

---

# Advance Edited Version

Distr.: General  
13 June 2023

Original: English

---

**Human Rights Council**  
**Working Group on Arbitrary Detention**

## **Opinions adopted by the Working Group on Arbitrary Detention at its ninety-sixth session, 27 March–5 April 2023**

### **Opinion No. 31/2023 concerning Aya Kamal Aldin Hussein Sayed (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 51/8.
2. In accordance with its methods of work,<sup>1</sup> on 20 December 2022, the Working Group transmitted to the Government of Egypt a communication concerning Aya Kamal Aldin Hussein Sayed. The Government replied to the communication on 20 February 2023. 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).

---

<sup>1</sup> [A/HRC/36/38](#).

## Submissions

### *Communication from the source*

4. Aya Kamal Aldin Hussein Sayed is a national of Egypt born on 19 March 1995. She is a student and usually resides in Alexandria, Egypt.

a. Context

5. According to the source, in October 2013, Ms. Sayed participated in the 7 a.m. Movement protest in Al Fayyum against the military coup d'état of 2013. Reportedly, she has since been targeted by the authorities and subjected to several arrests and detentions, as well as ill-treatment.

6. Reportedly, the declaration of a state of emergency in North Sinai in 2013, which was extended nationwide in April 2017, led to the application of emergency law, giving the President broad powers to restrict the rights and freedoms of citizens in the interests of maintaining security and public order. The emergency law allegedly legalized arbitrary detention, restricted meetings, enabled arbitrary censorship of newspapers and the media, and permitted the monitoring of messages.

7. According to the source, the end of the state of emergency on 25 October 2021 has, in practice, had a negligible impact since a number of newly enacted laws effectively codify its exceptional framework into ordinary law, normalizing human rights violations and legalizing the escalating crackdown on freedom of expression, association and assembly under vague terms and the pretext of countering terrorism and protecting national security.<sup>2</sup>

b. Arrests and detentions

i. First arrest

8. Ms. Sayed was reportedly first arrested on 31 October 2013, while she was still a minor. According to the source, she had participated in a demonstration to protest against the violent dispersal of the Rabaa al-Adawiya sit-in, during which many protesters had allegedly been killed. She was reportedly taken to a detention facility in the State security building of Alexandria and subjected to psychological and emotional pressure and conditions of detention inappropriate for a minor. She was allegedly held in a cell with other girls with no access to a bathroom, although they were given a bucket to use as a toilet. Reportedly, there were more than 20 underaged girls in the cell, only 8 of whom were political prisoners from the 7am Movement. The source alleges that the authorities ordered other inmates to assault those accused in political cases and that Ms. Sayed witnessed five suicide attempts during her detention. Ms. Sayed was reportedly threatened by a security guard who pointed a weapon at her head.

9. On 27 November 2013, Ms. Sayed was allegedly sentenced together with 20 other women and girls for blocking a street in Alexandria and throwing rocks at passers-by. According to the source, the prison sentences handed down ranged from 11 to 15 years.

10. Upon appeal, Ms. Sayed and seven other defendants, all minors, were acquitted. However, instead of being released, Ms. Sayed and the other girls were allegedly transferred to Damanhur Prison and subjected to humiliating searches, asked to take off their clothes and touched inappropriately by a prison officer. Ms. Sayed was reportedly held for a full day before being released, during which time she was held with 15 other detainees in a cell designed to accommodate 3 persons, with no light, proper ventilation or bedding.

ii. Second arrest

11. Reportedly, on 20 March 2020, Ms. Sayed was the subject of threats and insults on social media as a result of comments that she had made on social platforms criticizing the Government's management of the coronavirus disease (COVID-19) pandemic, including the

---

<sup>2</sup> See communication EGY 4/2020, available at <https://spcommreports.ohchr.org/TMResultsBase/DownloadPublicCommunicationFile?gId=25072>.

death of a military general due to COVID-19, and also as a result of her volunteer work in a foundation that helps the homeless and people in need. Allegedly, her statement provoked anger among supporters of the Government. One public figure reportedly posted a live video in which she called Ms. Sayed a terrorist in reference to her previous arrest on terrorism-related charges and claimed that she should not be able to work in a charitable organization. In the video, the individual called upon the authorities to act. The source reports that Ms. Sayed was forced to delete her Facebook account for fear of being arrested.

12. According to the source, on 24 March 2020, both uniformed and plain-clothes security officers carrying weapons arrived at Ms. Sayed's home in white vans. Reportedly, they proceeded to search the house without presenting a warrant or providing a justification, seized all the phones and arrested Ms. Sayed in front of her relatives. She was reportedly forced into a police car and subjected to enforced disappearance for eight days. It was later discovered that she had been held on the premises of the State security of Abbys district, in Alexandria Governorate.

13. During her enforced disappearance, she was allegedly subjected to physical and psychological torture, including beatings and electrocution. The source notes that, on 1 April 2020, Ms. Sayed was brought before the Supreme State Security Prosecution, which ordered her detention for 15 days pending investigation of a new case. Ms. Sayed was reportedly accused of joining a terrorist group, spreading false news and misusing social media.

14. During the hearing, Ms. Sayed's lawyer reportedly argued that her arrest was illegal given the lack of an arrest warrant, and that the State security authority had reported a false date in the arrest report, claiming that she had been arrested a day prior to her appearance before the Supreme State Security Prosecution instead of the actual date of her arrest, 24 March 2020. The lawyer claimed that, under articles 331 and 333 of the Criminal Procedure Code, such illegalities in procedure should annul subsequent procedures. The lawyer also demanded that an investigation be carried out into Ms. Sayed's enforced disappearance, torture and illegal interrogation by State security authorities, and that she be released.

15. According to the source, Ms. Sayed's lawyer raised the same arguments at each pretrial detention hearing. Allegedly, the prosecution failed to provide reasons for renewing her detention order, as required under article 136 of the Criminal Procedure Code. On 23 June 2020, Ms. Sayed was reportedly transferred to Al-Qanater Prison.

16. The source reports that Ms. Sayed has suffered from pneumonia and breathing issues since childhood and uses an inhaler to help her breathe when necessary. Despite the lawyer's request to have Ms. Sayed undergo a medical examination to receive proper treatment, she reportedly had no access to medical assistance when entering prison. The source also alleges that Ms. Sayed was subjected to a search by the officer in charge that amounted to sexual assault.

17. Reportedly, Ms. Sayed was detained in a cell, designed to accommodate 5 persons, with 35 other women. The source reports that the women were subjected to considerable mental pressure, ordered to follow officers in the prison, prohibited from taking showers, moving or talking, and repeatedly assaulted both verbally and physically. Furthermore, Ms. Sayed, who was considered a "political detainee", was held with convicted women who had been ordered by officers to harass her, in addition to the harassment that they carried out of their own volition.

18. According to the source, Ms. Sayed's health deteriorated rapidly; she requested medical assistance on many occasions, although this was denied on the basis of "State security orders".

19. The source notes that deaths among inmates are common in Al-Qanater Prison and the only doctor available is an orthopaedic doctor who treats all detainees in the same way, regardless of their condition. In addition, it is reported that detainees without money in the prison's safe do not receive any medical attention and are left to die. Cells and prison wards are reportedly often controlled by other inmates who prevent detainees such as Ms. Sayed from sleeping on beds, using the available cooking utensils and accessing the food that their families have given them, unless they pay for it in the form of cigarettes or canteen coupons.

According to the source, these inmates are used by the wardens to harass and abuse political prisoners.

20. The source also reports that, although her cell was very cold, Ms. Sayed was not allowed to receive any clothes, which she needed to keep warm and her medical condition under control. She was reportedly prohibited from receiving books and visits from her family and lawyer, and was held incommunicado for 50 days. In the middle of May 2020, she was able to receive the first visit from her family; it lasted for 15 minutes. Reportedly, she received visits every month after that.

21. The source explains that the conditions of detention of women in Egypt violate the obligations of Egypt under international law, and that State security officers purposely and systematically violate detainees' rights in order to destroy their mental health and force them to comply.

22. Reportedly, on 18 December 2020, the Cairo Criminal Court ordered Ms. Sayed's release under precautionary measures in the second case and she was sent to the headquarters of the State security in Alexandria to prepare her for release. There, she was allegedly subjected to further psychological torture to coerce her into recording a video in which she would deny social media comments made by another person reporting on the ill-treatment and lack of medical care allegedly suffered by Ms. Sayed. Reportedly, Ms. Sayed did not make the video. The source notes that it is common for authorities to force detainees to record videos in which they confess so as to convict them in the public eye and provide a false image that the authorities are upholding security and countering terrorism.

iii. Third arrest

23. The source explains that, while Ms. Sayed was at the headquarters of State security in Alexandria to prepare for release under precautionary measures, she was harassed by officers and threatened with enforced disappearance and rearrest. Reportedly, she was also forced to witness other detainees being tortured through beatings and electrocution, at which point she fainted from emotional distress.

24. At 2 a.m. on 2 July 2022, uniformed and plain-clothes State security officers reportedly raided Ms. Sayed's home and arrested her without showing a warrant or explaining the reasons for her arrest. Ms. Sayed's relatives witnessed the officers placing her in a white van and leaving the scene.

25. Ms. Sayed was reportedly subjected to enforced disappearance until 6 July 2022, after which she was brought before the Supreme State Security Prosecution, with her lawyer present. She was allegedly charged with joining a terrorist group, spreading false news and statements inside and outside the country, and misusing social media.

26. On 28 November 2022, Ms. Sayed's pretrial detention was extended for another 45 days. According to the source, she is currently being held in pretrial detention in Al-Qanater Prison for women, which is known for its inhumane conditions of detention, such as overcrowding and lack of proper ventilation and clean water.

27. The source notes that complaints were sent to the Ministry of the Interior, the Attorney General of Egypt and the Attorney General of Alexandria, in April 2020, in relation to Ms. Sayed's enforced disappearance. Complaints were also sent to the Prison Service and Director of Alexandria State Security concerning the allegations of torture. Reportedly, those complaints received no response.

c. Legal analysis

i. Category I

28. The source recalls that articles 3 and 9 of the Universal Declaration of Human Rights protect the right to liberty and prohibit arbitrary arrest. Furthermore, in its general comment No. 35 (2014), the Human Rights Committee stated that any person deprived of liberty should

be informed, at the time of arrest, of the reasons for the arrest and that that requirement applied broadly to any deprivation of liberty.<sup>3</sup>

29. The source submits that Ms. Sayed was arrested three times and that, on each of those occasions, the authorities failed to show a justification for the arrest. Allegedly, she was never shown any arrest warrant and was not provided with any explanation of the reasons for her arrests.

30. The source therefore concludes that Ms. Sayed's arrests and detentions lack a legal basis and are arbitrary under category I.

ii. Category II

31. The source alleges that Ms. Sayed was arrested and detained as a result of her peaceful exercise of the rights to freedom of opinion and expression, to freedom of assembly, to freedom of association and to take part in the conduct of public affairs, contrary to articles 19, 20 and 21 of the Universal Declaration of Human Rights, articles 19, 21, 22 and 25 of the Covenant, articles 24 and 32 of the Arab Charter on Human Rights, articles 9, 10 and 11 of the African Charter on Human and Peoples' Rights and articles 65, 74 and 75 of the Constitution of Egypt.

32. The source notes that participating in the debate on human rights involves taking part in the conduct of public affairs by exerting influence through dialogue and public debate and by organizing oneself, which is supported by the rights to freedom of expression, assembly and association. In accordance with 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, everyone has the right, individually and in association with others, to promote and to strive for the protection and realization of human rights and fundamental freedoms at the national and international levels.

33. The source argues that Ms. Sayed has been detained and accused of terrorism and spreading false news solely on the basis of her exercise of the rights enshrined in the Declaration on Human Rights Defenders. The source alleges that Ms. Sayed's first arrest occurred immediately after she had participated in a protest on the same day. Similarly, her second arrest occurred only four days after she had made a statement regarding the State's handling of the COVID-19 pandemic, which prompted calls to arrest her.

34. Finally, the source argues that Ms. Sayed was arrested on a third occasion because of her work as an activist and because she had spoken out about her conditions of detention and the medical negligence that she endured during her second detention. The source notes that Ms. Sayed received threats of rearrest and enforced disappearance while fulfilling the terms of her release under precautionary measures in the second case. The source contends that Ms. Sayed was targeted as part of a general pattern of persecuting activists and silencing critics. The source adds that Ms. Sayed faced baseless accusations following all three arrests and the prosecution failed to provide sufficient evidence to justify those arrests.

35. According to the source, each of Ms. Sayed's detentions are therefore arbitrary under category II.

iii. Category III

Review by an independent, objective and impartial authority and right to habeas corpus

36. The source submits that Ms. Sayed was subjected to enforced disappearance following her arrest in March 2020 and was not brought promptly before a judicial authority to review the legality of her detention, in violation of article 9 (3) of the Covenant. The source adds that the authority that reviews the detention must be independent, objective and impartial, which excludes the possibility of public prosecutors carrying out the review. The source contends that the Supreme State Security Prosecution is not independent, objective or impartial as it has the power to release a detainee at any given moment, but regularly chooses

<sup>3</sup> See also principle 10 of the Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment and article 14 (3) of the Arab Charter on Human Rights.

not to do so. Furthermore, the source notes that the Supreme State Security Prosecution ensures that defendants remain detained by requesting that judges renew their pretrial detention.

37. The source also recalls that pretrial detention should be the exception rather than the rule, for example, in situations in which it is necessary to prevent flight, interference with evidence or the recurrence of crime.<sup>4</sup> The source notes that the necessity of the detention must be determined on the basis of an individual assessment and alternatives to pretrial detention must be considered. Should pretrial detention be considered necessary, a periodic re-examination is required to assess if the detention is still necessary and based on reasonable grounds. The source submits that the judge must order the release of the person detained in situations in which there is no lawful basis for continuing the detention, in accordance with article 9 (3) of the Covenant.

38. The source also points to article 143 of the Criminal Procedure Code, which stipulates that the extension of pretrial detention is only permissible if it is in the interests of an investigation that has yet to be concluded. The same article also stipulates that credible evidence must be presented for pretrial detention to be legal.

39. In the present case, the source contends that the prosecution failed to provide sufficient evidence or reasons to justify Ms. Sayed's prolonged pretrial detention. In addition, the prosecution reportedly disregarded Ms. Sayed's complaints of enforced disappearance, illegal interrogation by security authorities and ill-treatment, thereby violating her right to a fair trial.

#### Right to be tried without undue delay

40. The source argues that Ms. Sayed was not tried without undue delay, as required under article 14 (3) (c) of the Covenant. According to the source, Ms. Sayed was never tried following her second and third arrests. Allegedly, the Supreme State Security Prosecution has a practice of ordering pretrial detention pending further investigation, which, in practice, enables indefinite detention without the prospect of a trial.<sup>5</sup>

41. The source concludes that Ms. Sayed was subjected to periods of lengthy pretrial detention, without the prospect of a trial, contrary to article 14 (3) of the Covenant, article 7 (1) of the African Charter on Human and Peoples' Rights and principle 38 of the Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment.

#### Access to evidence and legitimacy of charges

42. It is also submitted that Ms. Sayed and her lawyer were never presented with evidence related to the accusations against her. Furthermore, Ms. Sayed faced charges of belonging to a terrorist group, spreading false news and misusing social media in two cases and her lawyer were denied a copy of the case files and access to information about the investigations.

43. The source notes that the arbitrary nature of a detention must be interpreted broadly to include elements of inappropriateness, injustice and lack of predictability.<sup>6</sup> The reasonableness of the suspicions on which a detention is based is an essential safeguard against arbitrary arrest and detention.<sup>7</sup> Furthermore, the source states that a reasonable suspicion presupposes the existence of facts or information that would convince an objective observer that the person concerned may have committed the offence.<sup>8</sup>

44. In this regard, the source argues that an objective observer could not have shared the authorities' suspicions about Ms. Sayed and would not have considered them reasonable. The source contends that the accusations against Ms. Sayed were baseless, thereby rendering her detentions arbitrary.

<sup>4</sup> Human Rights Committee, general comment No. 35 (2014), para. 38.

<sup>5</sup> Opinion No. 14/2020, para. 52.

<sup>6</sup> A/HRC/22/44, para. 61.

<sup>7</sup> Ibid., para. 62.

<sup>8</sup> European Court of Human Rights, *Fox, Campbell and Hartley v. United Kingdom*, Application Nos. 12244/86, 12245/86 and 12383/86, Judgment, 30 August 1990, para. 32.

#### Right to legal counsel and principle of equality of arms

45. The source argues that Ms. Sayed was denied the right to legal counsel and that the authorities violated the principle of equality of arms. The source recalls that article 139 of the Criminal Procedure Code enshrines the right to access legal representation. The source notes that, while article 141 of the Code allows restrictions on the right to interact with other detainees or to receive visits while in detention, it makes it clear that the right to communicate with a lawyer at all times, without anyone else being present, cannot be limited in any way. Furthermore, principle 21 of the Basic Principles on the Role of Lawyers provides that authorities must ensure lawyers' access to appropriate information, files and documents in their possession or control within sufficient time to enable lawyers to provide effective legal assistance to their clients. The source adds that access should be provided at the earliest appropriate time.

46. According to the source, Ms. Sayed was given access to a lawyer during her interrogation but they were never able to speak privately. The source submits that Ms. Sayed and her lawyer are unable to have confidential communications and have not been given access to the relevant documents and other evidence allegedly held by the authorities. Instead, the files containing information gathered by the National Security Agency used as evidence against her have been kept secret.

47. The source notes that, while the right to access material related to a defendant's detention is not absolute, the disclosure of information can only be restricted if such restriction is proportionate and necessary to pursue a legitimate aim, such as the protection of national security, and if the authorities have established that less restrictive measures could not achieve the same result. The source alleges that the authorities failed to justify denying Ms. Sayed and her lawyer access to material related to her detention.

48. The source recalls that counter-terrorism legislation permitting administrative detention and secret evidence as the basis for indefinite detention is inconsistent with the prohibition of arbitrary detention.<sup>9</sup>

49. As a result, the source argues that the authorities violated Ms. Sayed's rights under article 11 (1) of the Universal Declaration of Human Rights, article 14 (3) of the Covenant, article 16 (2) of the Arab Charter on Human Rights, article 7 (1) of the African Charter on Human and Peoples' Rights, articles 54 and 98 of the Constitution of Egypt and articles 134, 139 and 141 of the Criminal Procedure Code, and acted contrary to principles 17 and 18 of the Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment. The source adds that these violations undermined the principle of equality of arms in the proceedings against Ms. Sayed, a principle inherent in her right to a fair trial.

50. Moreover, the source contends that Ms. Sayed has been detained in deplorable and inhumane conditions and that her indefinite detention amounts to torture. Allegedly, Ms. Sayed suffers from asthma and therefore requires constant medical care. Her medical condition is exacerbated by her conditions of detention, which include overcrowding and lack of proper ventilation.

51. The source argues that the overuse of pretrial detention contributes to prison overcrowding and thus exacerbates the poor conditions of detention and the risk of torture and other forms of ill-treatment. Reportedly, authorities often restrict or deny detainees access to adequate medical care or medication. Ms. Sayed was allegedly denied medical care following her detention in March 2020, in violation of her right to be treated with humanity and respect for her inherent dignity, contrary to article 10 (1) of the Covenant, article 20 (1) of the Arab Charter on Human Rights and rules 24–35 of the United Nations Standard Minimum Rules for the Treatment of Prisoners (the Nelson Mandela Rules).

#### Prohibition of enforced disappearance

52. The source submits that the right not to be subjected to enforced disappearance is non-derogable, even during a state of emergency. The source recalls that the International Convention for the Protection of All Persons from Enforced Disappearance stipulates that

<sup>9</sup> A/HRC/22/44, para. 72.

persons deprived of liberty should be held in officially recognized places of detention, and that States should ensure that no one is held secretly and should provide a detainee's family and lawyer with accurate information regarding the detention.

53. The source notes that, while Egypt is not a signatory to the Declaration on the Protection of All Persons from Enforced Disappearance, it is a party to the Covenant and the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. While the Constitution of Egypt does not explicitly prohibit enforced disappearances, the source explains that articles 54 and 55 thereof protect against detention without a warrant, interrogation without a lawyer being present, and torture. In particular, article 55 establishes the right to be detained in a legal detention facility and nullifies any statement obtained under coercion or threat of harm.

54. Allegedly, Ms. Sayed was subjected to enforced disappearance for eight days, between 24 March and 1 April 2020, during which time she was subjected to torture and ill-treatment.

#### Prohibition of torture and other cruel, inhuman or degrading treatment or punishment

55. The source submits that the authorities violated Ms. Sayed's right to be free from torture and other cruel, inhuman or degrading treatment or punishment, as enshrined in article 7 of the Covenant and article 1 of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. The source reports that Ms. Sayed was subjected to several forms of torture and ill-treatment throughout her detention and enforced disappearance between 24 March and 1 April 2020.

56. During her enforced disappearance, she was allegedly subjected to physical and psychological torture, including beatings and electrocution, by State security officers interrogating her about her alleged participation in the 2011 revolution. When Ms. Sayed revealed that she was only 15 years old at the time of the revolution, she was reportedly beaten and threatened with enforced disappearance for a considerable period and with being charged under military law in such a way that she would spend a long time in prison. According to the source, Ms. Sayed's hands were tied behind her back, her eyes were covered, she was made to sit on the floor and an unidentified State security officer used a taser to scare her and threatened to rape her and arrest members of her family. The source reports that Ms. Sayed was subjected to such treatment every day during her enforced disappearance. In addition, during the first night of Ms. Sayed's enforced disappearance, the State security officer in charge allegedly prohibited her from going to the bathroom.

57. The source notes that, following the decision of the Cairo Criminal Court to release Ms. Sayed, on 18 December 2020, she was sent to the headquarters of State security in Alexandria to prepare for her release. There, she was reportedly subjected to psychological torture to coerce her into recording a video in which she would deny statements about the alleged deterioration of her health and the inhumane conditions of her detention.

#### *Response from the Government*

58. On 22 December 2022, 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 20 February 2023, detailed information about the current situation of Ms. Sayed and to clarify the legal provisions justifying her continued detention, as well as its compatibility with the obligations of Egypt under international human rights law. Moreover, it called upon the Government to ensure the physical and mental integrity of Ms. Sayed.

59. The Government submitted a reply on 20 February 2023 denying the allegations. It argues that Ms. Sayed<sup>10</sup> was arrested on 31 March 2020, on the basis of an authorization for her arrest and the search of her place of residence issued by the public prosecution on 24 March 2020. She was reportedly found in possession of publications related to the Muslim Brotherhood, including those that contained views that would incite the use of violence and

<sup>10</sup> The Government refers to Ms. Sayed as Aya Kamal Aldin Hussein Sayed Khalaf.



terrorism against the State and its institutions, and plans aimed at overthrowing the existing regime in the country.

60. Ms. Sayed was reportedly interrogated immediately after her arrest, on 1 April 2020, by the public prosecution, in accordance with article 36 (1) of the Criminal Procedure Code and international instruments ratified by Egypt, in particular article 9 (2) and (3) of the Covenant.

61. According to the Government, prior to the interrogation, Ms. Sayed was informed of the accusations against her and was given ample opportunity to present her defence, in accordance with article 124 of the Criminal Procedure Code.

62. She was accused, under article 12 (2) of the counter-terrorism law, of joining a terrorist group despite her knowledge of its purposes; intentionally broadcasting false news, statements and rumours that would disturb public security, spread terror among people and harm the public interest; and using the international information network for the purpose of committing a terrorist crime. She was placed in pretrial detention based on a decision of the criminal court on 8 December 2020. On 8 March 2021, the public prosecutor ordered her release.

63. The Government submits that Ms. Sayed was arrested again on 4 July 2022, based on a decision issued by the public prosecution on 7 February 2022, allowing for her arrest and the search of her residence. According to the Government, she was found in possession of publications related to the Muslim Brotherhood.

64. On 5 July 2022, Ms. Sayed was reportedly interrogated in the presence of her lawyer. She was accused of joining a terrorist group despite her knowledge of its purposes; intentionally broadcasting false news, statements and rumours that would disturb public security, spread terror among people and cause harm to the public interest; and using a website for the purpose of committing a terrorist crime.

65. Ms. Sayed allegedly acknowledged the publications presented to her and that she owned the seized mobile phone. The public prosecution ordered her pretrial detention, pending investigation. Her detention was subject to periodic reviews by the competent judge and she was able to present her defence in accordance with articles 134, 142 and 143 of the Criminal Procedure Code. The Government contends that her pretrial detention was ordered on the basis of objective considerations, including the risk of hampering the investigation, and the public prosecutor's discretionary authority.

66. The Government explains that the state of emergency was repealed on 25 October 2021 and observes that declaring a state of emergency when it is necessary to do so does not constitute a violation of human rights. It argues that the exceptional measures allowed under the state of emergency, in response to the threat to society posed by frequent terrorist attacks, were implemented in a non-arbitrary and narrow manner and in compliance with article 4 of the Covenant, general comment No. 29 (2001) of the Committee on Human Rights and the guidelines established by article 154 of the Constitution of Egypt. The Government argues that emergency measures were taken to deal with the COVID-19 pandemic and that, therefore, the source's allegations in that regard are unfounded and untrue.

67. The Government denies the source's claims regarding restrictions on protests. It explains that the notification requirement contained in Law No. 107 of 2013 on organizing the right to peaceful public meetings, processions and protests is used as a permission system and that the right to peaceful demonstration and assembly is guaranteed by mere notification, in accordance with article 73 of the Constitution and article 8 of Law No. 107. The Government notes that the Supreme Constitutional Court has ruled that the restrictions on this right allowed under article 10 of Law No. 107 are unconstitutional, further protecting the right to peaceful demonstrations through mere notification.

68. The Government denies that Ms. Sayed was arrested and detained on the basis of her work as an activist and a human rights defender. It claims that she is being accused of violating the provisions of the Penal Code and the counter-terrorism law promulgated by Law No. 94 of 2015. The Government argues that the public prosecution issued reasoned warrants to arrest her and to search her home in 2020 and 2022, in accordance with articles 35, 40, 46 and 91 of the Criminal Procedure Code.

69. Reportedly, Ms. Sayed was interrogated in the presence of her lawyer within 24 hours of the time of her arrest, in accordance with article 36 (1) of the Criminal Procedure Code. During her interrogation, she was reportedly notified of the charges against her, the possible sentences and the supporting evidence. Moreover, she was allegedly allowed to present statements and a defence in the presence of her lawyer.

70. According to the Government, following her interrogation, the public prosecutor decided to provisionally detain her pending investigation into the case. The Government claims that Ms. Sayed was ordered to be placed in pretrial detention in accordance with the Criminal Procedure Code. The Government notes that the term “prisoner of conscience” is not recognized under national law but that article 65 of the Constitution of Egypt guarantees the right to freedom of opinion and expression.

71. The Government reaffirms its commitment to the promotion and protection of all human rights for all citizens without discrimination and submits that invoking the status of political activist or human rights defender does not create immunity from the law.

72. The Government affirms that, prior to the interrogation of Ms. Sayed, all procedures were followed and she was informed of the charges against her, in accordance with article 124 of the Criminal Procedure Code. In both cases, she was reportedly interrogated regarding the accusations against her. The Government also states that Ms. Sayed appeared before the public prosecutor in the presence of a lawyer in both cases. During her appearance before the prosecutor, she reportedly acknowledged having been in possession of publications of the Muslim Brotherhood, which contained views that could incite the use of violence and terrorism against the State and its institutions and plans aimed at overthrowing the existing regime. She also reportedly admitted to owning the phone that had been seized, and its content.

73. The Government denies the allegations of torture and argues that neither Ms. Sayed nor her lawyer submitted any complaint in that regard. The Government notes that such complaints are dealt with in accordance with the usual legal procedures and related allegations are subject to verification. Reportedly, the examination of Ms. Sayed confirmed the absence of visible signs of wounds to indicate that she had been subjected to any acts of torture or ill-treatment.

74. The Government notes that the public prosecutor ordered a medical examination immediately after Ms. Sayed had appeared before him, which indicated that she suffered from a chest infection and that she was receiving the necessary treatment. Her vital signs were reportedly normal and the examination concluded that she did not suffer from any other symptoms. The Government contends that, like other inmates, Ms. Sayed receives medical care.

75. With regard to the allegation that Ms. Sayed was placed in solitary confinement, the Government explains that she is held in pretrial detention at Al-Qanater prison for women. The Government contends that the prison benefits from appropriate living conditions in terms of room size and the number of prisoners, good ventilation, toilets, appropriate food and a library, which is available to detainees. It adds that Ms. Sayed is provided with all the necessary care, including medical and social, cultural and religious services. She is reportedly allowed daily exercise and exposure to the sun in the open air, in accordance with existing regulations. The Government submits that no disciplinary measures have been taken against her in prison and that she is allowed to participate in regular physical and cultural activities.

76. The Government notes that only the independent national judiciary is capable of verifying the validity of any allegation of a human rights violation, holding the perpetrators accountable and providing redress to the victims.

*Additional comments from the source*

77. The reply of the Government was submitted to the source for further comments, which were provided on 13 March 2023. The source reiterates the initial allegations and notes that the Government has not addressed the allegations related to Ms. Sayed’s first arrest.

78. The source contends that, contrary to the Government’s statement, Ms. Sayed was arrested on 24 March 2020 at her home, in Alexandria Governorate. Allegedly, individuals

witnessed the event and reported that State security officers wearing plain clothes searched the house without providing a warrant or verbal justification, seized the phones that they found and arrested Ms. Sayed.

79. The source notes that, when Ms. Sayed appeared before the public prosecution, her lawyer raised the issue of the lack of a warrant and notification of the reasons for her arrest and argued that the authorization issued by the public prosecution was invalid as it had been obtained after the legal deadline, contrary to article 54 of the Constitution of Egypt. The lawyer also alleged that the search report had been falsified and that an incident had been fabricated in order to justify Ms. Sayed's arrest.

80. The source submits that the Government fails to address the allegations regarding the poor conditions of detention in Al-Qanater Prison, including the denial of medical care and the prohibition on taking showers, moving and talking freely.

81. The source notes that, contrary to the Government's submissions, the Cairo Criminal Court decided to release Ms. Sayed in connection with the second case on 18 December 2020. The source notes that article 154 of the Constitution limits the maximum period for a state of emergency to three months, renewable once. Nonetheless, the source observes that the Government renewed the state of emergency every six months for four years, until 25 October 2021.

82. It is also argued that the Government provided no evidence to support the accusations against Ms. Sayed and that terrorism-related charges are used to stifle opposition and human rights activism.

83. The source recalls that it has not been argued that Ms. Sayed did not have access to counsel but rather that she did not receive proper legal assistance as her access was restricted and she was prevented from receiving visits from her lawyer.

## Discussion

84. The Working Group thanks the source and the Government for their submissions.

85. In determining whether a person's detention is arbitrary, the Working Group has regard to the principles established in its jurisprudence to deal 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. Mere assertions by the Government that lawful procedures have been followed are not sufficient to rebut the source's allegations.<sup>11</sup>

### *Category I*

86. The source submits that Ms. Sayed's arrests and detentions lack a legal basis and are arbitrary because, each time that she was arrested, the authorities failed to show her an arrest warrant and explain the reasons for her arrest. The Government denies these allegations and argues that her second and third arrests were carried out on the basis of an authorization issued by the public prosecutor and that she was informed of the accusations against her prior to being interrogated. The Government makes no submission regarding Ms. Sayed's first arrest, on 31 October 2013.

87. The Working Group has constantly stressed that, for a deprivation of liberty to be justified, it must have a legal basis. It is not sufficient for there to be a national law or practice authorizing the arrest and detention of a suspect. The authorities must invoke a legal basis and apply it to the circumstances of the case.<sup>12</sup> This is typically<sup>13</sup> done through an arrest

<sup>11</sup> A/HRC/19/57, para. 68.

<sup>12</sup> See, for example, opinions No. 93/2017, para. 44; No. 36/2018, para. 40; No. 33/2019, para. 48; No. 45/2019, para. 51; No. 65/2019, para. 59; No. 11/2020, para. 37; No. 13/2020, para. 46; No. 33/2020, paras. 53 and 71; and No. 34/2020, para. 44.

<sup>13</sup> Human Rights Committee, general comment No. 35 (2014), para. 23. See also opinions No. 88/2017, para. 27; No. 3/2018, para. 43; and No. 30/2018, para. 39.

warrant or order (or equivalent document).<sup>14</sup> Furthermore, article 9 (2) of the Covenant provides that anyone who is arrested should be informed, at the time of arrest, of the reasons for the arrest and should be promptly informed of any charges. The reasons for arrest must be provided immediately upon arrest and must include not only the general legal basis of the arrest, but also enough specific facts to indicate the substance of the complaint, such as the wrongful act and the identity of an alleged victim.<sup>15</sup> The Working Group notes that none of the three arrests of Ms. Sayed were carried out in flagrante delicto, when the opportunity to obtain a warrant would not be typically available.

88. The Working Group notes that the requirement that arrests be based on a duly issued warrant or equivalent order is aimed at ensuring the exercise of effective control by a competent, independent and impartial judicial authority, which is procedurally inherent in the right to liberty and security and the prohibition of arbitrary detention under articles 3 and 9 of the Universal Declaration of Human Rights and article 9 of the Covenant. The Working Group wishes to emphasize that it is not enough to merely prepare the warrant; it must be presented to the suspect at the time of arrest.

89. The Working Group observes that the Government's response fails to address the relevant question, namely whether a warrant or equivalent document was shown to Ms. Sayed at the time of her arrest. While the Government submits that Ms. Sayed was informed of the accusations against her prior to her interrogation, it does not deny the source's submission that she was not informed of the reasons for her arrest at the time of her arrest.

90. The Working Group finds that, in order to invoke a legal basis for the deprivation of liberty, the authorities should have presented an arrest warrant or equivalent document to Ms. Sayed and informed her of the reasons for her arrest at the time of the arrests. Their failure to do so on all three occasions on which Ms. Sayed was arrested contravenes articles 3 and 9 of the Universal Declaration of Human Rights, article 9 (1) and (2) of the Covenant and principles 2, 4 and 10 of the Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment, rendering her arrest devoid of any legal basis.

91. The source submits that, following her second arrest on 24 March 2020, Ms. Sayed was forced into a police car and enforcedly disappeared for eight days, until 1 April 2020, when she was brought before the Supreme State Security Prosecution, which ordered her detention for 15 days, pending investigation. The source also submits that Ms. Sayed was arrested a third time, on 2 July 2022, and subjected to enforced disappearance until 6 July 2022, when she was brought before the Supreme State Security Prosecution.

92. The Government alleges that Ms. Sayed was arrested on 31 March 2020 and brought before the public prosecutor on 1 April 2020, and then arrested again on 4 July 2022 and brought before the public prosecutor on 5 July 2022. The Working Group observes that the Government has not addressed the source's specific allegations that the police records did not account for the periods of enforced disappearance that Ms. Sayed was allegedly subjected to.

93. The Working Group considers that the Government has not provided sufficient evidence to rebut the source's credible allegations that Ms. Sayed was subjected to two periods of enforced disappearance, first for eight days and subsequently for four days.

94. The Working Group notes that enforced disappearances are prohibited by international law and constitute a particularly aggravated form of arbitrary detention.<sup>16</sup> The Working Group has repeatedly asserted that holding persons at secret, undisclosed locations and in circumstances undisclosed to their families violates their right to contest the legality of their detention before a court or tribunal under article 9 (4) of the Covenant. Judicial

<sup>14</sup> Human Rights Committee, general comment No. 35 (2014), para. 27; and opinion No. 30/2017, paras. 58 and 59.

<sup>15</sup> Opinion No. 85/2021, para. 69.

<sup>16</sup> Opinions No. 5/2020, para. 74; No. 6/2020, para. 43; No. 11/2020, para. 41; No. 13/2022, para. 67; and No. 65/2022, para. 98. See also Human Rights Committee, general comment No. 35 (2014), para. 17.

oversight of any detention is a central safeguard for personal liberty and is critical in ensuring that detention has a legitimate basis.

95. Therefore, the Working Group finds that Ms. Sayed, being detained at an unknown location, was unable to challenge the legality of her detention before a court under article 9 (4) of the Covenant. Consequently, her right to an effective remedy under article 8 of the Universal Declaration of Human Rights and article 2 (3) of the Covenant was violated. Ms. Sayed was also placed outside the protection of the law, in violation of article 6 of the Universal Declaration of Human Rights and article 16 of the Covenant.<sup>17</sup>

96. As the Human Rights Committee has noted, 48 hours is ordinarily sufficient to satisfy the requirement, under article 9 (3) of the Covenant, to bring a detainee “promptly” before a judge or other officer authorized by law following his or her arrest; any longer delay must remain absolutely exceptional and be justified under the circumstances.<sup>18</sup> The Working Group finds that Ms. Sayed was not brought promptly before a judicial authority after her second and third arrests, in violation of article 9 (3) of the Covenant. The Working Group recalls that a prosecutorial body cannot be considered a judicial authority for the purposes of article 9 (3) of the Covenant.<sup>19</sup>

97. The Working Group notes the source’s allegation that, upon appeal in the first case, Ms. Sayed was acquitted but, instead of being released, she was transferred to Damanhur Prison, where she was subjected to a humiliating search and held for a full day before being released. The Government has failed to address these allegations. The Working Group considers that it is impossible to invoke any legal basis justifying the deprivation of Ms. Sayed’s liberty after her acquittal.

98. Noting all the above, the Working Group concludes that the arrests and detentions of Ms. Sayed lack a legal basis and are thus arbitrary under category I.

#### *Category II*

99. The source alleges that Ms. Sayed was detained as a result of her peaceful exercise of the rights to freedom of opinion and expression, to freedom of assembly, to freedom of association, and to take part in the conduct of public affairs.

100. The Working Group takes note of the source’s submission that Ms. Sayed has been accused of terrorism and spreading false news and that she was first arrested on 31 October 2013, after she participated in the 7am Movement protest against the military coup d’état of 2013. Her second arrest occurred only four days after she had made a statement denouncing the way the State was handling the COVID-19 pandemic, which prompted calls for her arrest. Ms. Sayed’s third arrest followed her comments made as an activist about her health conditions and the medical negligence that she had been subjected to during her second detention.

101. The Government has explained that Ms. Sayed was arrested for joining a terrorist group while knowing its purposes; intentionally broadcasting false news, statements and rumours that would disturb public security, spreading terror among people and harming the public interest; and using the international information network for the purpose of committing a terrorist crime contrary to the counter-terrorism law of Egypt. The Government has not refuted the source’s allegations in relation to Ms. Sayed’s first arrest or the allegation that, following her second arrest, she was interrogated about whether she had participated in the 2011 revolution.

102. The Working Group recalls that freedom of opinion and expression and of peaceful assembly are fundamental rights enshrined in articles 19 and 20 of the Universal Declaration

<sup>17</sup> Opinions No. 13/2020, para. 51; No. 31/2020, para. 43; No. 32/2020, para. 36; No. 33/2020, paras. 58 and 73; and No. 34/2020, para. 49.

<sup>18</sup> Human Rights Committee, general comment No. 35 (2014), paras. 32 and 33.

<sup>19</sup> Opinions No. 14/2015, para. 28; No. 5/2020, para. 72; No. 6/2020, para. 47; No. 41/2020, para. 60; and No. 53/2022, para. 64. See also Human Rights Committee, general comment No. 35 (2014), para. 32; and [A/HRC/45/16/Add.1](#), para. 35.

of Human Rights and articles 19 and 21 of the Covenant.<sup>20</sup> The right to freedom of expression and opinion includes political discourse, commentary on public affairs, discussion of human rights, and journalism. It protects the holding and expression of opinions, including those that are critical of, or not in line with, government policy. The Working Group also takes note of the charges relating to false news against Ms. Sayed and 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 on restrictions on freedom of expression and should be abolished.<sup>21</sup>

103. Furthermore, the right to take part in the government of one's country is enshrined in article 21 of the Universal Declaration of Human Rights and article 25 of the Covenant. The Working Group notes that Ms. Sayed was arrested for the second time after criticizing the Government's handling of the COVID-19 pandemic, which concerns matters of public interest.

104. The Government has not provided any explanation of which activities of Ms. Sayed could justify the charges that have been brought against her. There is nothing to suggest, and the Government has not argued, that the permissible restrictions on the above rights set out in articles 19 (3), 21 and 25 of the Covenant apply in the present case. The Working Group is not convinced that arresting, detaining and prosecuting Ms. Sayed were necessary to protect a legitimate interest under those provisions.

105. The Working Group concludes that Ms. Sayed's detention resulted from the peaceful exercise of her rights to freedom of opinion and expression, to freedom of peaceful assembly and to take part in the conduct of public affairs, in violation of articles 19, 20 and 21 of the Universal Declaration of Human Rights and articles 19, 21 and 25 of the Covenant. Her detention is thus arbitrary under category II.

### *Category III*

106. Given its finding that Ms. Sayed's detention is arbitrary under category II, the Working Group emphasizes that no trial should take place in the future.

107. According to the source, Ms. Sayed was never tried following her second and third arrests, but was kept in detention pending further investigation. The source argues that Ms. Sayed was subjected to lengthy periods of pretrial detention, without the prospect of a trial, contrary to article 14 (3) of the Covenant and principle 38 of the Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment.

108. In its response, the Government explains that the decisions to keep Ms. Sayed in pretrial detention were based on objective considerations determined by the public prosecution according to its discretionary authority, including the fear of jeopardizing the investigation. According to the Government, the procedures governing Ms. Sayed's pretrial detention fully conform with the conditions stipulated in the Criminal Procedure Code.

109. Article 14 (3) (c) of the Covenant states that every individual facing criminal charges has the right to be tried without undue delay. This provision complements article 9 (3), which requires an individual to be tried within a reasonable time frame. The Working Group has previously held that articles 9 (3) and 14 (3) (c) of the Covenant guarantee the right to be tried without undue delay or otherwise released, and that pretrial detention must remain exceptional.<sup>22</sup>

110. The Government has offered no justification for the delay in trying Ms. Sayed, who has been in pretrial detention for almost a year.

111. In these circumstances, the Working Group considers that the delay in bringing Ms. Sayed to trial violates articles 9 (3) and 14 (3) (c) of the Covenant.

<sup>20</sup> *Kang v. Republic of Korea* (CCPR/C/78/D/878/1999), para. 7.2.

<sup>21</sup> Joint Declaration on Freedom of Expression and "Fake News", Disinformation and Propaganda, para. 2 (a). See also opinions No. 46/2020, para. 54; and No. 77/2020, para. 73.

<sup>22</sup> Opinions No. 71/2018, para. 39; and No. 78/2018, para. 76.

112. The source further contends that Ms. Sayed was given access to legal counsel during her interrogation but was never able to speak to her lawyer privately. Allegedly, Ms. Sayed and her lawyer were never presented with the evidence related to the accusations against her and were denied a copy of the case files and access to information about the investigations. The Government did not address these allegations in its reply but merely stated that Ms. Sayed was interrogated in the presence of her lawyer.

113. Article 14 (3) (b) of the Covenant guarantees the right to adequate time and facilities for the preparation of one's defence and to communicate with counsel of one's choosing. Principle 9 and guideline 8 of 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 provide that 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 apprehension, and must be promptly informed of this right upon apprehension; and access to legal counsel should not be unlawfully or unreasonably restricted.<sup>23</sup>

114. The Working Group notes its finding that Ms. Sayed was subjected to enforced disappearance for eight days following her second arrest and four days following her third, thereby depriving her of access to counsel immediately after her arrest. The Working Group also notes the source's uncontested allegation that Ms. Sayed was held incommunicado for 50 days following her second arrest, without being able to contact her lawyer.

115. Given the above, the Working Group considers that the authorities violated Ms. Sayed's right to have adequate time and facilities for the preparation of her defence and to communicate with counsel of her own choosing, in violation of article 14 (3) (b) of the Covenant. The Working Group notes that such a violation undermines and compromises Ms. Sayed's capacity to defend herself in any subsequent judicial proceedings.

116. The source also alleges that Ms. Sayed was subjected to torture, including beatings and electrocution, having her hands tied behind her back, her eyes covered and being made to sit on the floor while an officer used a taser to scare her and threatened to rape her and arrest her family members. Furthermore, following the decision to release her on 18 December 2020, she was allegedly subjected to psychological torture to coerce her into recording a video in which she would deny statements about the deterioration in her health and the conditions of detention.

117. In its reply, the Government described domestic procedures and noted that the public prosecutor had ordered an examination of Ms. Sayed, which concluded that she had not been subjected to any harm. However, it did not provide specific information related to the allegations of torture and ill-treatment made by the source.

118. Noting the generic nature of the Government's response, the Working Group is inclined to accept the source's submission in this regard. The Working Group recalls that torture and ill-treatment are not only grave violations of human rights, but they seriously undermine the ability of individuals to defend themselves and hinder their exercise of the right to a fair trial, especially in the light of the right not to be compelled to testify against oneself or to confess guilt under article 14 (3) (g) of the Covenant.<sup>24</sup>

119. Given the above, the Working Group concludes that the authorities violated Ms. Sayed's right to a fair trial under article 10 of the Universal Declaration of Human Rights and article 14 of the Covenant. Such violations are of such gravity as to render her detentions arbitrary under category III. The Working Group refers the present case to the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment.

#### *Category V*

120. In the discussion above concerning category II, the Working Group established that Ms. Sayed's detention had resulted from the peaceful exercise of her rights under

<sup>23</sup> A/HRC/30/37, annex, paras. 12–15 and 67–71.

<sup>24</sup> Opinions No. 22/2019, para. 78; No. 26/2019, para. 104; and No. 56/2019, para. 88.

international law. When a detention results from the active exercise of civil and political rights, there is a strong presumption that the detention also constitutes a violation of international law on the grounds of discrimination based on political or other views.<sup>25</sup>

121. In the present case, the Working Group notes the source's un rebutted allegations that, following her first arrest, Ms. Sayed was interrogated about whether she had participated in the 2011 revolution. The Government has not provided information demonstrating how any of Ms. Sayed's actions may have constituted criminal activity.

122. The Working Group thus finds that Ms. Sayed was deprived of liberty on discriminatory grounds, that is owing to her status as a human rights defender, and on the basis of her political or other opinion in seeking to hold the authorities to account. Her deprivations of liberty thus violated articles 2 and 7 of the Universal Declaration of Human Rights and articles 2 (1) and 26 of the Covenant, and are arbitrary under category V.

123. The Working Group refers the present case to the Special Rapporteur on the situation of human rights defenders.

### **Concluding remarks**

124. The Working Group expresses grave concern about the allegations regarding the well-being and conditions of detention of Ms. Sayed. It is especially disturbed about the source's un rebutted allegation regarding the treatment and conditions of detention of Ms. Sayed following her first arrest, when she was still a minor. Although the Government has alleged that Ms. Sayed has received medical care and is in good health, the Working Group feels obliged to remind the Government that article 10 of the Covenant requires that all persons deprived of their liberty be treated with humanity and with respect for their inherent dignity and that denial of medical care constitutes a violation of the Nelson Mandela Rules, in particular rules 24, 25, 27 and 30 thereof, as well as principle 19 of the Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment. International standards also require that non-custodial measures be prioritized for women.<sup>26</sup>

125. The Working Group notes that the present opinion is one of many opinions in recent years in which it found the Government to be in violation of its international human rights obligations.<sup>27</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.

### **Disposition**

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

The deprivation of liberty of Aya Kamal Aldin Hussein Sayed, being in contravention of articles 2, 3, 6, 7, 8, 9, 10, 19, 20 and 21 of the Universal Declaration of Human Rights and articles 2, 9, 14, 16, 19, 21, 25 and 26 of the International Covenant on Civil and Political Rights, is arbitrary and falls within categories I, II, III and V.

127. The Working Group requests the Government of Egypt to take the steps necessary to remedy the situation of Ms. Sayed without delay and bring it into conformity with the relevant

<sup>25</sup> Opinions No. 88/2017, para. 43; No. 13/2018, para. 34; and No. 59/2019, para. 79.

<sup>26</sup> United Nations Rules for the Treatment of Women Prisoners and Non-custodial Measures for Women Offenders (the Bangkok Rules), sect. III. See also [A/HRC/48/55](#), annex, paras. 7–9; and opinion No. 40/2021, para. 82.

<sup>27</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, No. 80/2020, No. 45/2021, No. 79/2021, 83/2021, No. 23/2022, No. 34/2022, No. 53/2022 and No. 60/2022.



international norms, including those set out in the Universal Declaration of Human Rights and the International Covenant on Civil and Political Rights.

128. The Working Group considers that, taking into account all the circumstances of the case, the appropriate remedy would be to release Ms. Sayed immediately and accord her an enforceable right to compensation and other reparations, in accordance with international law.

129. The Working Group urges the Government to ensure a full and independent investigation of the circumstances surrounding the arbitrary deprivation of liberty of Ms. Sayed and to take appropriate measures against those responsible for the violation of her rights.

130. In accordance with paragraph 33 (a) of its methods of work, 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 situation of human rights defenders, for appropriate action.

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

#### **Follow-up procedure**

132. 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. Sayed has been released and, if so, on what date;
- (b) Whether compensation or other reparations have been made to Ms. Sayed;
- (c) Whether an investigation has been conducted into the violation of Ms. Sayed's 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.

133. 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.

134. 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.

135. 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>28</sup>

*[Adopted on 5 April 2023]*

<sup>28</sup> Human Rights Council resolution 51/8, paras. 6 and 9.