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## Human Rights Council Working Group on Arbitrary Detention

### Opinions adopted by the Working Group on Arbitrary Detention at its ninety-third session, 30 March- 8 April 2022

#### Opinion No. 34/2022 concerning Messrs. Omar Abdel Aziz Mohammed Abdel Aziz, Khaled Mohamed Abdel Raouf Sahloob, Hossam Abdel Razek Abdel Salam Khalil and Mohammed Abdel Aziz Farag Ali (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,<sup>1</sup> on 5 November 2021 the Working Group transmitted to the Government of Egypt a communication concerning Messrs. Omar Abdel Aziz Mohammed Abdel Aziz, Khaled Mohamed Abdel Raouf Sahloob, Hossam Abdel Razek Abdel Salam Khalil and Mohammed Abdel Aziz Farag Ali. 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,

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<sup>1</sup> A/HRC/36/38.

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. Omar Abdel Aziz Mohammed Abdel Aziz is an Egyptian national, born in 1998 ordinarily resident in Cairo, Egypt. At the time of his arrest, he was a student at the faculty of Islamic Studies at Al-Azhar University and is single.

5. Khaled Mohamed Abdel Raouf Sahloob is an Egyptian national, born in 1992. He used to live in the city of Mahalla al-Kubra, Egypt. Mr. Sahloob is a photojournalist and is single.

6. Hossam Abdel Razek Abdel Salam Khalil is an Egyptian national, born in 1981 usually resident in Giza Governorate, Egypt. Mr. Khalil is an engineer and a member and head of the Human Development Affairs Department of the Freedom and Justice Party. He is married and has three children.

7. Mohammed Abdel Aziz Farag Ali is an Egyptian national, born on 25 January 1966. He usually resides in Qalyubia Governorate. Mr. Ali used to work for a company and is married with children.

### *Context*

8. According to the source, Mr. Abdel Aziz, Mr. Sahloob, Mr. Khalil and Mr. Ali were arrested as part of a large-scale crackdown on peaceful dissidents carried out by the Egyptian Government. The source alleges that, since President Abdel Fattah Al-Sisi took power in 2013, standards of fair trial and due process have not been respected and accusations against peaceful dissidents have been based on weak or absent evidence.

### *Arrest and detention: Omar Abdel Aziz Mohammed Abdel Aziz*

9. According to the source, Mr. Abdel Aziz was first arrested on 27 November 2014, when he was still a minor. He was arrested by security forces while he was at one of his friends' house. Mr. Abdel Aziz was detained on remand for almost two years, before his case was referred to the court. He was then allegedly sentenced to three years in prison on politically motivated charges, before being released in 2017, three months before the end of his third year in prison.

10. Reportedly, Mr. Abdel Aziz was arrested a second time, on 21 July 2018, at 12pm. The source reports that Mr. Abdel Aziz was arrested at a checkpoint by several national security agents in plainclothes, while he was in public transport. It is alleged that Mr. Abdel Aziz was taken to an unknown location and subjected to enforced disappearance for one month.

11. On 22 August 2018, Mr. Abdel Aziz was reportedly brought for the first time before the Military prosecution, charged under a Military Case with joining an outlawed group aimed at disrupting the rule of law, participating in a criminal arrangement to damage public and military properties and killing military personnel, and joining an armed gang, with the aim of disturbing national security. He was also charged with possessing firearms without authorization, and using violence against persons, intimidating them, and inflicting material and moral harm against them.

12. The source explains that, on 22 March 2020, after almost one and a half year in pre-trial detention, Mr. Abdel Aziz was sentenced to 10 years in prison. An appeal was filed on his behalf and the sentence was reduced to three years, which he had already served. The source claims that, instead of being released, he was subjected to another two months of enforced disappearance, before being charged under a new case with joining a banned organization.

13. According to the source, Mr. Abdel Aziz was subjected to torture during his enforced disappearance, in order to coerce him into making a confession against himself. The source stresses that though Mr. Abdel Aziz informed the judges of the torture during one of his court hearings, no action was taken.

14. Finally, the source claims that Mr. Abdel Aziz's family has not been authorized to visit him since his arrest, or deliver him any kind of life necessities, clothes, medication or food. Additionally, the source alleges that Mr. Abdel Aziz has not been allowed to meet with his lawyer in prison and that the latter was only permitted to attend Mr. Abdel Aziz's hearings.

*Arrest and detention: Khaled Mohamed Abdel Raouf Sahloob*

15. According to the source, Mr. Sahloob was arrested on 2 January 2014, at a police checkpoint in Mokattam, Cairo. He was arrested by police officers, both in uniforms and plainclothes, after they found out that he was carrying a professional camera. The source reports that the police officers did not show Mr. Sahloob an arrest warrant or provide any legal explanation for his arrest. Mr. Sahloob was then reportedly taken to an unknown location and subjected to enforced disappearance for two weeks. It is alleged that he was taken to the National Security premises in Lazoghly.

16. Shortly after Mr. Sahloob's arrest, the source reports that numerous official complaints (telegrams) were submitted to the attorney general and the minister of interior on Mr. Sahloob's behalf, inquiring about his disappearance. Reportedly, none of these complaints have been answered.

17. On 18 January 2014, Mr. Sahloob appeared before the prosecution, charged under Case No. [withheld] with joining and financing an illegal group with the objective of disrupting the provisions of the constitution and the rule of law through terrorist means, possessing political pamphlets, and spreading fake news. Reportedly, the case is known by the media as the "Marriott terror cell" case and involves a number of Al Jazeera journalists.

18. The source details that Mr. Sahloob was then ordered to be detained for 15 days in pre-trial detention, pending investigations. His detention was continuously renewed over a period of six months, until the Criminal Court sentenced him to seven years in prison, on 24 June 2014. The source indicates that Mr. Sahloob's lawyer appealed the ruling and, on 29 August 2015, the court amended Mr. Sahloob's sentence to three years in prison.

19. However, the source reports that, on 13 August 2014, Mr. Sahloob was charged under a second case, Case [withheld], with joining an illegal group with the objective of disrupting the rule of law and the constitution and possessing political pamphlets. The case is known as the "Helwan Brigades Case". The source details that, following the completion of his three-year sentence under first Case No. [withheld], Mr. Sahloob was not released but remains detained in Al-Aqrab Maximum Security Prison, pending trial of the second Case [withheld].

20. The source reports that Mr. Sahloob was subjected to severe torture during his enforced disappearance at the National Security premises, in Lazoghly. Mr. Sahloob was allegedly suspended by his hands for long periods of time, beaten and burned with cigarettes all over his body, in order to coerce him into confessing against himself.

21. The source notes that as a result of the torture, Mr. Sahloob suffered a dislocated shoulder and collarbone fractures. In addition, his alleged ill-treatment and poor conditions of detention have caused Mr. Sahloob to suffer severe bodily pain, including backpain, abdominal pain, and pain in both knees, which prevent him from moving. Though his lawyer presented forensic evidence of the torture, the Court reportedly disregarded it and did not order an investigation.

22. The source explains that, to protest his poor detention conditions and inability to receive family visits, Mr. Sahloob undertook several hunger strikes, the last of which lasted 200 days and resulted in severe weight loss. The source raises grave concerns about Mr. Sahloob's health condition and reports that his lawyer submitted several demands to the Court to allow him to undergo medical examination and treatment. Reportedly, the prison authorities rejected each of these demands and Mr. Sahloob was only examined once by a prison generalist who merely prescribed him painkillers.

23. Finally, the source claims that Mr. Sahloob's family was not able to visit him until three months after his arrest. After that, they were permitted one monthly visits, until April 2016, when visits were completely banned. Additionally, the source reports that Mr. Sahloob was not authorized to receive visits from his lawyer, and that the latter was only allowed to attend his client's court hearings.

*Arrest and detention: Hossam Abdel Razek Abdel Salam Khalil*

24. According to the source, Mr. Khalil was arrested on 18 February 2015, at around 9pm, at Al-Hinidi Mosque square, near his place of residence. Mr. Khalil was arrested by national security agents and investigation forces in plainclothes, without a warrant or a legal explanation for his arrest. The source reports that Mr. Khalil was then taken into a car to an unknown location and subjected to enforced disappearance for a week.

25. The source notes that, on 24 February 2015, official complaints (telegrams) were submitted to the attorney general and the public prosecutor on Mr. Khalil's behalf, inquiring about his disappearance. Reportedly, none of the complaints were answered.

26. On 1 March 2015, Mr. Khalil appeared before the prosecution in Al Agouza Police Station, charged under Case No. [withheld] with joining a terrorist group, demonstrating in front of Al Agouza Police Station while blocking a road, possessing a camera as to record the protest, and possessing white weapons.

27. It is reported that Mr. Khalil stayed in pre-trial detention until the Court sentenced him to 15 years in prison, on 26 May 2016. The Court rejected Mr. Khalil's appeal, thereby making his sentence final. Mr. Khalil is currently serving his sentence at Wadi Al-Natrun Prison 440.

28. The source claims that Mr. Khalil stayed blindfolded and his hands tied behind his back the entire period of his alleged forced disappearance. It is reported that he was also subjected to severe beatings and electrocuted all over his body, especially his private parts. The source notes that, although his body displayed clear signs of torture, the Prosecutor did not report on the alleged ill-treatment or refer Mr. Khalil to a doctor.

29. The source asserts that Mr. Khalil was subjected to further torture following his first appearance before the prosecution, during which he denied being coerced to confess. The source explains that he was beaten and electrocuted by security forces. According to the source, his alleged ill-treatment and torture, as well as his reported poor detention conditions, have severely deteriorated Mr. Khalil's health, who suffers from varicose veins in the testicles and permanent bleeding from his private parts. Mr. Khalil also allegedly suffers from high blood pressure, diabetes, spinal arthritis, and cataract.

30. Despite his health deteriorating, the source reports that Mr. Khalil was only examined by the prison generalist in May 2015 and March 2020. He was denied medical treatment on the basis of the chief of investigations's order. Reportedly, several requests were submitted to the prison authorities and the court to allow Mr. Khalil to be examined by a specialist. The last two requests were submitted on 12 January 2021 and 7 February 2021. On 28 December 2020, a demand for a presidential pardon based on Mr. Khalil's health was also submitted. Reportedly, none of these requests have been answered.

31. Mr. Khalil allegedly suffers from extremely poor detention conditions. In particular, the source reports that, as a result of various complaints submitted on his behalf, Mr. Khalil has been placed in a special disciplining cell where he does not have a bathroom and is banned from receiving visitors. Additionally, the source notes that Mr. Khalil's lawyer has been entirely prevented from visiting his client in prison and has only been allowed to attend his court hearings.

*Arrest and detention: Mohammed Abdel Aziz Farag Ali*

32. According to the source, Mr. Ali was arrested on 25 August 2015, at around 3am. Reportedly, national security agents and police officers in both uniforms and plainclothes arrested Mr. Ali in his home and searched the house. The source reports that they took four mobile phones and two laptops, blindfolded, and arrested Mr. Ali without showing an arrest warrant or providing a legal explanation for his arrest. Mr. Ali was then allegedly taken to an

unknown location and subjected to enforced disappearance for four months. It is claimed that he was taken to the National Security premises in Lazoghly.

33. The source states that numerous official complaints (telegrams) were submitted to the public prosecutor and the minister of interior on Mr. Ali's behalf, inquiring about his disappearance. Reportedly, none of these complaints were answered.

34. On 25 November 2015, Mr. Ali appeared for the first time before the prosecution in Shubra Al Khaymah Police Station. He was charged under Military Case No. 4994/2015 with joining an illegal group, attempting to overthrow the regime, and possessing weapons and ammunition, and under Case No. 28304/2015 with similar charges.

35. The source notes that the Court found Mr. Ali innocent in the first case but sentenced him to 10 years in prison in the second. The sentence became final after the Court rejected his appeal. Mr. Ali is currently serving his sentence in Wadi Al-Natrun Prison 440.

36. During his enforced disappearance, the source alleges that Mr. Ali was subjected to ill-treatment and severe torture in order to coerce him to confess against himself. He was reportedly beaten and electrocuted all over his body, especially on his private parts, and stayed blindfolded, handcuffed, and hanged by his arms through the entire period of his disappearance. The source notes that, although Mr. Ali informed the judges of the torture during a court hearing, no investigation was ordered.

37. Further, the source explains that since he has been detained, Mr. Ali started suffering from diabetes, blood pressure, and spinal cord compression. Although his health condition has rapidly deteriorated, he has reportedly only been examined by a generalist and merely been given painkillers. Furthermore, the source observes that Mr. Ali has been detained in poor conditions, in a very small and overcrowded cell, with no ventilation, water or sanitary facilities.

38. Finally, it is reported that Mr. Ali's family has been allowed to visit him once per month, and deliver him food and life necessities during the visits. However, they have allegedly been imposed very strict restrictions and were not authorized to deliver any medication.

#### *Legal analysis*

39. The source argues that Messrs. Abdel Aziz, Sahloob, Khalil and Ali have been detained arbitrarily under categories I and III of the working methods of the Working Group on Arbitrary Detention.

#### *Category I*

40. The source alleges that the detention of Messrs. Abdel Aziz, Sahloob, Khalil and Ali is arbitrary in so far as it violates their right to liberty. The source challenges the legality of their arrest, their enforced disappearance, and Mr. Sahloob's prolonged detention.

#### *Legality of the Arrest*

41. The source recalls that article 9 of the Universal Declaration of Human Rights (UDHR) prohibits arbitrary arrests, as a safeguard to the right to liberty guaranteed under article 3 of the UDHR. According to the source, individuals' right to be informed, at the time of their arrest, of the reason for their arrest, and to be promptly informed of any charges brought against them, is also protected under Principle 10 of the Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment (the "Body of Principles") and article 14(3) of the Arab Charter on Human Rights (ACHR), which the source notes has been ratified by Egypt. The source further specifies that this right was reiterated in the Human Rights Committee's General Comment No. 35.

42. For these reasons, the source concludes that Messrs. Abdel Aziz, Sahloob, Khalil and Ali's right to liberty was violated when they were arrested without being shown an arrest warrant and without being provided any legal explanation for their arrest.

*Enforced Disappearance*

43. The source recalls that the prohibition of enforced disappearance is non-derogable, even in a state of emergency. The source claims that Mr. Abdel Aziz and Mr. Ali were forcibly disappeared for one month and four months respectively, while Mr. Sahloob and Mr. Khalil were forcibly disappeared for two weeks and one week respectively.

44. According to the source, the enforced disappearances of Messrs. Abdel Aziz, Sahloob, Khalil and Ali constitute a violation of articles 17 and 18 of the Convention on Enforced Disappearance, which state that detention should only be carried out in officially recognized locations and that States must ensure that no one is detained secretly and that the detainee's family and lawyer are provided with accurate information about the detention.

*Prolonged Arbitrary Detention*

45. The source argues that Mr. Sahloob's detention is arbitrary in that it is void of legal basis and political in nature. It is alleged that Mr. Sahloob's detention is part of a systematic pattern whereby the Egyptian authorities detain political prisoners in multiple separate cases to ensure that they remain in pretrial detention.

46. The source reports that Mr. Sahloob was not released even though he completed his three-year sentence in the first case. Instead, he was detained again, pending investigation in the second case, which reportedly deals with an incident that occurred months after Mr. Sahloob's detention, while he was in detention. Accordingly, the source concludes that Mr. Sahloob was detained for political ends, in violation of his right to liberty protected under article 9 of the UDHR and of the International Covenant on Civil and Political Rights (ICCPR).

47. For the abovementioned reasons, the source concludes that the detention of Messrs. Abdel Aziz, Sahloob, Khalil and Ali is arbitrary under category I.

*Category III*

48. The source argues that the detention of Messrs. Abdel Aziz, Sahloob, Khalil and Ali is arbitrary in so far as Messrs. Abdel Aziz and Ali were both tried before a military court, all four individuals were denied access to effective legal counsel and subjected to torture and ill-treatment, their right to health was violated, and they were either partly or entirely denied family visits.

*Right to a fair trial by a competent, independent, and impartial tribunal*

49. The source denounces that referring civilians to trial before military courts for non-military related crimes has become a norm in Egypt to deter the political opposition. The source argues that this constitutes a violation of article 14 of the ICCPR, which guarantees the right to a fair trial by a competent, independent, and impartial tribunal established by law.

50. In this regard, the source underlines that the Basic Principles on the Independence of the Judiciary protects individuals' right to be tried by ordinary courts or tribunals using established legal procedures. These principles add that tribunals not using duly established procedures should not displace the jurisdiction of ordinary courts or tribunals. Further, it is noted that article 26 of the African Charter on Human and Peoples' Rights (the "African Charter"), which the source recalls has been ratified by Egypt, requires states to guarantee courts' independence.

51. The source claims that Mr. Abdel Aziz and Mr. Ali were tried before a military court even though they were both civilians, contrary to their right to a fair trial, before a competent, independent, and impartial tribunal.

*Right to access an effective legal counsel*

52. According to the source, Messrs. Abdel Aziz, Sahloob, Khalil, and Ali were denied the right to promptly seek legal representation and communicate with their lawyers in detention.

53. In this regard, the source indicates that Principle 15 of the Body of Principles states that a detainee should not be denied the right to communicate with the outside world, particularly the detainee's family or counsel, for more than a matter of days. General Comment No. 32 further specifies that the right to promptly access legal representation includes the right for the lawyer to privately communicate with their client and to attend investigations without interference or restrictions.

54. Furthermore, it is noted that under Principle 2 of the Basic Principles on the Role of Lawyers, the competent authorities have the duty to ensure that lawyers have access to case files in sufficient time to be able to provide effective legal assistance. The source argues that the right to an effective counsel is fundamentally related to the principle of equality of arms, enshrined under article 11 of the UDHR. The principle of equality of arms includes the right to be given the time and facilities necessary to prepare and present one's defense with their counsel.

55. Accordingly, the source argues that the denial of the right of Messrs. Abdel Aziz, Sahloob, Khalil, and Ali to promptly seek legal representation and communicate with their lawyers constitutes a violation of their right to effective assistance of counsel and of the equality of arms principle.

#### *Right to family visits*

56. The source recalls that the right to communicate with the outside world and be visited by one's family is a fundamental safeguard against human rights violations, including torture, ill-treatment, and enforced disappearance.

57. Under article 17(2) of the Convention on Enforced Disappearance, individuals detained and imprisoned have the right to communicate and be visited by their families, regardless of the offence they are suspected or accused of. Principle 19 of the Body of Principles specifies that this right may only be subject to reasonable conditions and restrictions that are appropriate to pursue a legitimate aim.

58. In this regard, the source claims that Messrs. Abel Aziz and Sahloob were entirely denied their rights to be visited by their families, while Messrs. Khalil and Ali were only allowed to family visits once a month. The source alleges that these restrictions on family visits were not implemented to pursue a legitimate aim and thereby violate the detainees' right to communicate with the outside world and receive family visits.

#### *Right to be free from torture and ill treatment*

59. According to the source, Messrs. Abdel Aziz, Sahloob, Khalil, and Ali were subjected to torture and ill-treatment, especially during the time they were disappeared. Specifically, the source notes that all four detainees were handcuffed, blindfolded, beaten, and electrocuted, which caused them severe body pain and health deterioration. The source alleges that the ill-treatment was carried out to coerce them into confessing against themselves. It is observed that, even though they reported such torture, no action was taken by the prosecution or the judges.

60. The source argues that these practices violate the four individuals' right to be free from torture, ill-treatment, and degrading punishment, under article 1 of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. Further, the source adds that the United Nations Committee Against Torture specified the absolute nature of this right, which cannot be restricted, including in times of war or states of emergency, and cannot be justified, including by threats of terrorism or other violent crime. The source stresses that the prohibition against torture applies irrespective of the offence alleged.

#### *Right to health*

61. The source alleges that the lives of Messrs. Abdel Aziz, Sahloob, Khalil, and Ali are at grave risk due to the prison authorities' intentional prevention from accessing medical examination and treatment in prison.

62. In this regard, the source claims that the right to attain the highest standard of physical and mental health is protected under article 12 of the International Covenant on Economic, Social and Cultural Rights, article 16 of the African Charter and rules 25 and 27 of the United Nations Standard Minimum Rules for the Treatment of Prisoners. The source stresses that this right includes access to timely and appropriate health care, but also to underlying determinants of health, such as adequate food, water, and sanitation. It is further observed that sick prisoners whose health require specialist treatment must be transferred to specialized institutions or civil hospitals and the failure to provide access to adequate health care violates the right to health.

63. In light of the alleged deteriorating health condition of Messrs. Abdel Aziz, Sahloob, Khalil, and Ali, and the Egyptian authorities' refusal to allow them to access proper medical examination and treatment, the source concludes that their right to access adequate health care has been violated.

64. For the reasons mentioned above, the source concludes that the detention of Messrs. Abdel Aziz, Sahloob, Khalil, and Ali is arbitrary under category III.

### **Response from the Government**

65. On 5 November 2021 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 4 January 2022, detailed information about the current situation of Messrs. Omar Abdel Aziz Mohammed Abdel Aziz, Khaled Mohamed Abdel Raouf Sahloob, Hossam Abdel Razek Abdel Salam Khalil and Mohammed Abdel Aziz Farag Ali and to clarify the legal provisions justifying their continued detention, as well as its compatibility with Egypt's obligations under international human rights law, and in particular with regard to the treaties ratified by the State. Moreover, the Working Group called upon the Government of Egypt to ensure their physical and mental integrity.

66. Regrettably the Government of Egypt has not responded to this communication, nor did it request for an extension of the time limit for its reply in accordance with paragraph 16 of the Working Group's method of work.

### **Discussion**

67. 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.

68. In determining whether the deprivation of liberty of Messrs. Abdel Aziz, Sahloob, Khalil, and Ali is arbitrary, the Working Group has in its jurisprudence established the ways in which it deals with evidentiary issues. If the source has established a *prima facie* case for breach of international law constituting arbitrary detention, the burden of proof should be understood to rest upon the Government if it wishes to refute the allegations.<sup>2</sup> In the present case, the Government has chosen not to challenge the *prima facie* credible allegations made by the source.

69. The Working Group wishes to reaffirm that States have the obligation to respect, protect and fulfil all human rights and fundamental freedoms, including the liberty of person, and that any national law allowing deprivation of liberty should be made and implemented in conformity with the relevant international standards set forth in the Universal Declaration of Human Rights, the Covenant and other applicable international and regional instruments.<sup>3</sup> Consequently, even if the detention is in conformity with national legislation, regulations and practices, the Working Group is entitled and indeed obliged to assess the circumstances of

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<sup>2</sup> See A/HRC/19/57, para. 68.

<sup>3</sup> See General Assembly resolution 72/180, preambular para. 5; Human Rights Council resolution 41/2, preambular para. 2; and resolution 41/17, preambular para. 1. See also Commission on Human Rights resolutions 1991/42, para. 2, and 1997/50, para. 15; Human Rights Council resolutions 6/4, para. 1 (a), and 10/9, para. 4 (b); opinions No. 41/2014, para. 24; No. 42/2019, para. 43; No. 13/2020, para. 39; and No. 32/2020, para. 29.



the detention and the law itself to determine whether such detention is also consistent with the relevant provisions of international human rights law.<sup>4</sup>

70. The source has argued that the detention of Messrs. Abdel Aziz, Sahloob, Khalil, and Ali is arbitrary under categories I and III. The Working Group shall proceed to examine the allegations in turn.

### Category I

#### *Arrests without warrants*

71. The source alleges that when Mr. Abdel Aziz was first arrested by security forces at his friends' house on 27 November 2014, no arrest warrant was shown to him. Likewise no warrant of arrest was shown when he was arrested the second time on 21 July 2018 by several security agents at a checkpoint while he was in public transport. Similarly Mr. Sahloob was reportedly not shown any arrest warrant when he was arrested on 2 January 2014, at a police checkpoint after police officers found out that he was carrying a professional camera. Equally Mr. Khalil was not shown any arrest warrant when he was arrested by security agents on 18 February 2015 at Al-Hinidi Mosque square, near his place of residence. No arrest warrant was shown to Mr. Ali either when he was arrested on 25 August 2015, at his home. In addition, the source submits that none of the four individuals were provided the reasons for their arrest at the time of their respective arrests. Though the Government had the opportunity to rebut these allegations, it has chosen not to do so.

72. International human rights law on detention recognises that the right to be presented with an arrest warrant to ensure the exercise of effective control by a competent, independent and impartial judicial authority, is procedurally inherent in the right to liberty and security and the prohibition of arbitrary deprivation under articles 3 and 9 of the Universal Declaration of Human Rights, article 9 of the Covenant, as well as principles 2, 4 and 10 of the Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment.<sup>5</sup>

73. Further, article 9 (2) of the Covenant requires that anyone who is arrested is not only informed of the reasons for arrest but also promptly informed of any charges against them. As explained by the Human Rights Committee in its General Comment No. 35, the obligation encapsulated in article 9 (2) has two elements: information about the reasons for the arrest must be provided immediately upon arrest<sup>6</sup> and there must be prompt information about the charges provided thereafter.

74. The Working Group considers that the source has presented a credible case – which was not rebutted by the Government – that Mr. Abdel Aziz, Mr. Sahloob, Mr. Khalil and Mr. Ali were not presented an arrest warrant at the time of their respective arrest, and were not explained the reasons for their arrest, in violation of article 9 (1) and (2) of the Covenant.<sup>7</sup> The Working Group therefore considers that the authorities failed to establish a legal basis for the arrest and detention of Messrs. Abdel Aziz, Sahloob, Khalil and Ali.

#### *Pre-trial detention as an exceptional measure*

75. The source submits that the four individuals' right to be released pending trial was violated, contrary to article 9 (3) of the Covenant. The source recalls that principles 38 and 39 of the Body of Principles further confirm that, except in special cases, a criminal detainee is entitled to release pending trial. The source notes that each of the four individuals were detained for long periods pending trial.

<sup>4</sup> See opinions No. 1/1998, para. 13; No. 82/2018, para. 25; No. 76/2019, para. 36; No. 14/2020, para. 45; and No. 32/2020, para. 29.

<sup>5</sup> The Working Group has maintained from its early years that the practice of arresting persons without a warrant renders their detention arbitrary. See, for example, decisions No. 1/1993, paras. 6-7; No. 44/1993, paras. 6-7. For more recent jurisprudence, see opinions No. 21/2017, para. 46; No. 68/2018, para. 39; and No. 34/2020, para. 46. See also article 14 (1) of the Arab Charter on Human Rights.

<sup>6</sup> CCPR/C/GC/35 at para 27.

<sup>7</sup> Opinion No. 36/2018, paras. 39–40 (finding that the failure to present an arrest warrant to an individual who had presented himself at a police station violated art. 9 (1) of the Covenant).

76. 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.<sup>8</sup> 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.<sup>9</sup> Detention pending trial must thus be based on an individualised determination that it is reasonable and necessary for such purposes as to prevent flight, interference with evidence or the recurrence of crime.<sup>10</sup>

77. In the present case, despite having had the opportunity to do so, the Government 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 Messrs. Abdel Aziz, Sahloob, Khalil, and Ali is arbitrary and in breach of article 9 (3) of the Covenant, and therefore lacked legal basis.

78. By not releasing the four individuals pending trial the Government violated article 9 (3) of the Covenant and principles 38 and 39 of the Body of Principles.

*Enforced disappearance and prolonged pre-trial detention*

79. The source has indicated that following his first arrest, Mr. Abdel Aziz was detained on remand [pre-trial] for almost two years, before his case was referred to the court. Following his second arrest, Mr. Abdel Aziz was reportedly taken to an unknown location and subjected to enforced disappearance for one month. Under fresh charges that were given to him in August 2018, Mr. Abdel Aziz reportedly spent almost one and a half years in pre-trial detention. His appeal against his sentence of 10 years in prison was successful and the sentence was reduced to three years, which he had already served. However, instead of being released, he was reportedly subjected to another two months of enforced disappearance, before being charged under a new case of joining a banned organization.

80. As regards Mr. Sahloob, the source alleges that following his arrest on 2 January 2014, he was subjected to enforced disappearance for two weeks in an unknown location. The source reports that he was likely taken to the National Security premises in Lazoghly. When he appeared before the prosecutor on 18 January 2014, he was joined to a new case, the “Marriott terror cell” case, which allegedly involves a number of Al Jazeera journalists. He was ordered to be detained for 15 days in pre-trial detention, pending investigations. His detention was continuously renewed over a period of six months, until the Criminal Court sentenced him to seven years in prison, on 24 June 2014. The sentence was reduced to three years on appeal but he was not released after completing the three year term. Instead, he was reportedly charged under another case known as the “Helwan Brigades Case”, and remains detained in Al-Aqrab Maximum Security Prison, pending trial in this second Case [withheld].

81. Regarding Mr. Khalil, the source reports that following his arrest on 18 February 2015, he was subjected to enforced disappearance for a week in an unknown location. Official complaints submitted to the attorney general and the public prosecutor on Mr. Khalil’s behalf regarding his disappearance were reportedly unanswered. It is reported that Mr. Khalil stayed in pre-trial detention until the Court sentenced him to 15 years in prison, on 26 May 2016.

82. Concerning Mr. Ali, the source reports that following his arrest on 25 August 2015, he was subjected to enforced disappearance for four months in an unknown location. In addition, Mr. Ali was reportedly detained on remand for long periods of time before his case was referred to the court. According to the source, numerous official complaints were

<sup>8</sup> 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.

<sup>9</sup> A/HRC/19/57, para. 54.

<sup>10</sup> Human Rights Committee, General Comment No. 35, para. 38.

submitted to the public prosecutor and the minister of interior on Mr. Ali's behalf, inquiring about his disappearance. These were reportedly not answered.

83. These allegations were put to the Government which chose not to address them.

84. The Working Group notes that enforced disappearances are prohibited by international law and constitutes a particularly aggravated form of arbitrary detention.<sup>11</sup> In fact the Working Group has consistently asserted that holding persons at secret, undisclosed locations and in circumstances unidentified to the person's family violates their right to contest the legality of their detention before a court or tribunal under article 9 (4) of the Covenant. Judicial oversight of any detention is a central safeguard for personal liberty and is critical in ensuring that the detention has a legitimate basis.

85. The Working Group also takes note that article 10 of the Declaration on the Protection of all Persons from Enforced Disappearance provides that individuals deprived of their liberty must be held in a place of detention that is officially recognized, and that states must ensure that no one is held secretly in detention.

86. In the circumstances attending the incarceration of the four individuals at an unknown location for varying periods, the Working Group finds that they were unable to challenge the legality of their detentions before a court. Consequently, their rights to an effective remedy under article 8 of the Universal Declaration of Human Rights and article 2 (3) of the Covenant were violated. The Working Group also recalls that principle 15 of the Body of Principles provides that "communication of the detained or imprisoned person with the outside world, and in particular his family or counsel, shall not be denied for more than a matter of days". The four individuals subject of the current communication were each kept at a location unknown to their families and lawyers. This entailed a wilful refusal to disclose their fate or whereabouts or to acknowledge their detention. This lacks any valid legal basis under any circumstance. It is also inherently arbitrary, as it placed the detainees outside the protection of the law in violation of article 6 of the Universal Declaration of Human Rights and article 16 of the Covenant. The Working Group refers this matter to the Working Group on Enforced or Involuntary Disappearances.

87. Further, in regards to Mr. Abdel Aziz and Mr. Sahloob, the Working Group notes that despite having served the entirety of their reduced sentence, the authorities failed to release them and they were both detained and new charges were brought against them. Such practice of 'repeat pre-trial detention on charges that are very similar to the previous ones is akin to 'revolving door' pre-trial detention, which is entirely incompatible with article 9 (3) of the Covenant. The Working Group thus considers that the rights of Mr. Abdel Aziz and Mr. Sahloob under article 9 (3) of the Covenant were further violated. In addition, the Working Group finds that their right under article 9 (1) of the Covenant were violated in so far as both individuals were not released despite having completed their sentence, and were therefore detained without any legal basis.

88. For the reasons enumerated above, the Working Group finds that the arrests and detentions of Messrs. Abdel Aziz, Sahloob, Khalil, and Ali lack legal basis and are therefore arbitrary under category I.

### *Category III*

89. As regards category III, the source alleges numerous violations of the four individual's right to a fair trial protected under article 9 of the Universal Declaration of Human Rights and article 9 (1) and (3) of the Covenant.

#### *Right to a fair trial by a competent, independent, and impartial tribunal*

90. The source claims that Mr. Abdel Aziz and Mr. Ali were tried before a military court even though they are both civilians, contrary to their right to a fair trial, before a competent, independent, and impartial tribunal under article 14 of the Covenant.

<sup>11</sup> See Opinions Nos. 5/2020; 6/2020; 11/2020; 13/2020. See also Human Rights Committee, General comment No. 35, para. 17.

91. The Working Group recalls that fair trial rights apply in trials before all courts, including special or specialized courts and military courts. The Working Group in its practice has consistently found 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 only be competent to try military personnel for military offences.<sup>12</sup> Further, in accordance with principle 5 of the Basic Principles on the Independence of the Judiciary and sections A(4)(e) and L(c) of the Principles on Fair Trial in Africa, special courts shall not be created to displace the jurisdiction of ordinary courts, and therefore should not examine offences falling under the jurisdiction of ordinary courts. When special courts exist, they must be independent and impartial, and must respect fair trial standards. Article 26 of the African Charter on Human and Peoples' Rights (the "African Charter"), which has been ratified by Egypt, also requires States to guarantee courts' independence.

92. In the present case, the Working Group notes that while it had the opportunity to explain the involvement of a military court in the case of Mr. Abdel Aziz and Mr. Ali, the Government failed to do so. The Working Group agrees with the source that the use of special courts makes it more likely that fair trial rights are violated before such courts. This is why human rights bodies have raised concerns about procedures before special courts, which are inconsistent with fair trial rights, including the right to a trial before an independent and impartial court, the exclusion of evidence obtained by torture or other ill-treatment and the right to appeal to a higher tribunal.

93. For the reasons enumerated above, the Working Group finds that the trial of Mr. Abdel Aziz and Mr. Ali before a military court violated their right to a trial before a competent, independent, and impartial court, in violation of article 14 of the Covenant.

*Right to access an effective legal counsel*

94. According to the source, Messrs. Abdel Aziz, Sahloob, Khalil, and Ali were denied the right to promptly seek legal representation and communicate with their lawyers in detention. The source submits that Mr. Abdel Aziz, Mr. Sahloob and Mr. Khalil were denied the right to receive visits from their lawyers, and that their lawyers were only permitted to attend their respective clients' hearings. The source also contends that Mr. Ali was denied the right to communicate with his lawyer in detention. The Government has chosen not to rebut any of these allegations, despite having an opportunity to do so.

95. As the Working Group has stated in principle 9 and guideline 8 of the Basic Principles and Guidelines, persons deprived of their liberty have the right to legal assistance by a counsel of their choice, at any time during their detention, including immediately after the moment of apprehension; must be promptly informed of this right upon apprehension; and access to legal counsel should not be unlawfully or unreasonably restricted.<sup>13</sup> As provided in General Comment No. 32, a detainee has the right to have "prompt access" to legal counsel, which means that a lawyer is granted the right to have private communication and meetings with the detainee and to attend all the investigations without interference or restrictions.<sup>14</sup>

96. Every detainee should also have access to "effective counsel." According to principle 2 of the Basic Principles on the Role of Lawyers, this means that the authorities have the duty to ensure lawyers access to appropriate information, files and documents in their possession or control, in sufficient time to enable lawyers to provide effective legal assistance to their clients, and such access should be provided at the earliest appropriate time. The effectiveness of legal counsel is fundamentally related to the principle of equality of arms, as enshrined in article 11 of the Universal Declaration of Human Rights and which draws on the right of detainees to be given the time and facilities necessary to prepare and present his/her defence with the counsel for when the trial takes place.

<sup>12</sup> A/HRC/27/48, paras. 66–70. See also opinions No. 48/2020, No. 66/2019, No. 32/2018, No. 28/2018, No. 30/2017 and No. 44/2016.

<sup>13</sup> Basic Principles and Guidelines, principle 9 and guideline 8. See also Human Rights Committee, general comment No. 32 (2007), para. 34.

<sup>14</sup> General comment No. 32, para. 34.

97. The Working Group finds that the denial of the right of Messrs. Abdel Aziz, Sahloob, Khalil, and Ali to communicate with their lawyers constitutes a violation of their right to effective assistance of counsel and of the equality of arms principle, in violation of articles 10 and 11 of the Universal Declaration of Human Rights and article 14 (3) of the Covenant.

*Right to be free from torture and ill treatment*

98. According to the source, Messrs. Abdel Aziz, Sahloob, Khalil, and Ali were subjected to torture and ill-treatment, especially during the time they were enforcedly disappeared, in order to coerce them into confessing against themselves. Specifically, the source notes that the four detainees were subjected to treatment including being handcuffed, blindfolded, beaten, and electrocuted, and that such treatment caused them severe body pain and health deterioration. Allegedly, though they reported such treatment, no action was taken by the prosecution or the judges. The Government has chosen not to rebut these allegations, despite having an opportunity to do so.

99. Detainees should be protected from any practices that violate their right to be free from any acts which could cause severe pain or suffering, whether physical or mental and which are inflicted intentionally on a person. This has been clearly stated in the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. According to the Committee against Torture, the right to freedom from torture and other ill-treatment or punishment is absolute. This applies in all circumstances and may never be restricted, including during times of war or states of emergency. No exceptional circumstances whatsoever, including threats of terrorism or other violent crime, may be invoked to justify torture or other ill-treatment. Such prohibition applies irrespective of the offence allegedly committed by the accused person.

100. Moreover, the source claims that the four individuals' lawyers reported the acts of torture and ill-treatment when their clients appeared before a judge. Nevertheless, no action was taken. The Working Group considers that the courts should have ordered a separate and independent investigation into the alleged torture and ill-treatment. The failure by the judge to intervene when the allegations of torture or ill-treatment were brought to him amounts to a violation of the right to be tried by an independent and impartial tribunal under article 10 of the Universal Declaration of Human Rights,<sup>15</sup> article 14 of the Covenant, and articles 12, 13 and 14 of the Convention against Torture. The Working Group also reiterates that the admission into evidence of a statement allegedly obtained through torture or ill-treatment renders the entire proceedings unfair, regardless of whether other evidence was available to support the verdict, and would constitute a violation of the right not to be compelled to confess guilt under article 11 of the Universal Declaration of Human Rights.<sup>16</sup>

101. The Working Group refers this case to the Special Rapporteur on the independence of judges and lawyers and the Special Rapporteur on Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.

*Right to health*

102. The source alleges that the lives of Messrs. Abdel Aziz, Sahloob, Khalil, and Ali are at grave risk due to the prison authorities' intentional prevention from accessing medical examination and treatment in prison. The Government has not rebutted these allegations though it had the opportunity to do so.

103. The right to attain the highest standard of physical and mental health is protected under article 12 of the International Covenant on Economic, Social and Cultural Rights, which Egypt ratified in 1982, article 16 of the African Charter, and rules 24, 25, 27 and 30 of the United Nations Standard Minimum Rules for the Treatment of Prisoners (the "Nelson Mandela Rules"). This right includes access to timely and appropriate health care, but also to underlying determinants of health, such as adequate food, water, and sanitation. It is further

<sup>15</sup> Opinions No. 46/2017, para. 25; No. 53/2018, para. 77 (b); No. 30/2018, para. 49; No. 31/2020, para. 56; and No. 62/2020, para. 88. See also A/HRC/29/26/Add.2, paras. 53 and 109.

<sup>16</sup> Opinions No. 43/2012, para. 51; No. 34/2015, para. 28; No. 52/2018, para. 79 (i); No. 73/2019, para. 91; and No. 61/2020, para. 86.

observed that sick prisoners whose health require specialist treatment must be transferred to specialized institutions or civil hospitals and the failure to provide access to adequate health care violates the right to health. Poor health deprives detainees of their ability to adequately prepare their defence, in violation of article 14 of the Covenant. The Working Group refers this case to the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health for appropriate action.

104. All circumstances considered, the Working Group thus concludes that the detention of the four individuals violated their fair trial rights and that these violations were of such gravity as to render their detention arbitrary under category III.

#### *Concluding remarks*

105. The Working Group expresses its grave concern that when Mr. Abdel Aziz was first arrested on 27 November 2014, he was still a minor and yet the authorities made no attempt to treat him in a manner prescribed by international law and consistent with his status as a minor throughout the arrest, detention, and trial.

106. The Working Group is also deeply disturbed at the treatment to which all four individuals were subjected, including the detention conditions in which they are reportedly held, an allegation which the Government has chosen not to deny. In particular, the Working Group expresses grave concern regarding the un rebutted allegation that, as a result of various complaint filed on his behalf, Mr. Khalil was placed in a special disciplining cell in which he does not have a bathroom and is banned from receiving visitors. The Working Group wishes to remind the Government that prolonged solitary confinement in excess of 15 consecutive days is prohibited under rules 43 (1) (b) and 44 of the Nelson Mandela Rules. The Working Group is also obliged to remind the Government of Egypt of its duty to treat all persons deprived of their liberty with humanity and respect for the inherent dignity of the human person, in accordance with article 10 of the Covenant and rule 1 of the Nelson Mandela Rules.

107. The Working Group is further concerned about the limited contact that Messrs. Abel Aziz, Sahloob, Khalil and Ali have had with their family. The source has reported, and the Government has not denied, that Messrs. Abel Aziz and Sahloob were entirely denied their rights to be visited by their families, while Messrs. Khalil and Ali were only allowed to family visits once a month. The Working Group feels obliged to remind the Government that the right to communicate with the outside world and be visited by one's family is a fundamental safeguard against human rights violations, including torture, ill-treatment, and enforced disappearance. The Working Group recalls that principle 15 of the Body of Principles provides that "communication of the detained or imprisoned person with the outside world, and in particular his family or counsel, shall not be denied for more than a matter of days". The denial of family contact may also amount to a violation of principle 19 of the Body of Principles.

108. The Working Group notes that the present opinion is only one of many opinions in recent years in which the Working Group finds the Government to be in violation of its international human rights obligations.<sup>17</sup> The Working Group is concerned that this indicates a systemic problem with arbitrary detention in Egypt, which, if it continues, may amount to a serious violation of international law. The duty to comply with international human rights standards rests with all State organs, officers and agents as well as all other natural and legal persons. 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. The Working Group has alluded to this possibility in its past opinions concerning Egypt.

109. The Working Group would welcome the opportunity to work constructively with the Government to address arbitrary detentions in Egypt. The Working Group reiterates it requests to the Government to allow the Working Group to undertake a country visit.

<sup>17</sup> See, for example, opinions No. 6/2016, No. 7/2016, No. 41/2016, No. 42/2016, No. 54/2016, No. 60/2016, No. 30/2017, No. 78/2017, No. 83/2017, No. 26/2018, No. 27/2018, No. 47/2018, No. 63/2018, No. 82/2018, No. 87/2018, No. 21/2019, No. 29/2019, No. 41/2019, No. 42/2019, No. 65/2019, No. 77/2019, No. 6/2020 and No. 80/2020.

## Disposition

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

The deprivation of liberty of Omar Abdel Aziz Mohammed Abdel Aziz, Khaled Mohamed Abdel Raouf Sahloob, Hossam Abdel Razek Abdel Salam Khalil and Mohammed Abdel Aziz Farag Ali, being in contravention of articles 3, 6, 8, 9, 10 and 11 of the Universal Declaration of Human Rights and articles 2, 9, 10, 14 and 16 of the International Covenant on Civil and Political Rights, is arbitrary and falls within categories I and III.

111. The Working Group requests the Government of Egypt to take the steps necessary to remedy the situation of Messrs. Abdel Aziz, Sahloob, Khalil and Ali 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.

112. The Working Group considers that, taking into account all the circumstances of the case, the appropriate remedy would be to release Messrs. Abdel Aziz, Sahloob, Khalil and Ali immediately and accord them an enforceable right to compensation and other reparations, in accordance with international law. In the current context of the global coronavirus disease (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 Messrs. Abdel Aziz, Sahloob, Khalil and Ali.

113. The Working Group urges the Government to ensure a full and independent investigation of the circumstances surrounding the arbitrary deprivation of liberty of Messrs. Abdel Aziz, Sahloob, Khalil and Ali and to take appropriate measures against those responsible for the violation of their rights.

114. In accordance with paragraph 33 (a) of its methods of work, the Working Group refers the present case to the Special Rapporteur on the independence of judges and lawyers; the Special Rapporteur on Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment; the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health for appropriate action and the Working Group on Enforced or Involuntary Disappearance for appropriate action.

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

## Follow-up procedure

116. 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 Messrs. Abdel Aziz, Sahloob, Khalil and Ali have been released and, if so, on what date;

(b) Whether compensation or other reparations have been made to Messrs. Abdel Aziz, Sahloob, Khalil and Ali;

(c) Whether an investigation has been conducted into the violation of these four individuals' rights and, if so, the outcome of the investigation;

(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.

117. 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.

118. 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.

119. 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.<sup>18</sup>

*[Adopted on 6 April 2022]*

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<sup>18</sup> See Human Rights Council resolution 42/22, paras. 3 and 7.