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Human Rights Council Working Group on Arbitrary Detention

Opinions adopted by the Working Group on Arbitrary Detention at its eighty-ninth session, 23–27 November 2020

Opinion No. 63/2020 concerning Nour Al-Dien Abd Allah Ali Abdallah (Egypt)

1. The Working Group on Arbitrary Detention was established in resolution 1991/42 of the Commission on Human Rights. In its resolution 1997/50, the Commission extended and clarified the mandate of the Working Group. Pursuant to General Assembly resolution 60/251 and Human Rights Council decision 1/102, the Council assumed the mandate of the Commission. The Council most recently extended the mandate of the Working Group for a three-year period in its resolution 42/22.
2. In accordance with its methods of work (A/HRC/36/38), on 17 July 2020 the Working Group transmitted to the Government of Egypt a communication concerning Nour Al-Dien Abd Allah Ali Abdallah. The Government has not replied to the communication. The State is a party to the International Covenant on Civil and Political Rights.
3. The Working Group regards deprivation of liberty as arbitrary in the following cases:
 - (a) When it is clearly impossible to invoke any legal basis justifying the deprivation of liberty (as when a person is kept in detention after the completion of his or her sentence or despite an amnesty law applicable to him or her) (category I);
 - (b) When the deprivation of liberty results from the exercise of the rights or freedoms guaranteed by articles 7, 13, 14, 18, 19, 20 and 21 of the Universal Declaration of Human Rights and, insofar as States parties are concerned, by articles 12, 18, 19, 21, 22, 25, 26 and 27 of the Covenant (category II);
 - (c) When the total or partial non-observance of the international norms relating to the right to a fair trial, established in the Universal Declaration of Human Rights and in the relevant international instruments accepted by the States concerned, is of such gravity as to give the deprivation of liberty an arbitrary character (category III);
 - (d) When asylum seekers, immigrants or refugees are subjected to prolonged administrative custody without the possibility of administrative or judicial review or remedy (category IV);
 - (e) When the deprivation of liberty constitutes a violation of international law on the grounds of discrimination based on birth, national, ethnic or social origin, language, religion, economic condition, political or other opinion, gender, sexual orientation, disability, or any other status, that aims towards or can result in ignoring the equality of human beings (category V).



Submissions

Communication from the source

4. Nour Al-Dien Abd Allah Ali Abdallah is an Egyptian national, born in 1995. His usual place of residence is in Giza Governorate, Egypt. Mr. Abdallah is a graduate student.

a. Arrest and detention

5. The source reports that, on 8 July 2018, at 3 a.m., Mr. Abdallah was arrested without an official warrant by a national security officer at Cairo International Airport when he was travelling to Portugal. Mr. Abdallah contacted a family member at 3.30 a.m. On 9 July 2018, his family learned informally that he had been detained at the National Security Agency bureau at Terminal 2 of Cairo International Airport.

6. According to the source, Mr. Abdallah was detained at the national security premises in Sheikh El-Zayed City in Giza Governorate from 9 to 31 July 2018, and subjected to enforced disappearance. The source alleges that the national security forces tortured Mr. Abdallah and threatened to arrest two of his relatives in order to force him to confess to a crime that he did not commit.

7. On 31 July 2018, Mr. Abdallah was brought before the State Security Prosecutor in the Fifth Settlement in the context of an investigation and for the first interrogation.

8. On 1 August 2018, the official page of the Ministry of Interior on a social media platform published a video in which some men were confessing to a crime. The source states that Mr. Abdallah was one of them, and that he appeared to confess that he had surveilled the house of the Mufti of the Republic in order to assassinate him. According to the source, this video was filmed during Mr. Abdallah's enforced disappearance, in the period in which he was tortured.

9. Following the appearance of Mr. Abdallah before the State Security Prosecutor, his lawyer learned of his whereabouts, and attended the investigation with Mr. Abdallah before the prosecutor in the Fifth Settlement. Mr. Abdallah was charged with joining an illegal group and attempting to assassinate the Mufti of the Republic.

10. The source states that although none of the charges were proven, the State Security Prosecutor continues to renew Mr. Abdallah's detention, pending investigations in case No. 1188/2018. Since 31 July 2018, Mr. Abdallah has been imprisoned in Tora Prison High-Security, also known as Al-Aqrab Prison. The source alleges that Mr. Abdallah's lawyer has never been allowed to visit him in the prison, but sees him only at the State Security Prosecution office.

11. According to the source, Mr. Abdallah suffers from wounds and burns on his hands, feet and nose because of the acts of torture committed against him. Mr. Abdallah's lawyer informed the prosecutor that Mr. Abdallah had been tortured and that the national security officers had forced him to confess under torture to crimes that he had not committed. However, the lawyer's plea and complaints were reportedly ignored by the prosecution.

12. On 9 July 2018, Mr. Abdallah's family contacted the Attorney General and the Minister of Interior about his arrest. They did not receive any response.

b. Legal analysis

13. The source submits that several rights have been violated in Mr. Abdallah's case. In particular, the source argues that Mr. Abdallah's rights to trial before an independent and impartial court, to be assisted by a lawyer, and to be brought promptly before a judge, have been violated.

14. Firstly, the source claims that the right to be tried by a competent, independent and impartial tribunal has been violated. The source recalls that the Human Rights Committee has raised concerns regarding the nature of military or special courts, stating that "quite often the reason for the establishment of such courts is to enable exceptional procedures to be applied which do not comply with normal standards of justice" (see the Committee's general comment No. 13 (1984), para. 4).

15. According to the source, the State security courts are active during the state of emergency, and their jurisdiction covers a wide array of cases – including crimes linked to State security and terrorism, crimes stipulated in the demonstration law and in the counter-terrorism law, crimes related to the law on arms, ammunition and explosives, and threats to national unity and public order. The source notes that the judgments of these courts are final and irrevocable. The judgments are submitted to the President for ratification, who possesses the power to commute or annul the sentence, but the penalty may not be increased. If the President wishes to amend the punishment, he can order a retrial before another court.

16. The State security courts violate the essence of a fair trial and the right of the accused to appeal against the decision at first instance. In addition, these courts are in breach of the requirement of independence and impartiality of the judiciary, as the President of the State is entitled to appoint the members of the court after consulting the Minister of Defence or the Minister of Justice.

17. Secondly, the source recalls that everyone arrested or detained has the right to be assisted by legal counsel. In the present case, although Mr. Abdallah had his lawyer with him during questioning, he did not have time to consult the lawyer confidentially. The source submits that this constitutes a violation of Mr. Abdallah's right to have a lawyer present during pretrial questioning, and consequently, the procedure should have been declared a nullity by the court.

18. Moreover, the source recalls the provisions of article 9 (3) and (4) of the Covenant enshrining the right to be promptly brought before a judge and the right to challenge the lawfulness of detention. The source reiterates that on 8 July 2018, at 3 a.m., Mr. Abdallah was effectively abducted from Cairo International Airport by a national security officer. Mr. Abdallah was then taken to an unknown place without an arrest warrant and without being referred to the public prosecution for 23 days. Mr. Abdallah was detained at the national security premises in Sheikh El-Zayed City in Giza Governorate since his arrest, until he was questioned before the prosecution on 31 July 2018. At that point, the national security officers tortured Mr. Abdallah and threatened to arrest members of his family in order to force him to confess to a crime that he did not commit.

19. In view of the time lapse between the arrest and the appearance before the public prosecution, the source considers that Mr. Abdallah was subjected to enforced disappearance and that his right to be brought promptly before a judge was therefore violated.

20. The source further claims that Mr. Abdallah's right to be presumed innocent was violated. On 1 August 2018, a video was published on the official page of the Ministry of Interior social media platform, in which Mr. Abdallah appeared to be confessing to a crime. The source submits that filming a confession constitutes a flagrant violation of the rights of Mr. Abdallah, as he was presented as a criminal and was described as a terrorist before a final judgment being issued against him. Moreover, the publication of videos of the accused violates the guarantee of a fair trial in terms of forcing defendants to record confessions by video.

21. Finally, the source notes that Mr. Abdallah's family has never been allowed to visit him and neither has his lawyer, except during questioning at the office of the State Security Prosecutor.

Response from the Government

22. On 17 July 2020, the Working Group transmitted the source's allegations to the Government under its regular communication procedure, requesting the Government to provide detailed information by 15 September 2020 about the situation of Mr. Abdallah. The Working Group also requested the Government to clarify the legal provisions justifying his detention, as well as its compatibility with the obligations of Egypt under international human rights law. Moreover, the Working Group called upon the Government to ensure the physical and mental integrity of Mr. Abdallah.

23. On 11 September 2020, the Government requested an extension of the deadline to submit its response. In conformity with paragraph 16 of its methods of work, the Working Group granted an extension of one month for the Government to submit its response by 15

October 2020. The Working Group regrets that it did not receive any further response from the Government.

24. The Working Group notes with concern that the Government has not availed itself of the opportunity to respond to the allegations made in the present case.¹ The Working Group urges the Government to continue to engage constructively with it on all allegations relating to the arbitrary deprivation of liberty.

Discussion

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

26. In determining whether Mr. Abdallah's detention was arbitrary, the Working Group has regard to the principles established in its jurisprudence to deal with evidentiary issues. If the source has presented a *prima facie* case for breach of international requirements constituting arbitrary detention, the burden of proof should be understood to rest upon the Government if it wishes to refute the allegations (A/HRC/19/57, para. 68). In the present case, the Government has chosen not to challenge the *prima facie* credible allegations made by the source.

Category I

27. The source alleges that Mr. Abdallah was arrested on 8 July 2018 without an arrest warrant by a national security officer at Cairo International Airport when he was travelling to Portugal. He was subsequently detained overnight at the National Security Agency bureau at Terminal 2 of the airport. The Government has not responded to these allegations.

28. According to article 9 (1) of the Covenant, no one is to be deprived of liberty except on such grounds and in accordance with such procedure as are established by law. In the present case, the Working Group considers that the source has provided credible information, which was not rebutted by the Government, that Mr. Abdallah was arrested without an arrest warrant being presented to him. Given that Mr. Abdallah was charged with joining an illegal group and attempting to assassinate the Mufti of the Republic, there were clearly no circumstances in the present case that would give reasonable cause for an arrest in *flagrante delicto*,² and might have obviated the need for an arrest warrant.

29. It is not sufficient that there is a law which authorizes an arrest. The authorities must invoke that legal basis and apply it through an arrest warrant.³ In the present case, the national security officer did not present an arrest warrant at the time of arrest, in violation of article 9 (1) of the Covenant.⁴

30. Furthermore, the source alleges that Mr. Abdallah was not brought promptly before a judge, nor was he afforded the right to challenge the legality of his detention. According to the source, on 8 July 2018 Mr. Abdallah was abducted from Cairo International Airport by a national security officer and was then detained at the national security premises in Giza Governorate until he was questioned before the prosecution on 31 July 2018.

31. According to article 9 (3) of the Covenant, anyone arrested or detained on a criminal charge is to be brought promptly before a judge. As the Human Rights Committee has stated, 48 hours is ordinarily sufficient to satisfy the requirement of bringing a detainee "promptly" before a judge following his or her arrest, and any longer delay must remain absolutely

¹ The Working Group takes note that in relation to some opinions adopted under its regular procedure prior to the current session, the Government has not responded, or not responded in a timely manner. See, for example, opinions Nos. 14/2020, 6/2020, 77/2019, 65/2019, 42/2019, 41/2019, 29/2019, 21/2019, 87/2018, 82/2018, 63/2018, 47/2018, 78/2017, 60/2016, 54/2016, 42/2016 and 41/2016. However, the Government submitted a response in relation to opinions Nos. 28/2018, 27/2018, 26/2018, 83/2017, 30/2017, 7/2016 and 6/2016.

² Opinion No. 9/2018, para. 38.

³ Opinions Nos. 46/2019, para. 51; 46/2018, para. 48; 36/2018, para. 40; and 10/2018, para. 45.

⁴ Opinions Nos. 14/2020, para. 49; 6/2020, para. 39; 77/2019, para. 38; 65/2019, para. 59; and 42/2019, para. 46.

exceptional and be justified under the circumstances.⁵ In the present case, the Government did not meet this requirement, and did not provide any justification for the delay. In addition, Mr. Abdallah was brought before the State Security Prosecutor, who cannot be considered a judicial authority for the purposes of article 9 (3) of the Covenant.⁶

32. Similarly, Mr. Abdallah was not afforded the right to take proceedings before a court so that it might decide without delay on the lawfulness of his detention in accordance with article 9 (4) of the Covenant. The right to challenge the lawfulness of detention before a court is a self-standing human right, the absence of which constitutes a human rights violation.⁷ Judicial oversight of deprivation of liberty is a fundamental safeguard of personal liberty and is essential in ensuring that detention has a legal basis.⁸ Moreover, access to legal counsel from the outset of detention is an essential safeguard in ensuring that the detainee can challenge the legal basis for his or her detention under articles 9 (3) and (4) of the Covenant.⁹ Given that Mr. Abdallah was not able to challenge his detention, his right to an effective remedy under article 8 of the Universal Declaration of Human Rights and article 2 (3) of the Covenant was also violated.

33. According to the source, Mr. Abdallah was subjected to enforced disappearance for 23 days, from 9 to 31 July 2018, while being detained at the national security premises in Sheikh El-Zayed City in Giza Governorate.¹⁰ The disappearance lasted until Mr. Abdallah was brought before the State Security Prosecutor on 31 July 2018. In the absence of any response from the Government, the Working Group finds that the source has presented credible information that Mr. Abdallah was abducted from Cairo International Airport and subsequently disappeared. That is, he was deprived of his liberty against his will by government officials who refused to disclose his fate and whereabouts.¹¹ Enforced disappearance contravenes articles 9 and 14 of the Covenant, and constitutes a particularly aggravated form of arbitrary detention.¹² Mr. Abdallah 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.¹³ The Working Group will refer the present case to the Working Group on Enforced or Involuntary Disappearances.

34. Finally, the source states that the State Security Prosecutor continues to renew Mr. Abdallah's detention pending investigation of his case. As the Working Group has previously noted with grave concern, the near-automatic extension of pretrial detention by prosecutors for prolonged periods of time is a common practice¹⁴ and is not based on an individualized determination or periodic judicial reviews. According to article 9 (3) of the Covenant, pretrial detention should be the exception and not the rule, and should be ordered for as short a time as possible.¹⁵ Detention pending trial must be based on an individualized determination that it is reasonable and necessary, for such purposes as to prevent flight, interference with evidence or the recurrence of crime.¹⁶ In the absence of any information from the Government to suggest that there has been an individualized judicial review of Mr. Abdallah's situation

⁵ General comment No. 35 (2014), para. 33.

⁶ *Ibid.*, para. 32; opinions Nos. 41/2020, para. 60; 6/2020, para. 47; 5/2020, para. 72; and 14/2015, para. 28; and A/HRC/45/16/Add.1, para. 35.

⁷ A/HRC/30/37, para. 2.

⁸ *Ibid.*, para. 3.

⁹ Opinion No. 40/2020, para. 29; 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, principle 9 and guideline 8; and A/HRC/45/16, paras. 50–55.

¹⁰ While Mr. Abdallah's family learned informally of his detention at Cairo International Airport, they were not informed of his subsequent detention at the national security premises.

¹¹ A/HRC/16/48/Add.3, para. 21.

¹² Human Rights Committee, general comment No. 35 (2014), para. 17. See also opinions Nos. 41/2020, para. 61; 11/2020, para. 41; 6/2020, para. 43; and 5/2020, para. 74.

¹³ Opinions Nos. 5/2020, para. 87; and 59/2019, para. 64.

¹⁴ See, for example, opinions Nos. 6/2020, para. 47; 65/2019, para. 69; 41/2019, para. 33; 87/2018, para. 69; 82/2018, para. 45; and 63/2018, para. 30. See also A/HRC/43/16, paras. 31.4, 31.11, 31.88, 31.146 and 31.201.

¹⁵ A/HRC/19/57, paras. 48–58.

¹⁶ Human Rights Committee, general comment No. 35 (2014), para. 38. See also opinions Nos. 16/2020, para. 62; and 15/2020, para. 57.

or consideration of alternatives to detention, the Working Group considers that his pretrial detention was not properly constituted or reviewed in accordance with article 9 (3) of the Covenant and has no legal basis.

35. For these reasons, the Working Group concludes that the detention of Mr. Abdallah has no legal basis. His detention is arbitrary under category I.

Category III

36. The source states that following the appearance of Mr. Abdallah before the State Security Prosecution, Mr. Abdallah's lawyer learned of his whereabouts and attended the investigation with him before the prosecutor in the Fifth Settlement. The source further states that although Mr. Abdallah had the assistance of legal counsel during his questioning, he did not have time to consult confidentially with the lawyer and that this constitutes a violation of Mr. Abdallah's right to legal representation. Moreover, Mr. Abdallah's lawyer has never been allowed to visit him while he has been detained in prison, but sees him only at the State Security Prosecution office during questioning. The Government did not provide any response to rebut the credible allegations presented by the source.

37. The Working Group recalls that all persons deprived of their liberty have the right to legal assistance by the counsel of their choice at any time during their detention, including immediately after their apprehension, and such access must be provided without delay.¹⁷ It appears from the information provided by the source that Mr. Abdallah did not have his lawyer present at his initial appearance before the prosecution, nor did he have sufficient time to consult confidentially with his lawyer prior to subsequent appearances before the prosecution. Mr. Abdallah is only permitted to meet with his lawyer on prosecution premises, which cannot be considered as a confidential meeting space. As a result, the Working Group considers that the failure to provide Mr. Abdallah with access to his lawyer from the outset, and the subsequent limitation of time and confidential space for him to meet his lawyer, violated his right to adequate time and facilities for the preparation of his defence and to communicate with a lawyer of his choice under article 14 (3) (b) of the Covenant. Legal consultations may be within sight but not within hearing of the authorities, and all communications with counsel must remain confidential.¹⁸

38. Furthermore, the source alleges that on 1 August 2018, a video was published on the official social media page of the Ministry of Interior in which some men, including Mr. Abdallah, appeared to be confessing to a crime. According to the source, Mr. Abdallah appeared to confess that he had surveilled the house of the Mufti of the Republic in order to assassinate him. The source alleges that the video was filmed during Mr. Abdallah's enforced disappearance and in the period in which he was tortured. The source submits that Mr. Abdallah was presented in this video as a criminal and was described as a terrorist before a final judgment being issued against him. The Government has not addressed these allegations.

39. As the Human Rights Committee has stated, it is the duty of public authorities to refrain from prejudging the outcome of a trial, for example by abstaining from making public statements affirming the guilt of the accused.¹⁹ In the present case, the Working Group considers that the authorities have breached this obligation. The publication of a video on a government social media page, which appears to show Mr. Abdallah confessing prior to his trial, is highly prejudicial to his ability to receive a fair trial and, in effect, prejudices the outcome of the proceedings against him. Given that the source alleges that Mr. Abdallah had

¹⁷ 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, principle 9 and guideline 8; Human Rights Committee, general comment No. 35 (2014), para. 35; and A/HRC/45/16, para. 51.

¹⁸ United Nations Standard Minimum Rules for the Treatment of Prisoners (the Nelson Mandela Rules), rule 61 (1); Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment, principle 18; and 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, guideline 8.

¹⁹ General comment No. 32 (2007), para. 30. See also opinions Nos. 45/2019, para. 68; and 30/2017, para. 69.

been disappeared and was tortured at the time that the video was made, the Working Group is not convinced that such a confession recorded on a video was given voluntarily. In these circumstances, Mr. Abdallah's right to the presumption of innocence under article 11 (1) of the Universal Declaration of Human Rights and article 14 (2) of the Covenant was violated.

40. In addition, the source alleges that Mr. Abdallah was subjected to torture while he was detained at the national security premises in Sheikh El-Zayed City in Giza Governorate from 9 to 31 July 2018. The source further alleges that the national security forces also threatened to arrest two of Mr. Abdallah's relatives in order to force him to confess. According to the source, Mr. Abdallah suffers from wounds and burns on his hands, feet and nose because of the torture. His lawyer informed the prosecutor that Mr. Abdallah had been tortured and that the national security officers had forced him to confess under torture, but the complaints were reportedly ignored by the prosecution.

41. The Working Group considers that the source has presented a credible *prima facie* case, which was not addressed by the Government, that Mr. Abdallah was subjected to torture and coerced to confess.²⁰ His treatment appears to violate article 5 of the Universal Declaration of Human Rights, article 7 of the Covenant, and articles 2 and 16 of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, to which Egypt is a State party. The Working Group refers the present case to the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment.

42. Moreover, according to the source, Mr. Abdallah's confession was made during his enforced disappearance and while he had no contact with his lawyer. Confessions made in the absence of legal representation are not admissible as evidence in criminal proceedings.²¹ The burden is on the Government to prove that Mr. Abdallah's confession was given freely,²² but it has not done so. As a result, the authorities violated Mr. Abdallah's right to be presumed innocent and not to be compelled to confess guilt under article 14 (2) and (3) (g) of the Covenant. Furthermore, the failure by the prosecutor to order an investigation and to inform the court when Mr. Abdallah's lawyer raised complaints in relation to the torture amounts to a serious violation of guideline 16 of the Guidelines on the Role of Prosecutors²³ and of articles 12, 13 and 14 of the Convention against Torture.

43. Finally, the source claims that the State security courts, which are trying Mr. Abdallah, do not meet international standards, as they are not independent from the executive branch and their decisions are not subject to appeal before a higher court. The Working Group considers that the State security courts do not meet the international standard for a competent, independent and impartial tribunal, as their members are appointed by the President upon recommendation from the defence and justice ministers. Moreover, court judgments are submitted to the President for ratification, and the President reportedly has the power to commute or annul the sentence, or to order a retrial before another court. These arrangements clearly violate articles 10 and 11 (1) of the Universal Declaration of Human Rights and article 14 (1) of the Covenant.²⁴ The inability to appeal decisions of the State security courts also amounts to a violation of the right to review of a conviction and sentence by a higher tribunal guaranteed under article 14 (5) of the Covenant. The Working Group refers the present case to the Special Rapporteur on the independence of judges and lawyers.

44. The Working Group concludes that these violations of the right to a fair trial are of such gravity as to give Mr. Abdallah's detention an arbitrary character under category III.

²⁰ A/HRC/43/16, paras. 31.69–31.71, 31.73–31.75, 31.82–31.86, 31.125 and 31.185, on torture in places of detention.

²¹ Opinions Nos. 41/2020, para. 70; 15/2020, para. 76; 5/2020, para. 83; 73/2019, para. 91; 59/2019, para. 70; 14/2019, para. 71; and 1/2014, para. 22; E/CN.4/2003/68, para. 26 (e); and A/HRC/45/16, para. 53.

²² Human Rights Committee, general comment No. 32 (2007), para. 41; and opinions Nos. 41/2020, para. 70; 15/2020, para. 76; and 5/2020, para. 83.

²³ Guideline 16 requires prosecutors who know or believe on reasonable grounds that evidence was obtained through torture or ill-treatment to refuse to use such evidence against anyone other than those who used such methods, or to inform the court accordingly. See opinion No. 47/2017, para. 29.

²⁴ Opinions Nos. 6/2020, para. 58; 63/2018, para. 39; and 28/2018, para. 92.

Concluding remarks

45. The source reports that Mr. Abdallah's family has not been allowed to visit him during his detention. The Working Group considers that restrictions placed on Mr. Abdallah's contact with his family violate the right to have contact with the outside world under rules 43 (3) and 58 of the United Nations Standard Minimum Rules for the Treatment of Prisoners (the Nelson Mandela Rules) and principles 15, 16 (1) and 19 of the Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment.²⁵

46. The present case is one of many cases brought before the Working Group in recent years concerning arbitrary detention in Egypt.²⁶ These cases follow a familiar pattern of failure to follow arrest procedures, enforced disappearance, forced confession, denial of access to legal counsel, failure to afford a fair hearing by an independent and impartial tribunal, and denial of access to the outside world. This pattern indicates a systemic problem with arbitrary detention in Egypt which, if it continues, may amount to a serious violation of international law.²⁷

47. The Working Group would welcome the opportunity to work constructively with the Government to address its concerns relating to arbitrary detention. The Working Group has previously made requests to the Government to undertake a country visit, and will continue to seek a positive response.

Disposition

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

The deprivation of liberty of Nour Al-Dien Abd Allah Ali Abdallah, being in contravention of articles 3, 6, 8, 9, 10 and 11 (1) of the Universal Declaration of Human Rights and articles 2 (3), 9, 14 and 16 of the International Covenant on Civil and Political Rights, is arbitrary and falls within categories I and III.

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

50. The Working Group considers that, taking into account all the circumstances of the case, the appropriate remedy would be to release Mr. Abdallah immediately, and accord him an enforceable right to compensation and other reparations, in accordance with international law.²⁸ In the current context of the global coronavirus disease (COVID-19) pandemic and the threat that it poses in places of detention, the Working Group calls upon the Government to take urgent action to ensure the immediate release of Mr. Abdallah.

51. The Working Group urges the Government to ensure a full and independent investigation of the circumstances surrounding the arbitrary detention of Mr. Abdallah, including his allegations of torture, and to take appropriate measures against those responsible for the violation of his rights.

52. In accordance with paragraph 33 (a) of its methods of work, the Working Group refers the present case to (a) the Working Group on Enforced or Involuntary Disappearances, (b) the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, and (c) the Special Rapporteur on the independence of judges and lawyers, for appropriate action.

²⁵ See Working Group on Arbitrary Detention, deliberation No. 11 (A/HRC/45/16, annex II), paras. 20–21, in which the Working Group noted that the pandemic could not be used as a justification to deny contact with the outside world.

²⁶ See, for example, opinions Nos. 14/2020, 6/2020, 77/2019, 65/2019, 42/2019, 41/2019, 29/2019, 21/2019, 87/2018, 82/2018, 63/2018, 47/2018, 28/2018, 27/2018, 26/2018, 83/2017, 78/2017 and 30/2017.

²⁷ Opinion No. 47/2012, para. 22.

²⁸ See Working Group on Arbitrary Detention, deliberation No. 10 (A/HRC/45/16, annex I) (identifying comprehensive reparations to which victims of arbitrary deprivation of liberty are entitled).

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

Follow-up procedure

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

55. 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.

56. 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.

57. 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.²⁹

[Adopted on 23 November 2020]

²⁹ Human Rights Council resolution 42/22, paras. 3 and 7.