on freedom of expression and should be abolished.[[19]](#footnote-20) The Working Group wishes to emphasize that overly broad and vague laws criminalizing freedom of expression are incompatible with the obligations of Egypt pursuant to the Covenant.

iii. Category III

94. Given its finding that the deprivation of liberty of the 10 journalists is arbitrary under category II, the Working Group wishes to emphasize that no trial should take place for any of them. However, judicial proceedings have been brought and the source has made allegations concerning their fair trial rights, which the Government has chosen not to contest.

95. According to the source, Ms. Fattah was subjected to torture, ill-treatment, humiliation and threats following her abduction, in order to coerce her to allow access to her phone. Ms. Magdy was also verbally and physically assaulted with a view to gaining access to her phone, Mr. Radwan was attacked and beaten during his detention and Mr. Wednan was beaten. The Government has chosen not to address any of these allegations.

96. Although the Working Group’s mandate does not cover conditions of detention or the treatment of prisoners, it must consider to what extent alleged torture and ill-treatment can negatively affect the ability of detainees to prepare their defence and their chances of a fair trial.[[20]](#footnote-21) In the present case, the three journalists were clearly ill-treated and tortured with the sole purpose of gaining access to what the authorities considered to be evidence and securing their confessions and compliance. Confessions made in the absence of legal counsel are not admissible as evidence in criminal proceedings.[[21]](#footnote-22) Further, the admission into evidence of a statement allegedly obtained through torture or ill-treatment renders the entire proceedings unfair, regardless of the availability of other evidence to support the verdict.[[22]](#footnote-23) The burden is on the Government to prove that the statements were given freely,[[23]](#footnote-24) but it has not done so. The Working Group therefore finds that the right of Ms Fattah, Ms. Magdy and Mr. Radwan to be presumed innocent under article 14 (2) of the Covenant and their right not to be compelled to confess guilt under article 14 (3) (g) of the Covenant were violated.

97. Moreover, the Working Group is mindful that Ms. Fattah in fact complained of her treatment to the prosecutor when she was presented before the Supreme State Security Prosecutor’s Office, but no action was taken to investigate the allegations. The Working Group recalls the absolute nature of the prohibition of torture and ill-treatment and the obligation of the State authorities to investigate all allegations of torture and ill-treatment. The failure of the prosecutor to act reveals a breach of articles 12 to 15 of the Convention against Torture and of paragraph 12 of the Guidelines on the Role of Prosecutors. The Working Group refers the present case to the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment and the Special Rapporteur on the independence of judges and lawyers, for appropriate action.

98. The source has submitted that Mr. Sabry was charged with the same offences in two cases, an allegation which is uncontested by the Government. This is a violation of article 14 (1) of the Covenant.

99. The source has argued that Ms. Fattah. Ms. Magdy and Mr. Radwan were denied access to their respective lawyers, an allegation not denied by the Government. The Working Group recalls that all persons deprived of their liberty have the right to legal assistance by counsel of their choice, at any time during their detention, including immediately after their apprehension, and that access to legal counsel must be provided without delay.[[24]](#footnote-25) The Working Group considers that the failure to provide the three journalists with access to their lawyers, from the outset of their detention and subsequently, violated their right to have adequate time and facilities for the preparation of their defence and to communicate with a lawyer of their own choosing, under article 14 (3) (b) of the Covenant.

100. Lastly, the source has alleged, and the Government has not rebutted, that Mr. Tawfik was tried in absentia, in a trial with some 20 other defendants, by a military court. As the Human Rights Committee has argued, article 14 (3) (d) of the Covenant requires that accused persons are entitled to be present during their trial, and proceedings in the absence of the accused may be permissible in some circumstances only and in the interest of the proper administration of justice, namely when accused persons, although informed of the proceedings sufficiently in advance, decline to exercise their right to be present. Consequently, such trials are compatible with article 14 (3) (d) only if the necessary steps are taken to summon accused persons in a timely manner, to inform them beforehand about the date and place of their trial and to request their attendance.[[25]](#footnote-26)

101. In the present case, since Mr. Tawfik was remanded in custody during his trial, the onus was upon the Egyptian authorities to ensure that he was able to attend the trial hearings. In the absence of any explanation from the Government as to why this did not happen, the Working Group finds a violation of article 14 (3) (d) of the Covenant.

102. Moreover, Mr. Tawfik was tried by a military court together with some 20 other defendants. As the Working Group has emphasized, mass trials are incompatible with the interests of justice and do not meet the standards of a fair trial, given that it is impossible during such proceedings to conduct a specific assessment of individual responsibility.[[26]](#footnote-27) The Working Group is not convinced that it was possible for all defendants in such a large trial to undergo an individualized assessment of their culpability beyond reasonable doubt, and therefore finds a breach of Mr. Tawfik’s rights under article 14 (1) of the Covenant.

103. In relation to the jurisdiction of the military courts, the Working Group in its practice has consistently argued that the trial of civilians by military courts is in violation of the Covenant and customary international law, and that, under international law, military tribunals can be competent to try military personnel for military offences only.[[27]](#footnote-28) Moreover, in the present case, the Government had the possibility to explain the involvement of a military judge in the case of Mr. Tawfik, but it has failed to do so. The Working Group therefore finds a breach of article 14 (1) of the Covenant.

104. Noting all the above, the Working Group concludes that the violations of the right to a fair trial of Ms. Fattah, Ms. Magdy, Mr. Sabry, Mr. Radwan and Mr. Tawfik under article 14 of the Covenant and articles 10 and 11 of the Universal Declaration of Human Rights were of such gravity as to render their detention arbitrary, falling under category III.

iv. Category V

105. The Working Group has already established that all 10 journalists were detained as a result of their professional activities in the exercise of their right to freedom of expression of political or other opinion. The Working Group notes that the individual cases of the 10 journalists form a pattern in attitude of the Egyptian authorities towards them, which has culminated in their arbitrary detention. The source has also presented a wider pattern of consistent allegations concerning the way in which the Egyptian authorities deal with those voicing opinions that are not welcomed by the Government. The Working Group reiterates that it applies a heightened standard of review in cases in which the freedom of expression and opinion is restricted.[[28]](#footnote-29)

106. The Working Group considers that the allegations by the source reveal that the detention of Ms. Fattah, Ms. Magdy, Mr. Fouad, Mr. Moanis, Mr. Sabry, Mr. Wednan, Mr. Badr, Mr. Hussein, Mr. Radwan and Mr. Tawfik constitutes a violation of international law on the grounds of discrimination based on political or other opinion. Accordingly, the Working Group finds that their detention violates articles 2 and 7 of the Universal Declaration of Human Rights and articles 2 (1) and 26 of the Covenant and is thus arbitrary under category V. The Working Group refers the present case to the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, for appropriate action.

v. Concluding remarks

107. The Working Group wishes to express concern over the treatment of the 10 journalists while in detention. Mr. Fouad, Mr. Hussein and Mr. Radwan have been placed in solitary confinement for prolonged periods of time. Mr. Hussein has been denied treatment for a broken arm, while Ms. Fattah and Mr. Fouad have been denied medical assistance. Mr. Fouad and Mr. Moanis have been forced to sleep on the floor and held in poor conditions.

108. The Working Group recalls that it is the duty of every State to treat those detained with humanity and with respect for the inherent dignity of the human person, in accordance with article 10 of the Covenant. Moreover, according to rule 45 of the United Nations Standard Minimum Rules for the Treatment of Prisoners (the Nelson Mandela Rules), the imposition of solitary confinement must be accompanied by certain safeguards: solitary confinement must only be used in exceptional cases as a last resort, for as short a time as possible and subject to independent review, and only pursuant to authorization by a competent authority. Prolonged solitary confinement, in excess of 15 consecutive days, is prohibited under rules 43 (1) (b) and 44 of the Nelson Mandela Rules.

109. The conditions of detention of Mr. Fouad and Mr. Moanis are poor, and Ms. Fattah, Mr. Fouad and Mr. Hussein have been denied the requisite medical assistance. These are violations of the Nelson Mandela Rules, in particular rules 24, 25, 27 and 30. The Working Group also notes that the denial of medical assistance to Ms. Fattah violated rules 10 to 13 of the United Nations Rules for the Treatment of Women Prisoners and Non-custodial Measures for Women Offenders (the Bangkok Rules). The Working Group refers the present case to the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health, for further consideration.

110. The Working Group recalls that under certain circumstances, widespread or systematic imprisonment or other severe deprivation of liberty in violation of the rules of international law may constitute crimes against humanity.[[29]](#footnote-30)

Disposition

111. In the light of the foregoing, the Working Group renders the following opinion:

The deprivation of liberty of Esraa Abdel Fattah, Solafa Magdy, Hisham Fouad, Hossam Moanis, Adel Sabry, Moataz Wednan, Badr Mohammed Badr, Mahmoud Hussein, Mohamed Ibrahim Radwan and Ismail al-Sayed Mohamed Omar Tawfik, being in contravention of articles 2, 3, 6, 7, 8, 9 and 19 of the Universal Declaration of Human Rights and articles 2, 9, 16, 19, 22 and 26 of the International Covenant on Civil and Political Rights, is arbitrary and falls within categories I, II and V.

Furthermore, the deprivation of liberty of Esraa Abdel Fattah, Solafa Magdy, Adel Sabry, Mohamed Ibrahim Radwan and Ismail al-Sayed Mohamed Omar Tawfik, being in contravention of articles 10 and 11 of the Universal Declaration of Human Rights and article 14 of the International Covenant on Civil and Political Rights, is arbitrary and falls within category III.

112. The Working Group requests the Government of Egypt to take the steps necessary to remedy the situation of these 10 journalists without delay and bring it into conformity with the relevant international norms, including those set out in the Universal Declaration of Human Rights and the International Covenant on Civil and Political Rights.

113. The Working Group considers that, taking into account all the circumstances of the case, the appropriate remedy would be to release the 10 journalists immediately and accord them an enforceable right to compensation and other reparations, in accordance with international law. In the current context of the global COVID-19 pandemic and the threat that it poses in places of detention, the Working Group calls upon the Government to take urgent action to ensure the immediate unconditional release of all 10 journalists.

114. The Working Group urges the Government to ensure a full and independent investigation of the circumstances surrounding the arbitrary deprivation of liberty of the 10 journalists and to take appropriate measures against those responsible for the violation of their rights.

115. In accordance with paragraph 33 (a) of its methods of work, the Working Group refers the present case to the Working Group on Enforced or Involuntary Disappearances, the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, the Special Rapporteur on the independence of judges and lawyers, the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression and the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health, for appropriate action.

116. The Working Group requests the Government to disseminate the present opinion through all available means and as widely as possible.

Follow-up procedure

117. In accordance with paragraph 20 of its methods of work, the Working Group requests the source and the Government to provide it with information on action taken in follow-up to the recommendations made in the present opinion, including:

(a) Whether Ms. Fattah, Ms. Magdy, Mr. Fouad, Mr. Moanis, Mr. Sabry, Mr. Wednan, Mr. Badr, Mr. Hussein, Mr. Radwan and Mr. Tawfik have been released and, if so, on what date;

(b) Whether compensation or other reparations have been made to these 10 journalists;

(c) Whether investigations have been conducted into the violations of the 10 journalists’ rights and, if so, the outcome of the investigations;

(d) Whether any legislative amendments or changes in practice have been made to harmonize the laws and practices of Egypt with its international obligations in line with the present opinion;

(e) Whether any other action has been taken to implement the present opinion.

118. The Government is invited to inform the Working Group of any difficulties it may have encountered in implementing the recommendations made in the present opinion and whether further technical assistance is required, for example through a visit by the Working Group.

119. The Working Group requests the source and the Government to provide the above-mentioned information within six months of the date of transmission of the present opinion. However, the Working Group reserves the right to take its own action in follow-up to the opinion if new concerns in relation to the case are brought to its attention. Such action would enable the Working Group to inform the Human Rights Council of progress made in implementing its recommendations, as well as any failure to take action.

120. The Working Group recalls that the Human Rights Council has encouraged all States to cooperate with the Working Group and has requested them to take account of its views and, where necessary, to take appropriate steps to remedy the situation of persons arbitrarily deprived of their liberty, and to inform the Working Group of the steps they have taken.[[30]](#footnote-31)

[*Adopted on 3 May 2021*]

1. A/HRC/36/38. [↑](#footnote-ref-2)
2. A/HRC/19/57, para. 68. [↑](#footnote-ref-3)
3. A/HRC/16/47 and Corr.1, para. 54. [↑](#footnote-ref-4)
4. Human Rights Council resolution 37/3, paras. 8–9; and A/HRC/13/42, paras. 18–23. [↑](#footnote-ref-5)
5. See opinions No. 5/2020, No. 6/2020, No. 11/2020 and No. 13/2020. See also Human Rights Committee, general comment No. 35 (2014), para. 17. [↑](#footnote-ref-6)
6. Human Rights Committee, general comment No. 35 (2014), para. 33. See also CAT/C/GAB/CO/1, para. 10. [↑](#footnote-ref-7)
7. Opinions No. 14/2015, para. 28; No. 5/2020, para. 72; and No. 41/2020, para. 60. See also Human Rights Committee, general comment No. 35, para. 32; and A/HRC/45/16/Add.1, para. 35. [↑](#footnote-ref-8)
8. Opinion No. 28/2014, para. 43; No. 49/2014, para. 23; No. 57/2014, para. 26; No. 1/2020, para. 53; and No. 8/2020, para. 54. See also Human Rights Committee, general comment No. 35 (2014), para. 38; and A/HRC/19/57, paras. 48–58. [↑](#footnote-ref-9)
9. A/HRC/19/57, para. 54. [↑](#footnote-ref-10)
10. Human Rights Committee, general comment No. 35 (2014), para. 38. [↑](#footnote-ref-11)
11. Ibid.; opinion No. 83/2019, para. 68; and the United Nations Basic Principles and Guidelines on Remedies and Procedures on the Right of Anyone Deprived of Their Liberty to Bring Proceedings Before a Court (A/HRC/30/37, annex), guideline 15. [↑](#footnote-ref-12)
12. Decisions No. 61/1993, para. 6; and No. 45/1995, para. 6; and opinions No. 5/2005, para. 19; No. 21/2007, para. 19; No. 3/2010, para. 6; No. 3/2011, para. 20; No. 7/2011, paras. 15–17; No. 9/2011, para. 38; and No. 8/2020, para. 53. See also Human Rights Committee, general comment No. 35 (2014), para. 22. [↑](#footnote-ref-13)
13. Opinions No. 64/2011, para. 20; No. 54/2012, para. 29; No. 62/2012, para. 39; No. 41/2017, para. 95; and No. 57/2017, para. 46. Domestic authorities and international supervisory bodies should apply the heightened standard of review of government action, especially when there are claims of a pattern of harassment (opinion No. 39/2012, para. 45). See also 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 (General Assembly resolution 53/144, annex), article 9 (3). [↑](#footnote-ref-14)
14. Human Rights Committee, general comment No. 34 (2011), para. 2. [↑](#footnote-ref-15)
15. Ibid., para. 5. [↑](#footnote-ref-16)
16. Ibid., para. 11. See opinions No. 31/1998, No. 52/2013, No. 40/2015, No. 44/2015, No. 7/2016, No. 3/2019, No. 44/2019, No. 45/2019, No. 1/2020 and No. 46/2020. [↑](#footnote-ref-17)
17. Human Rights Committee, general comment No. 34 (2011), para. 12. [↑](#footnote-ref-18)
18. Human Rights Committee, general comment No. 35 (2014), paras. 17 and 53. [↑](#footnote-ref-19)
19. Joint Declaration on Freedom of Expression and “Fake News”, Disinformation and Propaganda, para. 2 (a). The Joint Declaration was adopted in Vienna on 3 March 2017 by a group of experts that included the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression. See also opinion No. 77/2020. [↑](#footnote-ref-20)
20. For example, opinions No. 29/2017, para. 63; and No. 47/2017, para. 28. See also E/CN.4/2004/3/Add.3, para. 33. [↑](#footnote-ref-21)
21. Opinions No. 1/2014, para. 22; No. 14/2019, para. 71; No. 59/2019, para. 70; and No. 73/2019, para. 91. See also E/CN.4/2003/68, para. 26 (e). [↑](#footnote-ref-22)
22. Opinions No. 43/2012, para. 51; No. 34/2015, para. 28; No. 52/2018, para. 79 (i); No. 32/2019, para. 43; No. 59/2019, para. 70; and No. 73/2019, para. 91. [↑](#footnote-ref-23)
23. Human Rights Committee, general comment No. 32 (2007), para. 41. [↑](#footnote-ref-24)
24. United Nations Basic Principles and Guidelines, principle 9 and guideline 8; and Human Rights Committee, general comment No. 35 (2014), para. 35. [↑](#footnote-ref-25)
25. Human Rights Committee, general comment No. 32 (2007), para. 36. See also opinion No. 60/2020. [↑](#footnote-ref-26)
26. Opinions No. 65/2019, para. 75; No. 5/2020, para. 86; No. 41/2020, para. 73; and No. 67/2020, para. 85. [↑](#footnote-ref-27)
27. A/HRC/27/48, paras. 67–70. See also opinions No. 44/2016, No. 30/2017, No. 28/2018, No. 32/2018 and No. 66/2019. [↑](#footnote-ref-28)
28. Opinions No. 64/2011, para. 20; No. 54/2012, para. 29; No. 62/2012, para. 39; No. 41/2017, para. 95; No. 57/2017, para. 46; and No. 88/2017, para, 25. Domestic authorities and international supervisory bodies should apply the heightened standard of review of government action, especially when there are claims of a pattern of harassment (opinion No. 39/2012, para. 45). See also 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, article 9 (3). [↑](#footnote-ref-29)
29. Opinion No. 47/2012, para. 22. [↑](#footnote-ref-30)
30. Human Rights Council resolution 42/22, paras. 3 and 7. [↑](#footnote-ref-31)