

**Mandates of the Working Group on Arbitrary Detention; the Special Rapporteur on extrajudicial, summary or arbitrary executions; the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression; the Special Rapporteur on the rights to freedom of peaceful assembly and of association; the Special Rapporteur on the situation of human rights defenders; the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism; and the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment**

REFERENCE:  
UA EGY 11/2019

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Excellency,

We have the honour to address you in our capacity as Working Group on Arbitrary Detention; Special Rapporteur on extrajudicial, summary or arbitrary executions; Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression; Special Rapporteur on the rights to freedom of peaceful assembly and of association; Special Rapporteur on the situation of human rights defenders; Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism; and Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, pursuant to Human Rights Council resolutions 33/30, 35/15, 34/18, 41/12, 34/5, 40/16 and 34/19.

In this connection, we would like to bring to the attention of your Excellency's Government information we have received concerning the trial, sentencing, imprisonment and provisional release of blogger and human rights defender Mr. Alaa Abdel Fattah, as well as the recent arrest of and charges against him, his lawyer Mr. Mohamed El-Baquer and human rights defender Ms. Abdel Fattah, and the physical and verbal abuse against them while in detention. The alleged violations of Mr. El-Baquer's rights appear to be linked to his engagement with the UN in the field of human rights.

Mr. **Alaa Abdel Fattah** is a prominent blogger, human rights defender and the co-founder of a popular blog aggregator, Manalaa, which promotes free speech and human rights. As a member of the "No to Military Trials for Civilians" movement, he has denounced human rights violations allegedly committed by the Egyptian security forces and military and the use of military trials for civilians. He has been arrested and detained several times for his involvement in peaceful protests.

Mr. Abdel Fattah has been the subject of three communications sent by Special Procedures mandate holders (EGY 13/2011 sent on 22 December 2011, EGY 16/2013 sent on 3 December 2013 and EGY 17/2013 sent on 6 December 2013). We thank your Excellency's Government for its responses dated 27 December 2013, 30 December 2013 and 21 January 2014, but we remain concerned given the new allegations detailed below.

On 19 April 2016, the Working Group on Arbitrary Detention found the detention of Mr. Abdel Fattah to be arbitrary and recommended that the Egyptian Government immediately release him and provide him with adequate reparation (A/HRC/WGAD/2016).

Mr. **Mohamed El-Baqer** is a human rights lawyer and the director of the **Adalah Center for Rights and Freedoms**, an organisation providing legal support for political prisoners, and promoting civil and political rights in Egypt.

Ms. **Esraa Abdel Fattah** is a woman human rights defender and a journalist. She worked as a coordinator at the **Egyptian Democratic Academy** (EDA), a youth organisation promoting the values of democracy, human rights and political participation. She is known for actively promoting workers' rights and democracy. She has recently publicly called for the release of all prisoners detained during the September protests.

Ms. Esraa Abdel Fattah was the subject of a joint communication sent by Special Procedures mandate holders on 12 June 2015 (case no. EGY 10/2015). We acknowledge receipt of the response from your Excellency's Government to this communication dated 18 August 2015, however we regret that it does not provide detailed answers that are specific to the questions raised therein and remain concerned in light of the new allegations detailed below.

According to the new information received:

On 20 and 21 September 2019, a number of peaceful protests took place in cities across Egypt, including in Cairo, Alexandria, Al-Mahalla, Giza, Damietta, Mansoura and Suez. Protesters called for President Abdel Fattah al-Sisi to step down and also demonstrated against government corruption and austerity measures, which have reportedly and disproportionately affected persons on lower incomes and the most vulnerable of society.

In response to the demonstrations, security forces allegedly rounded up and arrested many of the protesters and used excessive force against them, including the use of tear gas, rubber bullets and live ammunition, resulting in injuries.

Reportedly, during, after and since the protests to the present, authorities have arrested at least 3,000 people, including protesters and bystanders, journalists, academics, lawyers and prominent human rights defenders. A number of the arrests allegedly took place after security forces stopped and searched citizens and journalists in the street and on public transportation, specifically checking for photos and videos of the protests on mobile phones.

The majority of those detained have appeared before the Public Prosecutor, including reportedly 70 minors, on various charges, including “joining an illegal organisation”, “aiding a terrorist group in achieving its goals”, “demonstrating without a permit”, the “spread of false news”, and the “misuse of social media”. Allegedly, many of those detained have been denied legal representation when appearing before the Public Prosecutor.

*Mr. Abdel Fattah and Mr. El-Baqer*

On 23 February 2015, after a year-long trial, the Cairo Criminal Court sentenced Mr. Abdel Fattah to five years’ imprisonment, five years of police surveillance following his release and a fine of 100,000 EGP for “organizing a protest without a permit”, “organizing an illegal assembly that endangers public security”, “blocking roads”, “assembling illegally”, and “attacking and injuring a public servant”, in relation to a peaceful protest held on 26 November 2013 in front of the Shura Council in Cairo. On 8 November 2017, following an appeal lodged by Mr. Abdel Fattah’s legal defense, the Court of Cassation upheld the ruling of the Cairo Criminal Court. On 28 March 2019, Mr. Abdel Fattah was released under probation, after serving his prison sentence in full. Following his conditional release, Mr. Abdel Fattah had been reporting to the Dokki police station, spending twelve hours every night (between 6pm and 6am) in a probation cell.

On 25 September 2019, the newspaper Al-Dustour published an article accusing several political parties and human rights organizations, including the Adalah Center for Rights and Freedoms directed by Mr. El-Baqer, of using foreign funding for the purpose of destabilizing the state, and called for “decisive action” to be taken against them.

On 29 September 2019, Mr. Abdel Fattah reportedly did not leave the police station at the usual time. It was revealed later in the afternoon that he had been arrested and taken to the State Security Prosecution. On the same day, his lawyer, Mr. El-Baqer, was arrested at the State Security Prosecution while he was attending an interrogation of Mr. Abdel Fattah. They were both accused of “belonging to a terrorist group”, “funding a terrorist group”, “spreading false news undermining national security” and “using social media to commit publishing offenses” in the Criminal Case 1356 of 2019.

The Prosecutor reportedly questioned Mr. El-Baqer about his work at the Adalah Center for Rights and Freedoms and his engagement with the United Nations in the context of the Universal Periodic Review (UPR) of Egypt, scheduled for November 2019. The organisation has submitted several reports for consideration during the upcoming UPR. Mr. El-Baqer was questioned in particular about the report on human rights violations against the Nubian people.

The Prosecutor placed Mr. Abdel Fattah and Mr. El-Baqer in preventive detention for 15 days pending investigation. Their place of detention remained unknown until 1 October 2019, when their families were informed that they had been transferred to Tora Maximum Security Prison 2 the day before.

Mr. Abdel Fattah was reportedly blindfolded on the way to prison. He was physically and verbally assaulted by the prison authorities, forced to strip down to his underwear and walk down a prison corridor while being hit on his back and neck. He was later asked about his health by an individual identifying himself as a doctor. He reportedly told the individual that he had previously suffered from renal stones and thus needed clean drinking water. Afterwards, the physical assault continued and Mr. Abdel Fattah was taken to an officer who reportedly told him that he would be taught a “lesson” and that he would never get out of prison.

Mr. El-Baqer was also blindfolded on the way to prison and subjected to similar physical and verbal abuse when entering the facility. All his belongings, including items of personal hygiene, were seized. Mr. El-Baqer was denied access to basic hygiene for 9 days following his arrest. As a result, he is suffering from a skin infection. His request for a consultation with the prison doctor has reportedly been rejected.

The lawyers of Mr. Abdel Fattah and Mr. El-Baqer have not been allowed to visit them in prison or to examine the secret file gathered by the National Security Agency, used as evidence against them.

On 8 October 2019, Mr. El Baqer’s family was permitted to visit him in prison for 10 minutes.

On 9 October 2019, the Prosecutor renewed the preventive detention of Mr. Abdel Fattah and Mr. El-Baqer for an additional 15 days. Prior to being transferred to State Security Prosecution, Mr. Abdel Fattah was reportedly threatened by the head of Tora Prison’s investigations with further physical abuse if he spoke about the prison conditions and the treatment he had been subjected to.

On 10 October, Mr. Abdel Fattah was allowed to see his family. During the visit, Mr. Abdel Fattah and his family were separated by a glass barrier.

On the same day, Mr. El Baqer was allowed to meet with his lawyer in prison. The visit lasted for 10 minutes and took place in the presence of prison authorities.

Mr. Abdel Fattah is reportedly regularly insulted and threatened by prison authorities in his cell.

Mr. El-Baqer has reportedly been denied access to clean drinking water and a shower. He is kept in his cell during recreation time and is given food that falls far below the quality of meals served to other prisoners. He has been forced to sleep on the floor as a result of which he has suffered from severe back pain. Prison authorities have refused to provide him with medical assistance.

*Ms. Esraa Abdel Fattah*

On the evening of 12 October 2019, Ms. Abdel Fattah was driving her car when two unidentified vehicles started chasing her. She was forcibly stopped in the middle of the road, taken out of her car and put into one of the unidentified vehicles by security agents in plain clothes. She was detained in an unknown location for 24 hours, during which she was reportedly blindfolded, handcuffed and severely beaten. She was forced to stand facing a wall for seven hours. She was physically assaulted and threatened with electric shocks as she refused to give up the password to her phone. She was later taken to another unknown building where her jacket was used to stifle and hung her in order to force her to unlock her phone. The security agents then unlocked Ms. Abdel Fattah's phone using her fingers, and searched through her contacts. She was denied medical assistance.

Ms. Abdel Fattah's whereabouts remained unknown until the next day, when she was taken to the Supreme Public Prosecution. The Prosecutor ordered her preventive detention for 15 days. She has been charged with "collaborating with a terrorist organisation to achieve its goals", "defamation and the spread of false news" and "misuse of social media" in the Criminal Case 488 of 2019.

On the same day, Ms. Abdel Fattah started a hunger strike. After her legal counsel requested a forensic examination of the injuries sustained during her detention Ms. Abdel Fattah was threatened with further abuses by security agents if she spoke about the treatment she had been subjected to.

On 14 October 2019, Ms. Abdel Fattah was transferred from a local police station in Cairo to Al-Qanateer women's prison.

We wish to express serious concern at the conviction and imprisonment of Mr. Abdel Fattah, following a trial that seemingly failed to respect due process guarantees. Concern is also expressed at the recent arrest, continued detention and charges brought against Mr. Abdel Fattah, Mr. El-Baqer and Ms. Abdel Fattah, which appear to be directly linked to their peaceful human rights activities. We raise specific concern that the alleged human rights violations against Mr. El-Baqer may represent acts

of intimidation and reprisals against the Adalah Center for Rights and Freedoms following their cooperation with United Nations on human rights, in particular in connection to their various contributions to Egypt's UPR.

We are also deeply concerned at the allegations received indicating that torture and/or cruel, inhuman or degrading treatment may have occurred during the detention of the three human rights defenders. We further wish to express our concerns over the alleged obstacles put in place preventing the human rights defenders from having sufficient meetings with their legal representation in order to mount their legal defence.

We express concern about the excessive use of force against peaceful protesters and the recent wave of arrests, including of minors, which appear to be an attempt to suppress the exercise of the right to freedom of assembly and freedom of expression. We further reiterate our serious concerns over the overall worrisome climate for civil society organisations, human rights defenders and journalists in Egypt, given the use of counter-terrorism legislation to target those expressing dissent and seeking to promote and protect human rights.

While we do not wish to prejudge the accuracy of these allegations, we would like to draw the attention of your Excellency's Government to the relevant international norms and standards that are applicable to the issues brought forth by the situation described above.

Without expressing at this stage an opinion on the facts of the case and on whether the detention of Mr. Abdel Fattah, Mr. El-Baqer and Ms. Abdel Fattah was arbitrary or not, we would like to appeal to your Excellency's Government to take all necessary measures to guarantee their right not to be deprived arbitrarily of their liberty and to fair proceedings before an independent and impartial tribunal, in accordance with articles 9 and 14 of the International Covenant on Civil and Political Rights (ICCPR), ratified by Egypt on 14 January 1982. Further, the right to have access to a lawyer is also enshrined in the Basic Principles on the Role of Lawyers as well as the Basic Principles and Guidelines on Remedies and Procedures on the Right of Anyone Deprived of His or Her Liberty by Arrest or Detention to Bring Proceedings Before Court (Principle 9 and Guideline 8).

We would like to remind your Excellency's Government of the absolute prohibition of torture and other cruel, inhuman or degrading treatment or punishment as codified in articles 2 and 16 of the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (CAT), which Egypt ratified on 25 June 1986. Moreover, Article 7 of the International Covenant on Civil and Political Rights, to which Egypt is a party, provides that "[n]o one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment." Concerning allegations received as relevant to the conditions of detention in which the human rights defenders have been held, we would

like to refer your Excellency's Government to the United Nations Standard Minimum Rules for the Treatment of Prisoners, also known as the Nelson Mandela Rules, adopted in General Assembly resolution 70/175. In particular, we would like to recall rule 42, which refers to general living conditions in detention as laid out in the resolution and their application to all prisoners without exception.

We would also like to refer to articles 19 and 21 of the ICCPR, which guarantee the right to freedom of opinion and expression and the right to peaceful assembly, respectively. In particular, we wish to remind your Excellency's Government that any restrictions to the exercise of these rights must be provided by law and be necessary and proportionate to the aim pursued. In this regard, we would like to bring to your Excellency's Government's attention the Human Rights Committee a norm, to be characterized as a "law", must be formulated with sufficient precision to enable an individual to regulate his or her conduct accordingly and it must be made accessible to the public. A law may not confer unfettered discretion for the restriction of freedom of expression on those charged with its execution, CCPR/C/GC/34 para. 25. Likewise, in his report to the General Assembly on impact of counter-terrorism measures on civil society, the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism urged States to ensure that their counter-terrorism legislation is sufficiently precise to comply with the principle of legality, so as to prevent the possibility that it may be used to target civil society on political or other unjustified grounds, see A/70/371, para 46(c)).

As indicated by the Human Rights Committee, attacks against individuals because of the exercise of their freedom of opinion or expression, including through arbitrary arrests, torture, threats to life and killing, are incompatible with the Covenant CCPR/C/GC/34 para 23.

We would also like to call the attention of your Excellency's Government to the joint report of the Special Rapporteur on the rights to freedom of peaceful assembly and of association and the Special Rapporteur on extrajudicial, summary or arbitrary executions on the proper management of assemblies, which states that those who take part in assemblies have a number of protected rights, including the rights to: freedom of peaceful assembly, expression, association and belief; participation in the conduct of public affairs; bodily integrity, which includes the rights to security, to be free from cruel, inhuman or degrading treatment or punishment, and to life; dignity; privacy; and an effective remedy for all human rights violations. Even if participants in an assembly are not peaceful and as a result forfeit their right to peaceful assembly, they retain all the other rights, subject to the normal limitations. No assembly should thus be considered unprotected (A/HRC/31/66, paras. 8 & 9).

In addition, we refer to the report of the Special Rapporteur on the rights to freedom of peaceful assembly and of association A/HRC/20/27, which states that "States

should facilitate and protect peaceful assemblies, including through negotiation and mediation. Wherever possible, law enforcement authorities should not resort to force during peaceful assemblies and ensure that, “where force is absolutely necessary, no one is subject to excessive or indiscriminate use of force” (para. 89).

We would also like to draw the attention of your Excellency's Government to Principle 4 of the UN Basic Principles on the Use of Force and Firearms by Law Officials, which provides that, “Law enforcement officials, in carrying out their duty, shall, as far as possible, apply non-violent means before resorting to the use of force and firearms”, and the Code of Conduct for Law Enforcement Officials, ensuring protesters right to peaceful assembly and without resorting to excessive use of force.

We would further like to refer to Human Rights Council resolution 22/6, which urges States to ensure that measures to combat terrorism and preserve national security are in compliance with their obligations under international law and do not hinder the work and safety of individuals, groups and organs of society engaged in promoting and defending human rights.

We would like to bring to the attention of the Government paragraph 78 of A/HRC/37/52 “When a State deploys counter-terrorism laws as functional emergency powers, it remains under an absolute obligation to protect non-derogable rights (such as freedom from torture). Moreover, derogable rights that are intrinsically essential to the enforcement of non-derogable rights must be maintained (such as State obligations to ensure effective investigations through the protection of due process). Procedural rights that enable contestation, debate and review of emergency powers are critical to the protection of human rights, the protection of civic space and to sustaining tolerance, openness and human dignity in situations of emergency”. We express concern about national counter-terrorism legislation that increasingly includes provisions that restrict rights that are key to civil society and would like to bring to the attention of the Government the 2018 report to the Human Rights Council A/HRC/40/52, in particular paragraphs 36, as well as, paragraphs 75 (a) to (i). In particular, we refer to resolution 7/36 by the Human Rights Council stressing the need to ensure that invocation of national security, including counter-terrorism, is not used unjustifiably or arbitrarily to restrict the right to freedom of opinion and expression.

We would also like to refer your Excellency's Government to the fundamental principles set forth in 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, also known as the UN Declaration on Human Rights Defenders. In particular, we would like to refer to articles 1, 2, 5 (a), 6, 9, paragraph 3 (c), and 12, paragraphs 2 and 3 of the Declaration.

“[Regarding allegations indicating that the violations could be an act of intimidation and reprisals against those who cooperate with the UN in the field of human rights,] we would like to refer to Human Rights Council resolutions 12/2, 24/24, 36/21, and 42/28 reaffirming the right of everyone, individually or in association with other, to unhindered access to and communication with international bodies, in particular the United Nations, its representatives and mechanisms in the field of human rights. In these resolutions, the Human Rights Council urges States to refrain from all acts of intimidation or reprisals, to take all appropriate measures to prevent the occurrence of such acts. This includes the adoption and implementation of specific legislation and policies [as well as the issuance of appropriate guidance to national authorities] in order to promote a safe and enabling environment for engagement with the United Nations on human rights, and to effectively protect those who cooperate with the United Nations. The Council also urges States to ensure accountability for reprisals by providing access to remedies for victims, and preventing any recurrence. It calls on States to combat impunity by conducting prompt, impartial and independent investigations, pursuing accountability, and publicly condemning all such acts.

The full texts of the human rights instruments and standards recalled above are available on [www.ohchr.org](http://www.ohchr.org) or can be provided upon request.

In view of the urgency of the matter, we would appreciate a response on the initial steps taken by your Excellency’s Government to safeguard the rights of the above-mentioned persons in compliance with international instruments.

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

1. Please provide any additional information and any comment you may have on the above-mentioned allegations.
2. Please provide information as to the legal and factual basis for the arrests and detention of Mr. Abdel Fattah, Mr. El-Baqer and Ms. Abdel Fattah, and for the charges brought against them. Please provide information on how these measures are compatible with international human rights norms and standards.
3. Please provide information as to the status of any investigations opened against the above-mentioned individuals.
4. Please provide the details, and where available the results, of any investigation, and judicial or other inquiries carried out in relation to reported allegations of physical and verbal abuse against the three human

rights defenders, and the threats made against Mr. Abdel Fattah and Ms. Abdel Fattah. If no inquiries have taken place, or if they have been inconclusive, please explain why.

5. Please provide detailed information as to the physical and mental integrity of Mr. Abdel Fattah, Mr. El-Baqer and Ms. Abdel Fattah, and what efforts have been made to ensure their effective access to all necessary medical assistance while in detention.
6. Please provide information as to why Mr. Abdel Fattah, Mr. El-Baqer and Ms. Abdel Fattah have been prevented from engaging in sufficient contact with their legal representatives and families, and explain how this is in line with international human rights standards, including article 10 of the Universal Declaration of Human Rights.
7. Please provide detailed information on what steps have been taken to ensure that fair trial guarantees have been afforded to Mr. Abdel Fattah, Mr. El-Baqer and Ms. Abdel Fattah in line with international human rights standards.
8. Please provide information on what steps have been taken to ensure that defamatory statements made in the media against human rights defenders and civil society organisations are remedied immediately.
9. Please provide information on the measures in place to ensure that human rights defenders and civil society organisations are able to cooperate with UN, its representatives and mechanisms in the field of human rights, including by disseminating information on all human rights and fundamental freedoms, without fear of intimidation or reprisal of any sort.
10. In connection with the above, please provide information as to the reasons of the reported questioning of Mr. El-Baqer about his work at the Adalah Center for Rights and Freedoms, and his engagement with the United Nations in the context of the UPR of Egypt.
11. Please provide detailed information as to the specific measures that have been put in place to ensure human rights defenders, including human rights lawyers, in Egypt can carry out their legitimate work in a safe and enabling environment without fear of judicial harassment of any kind.
12. Please provide information in details of how your Excellency's Government's counter-terrorism efforts comply with the United Nations Security Council resolutions [1373 \(2001\)](#), [1456\(2003\)](#), [1566 \(2004\)](#), [1624](#)

[\(2005\)](#), [2178 \(2014\)](#), [2341 \(2017\)](#), [2354 \(2017\)](#), [2368 \(2017\)](#), [2370 \(2017\)](#), [2395 \(2017\)](#) and [2396 \(2017\)](#); as well as Human Rights Council resolution [35/34](#) and General Assembly resolutions [49/60](#), [51/210](#), [72/123](#) and [72/180](#), in particular with international human rights law, refugee law, and humanitarian law.

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

This communication and any response received from your Excellency's Government will be made public via the communications reporting website within 60 days. They will also subsequently be made available in the usual report to be presented to the Human Rights Council.

In light of the allegations of possible acts of reprisals for cooperation with the United Nations in the field of human rights, we reserve the right to share this communication – and any response received from Your Excellency's Government - with other UN bodies or representatives addressing intimidation and reprisals for cooperation with the UN in the field of human rights, in particular the senior United Nations official designated by the Secretary General to lead the efforts within the United Nations system to address this issue.

We would like to inform your Excellency's Government that after having transmitted an urgent appeal to the Government, the Working Group on Arbitrary Detention may transmit the case through its regular procedure in order to render an opinion on whether the deprivation of liberty was arbitrary or not. Such urgent appeals in no way prejudice any opinion the Working Group may render. The Government is required to respond separately for the urgent appeal procedure and the regular procedure.

We intend to publicly express our concerns in the near future as, in our view, the information upon which the press release will be based is sufficiently reliable to indicate a matter warranting immediate attention. We also believe that the wider public should be alerted to the potential implications of the above-mentioned allegations. The press release will indicate that we have been in contact with your Excellency's Government's to clarify the issue/s in question.

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

Leigh Toomey  
Vice-Chair of the Working Group on Arbitrary Detention

Agnes Callamard  
Special Rapporteur on extrajudicial, summary or arbitrary executions

David Kaye  
Special Rapporteur on the promotion and protection of the right to freedom of opinion  
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Special Rapporteur on the rights to freedom of peaceful assembly and of association

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