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Human Rights Council
Working Group on Arbitrary Detention**Opinions adopted by the Working Group on Arbitrary Detention at its ninety-second session, 15–19 November 2021****Opinion No. 45/2021 concerning Mohamed Hassan Mohamed Salaheldin el-Baker, Mahinour Mohamed Abdel-Salam Mohamed el-Masry, Amr Mohamed Adel Imam Mohamed Mostafa, Hoda Abdel Moneam Abdel Aziz Hassan (Egypt)**

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

2. In accordance with its methods of work,¹ on 5 February 2021 the Working Group transmitted to the Government of Egypt a communication concerning Mohamed Hassan Mohamed Salaheldin el-Baker, Mahinour Mohamed Abdel-Salam Mohamed el-Masry, Amr Mohamed Adel Imam Mohamed Mostafa and Hoda Abdel Moneam Abdel Aziz Hassan. 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,

¹ [A/HRC/36/38](#).

religion, economic condition, political or other opinion, gender, sexual orientation, disability, or any other status, that aims towards or can result in ignoring the equality of human beings (category V).

Submissions

Communication from the source

4. Mohamed Hassan Mohamed Salaheldin el-Baker is an Egyptian citizen, born in 1980, who used to live in Cairo. Mr. El-Baker is a human rights lawyer, and the founder and executive director of Adalah Centre for Rights and Freedoms, which provides legal aid to political detainees and prisoners of conscience, while promoting civil and political rights.

5. According to the information received, on 29 September 2019, while he was at the Supreme State Security Prosecution in the Fifth Settlement in Cairo, representing one of his clients – an activist and human rights defender – at an investigation hearing, Mr. El-Baker was arrested, without being shown an arrest warrant.

6. Reportedly, while handcuffed and in the absence of his lawyer, Mr. El-Baker was interrogated about his engagement with the universal periodic review mechanism. Later, Mr. El-Baker was accused, under the same case as his client, No. 1356/2019, over allegedly unfounded charges of publishing false news, belonging to a terrorist group, and receiving funds to carry out the goals of that group. He was ordered to be held in pretrial detention for 15 days, pending investigations. Mr. El-Baker was then taken to an unknown location, and reportedly subjected to enforced disappearance for 24 hours.

7. On 30 September 2019, Mr. El-Baker's lawyer went to the premises of the Supreme State Security Prosecution to inquire about his fate and whereabouts. He was not able to get any information. At 5 p.m., the lawyer went to the Fifth Settlement Police Station for the same purpose. He was then told by the police that Mr. El-Baker had indeed been previously detained at that station and had been transferred out early that morning.

8. On 1 October 2019, Mr. El-Baker's family went to the prisons authority to inquire about his whereabouts. They were informed that, on 30 September 2019, Mr. El-Baker had been taken to Tora Maximum Security Prison. His family was also told that visits were prohibited in the first 10 days of detention, and that even after that, Mr. El-Baker would receive visits only if permitted by the security authorities.

9. On 2 October 2019, El-Baker's family went to the Tora Prison to confirm that he was actually detained there. They had to wait for four hours, but in the end, they were only permitted to leave him some money. On 8 October 2019, Mr. El-Baker's family was finally allowed to visit him in prison for the first time. The visit lasted for 10 minutes under strict surveillance from the guards.

10. On 9 October 2019, when Mr. El-Baker was brought before the prosecution for the renewal of his pretrial detention, he mentioned that during his transfer to the prison, on 30 September 2019, he had been blindfolded and made to walk in a bent position while being subjected to insults, beating and humiliation. He had been deprived of all his belongings, including items of personal hygiene, and dressed up in prison uniform, while blindfolded, in a degrading manner.

11. On 10 October 2019, Mr. El-Baker's lawyer visited him in prison, only for 10 minutes and under surveillance, which prevented the lawyer from asking further details on the violations to which Mr. El-Baker had been subjected.

12. Allegedly, Mr. El-Baker has been detained in poor condition. He was put into a dim cell, with no ventilation or access to clean water. Mr. El-Baker was also prevented from doing exercise. Furthermore, owing to his chronic kidney problems, which were further exacerbated by a lack of access to clean water, Mr. El-Baker asked to be examined by the prison doctor. The request was denied.

13. From the date of his arrest, Mr. El-Baker's pretrial detention was renewed every 15 days until 18 February 2020, when the Criminal Court of Cairo ordered his release, pending investigations. However, the Supreme State Security Prosecution appealed the release order. The appeal was accepted on 20 February 2020, resulting in the renewal of Mr. El-Baker's

pretrial detention for an additional 45 days, without any justification. Since then, Mr. El-Baker's pretrial detention has been renewed every 45 days.

14. Starting on 10 March 2020, with the restrictions set by the Egyptian authorities under the pretext of the coronavirus disease (COVID-19) pandemic, in addition to prohibiting visits, Mr. El-Baker was not allowed to attend his hearings before the prosecution. On 20 June 2020, Mr. El-Baker's lawyer attended the hearing on his client's behalf, to request Mr. El-Baker's release owing to the illegality of the renewal of his detention. The lawyer cited the violation of article 142 of the Criminal Procedures Law, which stipulates that the statement of the accused must be heard when reviewing the renewal of his detention order.

15. In addition, since 10 March 2020, Mr. El-Baker's family has found it difficult to contact him, even in writing, or to deliver medications and personal hygiene supplies to him.

16. Since the resumption of visits on 22 August 2020, Mr. El-Baker has been allowed to have family visits once a month, by one family member and for 10 minutes only. Mr. El-Baker has also been prevented from being visited by his lawyer, who is only allowed to attend Mr. El-Baker's hearings.

17. On 31 August 2020, Mr. El-Baker was brought before the Supreme State Security Prosecution for interrogation, only to learn that a new case, No. 855/2020, had been filed against him, in which he was accused of joining a terrorist organization and participating in a criminal agreement with the intention of committing a terrorist crime. In its investigations, the Supreme State Security Prosecution alleged that, during visits and exercise hours, Mr. El-Baker had communicated with members of a terrorist group in order to recruit new people and work on serving the goals of the group, which were aimed at disrupting the security of the country.

18. Mr. El-Baker defended himself before the prosecution by explaining that his detention conditions, in particular the restrictions on receiving visits since October 2019 and the total suspension of prison's visits in March 2020, had made it impossible to be able to commit such crimes. Mr. El-Baker's lawyer requested his client's release, arguing that the interrogation was invalid because he had not been confronted with evidence of the accusations.

19. The pretrial detention of Mr. El-Baker was then ordered for 15 days, pending investigations under the new case. The source notes that his pretrial detention is still being calculated in relation to the first case, No. 1356/2019, and that the start of the second pretrial detention period will be calculated once the two-year limit on pretrial detention on his first case has been reached, if no trial date is set.

20. Since 31 August 2020, Mr. El-Baker's pretrial detention has been periodically renewed every 45 days, most recently on 22 December 2020, under the first case, No. 1356/2019. He remains detained in Tora Maximum Security Prison.

21. On 23 November 2020, Mr. El-Baker's name was included, along with 27 other political figures and human rights defenders, on the country's terrorism list, through a decision by Cairo Criminal Court. As a result, he is subject to a travel ban of five years, and the freezing of his assets for three years.

22. Mahinour Mohamed Abdel-Salam Mohamed el-Masry is an Egyptian citizen, born in 1986, who used to live in Alexandria. She is a human rights lawyer who works to promote judicial independence and prisoners' rights, by organizing peaceful protests, raising awareness through social media, and organizing support for political prisoners in the form of solidarity events and fundraising to cover bail for prisoners.

23. According to the information received, on 22 September 2019, Ms. El-Masry was representing one of her clients at an investigations hearing before the Supreme State Security Prosecution in the Fifth Settlement in Cairo. She had handed over her mobile phone at the building's gate, because it was prohibited for civilians to keep their mobile phones with them while in the premises. Ms. El-Masry later went out to make a phone call. While she was on the phone, a State Security agent took her mobile phone, and she was then taken into a minibus and transferred to State Security premises.

24. On 23 September 2019, Ms. El-Masry was interrogated by the prosecutor. She was charged, under case No. 488/2019, with cooperating with a terrorist group and publishing false news that endangered the public safety and interest.

25. During the investigation, Ms. El-Masry enquired as to which group she was accused of belonging and what false news she was accused of publishing. The prosecutor refused to answer her questions. In addition, Ms. El-Masry's lawyer asked the prosecution to present the alleged arrest warrant. The prosecutor denied the lawyer's request. The prosecution ordered Ms. El-Masry to be held for 15 days in pretrial detention, pending investigations.

26. Since her first appearance before the prosecution, Ms. El-Masry's pretrial detention was renewed every 15 days, until 29 January 2020, after which her case was transferred to the counselling chamber at the Criminal Court of Cairo, which has the authority to renew the pretrial detention for 45 days. Since then, the pretrial detention has been periodically renewed every 45 days.

27. Following her detention, Ms. El-Masry has been prevented from communicating with other prisoners and was put under strict surveillance. From 10 March to 22 August 2020, she was cut off from the outside world as a result of the suspension of prison visits, due to restrictions related to COVID-19. Although prison visits resumed on 22 August, they were still greatly restricted, as they took place under strict surveillance. Ms. El-Masry has been denied the right to be visited by her lawyer in prison.

28. On 30 August 2020, Ms. El-Masry was brought before the Supreme State Security Prosecution for interrogation, where she learned that a new case, No. 855/2020, had been filed against her, in which she was accused of joining an illegally established organization. She was ordered to be held in pretrial detention under the new case.

29. The pretrial detention on the first case against Ms. El-Masry was later renewed for 45 days, pending investigations. The preventive detention of Ms. El-Masry on the second case will start once she is released from her first case or the two-year limit on pretrial detention is reached, if no trial date is set.

30. Since then, Ms. El-Masry's pretrial detention has been continuously renewed every 45 days, most recently on 19 January 2021. During her last court hearing, Ms. El-Masry informed judges about the situation in Al-Qanater Prison, where she has been detained since her arrest. She pointed out that the prison had been overcrowded recently, which could exacerbate risks related to COVID-19, due to the absence of physical distancing and hygiene precautions.

31. Amr Mohamed Adel Imam Mohamed Mostafa is an Egyptian citizen, born in 1980, who used to live in Cairo. Mr. Imam used to work as a human rights lawyer at the Arabic Network for Human Rights Information, a local Egyptian human rights organization.

32. According to the information received, on 16 October 2019, at 2 a.m., Mr. Imam's house was raided by 12 agents, comprising four policemen in uniforms and eight national security agents in plainclothes. They inspected the house, seized Mr. Imam's mobile phone and personal laptop, and arrested him without showing him a warrant or providing a legal explanation for his arrest. Reportedly, he was then subjected to enforced disappearance for 35 hours by national security agents. On the morning of 16 October 2019, Mr. Imam's family sent official telegrams to the Office of Public Prosecution and the Minister of Interior about his abduction and disappearance; however, they received no response.

33. The source claims that, throughout his enforced disappearance, Mr. Imam was ill-treated. He was handcuffed and blindfolded with a piece of cloth saturated with gasoline, which caused severe pain in his eyes. The ill-treatment was allegedly a means of threatening him. The national security agents further told him that his arrest was due to his work on case No. 1338/2019, and because he announced his intention to go on a hunger strike in solidarity with a famous activist. The activist in question had allegedly been kidnapped by security forces in the street while driving her car, detained and tortured a week earlier, leading her to go on a hunger strike.

34. On 17 October 2019, at 1 p.m., Mr. Imam was brought before the Supreme State Security Prosecution. He was charged, under case No. 488/2019, with joining a terrorist

group, publishing false news and misusing social media. Mr. Imam reportedly informed the prosecution about the ill-treatment to which he was subjected. His statement was not taken into consideration.

35. Since his first period of detention, Mr. Imam's pretrial detention was repeatedly renewed every 15 days, until 10 March 2020, when his case was referred to the counselling chamber at the Criminal Court of Cairo. Since then, his pretrial detention has been periodically renewed every 45 days.

36. The source notes that, since his arrest, Mr. Imam has been detained at Tora Prison in solitary confinement, on the basis of a special request made by the National Security Agency. Although he was allowed to receive family visits, these visits took place under strict surveillance by prison authorities. In addition, from 10 March to 22 August 2020, Mr. Imam was cut off from the outside world, owing to the authorities' suspension of prison visits, citing the COVID-19 pandemic.

37. On 26 August 2020, Mr. Imam was again brought before the Supreme State Security Prosecution, assigned to a new case, No. 855/2020. He was charged with joining a terrorist group and providing financial support and supplies to it, with the aim of committing a terrorist crime. The investigations claimed that Mr. Imam has been in contact with a number of the terrorist group's members from inside prison, carrying out his activities mainly when he goes out for physical exercise or on his way to court hearings. They also claimed that he has been receiving money from them in order to pass it to other members during visits.

38. Since then, Mr. Imam's pretrial detention has been continuously renewed every 45 days, most recently on 27 December 2020. Mr. Imam remains in solitary confinement and his lawyer has only been allowed to visit him once in prison since the start of his detention.

39. Hoda Abdel Moneam Abdel Aziz Hassan is an Egyptian citizen, born in 1959, who used to live in Cairo. Ms. Hassan is a human rights lawyer and a board member of the Egyptian Coordination for Rights and Freedoms, a human rights organization working on monitoring and documenting human rights violations and providing legal aid.

40. According to the information received, on 1 November 2018, at 2 a.m., a number of police and State Security agents, some in plainclothes and others in uniforms, raided Ms. Hassan's house and arrested her, without showing a warrant or providing a legal explanation. They blindfolded her and took her to the house of a family member. The forces inspected the family member's house. They then took Ms. Hassan back to her place of residence, which they inspected for around 2.5 hours, while she was kept blindfolded in a car. Later, she was taken to an unknown location and allegedly subjected to enforced disappearance for 20 days. On 2 November 2018, her family filed complaints to the Office of Public Prosecution and the Minister of Interior; however, they received no response.

41. On 21 November 2018, Ms. Hassan was brought before the Cairo Supreme State Security Prosecution, which charged her with joining a terrorist group and inciting harm to the national economy, under case No. 1552/2018. Ms. Hassan was later transferred to Al-Qanater Prison for women.

42. Ms. Hassan's pretrial detention was continuously renewed every 15 days until 31 October 2020. Since then, the counselling chamber of the Cairo Criminal Court has continued to periodically renew her pretrial detention for periods of 45 days.

43. In Al-Qanater Prison, Ms. Hassan was held in a poorly ventilated, unclean cell, full of insects. In addition, since her arrest, Ms. Hassan has been completely prevented from receiving any family visits.

44. Ms. Hassan's health has been severely deteriorating since her arrest. She has been experiencing kidney failure and high blood pressure. She has also suffered from deep vein thrombosis and a suspected pulmonary embolism, while being denied effective medical care.

45. On 26 January 2020, Ms. Hassan experienced symptoms of a heart attack. As a result, she was moved to the prison's hospital, where the doctor informed her that she was suffering from high blood pressure and a thrombus in her left leg. Although she was in poor health condition, she was transferred back to prison on the same day. This resulted in a severe deterioration of her health. Thereafter, she was transferred to a public hospital again, where

she underwent additional medical examinations. On 27 January 2020, she was transferred to the prison's hospital. After two days, she was examined by a specialist physician who ordered an urgent echocardiogram, which was not carried out. She was later returned to prison.

46. Since then, Ms. Hassan has been kept in detention, while being denied her right to medical care, except for medications that her family periodically provides to the prison administration. On 22 November 2020, owing to a recurrence of severe pain, Ms. Hassan was transferred to the prison's hospital, and examined by a general practitioner in training. Ms. Hassan was informed that her left kidney had stopped working and that her right kidney was not functioning properly. They refused to grant Ms. Hassan and her family access to her medical record or to be informed about the examinations.

47. In December 2020, Ms. Hassan's family submitted a request to the Attorney General to allow Ms. Hassan to undergo a medical examination. However, the family's demand was denied and they were prevented from having access to Ms. Hassan's medical reports. Ms. Hassan has also not been allowed to receive the medication she needs.

48. On 6 December 2020, during a hearing about the renewal of her pretrial detention, Ms. Hassan exhibited evidence of severe physical pain and difficulty of movement. She also informed the judge that the prison's clinic could not offer her appropriate medical care. Nevertheless, her detention was renewed.

49. On 17 January 2021, the counselling chamber of the Cairo Criminal Court held a session to consider the renewal of Ms. Hassan's pretrial detention, despite the fact that her detention on remand had exceeded two years, in alleged violation of the legal limit of two years set out in the Code of Criminal Procedure of Egypt. During the session, after being allowed to speak, Ms. Hassan addressed the judges and lawyers present at the time, stating that she was being subjected to systematic denial of medical care, and that she demanded to be examined by a medical specialist and to be provided adequate medical treatment. Her detention was renewed for another 45 days and her situation remains critical.

Category I

50. The source claims that it is impossible to invoke any legal basis justifying the deprivation of liberty of the four human rights defenders. In this regard, it is alleged that none of them were shown an arrest warrant at the moment of the deprivation of their liberty. Moreover, they were falsely accused, using trumped-up charges, which reportedly are always used against political opponents and human rights defenders in Egypt. The charges were too broad, vague and general; for instance, the Prosecution did not specify to which group the human rights defenders were accused of belonging.

Category II

51. According to the source, the arrest and detention of the four human rights defenders falls under category II, as the deprivation of their liberty results from the exercise of the rights or freedoms guaranteed by article 7 of the Universal Declaration of Human Rights and article 26 of the Covenant. In this regard, the source claims that the arrest of the four human rights defenders underlies discrimination against lawyers and human rights defenders in Egypt.

52. In addition, the source argues that, in the case of Mr. Imam, the deprivation of liberty results from the exercise of the rights or freedoms guaranteed by article 19 of the Universal Declaration of Human Rights and article 19 of the Covenant, as his arrest came immediately after his demonstration of solidarity with another detainee.

Category III

53. The source claims that the deprivation of liberty of Mr. El-Baker, Mr. Imam and Ms. Hassan falls within category III, owing to the total or partial non-observance of the international norms relating to the right to a fair trial, which is alleged to be of such gravity as to give the deprivation of liberty an arbitrary character. Mr. El-Baker attended his first investigation session in the absence of his lawyer, in violation of his right to legal counsel before trial. In addition, he was reportedly subjected to ill-treatment, in violation of his right

to freedom from torture and ill-treatment, and he was kept in poor detention conditions, in violation of the right to humane conditions of detention.

54. Mr. El-Baker reportedly suffers from denial of medical care, in violation of his right to health. Allegedly, this is done deliberately since Mr. El-Baker was not allowed to be examined by a doctor since his detention began, and even when he asked to be examined by a prison doctor, his request was denied.

55. In the case of Mr. Imam, the source claims that he was subjected to enforced disappearance, in violation of his right to liberty and right to have access to the outside world, which are essential rights to the fulfilment of a fair trial. Even if Mr. Imam was disappeared for a short period, the source argues that it still violates the domestic and international laws because it put him out of the protection of law and facilitated his ill-treatment. In addition, Mr. Imam was maltreated in violation of the right to freedom from torture and other ill-treatment.

56. With regard to the case of Ms. Hassan, it is alleged that she was subjected to enforced disappearance, in violation of her right to liberty and the right to have access to the outside world, which are essential rights to the fulfilment of a fair trial.

Category V

57. The source claims that the deprivation of liberty of the four human rights defenders constitutes a violation of international law for reasons of discrimination based on status, and which is aimed towards or can result in ignoring the equality of human rights. In this regard, it is alleged that the arrest and detention constitute discrimination against them because of their work as lawyers and human rights defenders.

58. Finally, the source argues that, while being detained on remand under their old cases, the four human rights defenders found themselves accused under new cases and of new charges, similar to their old ones. Moreover, the accusation against three of the human rights lawyers under the same new case, No. 855/2020, points to the arbitrariness of using fake charges against any perceived form of opposition, based on weak or no evidence. Allegedly, this has become a systematic practice that aims to keeping peaceful political dissidents under indefinite detention.

Response from the Government

59. On 5 February 2021, the Working Group transmitted the allegations from the source to the Government under its regular communications procedure. The Working Group requested the Government to provide, by 6 April 2021, detailed information about the situation of Mr. El-Baker, Ms. El-Masry, Mr. Imam and Ms. Hassan, and to clarify the legal provisions justifying their continued detention, as well as its compatibility with the obligations of Egypt under international human rights law. Moreover, the Working Group called upon the Government of Egypt to ensure their physical and mental integrity.

60. The Working Group regrets that it received no reply from the Government, even though it requested and was granted an extension, in accordance with paragraph 16 of the Working Group's methods of work. 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.

Discussion

61. In determining whether the detention of Mr. El-Baker, Ms. El-Masry, Mr. Imam and Ms. Hassan was 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.² In the present

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² A/HRC/19/57, para. 68.

case, the Government has chosen not to challenge the prima facie credible allegations made by the source.

62. The source claims that the detentions of Mr. El-Baker, Ms. El-Masry, Mr. Imam and Ms. Hassan constitute arbitrary deprivation of their liberty under categories I, II, III and V.

Category I

63. The source maintains that the detention of the four human rights defenders are arbitrary under category I as there was no legal basis for them. There was, according to the source, complete disregard of the prohibition of arbitrary arrest and detention under various provisions of international human rights law.

64. The source claims that, in the circumstances surrounding the arrests of the four individuals, it is impossible to invoke any legal basis justifying their deprivation of liberty. None of them was shown an arrest warrant at the moment of the deprivation of their liberty. Moreover, they were each falsely accused, using trumped-up charges, which reportedly are always used against political opponents and human rights defenders in Egypt. The charges were, according to the source, too broad, vague and general; for instance, the Prosecution did not specify to which group the human rights defenders were accused of belonging.

65. The Working Group notes that Mr. El-Baker was arrested on 29 September 2019, while he was at the Supreme State Security Prosecution in the Fifth Settlement in Cairo, representing one of his clients – an activist and human rights defender – at an investigation hearing. He was not shown an arrest warrant at the time of the arrest. The source further alleged that while handcuffed and in the absence of his lawyer, the Prosecution interrogated Mr. El-Baker about his engagement with the universal periodic review mechanism and later accused him of publishing false news, belonging to a terrorist group and receiving funds to carry out the goals of that group. He was ordered to be held in pretrial detention for 15 days, pending investigations. Mr. El-Baker was then taken to an unknown location, and reportedly subjected to enforced disappearance for 24 hours.

66. As for Ms. El-Masry, the information from the source indicates that on 22 September 2019, she was also representing one of her clients at an investigations hearing before the Supreme State Security Prosecution in the Fifth Settlement in Cairo. When she later went out to make a phone call, a State Security agent took her mobile phone, and she was then taken in a minibus to State Security premises. The following day, on 23 September 2019, she was interrogated by the prosecutor and charged, under case No. 488/2019, with cooperating with a terrorist group and publishing false news that endangered the public safety and interest. The prosecutor refused to answer her questions, as to which group she was accused of belonging and what false news she was accused of publishing. The Prosecution also rejected Ms. El-Masry's lawyer's request to present the alleged arrest warrant. The Prosecution ordered Ms. El-Masry to be held for 15 days in pretrial detention, pending investigations.

67. As regards Mr. Imam, the information from the source indicates that on 16 October 2019, at 2 a.m., Mr. Imam's house was raided by 12 agents, comprising four police officers in uniforms and eight national security agents in plainclothes. His house was searched, and his mobile phone was seized, along with his personal laptop. In addition, he was arrested without being shown an arrest warrant or being provided with a legal explanation for his arrest. The source reports that Mr. Imam was then subjected to enforced disappearance for 35 hours by national security agents. Official telegrams were sent on 16 October 2019 by Mr. Imam's family to the Office of Public Prosecution and the Minister of Interior about his abduction and disappearance; however, they received no response.

68. Mr. Imam was allegedly ill-treated during his enforced disappearance as he was handcuffed and blindfolded with a piece of cloth saturated with gasoline. This was reportedly designed to induce fear in him. The National Security Agents further told him that his abduction was due to his work on case No. 1338/2019, and because he announced his intention to go on a hunger strike in solidarity with a famous activist. The activist in question had allegedly been kidnapped by security forces in the street while driving her car, after having been detained and tortured a week earlier, leading her to go on a hunger strike.

69. On 17 October 2019, Mr. Imam was brought before the Supreme State Security Prosecution and was charged, under case No. 488/2019, with joining a terrorist group, publishing false news and misusing social media. Mr. Imam reportedly informed the prosecution about the ill-treatment to which he was subjected. His statement was not taken into consideration.

70. The circumstances of Ms. Hassan's arrest materially resemble those of Mr. Imam's arrest. The information from the source indicates that on 1 November 2018, at 2 a.m., a number of police and State Security agents, some in plainclothes and others in uniforms, raided Ms. Hassan's house and arrested her without showing an arrest warrant or providing a legal explanation for the arrest. They blindfolded her and took her to the house of a family member. The forces inspected the family member's house. They then took Ms. Hassan back to her place of residence, which they inspected for around 2.5 hours, while she was kept blindfolded in a car. Later, she was taken to an unknown location and allegedly subjected to enforced disappearance for 20 days. On 2 November 2018, her family filed complaints to the Office of the Public Prosecution and the Minister of Interior; however, they received no response.

71. On 21 November 2018, she appeared before the Supreme State Security Prosecution in Cairo, which charged her with joining a terrorist group and inciting harm to the national economy, under case No. 1552/2018. Ms. Hassan was later transferred to Al-Qanater Prison for women.

72. The Working Group has previously stated that in order for a deprivation of liberty to have a legal basis, the authorities must invoke that legal basis and apply it to the circumstances of the case through an arrest warrant. Stated differently, international law on detention includes the right to be presented with an arrest warrant to ensure 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 deprivation, under articles 3 and 9 of the Universal Declaration of Human Rights, articles 9 and 14 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.³ That was not the case with regard to Mr. El-Baker, Ms. El-Masry, Mr. Imam and Ms. Hassan.⁴

73. The information from the source is that all four human rights defenders were subjected to pretrial detention, which was renewed periodically for 15 days. In the case of Mr. El-Baker, the renewal of his detention continued until 18 February 2020, when the Criminal Court of Cairo ordered his release pending investigations. Following an appeal by the Supreme State Security Prosecution against the release order, Mr. El-Baker's pretrial detention was renewed for an additional 45 days, and since then, his pretrial detention has been renewed every 45 days.

74. As for Ms. El-Masry, her pretrial detention was renewed every 15 days, until 29 January 2020, when her case was transferred to the counselling chamber at the Criminal Court of Cairo, which has the authority to renew pretrial detention for 45 days. Since then, it

³ The Working Group has maintained from its early years that the practice of arresting persons without a warrant renders their detention arbitrary. See, for example, decisions No. 1/1993, paras. 6–7; No. 3/1993, paras. 6–7; No. 4/1993, para. 6; No. 5/1993, paras. 6 and 8–9; No. 27/1993, para. 6; No. 30/1993, paras. 14 and 17 (a); No. 36/1993, para. 8; No. 43/1993, para. 6; and No. 44/1993, paras. 6–7. For more recent jurisprudence, see opinions No. 38/2013, para. 23; No. 48/2016, para. 48; No. 21/2017, para. 46; No. 63/2017, para. 66; No. 76/2017, para. 55; No. 83/2017, para. 65; No. 88/2017, para. 27; No. 93/2017, para. 44; No. 3/2018, para. 43; No. 10/2018, para. 46; No. 26/2018, para. 54; No. 30/2018, para. 39; No. 38/2018, para. 63; No. 47/2018, para. 56; No. 51/2018, para. 80; No. 63/2018, para. 27; No. 68/2018, para. 39; No. 82/2018, para. 29; No. 6/2020, para. 40; No. 11/2020, para. 38; No. 13/2020, para. 47; No. 14/2020, para. 50; No. 31/2020, para. 41; No. 32/2020, para. 33; No. 33/2020, para. 54; and No. 34/2020, para. 46.

⁴ See, for example, opinions No. 93/2017, para. 44; No. 10/2018, para. 45–46; No. 36/2018, para. 40; No. 46/2018, para. 48; No. 9/2019, para. 29; No. 32/2019, para. 29; No. 33/2019, para. 48; No. 44/2019, para. 52; No. 45/2019, para. 51; No. 46/2019, para. 51; No. 65/2019, para. 59; No. 71/2019, para. 70; No. 72/2019, para. 40; No. 82/2019, para. 74; No. 6/2020, para. 39; No. 11/2020, para. 37; No. 13/2020, para. 46; No. 14/2020, para. 49; No. 31/2020, para. 40; No. 32/2020, para. 32; No. 33/2020, paras. 53 and 71; and No. 34/2020, para. 44.

has been renewed every 45 days. Likewise, Mr. Imam's pretrial detention was renewed every 15 days, until 10 March 2020, when his case was referred to the counselling chamber at the Criminal Court of Cairo. Since then, his pretrial detention has been renewed every 45 days. Ms. Hassan's pretrial detention was continuously renewed for 15 days until 31 October 2020. Since then, the counselling chamber of the Cairo Criminal Court has renewed her pretrial detention every 45 days.

75. International law concerning the right to personal liberty allows restrictions to this right in appropriate circumstances. The right, however, includes the right to be presented with an arrest warrant, in cases that do not involve arrests made in flagrante delicto, to ensure the objectivity of the arrest process. It is also required that the decision on whether the arrest is warranted be taken by an outside authority – that is, a competent, independent and impartial judiciary. This is procedurally inherent in the right to personal liberty and security and the prohibition of arbitrary deprivation under articles 3 and 9 of the Universal Declaration of Human Rights, article 9 of the Covenant, and principles 2, 4 and 10 of the Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment.

76. The Working Group finds that, in order to invoke a legal basis for deprivation of liberty, the authorities should have informed each of the four individuals of the reasons for their arrest at the time of the arrest and promptly informed them of the charges. Their failure to do so violates article 9 of the Universal Declaration of Human Rights, article 9 of the Covenant, and principle 10 of the Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment. It also renders their arrest devoid of any legal basis.

77. The Working Group has reiterated that according to article 9 (3) of the Covenant, pretrial detention should be the exception rather than the norm, and should be ordered for the shortest time possible. Put differently, liberty is recognized under article 9 (3) of the Covenant as the core consideration, with detention merely as an exception. Detention pending trial must thus 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.

78. The Working Group notes the source's submission that none of the four human rights defenders was brought promptly before a judge during their detention – that is, within 48 hours of their arrest, barring absolutely exceptional circumstances, as per the international standard set out in the Working Group's jurisprudence.

79. 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 affirms that the right to challenge the lawfulness of detention before a court is a self-standing human right essential to the preservation of legality in a democratic society. Its absence constitutes a human rights violation. This right, which is in fact a peremptory norm of international law, applies to all forms and situations of deprivation of liberty. Judicial oversight of the deprivation of liberty is a fundamental safeguard of personal liberty and is essential in ensuring that detention has a legal basis.

80. The Working Group is particularly concerned about the lack of independent judicial oversight over the actions of the detaining authority, and the role of the prosecution in Egypt while ordering the detention, investigation, charging and prosecution of the individuals. In this regard, article 9 of the Covenant requires that detainees be brought promptly before a judge, no later than 48 hours after the arrest, so that there can be independent scrutiny of the actions of the detaining authority and of their legal basis, as well as a decision on the rights and fate of the detainee. However, prosecutors, as officials that take the role of investigating and accusing the defendants, and that are regularly under the hierarchical subordination of the executive branch, cannot be considered as independent judicial authorities under article 9 (3) of the Covenant.⁵ The Government had, but failed to seize, the opportunity to demonstrate that the detentions of these individuals were promptly subjected to independent judicial oversight, as required by international law.

81. The Working Group observes that the four human rights defenders were not afforded the right to be brought before a court so that it could decide without delay on the lawfulness

⁵ Human Rights Committee, general comment No. 35 (2014), paras. 32–33.

of their detention in accordance with articles 3, 8 and 9 of the Universal Declaration of Human Rights, article 9 of the Covenant, and principles 11, 32, 37 and 38 of the Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment. The Working Group finds a violation of these rights and principles.

82. The Working Group has also repeatedly asserted that holding persons at secret, undisclosed locations and in circumstances undisclosed to the person's family violates their right to contest the legality of their detention before a court or tribunal under article 9 (4) of the Covenant. Judicial oversight of any detention is a central safeguard for personal liberty and is critical in ensuring that detention has a legitimate basis. In the circumstances attending incarceration of each of the four human rights defenders, they were for some time unable to challenge their detentions before a court. Consequently, their rights to an effective remedy under article 8 of the Universal Declaration of Human Rights and article 2 (3) of the Covenant were violated.

83. The Working Group notes that the four human rights defenders were, for varying periods, kept at locations unknown to their families and lawyers. The deprivation of liberty that entails a wilful refusal to disclose the fate or whereabouts of the persons concerned or to acknowledge their detention lacks any valid legal basis under any circumstance and amounts to enforced disappearance, which is considered an aggravated form of arbitrary detention.⁶ It also places the person outside the protection of the law, in violation of article 6 of the Universal Declaration of Human Rights and article 16 of the Covenant. The Government's failure to provide notification of the arrest and location of detention to their families also violated principle 16 (1) of the Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment.

84. Consequently the Working Group finds that the Government failed to establish a legal basis for the detention of Mr. El-Baker, Ms. El-Masry, Mr. Imam and Ms. Hassan. Their detention was thus arbitrary under category I.

Category II

85. As regards the detention of the four human rights defenders being arbitrary under category II, the source contends that their detention resulted from the exercise of the rights or freedoms guaranteed by article 7 of the Universal Declaration of Human Rights and article 26 of the Covenant. In this regard, the source claims that the arrest of the four human rights defenders underlies discrimination against lawyers and human rights defenders in Egypt.

86. In addition, the source argues that, in the case of Mr. Iman, the deprivation of liberty resulted from the exercise of the rights or freedoms guaranteed by article 19 of the Universal Declaration of Human Rights and article 19 of the Covenant, as his arrest occurred immediately after he demonstrated his solidarity with another detainee.

87. The Working Group considers that the conduct of the four human rights defenders is protected by the Universal Declaration of Human Rights and the Covenant, both of which recognize that everyone has the right to freedom of opinion and expression. According to the Universal Declaration of Human Rights, this right includes freedom to hold opinions without interference and to seek, receive and impart information and ideas through any media (art. 19), and the right to freedom of peaceful assembly and association (art. 20). Their work as human rights defenders is also protected by 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, which states that 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 and to communicate with non-governmental organizations, and to have effective access in the conduct of public affairs.⁷

⁶ Ibid., para. 17. See also opinion No. 37/2021, para. 64.

⁷ Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms, arts. 1, 5 (a) and (c), 8 (1) and 9 (3), contained General Assembly resolution 53/144, annex. See also General Assembly

88. The Working Group is satisfied, on the basis of the un rebutted information submitted by the source, that the four individuals were detained as a result of their peaceful exercise of the right to freedom of opinion, expression, assembly and association, and the right to take part in the conduct of public affairs, and that their detention was contrary to articles 19 and 21 of the Universal Declaration of Human Rights and articles 19 and 25 of the Covenant. Their detention is arbitrary under category II. The Working Group refers this case to the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, for further consideration of the circumstances of the case and, if necessary, appropriate action.

89. Moreover, the Working Group notes that these four individuals were charged with crimes including publishing false news that endangered the public safety and interest; joining, belonging to or cooperating with a terrorist group; receiving funds to carry out the goals of the terrorist group; misusing social media; and inciting harm to the national economy. In this context, it is worth noting that international human rights law requires that such penal laws are drafted with precision, so that individuals can understand them and adapt their behaviour accordingly. In addition, this guarantees that law enforcement officials, when they are implementing these laws, cannot have uncontrolled, extensive and discretionary interpretation over them.⁸ The Working Group recalls that broad, vague and imprecise laws can present a risk of providing domestic legal coverage to situations that are considered arbitrary detentions under international human rights law.⁹

Category III

90. Given its finding that the deprivation of liberty of Mr. El-Baker, Ms. El-Masry, Mr. Imam and Ms. Hassan is arbitrary under category II, the Working Group wishes to emphasize that no trial against these four human rights defenders and lawyers should take place. Nevertheless, the source has raised serious violations to fair trial and due process rights in the deprivation of liberty of these individuals. The Working Group will address these in turn.

91. The source claims that the deprivation of liberty of three of the four human rights defenders, namely, Mr. El-Baker, Mr. Imam and Ms. Hassan falls within category III as there was total or partial non-observance of the international norms relating to the right to a fair trial, which is alleged to be of such gravity as to give the deprivation of liberty an arbitrary character. More precisely, Mr. El-Baker was questioned in an investigation session in absence of his lawyer, in violation of the right to legal counsel before trial. In addition, he reportedly was subjected to ill-treatment, in violation of his right to freedom from torture and ill-treatment, and was kept in poor detention conditions, in violation of the right to humane conditions of detention.

92. Mr. El-Baker reportedly was suffering from a denial of medical care, in violation of his right to health. Allegedly, this was done deliberately since Mr. El-Baker was not allowed to be examined by a doctor since his detention began. Even when he asked to be examined by a prison doctor, his request was denied.

93. As regards Mr. Imam, the source claims that he was subjected to enforced disappearance, in violation of his right to liberty and right to have access to the outside world, which is essential to the fulfilment of a fair trial. Likewise, it is alleged that Ms. Hassan was subjected to enforced disappearance, in violation of her right to liberty and the right to have access to the outside world, which are essential rights to the fulfilment of a fair trial.

94. The Working Group considers that, on the basis of the facts as submitted by the source, the events leading to the arrest and detention of the four human rights defenders, as well as the detention itself, were characterized by a denial of due process rights. In the case

resolution 70/161, in which the Assembly called upon States to take concrete steps to prevent and put an end to the arbitrary arrest and detention of human rights defenders, and in that regard, strongly urged the release of persons detained or imprisoned, in violation of the obligations and commitments of States under international human rights law, for exercising their human rights and fundamental freedoms.

⁸ Human Rights Committee, general comment No. 35, paras. 22 and 38.

⁹ Opinion No. 82/2020, paras. 50 and 59.

of Mr. El-Baker, this also included a denial of the right to a lawyer. He is said to have been handcuffed and in the absence of his lawyer during interrogation by the Supreme State Security Prosecution. On 30 September 2019, when his lawyer went to the Supreme State Security Prosecution to inquire about his fate and whereabouts, he was not able to get any information. At 5 p.m. on the same day, the lawyer went to the Fifth Settlement Police Station for the same purpose. He was then told by the police that Mr. El-Baker had indeed been previously detained at that police station and had been transferred out in the early morning of that day. On 10 October 2019, Mr. El-Baker's lawyer visited him in prison, only for 10 minutes and under surveillance, which prevented the lawyer from asking for further details about the violations to which Mr. El-Baker had been subjected.

95. The Working Group notes with concern that Mr. Imam informed the Supreme State Security Prosecution, when he was charged, about the ill-treatment to which he had been subjected. Nevertheless, his statement was not taken into consideration.¹⁰ Mr. El-Baker informed the Prosecution, during the renewal of his pretrial detention, that he had been blindfolded and had been made to walk in a bent position while subjected to insults, beating and humiliation. Additionally, the source alleges that the four human rights defenders were kept under very poor conditions in the detention facilities and had restrictions placed on communication with their family members.

96. Principle 15 of the Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment provides that communication of the detained or imprisoned person with the outside world, and in particular his or her family or counsel, is not to be denied for more than a matter of days. In its general comment No. 32 (2007), the Human Rights Committee noted that a detainee has the right to have prompt access to legal counsel, which means that a lawyer is granted the right to have private communication and meetings with the detainee and to attend all activities related to the investigations, including interrogations, without interference or restrictions. A detainee ought to have access to effective counsel. According to principle 2 of the Basic Principles on the Role of Lawyers, this means that it is the duty of the competent authorities to ensure that lawyers are given access to appropriate information, files and documents in their possession or control, in sufficient time to enable lawyers to provide effective legal assistance to their clients. It is also noted that such access should be provided at the earliest appropriate time. The effectiveness of the legal counsel is fundamentally related to the principle of equality of arms, as enshrined in article 11 of the Universal Declaration of Human Rights and article 14 of the Covenant and which draws on the right of detainees to be given the time and facilities necessary to prepare his or her defence with counsel in order to be ready to present that defence at trial.

97. The Working Group stresses that, under international human rights law, all detained and imprisoned individuals have the right to communicate with and be visited by their families. The right to receive visits applies to all detainees, regardless of the offence of which they are suspected or accused. According to principle 19 of the Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment, this right may only be subject to conditions and restrictions as specified by law or lawful regulations.

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

99. Every detainee has the right to the highest attainable standard of physical and mental health. This right extends not only to timely and appropriate health care but also to underlying determinants of health, such as adequate food, water and sanitation. Moreover, sick prisoners

¹⁰ Opinion No. 4/2021, para. 105.

whose health conditions require specialist treatment are to be transferred to specialized institutions or to civil hospitals. The failure to provide access to adequate medical care violates the right to health.

100. Mr. El-Baker had a kidney problem, which deteriorated owing to lack of access to clean water and the refusal by the authorities for him to be examined by a doctor. While in detention, Ms. Hassan also experienced kidney failure, high blood pressure, deep vein thrombosis and suspected pulmonary embolism. Despite this, she was denied effective medical care. In this regard, the Working Group is of the view that a person fighting a difficult health condition and being kept in poor sanitary and living conditions, without the appropriate medical support when needed, is unlikely to be able to also fight criminal charges in conditions that respect the equality of arms against prosecution. It is important that the State guarantee the health and well-being of all persons in its custody, under any form of deprivation of liberty. The Working Group observes, however, that this did not happen, and it occurred precisely at the time when these individuals needed to prepare a criminal defence and face trial and potential conviction for terrorism-related charges.

101. Furthermore, the Working Group notes that these four individuals have been subjected to pretrial detention for prolonged periods, ranging from three to four years, while awaiting trial. According to international human rights law, in particular article 9 (3) of the Covenant, any person detained while awaiting trial is entitled to be tried without undue delay, or otherwise is to be released. In addition, article 14 (3) (c) guarantees that anyone charged with a criminal offence is entitled to the right to be tried without undue delay. In the absence of a response from the Government, the Working Group finds no legitimate grounds for the delays in the trials against these individuals,¹¹ who were not only subject to criminal prosecution, but were also deprived of their liberty and prevented from carrying out their work as human rights defenders and lawyers.

102. For these reasons, the Working Group finds that the fair trial rights and procedural guarantees of Mr. El-Baker, Mr. Imam and Ms. Hassan, under the Universal Declaration of Human Rights, the Covenant and other relevant human rights standards, were not observed and variously violated. As a result, the Working Group finds that their detention is arbitrary under category III.

Category V

103. As regards category V, the source claims that the deprivation of liberty of the four human rights defenders constitutes a violation of international law for reasons of discrimination based on status, and which aims towards or can result in ignoring the equality of human rights. In this regard, it is alleged that the arrest and detention constitute discrimination against them because of their work as lawyers and human rights defenders.

104. On the basis of the facts submitted by the source, the Working Group considers that the four individuals were targeted because of their peaceful activities as human rights defenders. 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.¹²

105. The Working Group finds that the four human rights defenders were deprived of their liberty on discriminatory grounds – that is, owing to their status as human rights defenders – and on the basis of their political or other opinions in seeking to hold the authorities to account. Their deprivation of liberty violated articles 2 and 7 of the Universal Declaration of Human Rights and articles 2 (1) and 26 of the Covenant, and is arbitrary according to category V. The Working Group refers this case to the Special Rapporteur on the situation of human rights defenders.

¹¹ See opinions No. 16/2020 and No. 10/2021.

¹² Opinion No. 88/2017, para. 43; No. 13/2018, para. 34; and No. 59/2019, para. 79.

Concluding remarks

106. The Working Group notes with concern that the four human rights defenders and lawyers were subjected to prolonged periods of pretrial detention. This was achieved by extending the legal period under which these persons could be held in detention during the investigation and while awaiting trial, by different authorities, without being convicted. When such a period elapsed and the authorities were faced with having to convict the individuals or release them, the authorities introduced fresh charges and new proceedings, thus reinitiating the period of pretrial detention. The result was that these individuals have been subjected to an indefinite detention, which has constituted the rule rather than the exception, contrary to international law, including article 9 (3) of the Covenant. The Working Group is worried that this can constitute a broader and systematic pattern in Egypt, where authorities may be using the repeated renewal of pretrial detention and bringing additional charges against human rights defenders and lawyers, to prevent them from carrying out their work, such as documenting and denouncing human rights violations.

107. The Working Group is concerned about the deterioration of the health of Mr. El-Baker, Ms. El-Masry, Mr. Imam and Ms. Hassan due to the poor prison conditions. The source has also alleged that family contact is heavily restricted, in violation of the right to contact the outside world under rules 43 (3) and 58 (1) of the United Nations Standard Minimum Rules for the Treatment of Prisoners (the Nelson Mandela Rules), and principles 15 and 19 of the Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment. The Working Group recalls that it is the duty of all Governments to treat their detainees with humanity and respect for their inherent dignity as a human being, as stipulated in rule 1 of the Nelson Mandela Rules.

108. The Working Group requests the Government to ensure that all acts of intimidation against individuals who cooperate with the United Nations, such as Mr. El-Baker, who collaborated with the universal periodic review of the Human Rights Council, cease; that an impartial and effective investigation is carried out in relation to such acts; and that those responsible are brought to justice. The Working Group refers the present case to the focal point on reprisals of the Coordination Committee of Special Procedures and to the Assistant Secretary-General for Human Rights, to lead the efforts of the United Nations to put an end to intimidation and reprisals against those cooperating with it on human rights-related matters.

Disposition

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

The deprivation of liberty of Mohamed Hassan Mohamed Salaheldin el-Baker, Mahinour Mohamed Abdel-Salam Mohamed el-Masry, Amr Mohamed Adel Imam Mohamed Mostafa and Hoda Abdel Moneam Abdel Aziz Hassan, being in contravention of articles 3, 8 and 9 of the Universal Declaration of Human Rights and articles 9 and 16 of the International Covenant on Civil and Political Rights, is arbitrary and falls within categories I, II and V.

In addition, the deprivation of liberty of Mohamed Hassan Mohamed Salaheldin el-Baker, Amr Mohamed Adel Imam Mohamed Mostafa and Hoda Abdel Moneam Abdel Aziz Hassan is also in contravention of articles 10 and 11 of the Universal Declaration of Human Rights and articles 9 and 14 of the International Covenant on Civil and Political Rights, is arbitrary and falls within category III.

110. The Working Group requests the Government of Egypt to take the steps necessary to remedy the situation of Mr. El-Baker, Ms. El-Masry, Mr. Imam and Ms. Hassan 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.

111. The Working Group considers that, taking into account all the circumstances of the case, the appropriate remedy would be to release Mr. El-Baker, Ms. El-Masry, Mr. Imam and Ms. Hassan immediately and accord them an enforceable right to compensation and other reparations, in accordance with international law. In the current context of the global coronavirus disease (COVID-19) pandemic and the threat that it poses in places of detention,

the Working Group calls upon the Government to take urgent action to ensure the immediate release of Mr. El-Baker, Ms. El-Masry, Mr. Imam and Ms. Hassan.

112. The Working Group urges the Government to ensure a full and independent investigation of the circumstances surrounding the arbitrary deprivation of liberty of Mr. El-Baker, Ms. El-Masry, Mr. Imam and Ms. Hassan and to take appropriate measures against those responsible for the violation of their rights.

113. In accordance with paragraph 33 (a) of its methods of work, the Working Group refers the present case to the Special Rapporteur on the situation of human rights defenders, the Special Rapporteur on the independence of judges and lawyers, 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, for appropriate action. The Working Group also refers the case of Mr. El-Baker to the Coordination Committee of Special Procedures and to the Assistant Secretary-General for Human Rights, to lead the efforts of the United Nations to put an end to intimidation and reprisals against those cooperating with it on human rights-related matters.

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

Follow-up procedure

115. 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. El-Baker, Ms. El-Masry, Mr. Imam and Ms. Hassan have been released and, if so, on what date;

(b) Whether compensation or other reparations have been made to Mr. El-Baker, Ms. El-Masry, Mr. Imam and Ms. Hassan;

(c) Whether an investigation has been conducted into the violation of the rights of Mr. El-Baker, Ms. El-Masry, Mr. Imam and Ms. Hassan 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.

116. 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.

117. 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.

118. 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.¹³

[Adopted on 15 November 2021]

¹³ Human Rights Council resolution 42/22, paras. 3 and 7.