

PETITION TO:

UNITED NATIONS

WORKING GROUP ON ARBITRARY DETENTION

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**HUMAN RIGHTS COUNCIL
UNITED NATIONS GENERAL ASSEMBLY**

In the Matter of
Mahmoud Hussein Gommaa Ali,
Citizen of the Arab Republic of Egypt

v.

Government of the Arab Republic of Egypt

URGENT ACTION REQUESTED

And Petition for Relief Pursuant to Resolutions 1997/50, 2000/36, 2003/31, 6/4, 15/18, 20/16,
24/7¹

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¹ Resolutions 1997/50, 2000/36, and 2003/31 were adopted by the UN Commission on Human Rights to extend the mandate of the Working Group on Arbitrary Detention. The Human Rights Council, which “assume[d]... all mandates, mechanisms, functions and responsibilities of the Commission on Human Rights...” pursuant to *UN General Assembly Resolution 60/251*, GA Res. 60/251, Mar. 15, 2006, at ¶ 6, later extended the mandate through Resolutions 6/4, 15/18, 20/16, and 24/7.

Basis for Urgent Action Request

As set forth in the attached Petition, the Government of the Arab Republic of Egypt is arbitrarily depriving Mahmoud Hussein Gommaa Ali (referred to as Mr. Hussein) of his liberty and continues to arbitrarily detain him without cause, in reprisal for his work as a news editor for Al Jazeera Media Network.

Mr. Hussein has been arbitrarily detained for 129 days, including 89 days in solitary confinement.² He continues to be subject to grave prison conditions and possible abuses. The continuation of such deprivations of his rights constitutes serious threats to Mr. Hussein's health, to his physical and psychological integrity, and to his life. Mr. Hussein suffers from severe psychological and physical stress, shortness of breath, and has lost a significant amount of weight.³ Accordingly, we request that the Working Group transmits an urgent appeal to the Government of Egypt by the most rapid means possible on behalf of Mr. Hussein.

Mr. Hussein is a prominent news journalist. He is the News Editor at the News Assignment Desk Section of Al Jazeera Arabic channel. Al Jazeera Media Network is a news network⁴ which, since 2013, has been forbidden from operating in Egypt.

On December 19, 2016, Mr. Hussein traveled to Egypt for personal reasons, unrelated to work, to visit his family that still resides there, including his two wives and nine children. Upon arriving at Cairo International Airport, Mr. Hussein was detained and questioned for 15 hours. He was then let free, but on December 22, 2016, Mr. Hussein was arbitrarily arrested and held in an unknown location until January 5, 2017. He was kept in solitary confinement until March 21, 2017, and was denied the right to have his lawyer present during interrogations. While in solitary confinement, Mr. Hussein was detained in a small, dark cell and was denied proper clothes, including winter clothes needed to stay warm, and adequate food.⁵ The cell had no electricity, and had no ventilation or air conditioning. The cell had no bathroom and Mr. Hussein was only allowed to urinate in a plastic bowl. The cell was infested with bugs and feces from previous prisoners. It had a terrible smell because of the lack of ventilation and sanitary facilities. During this time Mr. Hussein was only allowed out of his cell on very rare occasions.

Throughout his arbitrary detention Mr. Hussein has been physically mistreated, which has impacted his psychological and physical health. Mr. Hussein has lost a considerable amount of weight, and now suffers from shortness of breath, chest pains, and rashes. Additionally, Mr. Hussein's detention caused him severe psychological and physical stress. As of the date of this filing, Mr. Hussein has still not been able to have access to medical care.

² Al Jazeera, *Al Jazeera reporter spends 100th day in Egyptian jail*, AL JAZEERA, (March 30, 2017), <http://www.aljazeera.com/news/2017/03/al-jazeera-reporter-spends-100th-day-egyptian-jail-170330094001659.html>.

³ Al Jazeera, *Egypt renews detention of Al Jazeera's Mahmoud Hussein*, AL JAZEERA, (March 19, 2017), <http://www.aljazeera.com/news/2017/03/egypt-renews-detention-al-jazeera-mahmoud-hussein-170319135531817.html>.

⁴ Al Jazeera, *Who we are*, AL JAZEERA, <http://www.aljazeera.com/aboutus/>.

⁵ Al Jazeera, *Al Jazeera's Mahmoud Hussein referred to Giza court*, AL JAZEERA, (Feb. 2, 2017), <http://www.aljazeera.com/news/2017/02/al-jazeera-Mr.-Hussein-hussein-referred-giza-court-170202183557398.html>.

On December 25, 2017, three videos of Mr. Hussein falsely “confessing” to various crimes were leaked online. Egyptian authorities coerced Mr. Hussein to record these videos under severe duress, forcing him to repeat his false “confessions” over 20 times.⁶

Although Mr. Hussein was denied the right to have his lawyer present during his initial interrogations and detention, his lawyer eventually learned of his detention. As of the date of this petition, neither Mr. Hussein nor his lawyer have been informed of the charges against Mr. Hussein, nor has Mr. Hussein been officially charged, though he remains under official investigation. However, the Minister of Interior was quoted in the press informally accusing Mr. Hussein of:

- Incitement against state institutions,⁷
- Broadcasting false news with the aim of spreading chaos,⁸
- Using several residences to avoid security monitoring in light of Al Jazeera’s unauthorized work,⁹
- Being a member of an illegal organisation,¹⁰ and
- Receiving monetary funds from foreign authorities in order to defame the state's reputation.¹¹

While no official charges exist, these informal accusations could result in charges under the Penal Code (including articles 86, 102 bis, 176 and 188),¹² the Terrorist Entities Law of 2014¹³ and the Counter-Terrorism Law of 2015.¹⁴ Given the vagueness of the accusations, it is not possible to foresee what type sentences Mr. Hussein could face. However, other Al Jazeera journalists have previously received harsh sentences, including death or life in prison.¹⁵

As of the date of this filing, Mr. Hussein remains in pretrial detention at the notorious Tora Prison. He has faced near-automatic detention renewals and his requests for bail and/or conditional release have not been granted proper due process consideration. Under Egyptian and international law, pretrial detention is an exceptional legal measure. The case of Mr. Hussein

⁶ Al Jazeera, *Groups call for release of Al Jazeera's Mahmoud Hussein*, AL JAZEERA, (Jan. 4, 2017), <http://www.aljazeera.com/news/2017/01/groups-call-release-al-jazeera-mahmoud-hussein-170104144554342.html>.

⁷ Al Jazeera, *Egypt extends detention of Al Jazeera's Mahmoud Hussein*, AL JAZEERA, (Jan. 19, 2017), <http://www.aljazeera.com/news/2017/01/egypt-extends-detention-al-jazeera-mahmoud-hussein-170119084709620.html>.

⁸ *Id.*

⁹ Al Jazeera English, *Egypt, let our journalist go!*, YOUTUBE, (Dec. 28, 2016), at 1.17 <https://www.youtube.com/watch?v=vwK1njSRAsM>.

¹⁰ Al Jazeera, *Al Jazeera journalist Mahmoud Hussein imprisoned for 100 days*, AL JAZEERA PR, (March 20, 2017), <http://pr.aljazeera.com/post/159000054595/al-jazeera-journalist-mahmoud-hussein-imprisoned>.

¹¹ Al Jazeera, *Mahmoud Hussein detained for more than 50 days*, AL JAZEERA, (Feb. 9, 2017) <http://www.aljazeera.com/news/2017/02/mahmoud-hussein-detained-50-days-170209153219729.html>.

¹² Penal Code Law No. 58 of 1937.

¹³ Ahmed Fouad, *Egypt passes new law on 'terrorist' entities*, AL-MONITOR, (Dec. 10, 2014), <http://www.al-monitor.com/pulse/originals/2014/12/egypt-law-terrorist-entities-muslim-brotherhood.html#>.

¹⁴ Human Rights Watch, *Egypt: Counterterrorism Law Erodes Basic Rights*, HUMAN RIGHTS WATCH, (Aug. 19, 2015), <https://www.hrw.org/news/2015/08/19/egypt-counterterrorism-law-erodes-basic-rights>.

¹⁵ Human Rights Watch, *Egypt: High Price of Dissent*, (Feb. 19, 2014), HUMAN RIGHTS WATCH, <https://www.hrw.org/news/2014/02/19/egypt-high-price-dissent>; Katy Witkowski, *Tried in absentia, Egypt journalist can 'expect anything'*, INTERNATIONAL PRESS INSTITUTE, (June 15, 2016), <http://www.freemedia.at/tried-in-absentia-egypt-journalist-can-expect-anything/>.

highlights how the practice continues to be abused by Egyptian authorities as a punitive measure to intimidate influential, independent voices from exercising their fundamental rights.

Reports of general prison conditions at Tora Prison further affirm that the health of Mr. Hussein will continue to remain at significant risk of deterioration. Prison cells are often dirty, filled with cockroaches and ants, and subject to extreme temperatures due to poor ventilation.¹⁶ Detainees endure beatings, insults, and torture.¹⁷ At times, detainees are arbitrarily prevented from meeting with family members and face the confiscation of various personal belongings.¹⁸ The provision of medical care is increasingly inadequate.¹⁹ In 2015, the El-Nadeem Center for Rehabilitation of Victims of Violence documented 137 deaths of persons in detention, at least 81 of which occurred due to inadequate medical care.²⁰ Very little oversight for Egypt's prisons is available. Under the recently-amended Prison Law, the National Council for Human Rights is only allowed to conduct prison visits after receiving prior approval from the Prosecutor-General.²¹ When government officials have previously visited prisons, they have reportedly refused to listen to and record prisoner complaints.²² Finally, compensation for detainees who have been abused or mistreated is seldom issued. Investigations by authorities into deaths of detainees in custody or reports of inadequate medical care and abuse are even rarer.²³

Mr. Hussein has been arbitrarily detained and continues to be subject to grave prison conditions which place his health and life at significant risk. Mr. Hussein also has 9 dependent children, all in need of his care. He is also the primary care giver and means of support to his elderly mother (68 years old) and father (77 years old).

Accordingly, we request that the Working Group considers this Petition pursuant to its Urgent Action Procedure.

Additionally, it is requested that the attached Petition be considered a formal request for an opinion of the Working Group pursuant to Resolution 1997/50 of the Commission on Human Rights, as reiterated by Resolutions 2000/36, 2003/31, and Human Rights Council Resolutions 6/4, 15/18, 20/16, and 24/7.

¹⁶ Maram Mazen, *Egypt rights lawyers say new prison law legalizes abuses*, ASSOCIATED PRESS, (Oct. 26, 2015), <http://www.sandiegouniontribune.com/news/2015/oct/26/egypt-rights-lawyers-say-new-prison-law-legalizes/>.

¹⁷ Arwa Ibrahim, *Prisoners allege systematic torture of opposition*, MIDDLE EAST EYE, (Apr. 25, 2014), <http://www.middleeasteye.net/news/prisoners-allege-systematic-torture-opposition-942566493>.

¹⁸ Leila Fadel, *In A Viral Video, A Misleading Taste Of What It's Like In Egyptian Prison*, NPR, (Sept. 20, 2015), <http://www.npr.org/2015/09/20/441912079/egyptians-say-report-paints-false-picture-of-prison-conditions>.

¹⁹ Al-Jazeera, *Life in an Egyptian prison*, AL-JAZEERA, (Aug. 14, 2015), <http://www.aljazeera.com/news/2015/08/life-egyptian-prison-150812112621901.html>.

²⁰ El-Nadeem, *2015 in Numbers*, EL-NADEEM, <https://drive.google.com/file/d/0B2-QqOchi4gFcnhWtkZGZTlzV0U/view?pref=2&pli=1>.

²¹ Maram Mazen, *supra* note 16.

²² Human Rights Watch, *Egypt: Rash of Deaths in Custody*, HUMAN RIGHTS WATCH, (Jan. 21, 2015), <https://www.hrw.org/news/2015/01/21/egypt-rash-deaths-custody>.

²³ *Id.*

Questionnaire To Be Completed²⁴

I. IDENTITY

1. **Family name:** Hussein Gommaa Ali
2. **First name:** Mahmoud
3. **Sex:** Male
4. **Birth date or age (at the time of detention):**
5. **Nationality/Nationalities:** Egyptian
6. (a) **Identity document (if any):**
(b) **Issued by:**
(c) **On (date):**
(d) **No.:**
7. **Profession and/or activity (if believed to be relevant to the arrest/detention):** Mr. Hussein is the News Editor at the News Assignment Desk Section of Al Jazeera Arabic channel. He is believed to have been arrested as a result of his work for Al Jazeera Media Network, and specifically in reprisal for Al Jazeera Media Network's broadcast of an investigative documentary on conscription in the Egyptian army and the and exploitation of soldiers.
8. **Address of usual residence:**

II. ARREST

1. **Date of arrest:** December 19, 2016, and then December 22, 2016
2. **Place of arrest (as detailed as possible):**
3. **Forces who carried out the arrest or are believed to have carried it out:** State security forces.
4. **Did they show a warrant or other decision by a public authority?** No warrant was ever shown or produced, nor any other official documentation authorizing his arrest.
5. **Authority who issued the warrant or decision:** Not applicable
6. **Reasons for the arrest imputed by the authorities:** Neither Mr. Hussein, nor his lawyer have been officially informed of the reasons for his arrest or continued detention,

²⁴ *Model Questionnaire To Be Completed By Persons Alleging Arbitrary Arrest or Detention*, UN WORKING GROUP ON ARBITRARY DETENTION, <http://www.ohchr.org/EN/Issues/Detention/Pages/Complaints.aspx>.

nor of any charges against him. However, the Minister of Interior has been quoted in the press informally accusing Mr. Hussein of: incitement against state institutions;²⁵ broadcasting false news with the aim of spreading chaos;²⁶ using several residences to avoid security monitoring in light of Al Jazeera's unauthorized work;²⁷ being a member of an illegal organisation;²⁸ and receiving monetary funds from foreign authorities in order to defame the state's reputation.²⁹

7. **Legal basis for the arrest including relevant legislation applied (if known):** There is no known legal basis for the arrest of Mr. Hussein.

III. DETENTION

1. **Date of detention:** December 22, 2016.³⁰
2. **Duration of detention (if not known, probable duration):** Mr. Hussein has remained in detention since December 22, 2016. This amounts to 129 days in pre-trial detention without being formally charged with any crime, 89 days of which he was held in solitary confinement.
3. **Forces holding the detainee under custody:** Egyptian Prison Authority
4. **Places of detention (indicate any transfer and present place of detention):** Mr. Hussein was held in an unknown location from December 22, 2016 to January 5, 2017. On January 5, 2017, it was established for the first time that he was being held in the Tora Prison.
5. **Authorities that ordered the detention:** A warrant for Mr. Hussein has yet to be produced. His detention has been renewed by the Court multiple times since his initial arrest and the Interior Minister has spoken to the press about alleged accusations against Mr. Hussein.
6. **Reasons for the detention imputed by the authorities:** To this date, Mr. Hussein has not formally been charged with a single crime; he remains in pretrial detention and his case has not been referred to trial. While Mr. Hussein had not been informed of the charges levied against him, according to statements made to the press the Interior Minister has accused him of: incitement against state institutions,³¹ broadcasting false news with the aim of spreading chaos,³² using several residences to avoid security

²⁵ Al Jazeera, *supra* note 7.

²⁶ *Id.*

²⁷ Al Jazeera English, *supra* note 9.

²⁸ Al Jazeera, *supra* note 10.

²⁹ Al Jazeera, *supra* note 11.

³⁰ The Egyptian authorities claim that Mr. Hussein was arrested on December 23, 2016, but his detention started on December 22, 2016 when he was detained for 12 hours, then brought to his sister's house in handcuffs and coerced to "confess" to various crimes. He was then transferred to the detention facility.

³¹ Al Jazeera, *supra* note 7.

³² *Id.*

monitoring in light of Al Jazeera's unauthorized work,³³ being a member of an illegal organisation,³⁴ and receiving monetary funds from foreign authorities in order to defame the state's reputation.³⁵

8. **Legal basis for the detention including relevant legislation applied (if known):** There is no known legal basis for the detention of Mr. Hussein.

³³ Al Jazeera, *supra* note 9.

³⁴ Al Jazeera, *supra* note 10.

³⁵ Al Jazeera, *supra* note 11.

I. DESCRIBE THE CIRCUMSTANCES OF THE ARREST AND THE REASONS WHY YOU CONSIDER THE ARREST AND/OR DETENTION TO BE ARBITRARY

a. Statement of Facts

i. Political and Legal Context in Egypt

A number of political and legal measures have been implemented by Egyptian authorities to severely constrain the freedoms and liberties of citizens and civil society, many of which have been furthered under the pretense of maintaining security and stability.

Particularly relevant to Mr. Hussein's arrest and detention have been the measures taken by the Egyptian authorities to severely crackdown on journalists and all forms of independent reporting, criticism and dissent.³⁶ Since 2011, 10 journalists have been killed, and not proper investigations have been conducted.³⁷ Egypt ranks third in the world on terms of the number of journalists currently incarcerated,³⁸ as 24 journalists are currently jailed in the country.³⁹ Many of them languish in jails for prolonged periods of time as they are neither charged nor tried, and many others face prolonged sentences, including life imprisonment or even the death penalty.⁴⁰ Some journalists are even being tried in mass trials before both civilian and military courts.⁴¹ The one year sentence of three leaders of the Egyptian Journalists Syndicate, Yehia Qallash, Khaled al-Balshy and Gamal Abdel, on charges of harboring a fugitive, represents the current climate that journalists live in. The three leaders also face charges of spreading false news.⁴² Their imprisonment has been widely criticized as constituting reprisals for their work, which consists of protecting journalists.⁴³ Egypt now ranks 161 out of 180 countries in the 2017 World Press Freedom Index, showing how civic space around the freedom of expression continues to shrink at a fast pace.⁴⁴ Journalists, especially Al Jazeera journalists, have been consistently accused by the government of inciting sedition and spreading false news.⁴⁵

³⁶ *Egypt: Worsening crackdown on protest, a further setback to human rights – UN experts*, UNITED NATIONS HUMAN RIGHTS OFFICE OF THE HIGH COMMISSIONER, (May 9, 2016), <http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=19933&LangID=E>; Deutsche Welle, *Al Jazeera decries arrest of reporter in Egypt*, DEUTSCHE WELLE, (Dec. 26, 2016), <http://www.dw.com/en/al-jazeera-decries-arrest-of-reporter-in-egypt/a-36913396>.

³⁷ Reporters Without Borders, *One of the world's biggest prisons for journalists*, REPORTERS WITHOUT BORDERS, <https://rsf.org/en/egypt>.

³⁸ Committee to Protect Journalists, *2016 prison census: 259 journalists jailed worldwide*, COMMITTEE TO PROTECT JOURNALISTS, (Dec. 1, 2016), <https://www.cpj.org/imprisoned/2016.php>.

³⁹ Committee to Protect Journalists, *Three press union leaders' convictions must be overturned*, COMMITTEE TO PROTECT JOURNALISTS, (March 28, 2017), <https://rsf.org/en/news/three-press-union-leaders-convictions-must-be-overturned>.

⁴⁰ Reporters Without Borders, *supra* note 37.

⁴¹ Amnesty International, *Egypt 2016/2017*, AMNESTY INTERNATIONAL, <https://www.amnesty.org/en/countries/middle-east-and-north-africa/egypt/report-egypt/>.

⁴² Committee to Protect Journalists, *Leaders of Egypt's Journalists Syndicate sentenced to 2 years in jail*, COMMITTEE TO PROTECT JOURNALISTS, (Nov. 19, 2016), <https://cpj.org/2016/11/leaders-of-egypts-journalists-syndicate-sentenced.php#more>; Committee to Protect Journalists, *supra* note 39; Amnesty International, *Head of press syndicate in Egypt detained in unprecedented crackdown on media freedom*, AMNESTY INTERNATIONAL, <http://www.amnestyusa.org/news/press-releases/head-of-press-syndicate-in-egypt-detained-in-unprecedented-crackdown-on-media-freedom>.

⁴³ Committee to Protect Journalists, *Leaders of Egypt's Journalists Syndicate sentenced to 2 years in jail*, COMMITTEE TO PROTECT JOURNALISTS, (Nov. 19, 2016), <https://cpj.org/2016/11/leaders-of-egypts-journalists-syndicate-sentenced.php#more>.

⁴⁴ Reporters Without Borders, *supra* note 37.

⁴⁵ Reporters Without Borders, *Another Al-Jazeera journalist arrested in Egypt*, REPORTERS WITHOUT BORDERS, (Dec. 27, 2016), <https://rsf.org/en/news/another-al-jazeera-journalist-arrested-egypt>; Amnesty International, *supra* note 41.

Since 2013, the government of Egypt has accused Al Jazeera of supporting the Muslim Brotherhood – an organization the government has outlawed as a “terrorist” organization – which led to the company being banned from operating in Egypt.⁴⁶ Although there is a general crackdown on journalists in Egypt, Egyptian authorities have targeted Al Jazeera employees more specifically in the last couple of years.

Egyptian authorities have arrested seven Al Jazeera employees since 2013.⁴⁷ Peter Grete, Mohamed Fahmy, and Baher Mohamed were arrested in December 2013 for “damaging national security.”⁴⁸ They were initially each sentenced to 7 to 10 years imprisonment, but were all released or pardoned in 2015.⁴⁹ Additionally, two other Al Jazeera journalists were sentenced to death in absentia.⁵⁰ Ibrahim Helal – a former editor-in-chief from Al Jazeera – and Alaa Omar Mohammed Sablan were sentenced to death in absentia for “endangering national security”⁵¹ and “leaking state secrets to Qatar.”⁵² Seven other Al Jazeera employees have also been tried and sentenced to jail in absentia.⁵³

In addition to Al Jazeera, the Egyptian government has taken extensive measures to silence other independent voices, including non-political persons like teenager Mahmoud Mohamed Ahmed Hussein—kept in punitive pretrial detention for over two years for wearing an anti-torture t-shirt⁵⁴—and novelist Ahmed Naji—sentenced to two years for harming public morality for explicit content in his novel.⁵⁵ The detention of persons like Hussein and Naji, alongside human rights lawyers like Malek Adly,⁵⁶ humanitarian aid workers like Aya Hijazi and Mohamed Hassanein,⁵⁷ and journalists like Mahmoud Hussein depicts the extent that the Egyptian authorities have gone to silence independent voices, even outside of the political arena.

⁴⁶ Reporters Without Borders, *supra* note 45.

⁴⁷ Al Jazeera English, *supra* note 9.

⁴⁸ BBC, *Egypt crisis: Al-Jazeera journalists arrested in Cairo*, BBC, (Dec. 30, 2013), <http://www.bbc.com/news/world-middle-east-25546389>.

⁴⁹ Al Jazeera, *Al Jazeera journalists freed from Egypt prison*, AL JAZEERA, (Sept. 23, 2015), <http://www.aljazeera.com/news/2015/09/al-jazeera-journalists-pardoned-egypt-150923112113189.html>.

⁵⁰ Katy Witkowski, *supra* note 15.

⁵¹ Al Jazeera, *Egypt extends detention of Al Jazeera journalist*, AL JAZEERA, (Jan. 5, 2017), <http://www.aljazeera.com/news/2017/01/egypt-extends-detention-al-jazeera-journalist-170104072305709.html>.

⁵² Euan McKirdy, *Egypt sentences 6 people to death, including 2 Al Jazeera journalists*, CNN, (June 19, 2017), <http://www.cnn.com/2016/06/19/middleeast/cairo-death-sentence-qatar-spying-case/>.

⁵³ Al Jazeera English, *supra* note 9; Al Jazeera, *Release of Al Jazeera staff welcomed internationally*, AL JAZEERA, (Sept. 23, 2015), <http://www.aljazeera.com/news/2015/09/release-al-jazeera-staff-welcomed-internationally-150923154446483.html>.

⁵⁴ Robert F. Kennedy Human Rights, *Robert F. Kennedy Human Rights Submits Case to U.N. Working Group Seeking Release of Egyptian Teen Protestor Mahmoud Mohamed Ahmed Hussein*, ROBERT F. KENNEDY HUMAN RIGHTS, (Nov. 13, 2015), <http://rfkhumanrights.org/news/news/robert-f-kennedy-human-rights-submits-case-un-working-group-seeking-release-egyptian-teen-protestor-mahmoud-mohamed-ahmed-hussein/?edit>.

⁵⁵ English Pen, *Egypt: Ahmed Naji sentenced to two years in prison*, PEN INTERNATIONAL, (Feb. 29, 2016), <https://www.englishpen.org/campaigns/egypt-ahmed-naji-sentenced-to-two-years-in-prison/>.

⁵⁶ Robert F. Kennedy Human Rights, *Petition to the UN Working Group on Arbitrary Detention*, ROBERT F. KENNEDY HUMAN RIGHTS, (July 14, 2016), http://rfkhumanrights.org/media/filer_public/0c/ed/0cedd0b8-8529-42c0-8ce6-37699422ba5a/unwgad_petition-malek_adly-final.pdf.

⁵⁷ Robert F. Kennedy Human Rights, *Robert F. Kennedy Human Rights Submits Case to U.N. Working Group Seeking Release of Street Children NGO Co-Founders in Egypt*, ROBERT F. KENNEDY HUMAN RIGHTS, (May 20, 2016), <http://rfkhumanrights.org/news/news/robert-f-kennedy-human-rights-submits-case-un-working-group-seeking-release-street-children-ngo-co-founders-egypt/>.

The legal arsenal available to Egyptian authorities to crackdown on such voices has only expanded. The Terrorist Entities Law⁵⁸ and the Counter-Terrorism Law were passed in December 2014 and August 2015, setting forth vague definitions for “terrorism” which have been increasingly used to try critics as terrorists and to implement exceptional measures including the extension of pretrial detention, the monitoring of private phone calls, and the designation of certain criminal courts to hear terrorism cases.⁵⁹ Additionally, these laws make it a crime to publish news about terrorism that contradict the government’s version of events, and enable the courts to temporarily ban journalists from practicing, with a potential two-years prison sentence.⁶⁰ Other laws have included measures enabling the removal and suspension of students and professors for political activity, the transfer of non-Egyptians to their countries for judicial extradition, and the trial of civilians accused of committing crimes against public facilities by the military judiciary.⁶¹ Moreover, a state of emergency was declared in March 2017, giving even broader powers to the government such as the power of referring civilians to State Security Emergency Courts, where they cannot appeal verdicts.⁶²

These recent laws add to a number of problematic provisions within the Egyptian Penal Code that violate international human rights law and which criminalize actions like “attempting to overthrow the government,” “spreading false news” and “possessing publications,” historically used to constrain the speech and activities of civil society actors.⁶³

Reports of recent human rights violations against civil society actors in Egypt have included “excessive use of force by security forces, deficiencies in due process, and the suppression of civil liberties.”⁶⁴ Other human rights abuses have included impunity for alleged crimes committed by government officials and security forces, restrictions on press and academic freedom, increasing reports of forced disappearances, judicial action fueled by politicized motives, arbitrary arrests, punitive pretrial detention, and grave prison conditions.⁶⁵

Reports of prison conditions throughout this time period have been extremely grave. Pretrial detainees are kept in the same conditions and often times, the same cells as convicted persons. Prison cells are dirty, filled with cockroaches and ants, largely overcrowded, and subject to extreme temperatures due to poor ventilation.⁶⁶ Detainees endure beatings, insults, sexual assault,⁶⁷ and torture,⁶⁸ At times, they are arbitrarily prevented from meeting with family members and legal counsel and face the confiscation of various personal belongings⁶⁹. The

⁵⁸ Ahmed Fouad, *supra* note 13.

⁵⁹ Human Rights Watch, *supra* note 14.

⁶⁰ *Id.*

⁶¹ Mai El-Sadany, *Tracking Egypt’s Extraparliamentary Laws*, TAHRIR INSTITUTE FOR MIDDLE EAST POLICY, (Aug. 12, 2015), <http://timep.org/commentary/tracking-egypts-extraparliamentary-laws/>.

⁶² Jenna Amlani, *A Quick Look at Egypt’s New State of Emergency Measures*, PROJECT ON MIDDLE EAST DEMOCRACY, <http://pomed.org/homepage-entries/latest-from-pomed/a-quick-look-at-egypts-new-state-of-emergency-measures/>.

⁶³ Mai El-Sadany, *Legislating Terror in Egypt*, TAHRIR INSTITUTE FOR MIDDLE EAST POLICY, <http://timep.org/esw/articles-analysis/legislating-terror-in-egypt/>.

⁶⁴ *Egypt 2015 Human Rights Report*, U.S. DEPARTMENT OF STATE, <http://www.state.gov/documents/organization/253133.pdf>.

⁶⁵ *Id.*

⁶⁶ Maram Mazen, *supra* note 16.

⁶⁷ Ayah Aman, *Female prisoners in Egypt suffer rampant abuse*, AL-MONITOR, (Jun. 30, 2014), <http://www.al-monitor.com/pulse/originals/2014/06/egypt-female-detainees-abuse-harassment-prison.html>.

⁶⁸ Arwa Ibrahim, *supra* note 17.

⁶⁹ Leila Fadel, *supra* note 18.

provision of medical care is increasingly inadequate.⁷⁰ When detainees are taken to the prison hospital, care is limited and resources are constrained.⁷¹ In September 2016, Human Rights Watch issued a report finding that staff at the Tora prison have severely assaulted inmates, refused to let them see lawyers and families, and kept them locked alone in cramped cells.⁷² In 2015, the El-Nadeem Center for Rehabilitation of Victims of Violence documented 137 deaths of persons in detention, at least 81 of which occurred due to inadequate medical care.⁷³ Very little oversight for Egypt's prisons is available. Under the recently-amended Prison Law, the National Council for Human Rights is only allowed to conduct prison visits after receiving prior approval from the Prosecutor-General.⁷⁴ Further, when prosecutors have previously visited prisons, they have reportedly refused to listen to and record prisoner complaints.⁷⁵ Finally, compensation for detainees who have been abused or mistreated is seldom issued. Investigations by authorities into deaths of detainees in custody or reports of negligence and abuse are even rarer.⁷⁶

ii. Pretrial Detention in Egypt

Under the Egyptian Criminal Procedure Code, pretrial detention - detention that occurs before sentencing - is an exceptional legal measure that is set forth only in cases in which (1) the offense is *in flagrante delicto*, (2) there is fear that the accused may flee, (3) there is fear that the legal process may be impeded or harmed, (4) the case implicates security and public order, or (5) if the crime is a felony or misdemeanor punished with a prison sentence and the accused does not have a known residence in Egypt.⁷⁷

In cases that meet at least one of the five guidelines to qualify for pretrial detention, an arrested individual can initially be detained without charge for 15 days. This detention can then be extended for up to two additional 15-day periods, amounting to a total of 45 days.⁷⁸ If a judge determines that preliminary investigations are not yet complete at the 45-day mark, s/he may grant additional periods of detention renewal. The Prosecutor-General can review and/or receive complaints regarding the pretrial detention.⁷⁹ In total, the Egyptian Criminal Procedure Code stipulates that pretrial detention cannot be extended for more than six months for misdemeanors, 18 months for felonies, and two years for crimes carrying death or life imprisonment.⁸⁰ In cases in which the detainee has already been sentenced to death or life imprisonment and he or she is appealing the detention or the court has granted a retrial, the referring court and the Court of Cassation can extend pretrial detention in 45-day periods without a maximum time limit, effectively creating a set of circumstances in which there can be indefinite pretrial detention.⁸¹ In

⁷⁰ Al-Jazeera, *supra* note 19.

⁷¹ Stephen Kalin, *Special Report: In Egypt, Jailed Islamists 'Dying of Neglect'*, REUTERS, (Sept. 3, 2015), <http://www.reuters.com/article/2015/09/03/us-egypt-brotherhood-prisons-specialreport/idUSKCN0R30Y420150903#qTto7jOb21AY8EOY.97>.

⁷² Human Rights Watch, "'We Are in Tombs': Abuses in Egypt's Scorpion Prison", HUMAN RIGHTS WATCH, (Dec. 27, 2016), <https://www.hrw.org/report/2016/09/27/we-are-tombs/abuses-egypts-scorpion-prison>.

⁷³ El-Nadeem, *supra* note 20.

⁷⁴ Maram Mazen, *supra* note 16.

⁷⁵ Human Rights Watch, *supra* note 22.

⁷⁶ *Id.*

⁷⁷ *Criminal Procedure Code*, Law No. 150 of 1950, Amended Law No. 83 of 2013, Art. 134, <http://helmylawyers.blogspot.com/2010/07/001.html>.

⁷⁸ *Criminal Procedure Code*, *supra* note 77, Art. 142.

⁷⁹ *Id.*, at Art. 143.

⁸⁰ *Id.*

⁸¹ *Id.*, at Arts. 142-143.

practice, it has been reported that courts regularly renew pretrial detention orders at the prosecution's request and without considering the merits of the case; renewal hearings have been short and often last only a few minutes.⁸²

Although the Egyptian Criminal Procedure Code sets forth a maximum of two years in pretrial detention for persons who have not been sentenced but face potential death or life imprisonment sentences, the Egyptian government consistently violates its own laws and continues to keep many pretrial detainees in detention even after the expiration of the two-year maximum. At least 1,464 detainees remain in pretrial detention beyond the maximum,⁸³ including Shawkan Abou Zeid, a photojournalist who was arrested while covering the Rabaa sit-in dispersals and who has been diagnosed with Hepatitis C, facing severe health deteriorations while in detention.⁸⁴ Mahmoud Mohamed Ahmed Hussein, a politically-unaligned youth who had been arbitrarily detained at a checkpoint for wearing an anti-torture t-shirt, was also kept in pretrial detention for over two years and two months before he was finally released in March 2016.⁸⁵

Under the government of President Abdul Fattah El-Sisi, pretrial detention has been used as a punitive measure against political prisoners and prisoners of conscience.⁸⁶ Although the Egyptian government has not provided figures on the total number of pretrial detainees, human rights groups and the National Council for Human Rights (NCHR) report excessive use of pretrial detention and large backlogs in criminal courts which further contribute to "protracted periods of pretrial detention."⁸⁷ According to a May 31, 2015 report by the NCHR using numbers from the Ministry of Interior, at least 7,000 persons remained in pretrial detention on charges related to incidents occurring on or after June 2013.⁸⁸ With official numbers considered conservative by non-governmental rights groups and at least 1,464 detainees documented to be in pretrial detention for longer than two years,⁸⁹ the actual total number of pretrial detainees is likely to be significantly higher.

iii. The Detention of Mr. Hussein

At the end of 2010, Mr. Hussein joined the Al Jazeera Arabic Cairo bureau as a News Producer. In mid-2011, he became a reporter for the same bureau until mid-2013, when the Egyptian authorities shut down Al Jazeera's Cairo bureau. As a result, in the summer of 2013, Mr. Hussein moved to Doha, Qatar to continue his work for Al Jazeera. Mr. Hussein now holds

⁸² Amnesty International, *Egypt: Generation Jail: Egypt's Youth Go From Protest to Prison*, AMNESTY INTERNATIONAL, (Jun. 29, 2015), <https://www.amnesty.org/en/documents/mde12/1853/2015/en/>.

⁸³ EIPR, *The New Emergency Law: Endless Pretrial Detention as Political Punishment At least 1,464 people in Four Governorates Held in Pretrial Detention Longer than the Two Year Legal Limit*, EGYPTIAN INITIATIVE FOR PERSONAL RIGHTS, (May 10, 2016), <http://eipr.org/en/pressrelease/2016/05/10/2600>.

⁸⁴ Amnesty International, *Egypt: Photojournalist 'Shawkan' among 700 held for more than two years in pre-trial detention*, AMNESTY INTERNATIONAL, (Aug. 18, 2015), <https://www.amnesty.org/en/latest/news/2015/08/egypt-photojournalist-shawkan-among-700-held-for-more-than-two-years-in-pre-trial-detention/>.

⁸⁵ Robert F. Kennedy Human Rights, *supra* note 54.

⁸⁶ ANHRI, *Extended Pre-trial Detention, Disguised Incarceration*, THE ARABIC NETWORK FOR HUMAN RIGHTS INFORMATION, (May 31, 2015), <http://anhri.net/?p=145083&lang=en>.

⁸⁷ *Egypt 2015 Human Rights Report*, *supra* note 64.

⁸⁸ *Id.*

⁸⁹ EIPR, *The New Emergency Law: Endless Pretrial Detention as Political Punishment At least 1,464 people in Four Governorates Held in Pretrial Detention Longer than the Two Year Legal Limit*, EGYPTIAN INITIATIVE FOR PERSONAL RIGHTS, (May 10, 2016), <http://eipr.org/en/pressrelease/2016/05/10/2600>.

the position of News Editor at the News Assignment Desk Section of Al Jazeera Arabic channel, in Doha, and covers the European Union. Mr. Hussein frequently visits Egypt for personal reasons as he is a citizen, and his family, including his two wives and his nine children, still resides there.⁹⁰

On December 19, 2016, Mr. Hussein was stopped, questioned and detained at Cairo International Airport upon his arrival to visit his family who lives in Egypt.⁹¹ Mr. Hussein frequently travelled back to Egypt without incident - including four times in 2016 alone - the last time during the Eid al Adha break in September 2016. However, on December 19, 2016, the authorities detained Mr. Hussein upon his arrival at Cairo International Airport, questioned him for more than 15 hours, and confiscated his passport.⁹² The authorities asked Mr. Hussein about the nature of his work with Al Jazeera Media Network, as well as to describe Al Jazeera's intentions in covering Egypt – even though, since moving to Qatar in 2013, Mr. Hussein has never been sent to Egypt on business on behalf of Al Jazeera. During the course of the interrogation, he was not allowed to contact anyone, including his lawyer. He was then released and asked to retrieve his passport from the police at a later date.⁹³

On December 22, 2016, the Egyptian authorities showed up at Mr. Hussein's home in Giza (on the outskirts of Cairo) and arbitrarily arrested him outside of his home just as he was leaving to go to the police station to collect his passport which had previously been confiscated.⁹⁴ Upon Mr. Hussein's arrest, Egyptian authorities did not show him a warrant or any other official documents. It is believed that the state security forces carried out the arrest. The task force who carried out the arrest was larger than normal, including multiple police cars. Some officers wore uniforms, and others did not. The plainclothes officials were giving instructions to the uniformed officers.

At this point, Mr. Hussein was then held for over 12 hours without his family's knowledge. His family found out that Mr. Hussein was detained around 11:00pm the same day, when the police started raiding his fathers, brothers' and sisters' homes, but his family still did not know where Mr. Hussein was detained or which authority had detained him.

Al Jazeera Media Network's attorney immediately contacted the Public Prosecution to be informed of Mr. Hussein's whereabouts, but was denied any information on his status. After detaining Mr. Hussein for over 12 hours, the state security forces took him, handcuffed, to his sister's house. When they arrived, the State Security forces forced Mr. Hussein to film a series of "confession" videos – all made under coercion and severe duress. Mr. Hussein's family was forbidden from speaking to him. Mr. Hussein was then taken away from his sister's house by state security forces, without being given any details as to where he was going, why he was being detained, or which authority had ordered his detention. According to Egypt's interior

⁹⁰ Al Jazeera, *supra* note 6; Al Jazeera, *Mahmoud Hussein: Freedom of expression is valuable*, AL JAZEERA, (Jan. 16, 2017), <http://www.aljazeera.com/news/2017/01/Mr.-Hussein-hussein-freedom-expression-valuable-170116094941685.html>.

⁹¹ Al Jazeera, *supra* note 6.

⁹² Al Jazeera, *Al Jazeera condemns arrest of its journalist in Egypt*, AL JAZEERA, (Dec. 26, 2016),

<http://www.aljazeera.com/news/2016/12/al-jazeera-condemns-arrest-journalist-egypt-161225195713187.html>.

⁹³ Al Jazeera Media Network, *Statement on Unlawful Detention by Egyptian Authorities of Al Jazeera Journalist*, EURASIA DIARY, (Dec. 28, 2016), <http://eurasiadiary.com/en/news/society/95375-statement-on-unlawful-detention-by-egyptian-authorities-of-al-jazeera-journalist>.

⁹⁴ Al Jazeera, *supra* note 92.

ministry, the police confiscated “thousands” of videotapes and other production equipment from his home.⁹⁵

On December 23, 2016, the authorities officially registered Mr. Hussein’s arrest. Mr. Hussein was then held incommunicado by State Security in an undisclosed location⁹⁶ until January 5, 2017. It was later discovered that he was held in solitary confinement until March 21, 2017 at Tora Prison.

On December 24, 2016, the authorities interrogated Mr. Hussein again without his attorney present.

A further interrogation took place on December 25, 2016, again without his attorney present. At this point, neither his family, nor Al Jazeera Media Network, were yet told of his whereabouts. The same day, three videos of Mr. Hussein’s forced “confessions” were published or leaked online by the Egyptian authorities.⁹⁷ The confessions appear to be dictated by the authorities and demonstrated that Mr. Hussein was arrested because of his association with Al Jazeera Media Network, documentary, “Al-Asaker,” that premiered on November 27, 2016. The documentary concerned conscription in the Egyptian army, and the mistreatment and exploitation of soldiers.⁹⁸ The first leaked forced “confession” video portrays Mr. Hussein disapproving of the documentary, and stating that, as an Egyptian he expressed his objection to the management at Al Jazeera Media Network. Al Jazeera Media Network has subsequently clarified that Mr. Hussein never worked on the documentary in question in any capacity.

The confession featured such testimony as:

“I found out that there is a movie about the Egyptian army called “Al-Aasaker” [“The Soldiers”]. The film was produced by Al Jazeera...These scenes have nothing to do with reality. They aim to distort the image of the Egyptian military and Egyptian soldiers...it is adopting an irresponsible approach and one that encompasses a strategy against the Egyptian state.”⁹⁹

A second filmed forced “confession” shows Mr. Hussein standing over media equipment displayed on a table, explaining that he was asked to keep it with him for safe keeping following

⁹⁵ Ahram Online, Egypt prosecution renews detention of Al-Jazeera producer over 'broadcasting false news' charges, (Jan. 10, 2017), AHAM ONLINE, <http://english.ahram.org.eg/NewsContent/1/64/254821/Egypt/Politics-/Egypt-prosecution-renews-detention-of-AlJazeera-pr.aspx>.

⁹⁶ Al Jazeera, *Egypt arrests Al Jazeera news producer during vacation*, AL JAZEERA, (Dec. 23, 2016), <http://www.aljazeera.com/news/2016/12/egypt-arrests-al-jazeera-news-producer-vacation-161223171209633.html>.

⁹⁷ Sada Elbalad, ‘*confession*’, YOUTUBE, (Dec. 25, 2016), https://www.youtube.com/watch?v=zBDJNIZ6x_8; ب، الجزيرة أفلام منتج منزل من المحرزة المضبوطات، البوابة جريدة، YOUTUBE, (Dec. 25, 2016), <https://www.youtube.com/watch?v=s1z1d6PzQWA>; الجزيرة أفلام منتج منزل من المحرزة المضبوطات، البوابة جريدة، YOUTUBE, (Dec. 25, 2016), <https://www.youtube.com/watch?v=iHrm1dAkouc>.

⁹⁸ Al Jazeera Arabic, “Al-Asaker”: بمصر الإجباري التجنيد عن حكايات..العساكر فيلم، YOUTUBE, (Nov. 27, 2016), <https://www.youtube.com/watch?v=ZZHlvHqweIY>.

⁹⁹ Sada Elbalad, *مصر في العملية الجزيرة قناة مراسلي مسئول حسين محمود الإرهابي اعترافات حصريا - مسنوليتي على*، YOUTUBE, (Dec. 25, 2016), https://www.youtube.com/watch?v=zBDJNIZ6x_8; see Annex I: Transcript and translation of first forced “confession” video.

the 2013 events that lead to the fire and attack on Al Jazeera Media Network’s Cairo office.¹⁰⁰ Al Jazeera Media Network did not have an opportunity to inspect the equipment and tapes seized by the authorities in order to validate its origin and ownership. The narrator in one of the forced “confessions” videos¹⁰¹ claims that the tapes contain evidence against Mr. Hussein.¹⁰² As is common practice in Egypt, these taped forced “confessions” were made under duress,¹⁰³ and Mr. Hussein was coerced to repeat his forced “confessions” around 20 times. M. Hussein also later told his daughter that he was forced to say all the things in the videos.

On December 25, 2016, the Ministry of Interior issued a statement on its Facebook page announcing Mr. Hussein’s arrest.¹⁰⁴

On December 27, 2016, the authorities conducted another interrogation of Mr. Hussein without the presence of his lawyer. During each of Mr. Hussein’s interrogations on December 24, 25 and 27, he was asked about his involvement in the documentary “Al-Asaker.” Mr. Hussein informed his interrogators that he was not involved with the documentary since his work was assigned to covering news in the European Union, and that he does not ever work on coverage related to Egypt. They asked him further questions relating to the operations of Al Jazeera, specifically its structure, how it operates, and its editorial standards.

On December 29, 2016, his lawyer filed three applications with the Public Prosecution Office. The first application requested that Mr. Hussein’s lawyer be notified of any interrogation sessions or of any renewal sessions, as required by article 124 of the Criminal Procedures Code.¹⁰⁵ The second one sought approval to review the case files, as required by article 125 of the criminal procedures law.¹⁰⁶ Finally, the third application was made to grant visitation rights to Mr. Hussein’s daughter. Each of these requests were unanswered, and remain unanswered as of the date of this filing.

On January 4, 2016, Mr. Hussein appeared before the State Security Public Prosecution in the State Security Building which issued an order to detain Mr. Hussein pending investigation, for 15 days.¹⁰⁷ Later that day, Mr. Hussein’s lawyer also applied for official visitation rights to the Attorney General of the State Security Prosecution. As of the date of this filing this application remains unanswered.

Mr. Hussein has been informally accused – but not formally charged – of the offences of: incitement against state institutions,¹⁰⁸ broadcasting false news with the aim of spreading

¹⁰⁰ Committee to Protect Journalists, *Egypt arrests Al-Jazeera producer on fake news charge*, COMMITTEE TO PROTECT JOURNALISTS, (Dec. 27, 2016), <https://cpj.org/2016/12/egypt-arrests-al-jazeera-producer-on-fake-news-cha.php#more>; see Annex II: Transcript and translation of second forced “confession” video.

¹⁰¹ Sada Elbalad, *حسين محمود المتهم بحوزة بمصر الجزيرة قناة معدات تضبط الامن اجيزة - مسنوليتي على*, YOUTUBE, (Dec. 25, 2016), <https://www.youtube.com/watch?v=eAFWLgjJYyg>.

¹⁰² Committee to Protect Journalists, *Egypt arrests Al-Jazeera producer on fake news charge*, COMMITTEE TO PROTECT JOURNALISTS, (Dec. 27, 2016), <https://cpj.org/2016/12/egypt-arrests-al-jazeera-producer-on-fake-news-cha.php>.

¹⁰³ Al Jazeera, *supra* note 6.

¹⁰⁴ See Annex III: Egyptian Ministry of Interior’s statement on its Facebook page announcing Mr. Hussein’s detention.

¹⁰⁵ *Criminal Procedure Code*, *supra* note 77, Art. 124.

¹⁰⁶ *Id.*, at Art. 125.

¹⁰⁷ Al Jazeera, *supra* note 51.

¹⁰⁸ Al Jazeera, *supra* note 6.

chaos,¹⁰⁹ using several residences to avoid security monitoring in light of Al Jazeera's unauthorized work,¹¹⁰ being a member of an illegal organisation,¹¹¹ and receiving monetary funds from foreign authorities in order to defame the state's reputation.¹¹²

On January 5, 2016, it was also confirmed for the first time since the beginning of his detention that he was being held in the Tora prison pending investigation of a range of false and politically motivated criminal allegations. His whereabouts were unknown to his family and to his attorney from December 22, 2016 until January 5, 2017.

On January 9, 2017, Mr. Hussein's attorney applied again for official visitation rights to the Attorney General of the State Security Prosecution. As of the date of this filing this application remains unanswered.

On January 10, 2017, Mr. Hussein's lawyer filed a complaint with the Attorney General (no 343 2017/Attorney General complaints), notifying it that he was not been able to visit his client, nor review the case files, despite having made several applications. He stated that a defendant has a right to have his attorney present during interrogations under the criminal procedures of Egyptian law.¹¹³ This complaint was referred to the State Security Prosecution (complaint No. 127, dated 23 January 2017), but the Prosecutor's Office did not respond. As of the date of this filing this complaint remains unanswered.

On January 18, 2017, Mr. Hussein appeared before the State Security Public Prosecution which renewed his detention for another period of 15 days.¹¹⁴ The hearing took place in the State Security Building.

On January 29, 2017, Mr. Hussein's family was granted official visitation rights every Sunday. Following Mr. Hussein's request, official visitation was later shifted to Saturdays in order to enable his children to see him without skipping school, in particular due to prison overcrowding, it takes his family the whole day to come and visit. The visits are brief and under supervision in public areas.

On February 1, 2017, Mr. Hussein was referred to Giza Felonies Court, which granted a renewal order of 4 days.¹¹⁵ On February 4, 2017, he appeared back before the Giza Felonies Court, which issued a decision to renew his detention, this time, for a period of 45 days.¹¹⁶

On February 11, 2017, Mr. Hussein's lawyer applied for official visitation rights to the Attorney General of the State Security Prosecution. The Public Prosecutor's Office did not respond. As of the date of this filing this application remains unanswered.

¹⁰⁹ *Id.*

¹¹⁰ Al Jazeera, *supra* note 8.

¹¹¹ Al Jazeera, *supra* note 9.

¹¹² Al Jazeera, *supra* note 10.

¹¹³ *Criminal Procedure Code, supra* note 77, Art. 124.

¹¹⁴ Al Jazeera, *Egypt renews detention of Al Jazeera's Mahmoud Hussein*, AL JAZEERA, (March 19, 2017),

<http://www.aljazeera.com/news/2017/03/egypt-renews-detention-al-jazeera-mahmoud-hussein-170319135531817.html>.

¹¹⁵ *Id.*

¹¹⁶ *Id.*

On February 14, 2017, Mr. Hussein's lawyer applied to the Attorney General of the Supreme State Security Prosecution to authorize the legal team to visit Mr. Hussein in prison. This request was answered by the Public Prosecution, and on February 18, 2017, a representative of the legal team went to the prosecutor's office to receive the visitation permit from the Supreme State Security Prosecution. On February 21, 2017, a lawyer, Mr. Mohamed Khatib, visited Mr. Hussein very briefly and informally.

On March 18, 2017, Mr. Hussein appeared again before the Giza Felonies Court, which issued another decision to renew his detention for a period of 45 days.

On March 21, 2017, Mr. Hussein was finally released from solitary confinement where he had been detained for 89 days, and he was moved to a cell within the general prison population, where he remains. He is in a cell with three other prisoners, all accused or convicted of crimes such as capital murder. He is not allowed to interact with other political prisoners.

On 5 April 2017, Mr. Hussein's lawyer applied to the Attorney-General of the Supreme State Security Prosecution to visit his client in prison. This request was answered by the prosecution. On April 13, 2017, he went to the prosecutor's office to receive the permit from the Supreme State Security Prosecution.

On April 19 2017, Mr. Hussein's lawyer was finally allowed to visit his client at the Cairo Appeal Prison, where he was being held temporarily for the purpose of the visit. This was the first time that Mr. Hussein's lawyer was able to discuss the case with his client. However, the visit was brief and in the presence of the prison warden.

On April 26, 2017, Mr. Hussein's lawyer submitted a request to have access to copies of the case files to the Public Prosecutor. As of the date of this filing this application remains unanswered. Mr. Hussein's next renewal hearing was set for April 29, 2017. To this date, neither Mr. Hussein nor his lawyer have been afforded an opportunity to review the case files.¹¹⁷

Two of Mr. Hussein's brothers were also arrested on December 22, 2016.¹¹⁸ They were detained and questioned, without their families knowing where they were held. They both work in the media sector in Egypt for media groups unrelated to the Al Jazeera Media Network. On January 2, 2017, his two brothers were released from custody without being formally charged. However, while in custody, they were mistreated by the authorities, stripped naked, and searched invasively. Once released, they were blindfolded, put into a car, and then dropped off in the middle of the street in the October area.

The same day, the police raided Mr. Hussein's brothers' homes, and destroyed some of their belongings in the process, Mr. Hussein's Cairo home and the home of his sister were also raided and unlawfully searched by the Egyptian authorities. When the police raided Mr. Hussein's sister's home, they did so in armed vehicles, while wearing uniforms, but there were individuals in plainclothes that were directing the uniformed officers. The police did not have a

¹¹⁷ Al Jazeera, *supra* note 5.

¹¹⁸ Al Jazeera, *supra* note 96; Al Jazeera English, *Al Jazeera condemns arrest of its journalist in Egypt*, YOUTUBE, (JAN. 4, 2017), at 0.26, <https://www.youtube.com/watch?v=o26QEugjxsw>.

warrant and did not identify themselves as they entered. Mr. Hussein's sister was at home with her 12 years-old son, and at one point the authorities pointed a gun at. In further violation of their privacy, the security officials filmed Mr. Hussein's family while raiding their houses, and even filmed his elderly mother while she was in bed.

In the meantime, one of Mr. Hussein's wives who works for the Egyptian state television, has been suspended from her position.¹¹⁹

As of April 29, 2017, Mr. Hussein has been arbitrarily detained without any formal charge for 129 days, including 89 days solitary confinement. While in solitary confinement, Mr. Hussein was kept in a small, dark cell infested with bugs and feces, that had a terrible smell, no electricity, no ventilation, and no air conditioning or heat. The cell had no bathroom, and Mr. Hussein was only allowed to urinate in a plastic bowl inside of his cell. Mr. Hussein was only allowed out of his cell on very rare occasions: a week could go by without him being allowed to leave his cell. He did not have access to sunlight. He was constantly mistreated, and was denied adequate food and clothing. As a result of his mistreatment and the cruel conditions of detention, Mr. Hussein has lost a significant amount of weight.¹²⁰ Mr. Hussein continues to suffer from shortness of breath, and remains under severe physical and psychological stress. As of the date of this filing, there exists no evidence that Mr. Hussein has committed any crime.¹²¹

Mr. Hussein's arbitrary detention has been widely condemned, including by the Committee to Protect Journalists which stated: "Egyptian authorities are waging a systematic campaign against Al-Jazeera, consisting of arbitrary arrest, censorship, and systematic harassment,"¹²² and, "Egypt must release Mahmoud Hussein immediately and ends its crackdown on the press."¹²³ In January 2017, a spokesperson for the United Nations Secretary-General "appeal[ed] for [Mr. Hussein's] case to be resolved in accordance with Egypt's own international obligations to protect freedom of expression and freedom of opinion."¹²⁴

b. Legal Analysis

i. Category I: No Basis for Detention

1. The Continued Detention of Mr. Hussein Violates Domestic Regulations on Pretrial Detention

A detention is arbitrary under Category I when it is "clearly impossible to invoke any legal basis justifying the deprivation of liberty."¹²⁵

¹¹⁹ Al Jazeera English, *Al Jazeera condemns arrest of its journalist in Egypt*, YOUTUBE, (Jan. 4, 2017), at 0.26, <https://www.youtube.com/watch?v=HGUDQ-Y4eQ>.

¹²⁰ Agencies, *Al Jazeera reporter spends 100th day in Egyptian jail*, MWC NEWS, (March 30, 2017), <http://mwcnews.net/news/middle-east/64591-al-jazeera-reporter.html>; Al Jazeera, *supra* note 11.

¹²¹ Al Jazeera, *supra* note 2.

¹²² Committee to Protect Journalists, *supra* note 102.

¹²³ *Id.*

¹²⁴ Noon briefings, *Daily Press Briefing by the Office of the Spokesperson for the Secretary-General*, UNITED NATIONS, (Jan. 6, 2017), <https://www.un.org/press/en/2016/db170106.doc.htm>.

¹²⁵ *Report of the Working Group on Arbitrary Detention*, A/HRC/30/69, Aug. 4, 2015, ¶8(a) [hereinafter *Revised Methods of Work*].

There is currently no legal basis in Egyptian law for Mr. Hussein's continued pretrial detention. Under the Egyptian Criminal Procedure Code, pretrial detention—detention prior to sentencing—is an exceptional legal measure available only in cases in which (1) the offense is *in flagrante delicto*, (2) there is fear that the accused may flee, (3) there is fear that the legal process may be impeded or harmed, (4) the case implicates security and public order, or (5) if the crime is a felony or misdemeanor punished with a prison sentence and the accused does not have a known residence in Egypt.¹²⁶

In cases that meet at least one of the five guidelines to qualify for pretrial detention, an arrested individual can initially be detained without charge for 15 days. This detention can then be extended for up to two additional 15-day periods, amounting to a total of 45 days.¹²⁷ If a judge determines that preliminary investigations are not yet complete at the 45-day mark, he may grant additional periods of detention renewal. The Prosecutor-General can review and/or receive complaints regarding the pretrial detention.¹²⁸ In total, the Egyptian Criminal Procedure Code stipulates that pretrial detention cannot be extended for more than six months for misdemeanors, 18 months for felonies, and two years for crimes carrying death or life imprisonment.¹²⁹

The facts involving Mr. Hussein do not satisfy any of the five categories above. Mr. Hussein was arrested at his home in Giza, and thus, not in the act of committing any crime, or *in flagrante delicto*.

Second, there is no fear that Mr. Hussein may flee. Mr. Hussein is an Egyptian citizen and has no other nationality. Despite residing in Qatar for work, his whole family lives in Egypt – including his brothers and sister, his two wives and his nine children – as well as many of his friends. Mr. Hussein lived and worked in Egypt until 2013, and has deep ties to the country. As his lawyer argued in the last court hearing on March 18, 2017, if released on bail, Mr. Hussein is open to having a travel ban implemented against him, or other measures, to reassure the authorities that he will not leave the country.

Third, his release would not impede nor harm the legal process, as there is no reason to fear that he would fail to appear for court hearings, nor that he would refuse to cooperate. Mr. Hussein has always been an upstanding citizen and has demonstrated no intent to avoid arrest or trial.

Fourth, although an argument can be made that the informal accusations could possibly implicate public order, the authorities have unequivocally failed to provide a single piece of evidence or documentation to back up the egregious informal accusations levied against Mr. Hussein, and they have yet to produce anything resembling formal charges.

Furthermore, Mr. Hussein only came to Egypt to visit his family. He does not work in Egypt in any capacity, and was only arrested because of his exercise of his fundamental rights to freedom of expression and association, in another country.

¹²⁶ *Criminal Procedure Code*, *supra* note 77, Art. 134.

¹²⁷ *Id.*, at Art. 142.

¹²⁸ *Id.*, at Art. 143.

¹²⁹ *Id.*

Fifth, Mr. Hussein has a known address and a family home in Egypt. Keeping Mr. Hussein in pretrial detention is improper even under Egyptian law. The failure of the judge to grant adequate consideration to the issuing of bail and/or conditional release of Mr. Hussein also occurs in clear violation of the law.

2. The Practice of Pretrial Detention in Egypt Violates Domestic and International Human Rights Obligations

The provisions of Egypt's Criminal Procedure Code on pretrial detention used to uphold the continued detention of Mr. Hussein violate human rights protections enshrined in both domestic and international law and cannot serve as a basis by which Egypt authorities can continue to keep the defendants in detention.

Under Article 54 of the Egyptian Constitution,¹³⁰ Article 6 of the African Charter on Human and Peoples' Rights,¹³¹ and Articles 9, 10, and 11 of the ICCPR,¹³² Egypt has a duty to safeguard the personal freedoms, liberties, and due process rights of its citizens, while protecting them from arbitrary detention. Egypt must further ensure that its pretrial detention laws and practices do not violate Article 9(3) of the ICCPR which states that authorities must guarantee that "anyone arrested or detained on a criminal charge... be brought promptly before a judge or other officer authorized by law to exercise judicial power" and that detainees be entitled to "trial within a reasonable time or... release."¹³³ In considering what is reasonable, the judicial officer must ask whether the justification put forward for detaining the accused can justify the time the accused has spent in detention prior to the adjudication. The diligence of the prosecuting or investigating authority in bringing the case to trial, the complexity of the case, the conduct of the accused, and the proportionality of the detention period to the penalty that may be imposed for the offense should all be considered.¹³⁴

General Comment No. 8 (1982)¹³⁵ of the United Nations Human Rights Committee explains the notion of "promptly" by referring to a period of a few days, implying that a detainee must be informed of the charges against him within a period as short as possible.¹³⁶ Further, the General Comment states that pretrial detention must not be arbitrary, it must be based on grounds and procedures established by law, it must be backed by information of the reasons for such detention, court control of the detention must be available, and compensation in the case of a

¹³⁰ *Constitution of the Arab Republic of Egypt*, (2014), Art. 54, <http://www.sis.gov.eg/Newvt/Dustor-en001.pdf>.

¹³¹ *African Charter on Human and Peoples' Rights ("Banjul Charter")*, ORGANIZATION OF AFRICAN UNITY, Jun. 27, 1981, CAB/LEG/67/3 rev. 5, 21 I.L.M. 58 (1982), Art. 6.

¹³² *International Covenant on Civil and Political Rights*, GA Res 2200A (XXI), 21 U.N. GAOR Supp. (No. 16), at 52, UN Doc. A/6316 (1966), 999 U.N.T.S. 171, entered into force Mar. 23, 1976, Art. 9-11 [hereinafter ICCPR].

¹³³ ICCPR, *supra* note 132, Art 9(3).

¹³⁴ American Bar Association, *Handbook of International Standards of Pretrial Detention Procedure*, ABA RULE OF LAW INITIATIVE, [https://www.ilsa.org/jessup/jessup16/Batch%201/handbook of international standards on pretrial detention procedure 2010.eng.authcheckdam.pdf](https://www.ilsa.org/jessup/jessup16/Batch%201/handbook%20of%20international%20standards%20on%20pretrial%20detention%20procedure%202010.eng.authcheckdam.pdf).

¹³⁵ *General Comment No. 8: Article 9 (Right to Liberty and Security of Persons)*, UN HUMAN RIGHTS COMMITTEE, Jun. 30, 1982, ¶2.

¹³⁶ The Human Rights Committee has previously found that a period of 7 or 9 days is not acceptable under Article 9(2) of the ICCPR. *See Grant v. Jamaica*, Communication No. 597/1994, para. 8.1; *see also Morrison v. Jamaica*, Communication No. 663/1995, para. 8.2; *see also Kurbanov v. Tajikistan*, Communication No. 1096/2002, para. 7.2; *see also A. Berry v. Jamaica*, Communication No. 330/1988, para. 5.6.

breach must be provided. The African Commission on Human and Peoples' Rights has stated that the need for continued pretrial detention should be based on an assessment of whether there are sufficient legal reasons, whether investigating authorities are exercising due diligence, whether detention pending trial is necessary and proportionate, and what measures can be taken to safeguard the well-being of the detainee.¹³⁷ The African Commission has also held that the failure or negligence of security agents to “scrupulously” adhere to the requirement that they submit reasons for the arrest of a detainee and inform him promptly of any charges against him is a violation of the right to a fair trial.¹³⁸ The 2011 Report of the UN Working Group on Arbitrary Detention concludes that “any detention must be exceptional and of short duration.”¹³⁹

The provisions of the Egyptian Criminal Procedure Code on pretrial detention are vague and subject to excessive discretion, facilitate detention for an egregiously lengthy period of up to two years, and leave little to no recourse for detainees wishing to challenge their continued detention – all of which violate Egypt’s international and regional human rights obligations. The categories allowing pretrial detention employ terms like “security or public order,” allotting overly broad discretion and subjective determinations to the prosecution and judges—both of whom are aligned with the government and are unlikely to make determinations in favor of human rights defenders and prisoners of conscience. Further, the fact that pretrial detainees facing possible charges for crimes that carry death or life imprisonment sentences can be kept in detention for up to two years is egregiously lengthy and clearly exceeds what international law conceives to be a period of a few days. Finally, the fact that proper due process consideration has not been granted for requests for bail and/or conditional release in the case of Mr. Hussein ensures that he is left without effective recourse, constituting yet another violation.

3. The Pending Charges against Mr. Hussein are without Merit and Cannot be Used as a Basis by which to Justify his Continued Detention

Charges have not yet been brought against Mr. Hussein. However, the alleged informal accusations are without merit and may not be a basis by which to keep him in pretrial detention.

Mr. Hussein has been targeted for exercising his fundamental rights to freedom of expression and association – via his employment by Al Jazeera – and for carrying out his work as a journalist. Additionally, Mr. Hussein, as a journalist, covers Europe and his work does not involve Egypt. Mr. Hussein only travels to Egypt, his home country, for personal reasons.

The Egyptian state has unequivocally failed to produce a single piece of evidence thus far indicating that Mr. Hussein’s actions could implicate any of the pending charges against him, including but not limited to “creating chaos” and “receiving funding from abroad with the intent of harming the state’s interests.”

¹³⁷ *Guidelines on the Conditions of Arrest, Police Custody and Pre-Trial Detention in Africa*, AFRICAN COMMISSION ON HUMAN AND PEOPLES’ RIGHTS,

http://www.achpr.org/files/instruments/guidelines_arrest_detention/guidelines_on_arrest_police_custody_detention.pdf.

¹³⁸ ACHPR, *Huri-Laws (on behalf of the Civil Liberties Organisation) v. Nigeria*, Communication No. 225/98, decision adopted during the 28th Ordinary Session, 23 October – 6 November 2000, paras. 43-44.

¹³⁹ *Report of the Working Group on Arbitrary Detention*, UNITED NATIONS HUMAN RIGHTS COUNCIL, A/HRC/16/47, Jan. 19, 2011.

ii. Category II: Substantive Fundamental Rights

The detention of Mr. Hussein is arbitrary under Category II.

A detention is arbitrary under Category II when the detention results from the exercise of fundamental rights protected by international law. More specifically, the arbitrary detention results “[w]hen 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, and insofar as States parties are concerned, by articles 12, 18, 19, 21, 22, 25, 26, and 27 of the International Covenant on Civil and Political Rights.”¹⁴⁰ In light of this, the detention of Mr. Hussein is arbitrary because the detention resulted from the exercise of his fundamental rights to (1) freedom of opinion and expression and, (2) his right to freedom of association, as well as his work as a journalist.¹⁴¹

a. The Egyptian Government Detained Mr. Hussein Because He Exercised his Right to Freedom of Opinion and Expression

Freedom of opinion and expression are guaranteed under international law by Article 19(1)-(2) of the ICCPR¹⁴² and Article 19 of the UDHR.¹⁴³ The Human Rights Committee has determined that this right includes the right to express a dissenting political opinion.¹⁴⁴ In addition to these obligations under international law, Egypt is bound by Article 65 of its own Constitution to respect the right of its citizens to freedom of opinion “verbally, in writing, through imagery, or by other means of expression and publication.”¹⁴⁵ The United Nations Declaration on Human Rights Defender defines human rights defenders as “individuals, groups and associations ... contributing to ... the effective elimination of all violations of human rights and fundamental freedoms of peoples and individuals” and establishes protections for such individuals.¹⁴⁶

Mr. Hussein was arrested, was physically mistreated, held in solitary confinement, and continues to be held in arbitrary pretrial detention today simply because he was a journalist and news editor, exercising his fundamental right to freedoms of expression.

To put it in Mr. Hussein’s own words from a March 2016 interview: “[f]reedom of expression is valuable to me. I cherished this principle throughout my professional journey... Since I worked for Al Jazeera, I was never asked to change or stop anything I write or report. I

¹⁴⁰ *Revised Methods of Work*, *supra* note 125, ¶7(e).

¹⁴¹ *ICCPR*, *supra* not 132, Art 19, 22.

¹⁴² *Id.*, at Art 19.

¹⁴³ *Universal Declaration of Human Rights*, G.A. Res. 217A (III), U.N. Doc. A/810, Art. 19 (1948) [hereinafter *Universal Declaration*].

¹⁴⁴ *General Comment No. 34 (2011) on Article 19: Freedom of Expression*, UN HUMAN RIGHTS COMMITTEE, CCPR/C/GC/34, Sep. 12, 2011, ¶ 11.

¹⁴⁵ *Constitution of the Arab Republic of Egypt*, *supra* note 130, Art. 65.

¹⁴⁶ United Nations Human Rights Office of the High Commissioner, *Who is a defender?*, UNITED NATIONS HUMAN RIGHTS OFFICE OF THE HIGH COMMISSIONER, <http://www.ohchr.org/EN/Issues/SRHRDefenders/Pages/Defender.aspx>.

was never asked to say anything in particular, either. Moreover, I would say that Al Jazeera always seeks the accurate information and news that it has earned it credibility in the world.”¹⁴⁷

Further, although the right to freedom of expression is not absolute under international law, Mr. Hussein’s exercise of his right does not fall under any of the permissible limitations set forth by Article 19(3) of the ICCPR. Article 19(3) allows for certain restrictions provided by law and necessary “for respect of the rights or reputations of others” or “for the protection of national security or of public order...or of public health or morals.”¹⁴⁸ Mr. Hussein exercised his rights outside of Egypt, thus making it impossible to endanger national security or public order, or disrespect the rights or reputations of others. Furthermore, by expressing himself as a journalist in a well-respected Network, he actually furthered the interest of the state by providing its citizens with information. The Human Rights Committee has also found that because there is no legitimate restriction under Article 19(3) which would justify the arbitrary arrest, torture, and threats to life of an individual, “the question of deciding which measures might meet the ‘necessity’ test in such situations does not arise.”¹⁴⁹

b. The Egyptian Government Detained Mr. Hussein Because He Exercised his Right to Freedom of Association

Freedom of association is guaranteed by Article 20(1) of the UDHR¹⁵⁰ and Article 22(1) of the ICCPR.¹⁵¹ Under Article 75 of the Constitution, Egypt is mandated to respect the rights of its citizens to form non-governmental associations and foundations that acquire legal personality upon notification.¹⁵² These associations and foundations are guaranteed the right to practice their activities freely and are protected from administrative interference or dissolution.¹⁵³ The United Nations Declaration on Human Rights Defenders further affirms this right for “individuals contributing to ... the effective elimination of all violations of human rights and fundamental freedoms of peoples and individuals.”¹⁵⁴

Mr. Hussein was particularly targeted for arrest and detention due to his influential and prominent work as a journalist, and his employment by the Al Jazeera Media Network. There is a pattern of abuse against Al Jazeera journalists by the Egyptian authorities. Al Jazeera journalists continue to be arrested and detained on baseless charges such as “inciting sedition” and “spreading false news.” As stated by the Committee to Protect Journalists: “Egyptian authorities are waging a systematic campaign against Al-Jazeera, consisting of arbitrary arrest, censorship, and systematic harassment,”¹⁵⁵ and, “Egypt must release Mahmoud Hussein immediately and ends its crackdown on the press.”¹⁵⁶

¹⁴⁷ Al Jazeera, *Mahmoud Hussein: Freedom of expression is valuable*, AL JAZEERA, (Jan. 16, 2017), <http://www.aljazeera.com/news/2017/01/Mr. Hussein-hussein-freedom-expression-valuable-170116094941685.html>.

¹⁴⁸ ICCPR, *supra* note 132, Art 19.

¹⁴⁹ *Njaru v. Cameroon*, UNHRC, Views of 3 April 2007, UN Doc. CCPR/C/89/D/1353/2005, para. 6.4.

¹⁵⁰ *Universal Declaration*, *supra* note 143, Art. 20(1).

¹⁵¹ ICCPR, *supra* note 132, Art 22(1).

¹⁵² *Constitution of the Arab Republic of Egypt*, *supra* note 130, Art. 75.

¹⁵³ *Id.*

¹⁵⁴ United Nations Human Rights Office of the High Commissioner, *supra* note 146.

¹⁵⁵ Committee to Protect Journalists, *supra* note 102.

¹⁵⁶ *Id.*

Although the right to freedom of association is not absolute under international law, Mr. Hussein's exercise of his right does not fall under the permissible limitations set forth by the ICCPR. Under the ICCPR, the right to freedom of association can only be restricted as prescribed by the law and as necessary in a democratic society in the interests of national security or public safety, public order, the protection of public health or morals, or the protection of the rights and freedoms of others.¹⁵⁷ The Human Rights Committee has found that there would be no "necessary" reason to arrest, torture, or threaten the life of anyone.¹⁵⁸ In working for Al Jazeera Media Network in Qatar, Mr. Hussein was exercising his right to freedom of association.

iii. Category III: Due Process Rights

The detention of Mr. Hussein is arbitrary under Category III.

A detention is considered arbitrary under Category III "[w]hen 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."¹⁵⁹ Additionally, the Working Group looks to the Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment (Body of Principles).¹⁶⁰

1. Egyptian Authorities Violated Mr. Hussein's Rights by Detaining Him Without a Judicial Order

The Egyptian authorities have violated Mr. Hussein's right to be detained by virtue of a judicial order. Article 9(1) of the ICCPR¹⁶¹ and Principle 2 of the Body of Principles¹⁶² prohibit arbitrary arrest and detention and state that no one shall be deprived of liberty except on such grounds and in accordance with the procedure established by the law. Similarly, under Article 54 of the Egyptian Constitution,¹⁶³ unless a detainee is caught *in flagrante delicto*, it is not permissible to arrest or detain him except by virtue of a judicial order which is also in line with Principle 4 of the Body of Principles.¹⁶⁴

Mr. Hussein was arbitrarily arrested because of his association with Al Jazeera and for exercising his freedom of expression as a journalist. He was not caught committing any crime; and, his arrest was conducted without a proper judicial order, in the absence of circumstances mediating the lack of judicial order, and thus, in violation of both domestic and international law. Furthermore, when raiding Mr. Hussein's home as well as his sister's, taking equipment from his home without permission, security forces did so in the absence of a warrant.

¹⁵⁷ ICCPR, *supra* note 132, Art 22(2).

¹⁵⁸ *Njaru v. Cameroon*, *supra* note 149.

¹⁵⁹ *Revised Methods of Work*, *supra* note 125, ¶8(c).

¹⁶⁰ *Body of Principles for the Protection of Persons under Any Form of Detention or Imprisonment*, GA Res. 47/173, 43 U.N. GAOR Supp. (No. 49) 298, A/43/49, Dec. 9, 1998 [hereinafter *Body of Principles*].

¹⁶¹ ICCPR, *supra* note 132, Art. 9(1).

¹⁶² *Body of Principles*, *supra* note 160, Principle 2.

¹⁶³ *Constitution of the Arab Republic of Egypt*, *supra* note 130, Art. 54.

¹⁶⁴ *Body of Principles*, *supra* note 160, Principle 4.

2. Egyptian Authorities Violated Mr. Hussein's Rights by Failing to Inform him of Charges Against Him

The Egyptian authorities have violated Mr. Hussein's right to be informed of the reasons for his arrest. Under Articles 9(2) and 14(3)(a) of the ICCPR¹⁶⁵ and Article 54 of the Constitution,¹⁶⁶ Egypt is obligated to guarantee that those arrested are informed of the reasons for their arrest and promptly informed of the charges brought against them. Principles 10 and 13 of the Body of Principles reiterate the same.¹⁶⁷

Mr. Hussein was arrested without a warrant on December 22, 2016, he was held in an unknown location until January 5, 2017. Mr. Hussein's lawyer requested to be provided with any official documents relating to Mr. Hussein's arrest, but those requests remained unanswered. Even as their questioning proceeded and information about the case began to be leaked to the media (including three "confession tapes"), Mr. Hussein was not formally charged, nor was he even informally told of the precise reasons for their arrest. Mr. Hussein still remains in pretrial detention without being formally charged. The only reason for which pending charges came to light was through Egypt's interior minister who accused Mr. Hussein, five days after his arrest of "incitement against state institutions and broadcasting false news with the aim of spreading chaos."¹⁶⁸

Arresting the defendant without a warrant, denying him information regarding the basis for his arrest and detention, and informally referring to imprecise pending charges all violate Mr. Hussein's right to be promptly informed of the charges against him.

3. Egyptian Authorities Violated Mr. Hussein's Rights by Failing to Promptly Bring Him Before a Judge and Failing to Try Him Without Undue Delay

Egyptian authorities have violated Mr. Hussein's right to be promptly brought before a judge and tried without undue delay. Article 9(3) of the ICCPR, which affirms this right, also adds: "It shall not be the general rule that persons awaiting trial shall be detained in custody."¹⁶⁹ Principle 11(1) of the Body of Principles¹⁷⁰ and Article 14(3)(c) of the ICCPR¹⁷¹ additionally reiterate the right of the accused to be tried without undue delay.

Egyptian authorities have increasingly used pretrial detention as a punitive measure by which to constrain the fundamental freedoms of independent voices and journalists, all the while failing to bring them to just, speedy trial in violation of their guaranteed due process rights; the case of Mr. Hussein is no exception.

¹⁶⁵ ICCPR, *supra* note 132, Arts. 9, 14.

¹⁶⁶ Constitution of the Arab Republic of Egypt, *supra* note 130, Art. 54.

¹⁶⁷ Body of Principles, *supra* note 160, Principles 10, 13.

¹⁶⁸ Al Jazeera, *supra* note 7.

¹⁶⁹ ICCPR, *supra* note 132, Art. 9(3).

¹⁷⁰ Body of Principles, *supra* note 160, Principle 11(1).

¹⁷¹ ICCPR, *supra* note 132, Art. 14(3)(c).

Upon being arrested on December 22, 2016, Mr. Hussein was held in an unknown location until January 5, 2017. During this period, he was not brought before a judge and was held in a manner that clearly violates both Egyptian and international law. After interrogation and the initial pretrial detention order against him, Mr. Hussein has been brought before a judge for near-automatic detention renewal hearings during which the judge consistently failed to give proper due process consideration for grants of bail and/or conditional release. During the course of those detention renewal proceedings, Mr. Hussein's lawyer was routinely denied the opportunity to meet with his client prior to each hearing and to prepare a proper defense. Furthermore, during the renewal hearings, Mr. Hussein was not allowed to speak. Mrs. Hussein has yet to be officially charged with a crime, and the Egyptian authorities have been unable to produce a single piece of evidence or documentation to back up the alleged pending charges that have been brought against him.

4. Egyptian Authorities Violated Mr. Hussein's Rights by Failing to Grant Him an Opportunity to Appeal the Lawfulness of their Detention

Egyptian authorities have violated Mr. Hussein's right to be granted an opportunity to appeal the lawfulness of his ongoing detention. Under Article 9(4) of the ICCPR,¹⁷² Egypt is mandated to bring Mr. Hussein before a court in order for the court to determine the lawfulness of detention without delay. Further, Article 54 of the Egyptian Constitution¹⁷³ notes that every person whose freedom is restricted shall have the opportunity to file grievance before the court. Principle 11(3) of the Body of Principles affirms that "a judicial or other authority shall be empowered to review as appropriate the continuance of detention."¹⁷⁴

Although Mr. Hussein was brought before a court for regular pretrial detention renewal sessions, he and his legal representative were not granted a proper opportunity to be heard and to make a case for conditional release and/or bail.¹⁷⁵ Further, Egyptian authorities failed to provide any documentation or evidence regarding the informal accusations or potential pending charges against Mr. Hussein, denying him an opportunity to fully become aware of the reasons for his detention and ultimately, to appeal the status of his detention. The near automatic nature of the detention renewals despite the fact that none of the five guidelines set forth by Egyptian law for pretrial detention have been established by the prosecution or the court, demonstrates that Mr. Hussein has been denied an actual and realistic opportunity to appeal the lawfulness of his detention. In fact this practice of Egyptian courts renewing detention orders at the request of the Public Prosecution, in proceedings lasting only a few minutes, without considering the merits of the case, is widely documented.¹⁷⁶

¹⁷² ICCPR, *supra* note 132, Art. 9(4).

¹⁷³ *Constitution of the Arab Republic of Egypt*, *supra* note 130, Art. 54.

¹⁷⁴ *Body of Principles*, *supra* note 160, Principle 11(3).

¹⁷⁵ Amnesty International, *supra* note 82.

¹⁷⁶ *Id.*

5. Egyptian Authorities Violated Mr. Hussein's Rights to be Presumed Innocent Until Proven Guilty

Egyptian authorities have violated Mr. Hussein's right to be presumed innocent until proven guilty. Under Article 14(2) of the ICCPR,¹⁷⁷ Article 11(1) of the UDHR,¹⁷⁸ Article 96 of the Egyptian Constitution,¹⁷⁹ and Principle 36 of the Body of Principles,¹⁸⁰ every citizen has the right to be presumed innocent. The Human Rights Committee has stated that:

“the burden of proof of the charge is on the prosecution and the accused has the benefit of the doubt. No guilt can be presumed until the charge has been proved beyond reasonable doubt. Further, the presumption of innocence implies a right to be treated in accordance with this principle. It is, therefore, a duty for all public authorities to refrain from prejudging the outcome of a trial.”¹⁸¹

Article 10(2)(a) of the ICCPR states that “accused persons shall, save for exceptional circumstances, be segregated from convicted persons and shall be subject to separate treatment appropriate to their status as unconvicted persons.”¹⁸² Principle 8 of the Body of Principles reiterates that unconvicted persons should be kept separately from convicted persons and should be treated accordingly.¹⁸³

Since 2013, Egyptian authorities have increasingly used pretrial detention as a punitive measure to silence peaceful dissidents and retaliate against individuals for their human rights work. The number of pretrial detainees in Egypt has exponentially increased and the periods of pretrial detention routinely fail to live up to international standards and often exceed even domestic maximums. Pretrial detainees are kept in the same cells as convicted prisoners.

By placing Mr. Hussein in pretrial detention, continuously renewing his detention in a near-automatic manner, and not giving proper due process consideration to the conditional release and/or granting of bail, Egyptian authorities are acting under the assumption that Mr. Hussein is guilty and are treating him as such. Egyptian authorities continue to take unlawful punitive action against Mr. Hussein. He has been repeatedly subjected to cruel, inhuman, and degrading treatment and possibly torture, and has been held in solitary confinement from December 23, 2016 to March 21, 2017. Furthermore, government-controlled media have engaged in a smear campaign against Mr. Hussein painting him as guilty without an opportunity to first be presumed innocent.¹⁸⁴ By placing Mr. Hussein into Tora Prison, a detention center where convicted criminals serve their sentences, Egyptian authorities are also treating Mr. Hussein as guilty well before he has even been charged, or been brought before a court on the merits of the case.

¹⁷⁷ ICCPR, *supra* note 132, Art 14(2).

¹⁷⁸ *Universal Declaration*, *supra* note 143, Art. 11(1).

¹⁷⁹ *Constitution of the Arab Republic of Egypt*, *supra* note 130, Art. 96.

¹⁸⁰ *Body of Principles*, *supra* note 160, Principle 36.

¹⁸¹ *General Comment No. 13: Equality Before the Courts and the Right to a Fair and Public Hearing by an Independent Court Established by Law (Art. 14)*, UN HUMAN RIGHTS COMMITTEE, HRI/GEN/1/Rev.1, Apr. 13, 1984, ¶14.

¹⁸² ICCPR, *supra* note 132, Art 10(2)(a).

¹⁸³ *Body of Principles*, *supra* note 160, Principle 8.

¹⁸⁴ Al Jazeera, *supra* note 11.

6. Egyptian Authorities Violated Mr. Hussein’s Rights to have access to a lawyer, and the Right to have Adequate Time and Facilities for the Preparation of his Defense

Egyptian authorities have violated Mr. Hussein’s right to prepare an adequate defense. Article 14(3)(b) of the ICCPR guarantees the right to have adequate time and facilities for the preparation of a detainee’s defense.¹⁸⁵ Adequate time depends on the circumstances of the particular case. The United Nations Human Rights Committee has noted that facilities must include access to documents and other evidence that the accused requires to prepare his case.¹⁸⁶

Egyptian authorities have consistently prevented Mr. Hussein from meeting with his lawyer, despite multiple requests. Although an associate from his lawyer’s firm was able to visit Mr. Hussein briefly and informally on February 21, 2017, the first time that Mr. Hussein’s lawyer was able to meet officially with his client was on April 19, 2017, and in the presence of a prison warden,. This was almost four months after the start of Mr. Hussein’s detention.

Additionally, the prosecution has failed to provide Mr. Hussein’s counsel with the case files, or to provide any documentation from the case to substantiate the informal allegations or potential pending charges against Mr. Hussein. Further, during the detention renewal hearings, the fact that pretrial detention was renewed in a near automatic nature, and the fact that little, if any, due process consideration was given, collectively raise significant concerns that Mr. Hussein’s right to prepare an adequate defense was severely violated.

7. Egyptian Authorities Violated Mr. Hussein’s Rights to be Equal Before the Courts

Egyptian authorities have violated the right of Mr. Hussein to be equal before the courts and tribunals under Article 14(1) of the ICCPR.¹⁸⁷ According to the United Nations Human Rights Committee, this “ensures that the parties to the proceedings in question are treated without any discrimination” and the principle of the “equality of arms.”¹⁸⁸

By depriving Mr. Hussein of his full due process rights and violating his rights to freedom of expression and association, Egyptian authorities have abused pretrial detention in this case to keep the defendant detained despite the absence of any legal basis for his detention. Everyday criminal detainees who face possible murder, rape, or theft charges undergo a regularized legal process under Egyptian domestic law that would enable their possible release pending trial. Many of them are granted conditional release after standardized detention renewal hearing sessions. For prisoners of conscience however, release pending trial has become nearly impossible. Mr. Hussein is being singled out, targeted and treated unequally under the law because of his affiliation and association with Al Jazeera, and potentially because of his opinion and expression of that opinion as well. As previously discussed, Al Jazeera journalists are being

¹⁸⁵ ICCPR, *supra* note 132, Art 14(3)(b).

¹⁸⁶ *General Comment No. 13: Equality Before the Courts and the Right to a Fair and Public Hearing by an Independent Court Established by Law (Art. 14)*, UN HUMAN RIGHTS COMMITTEE, HRI/GEN/1/Rev.1, Apr. 13, 1984, ¶11.

¹⁸⁷ ICCPR, *supra* note 132, Art. 14(1).

¹⁸⁸ *General Comment No. 32 (2007) on Article 14: Right to Equality Before Courts and Tribunals and to a Fair Trial*, UN HUMAN RIGHTS COMMITTEE, CCPR/C/GC/32, Aug. 23, 2011, ¶ 8.

singled out by Egyptian authorities, despite exercising their legitimate freedoms of expression and association outside of the country.

8. Egyptian Authorities Violated Mr. Hussein's Rights to be Free from Cruel, Inhuman, or Degrading Treatment and Torture

Egyptian authorities have violated Mr. Hussein's right to be free from cruel, inhuman or degrading treatment or punishment. Article 7 of the ICCPR,¹⁸⁹ Article 5 of the UDHR,¹⁹⁰ Articles 52 and 55 of the Egyptian Constitution,¹⁹¹ and Principle 6 of the Body of Principles¹⁹² collectively establish this prohibition. The Body of Principles states that this prohibition "should be interpreted so as to extend the widest possible protection against abuses, whether physical or mental, including the holding of a detained or imprisoned person in conditions which deprive him, temporarily or permanently, of the use of any of his natural senses, such as sight or hearing, or of his awareness of place and the passing of time."¹⁹³ Further, Articles 1-2 and 4-7 of the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment,¹⁹⁴ to which Egypt is a state party, also collectively prohibit the infliction of physical or mental pain or suffering by a public official with the intention to intimidate or coerce.

More broadly, Article 10(1) of the ICCPR¹⁹⁵ and Principle 1 of the Body of Principles¹⁹⁶ state that persons deprived of their liberty shall be treated with humanity and with respect for the inherent dignity of the human person. Article 51 of the Egyptian Constitution¹⁹⁷ states that dignity is a right of every human being, that it may not be violated, and that the State must respect and protect it.

Following recent amendments, Egypt's domestic legal framework permits solitary confinement for up to six months, despite this practice violating Egypt's international human rights obligations.¹⁹⁸ Solitary confinement is considered to be "the physical and social isolation of individuals who are confined to their cells for 22 to 24 hours a day;"¹⁹⁹ and prolonged solitary confinement is "any period of solitary confinement in excess of 15 days."²⁰⁰ The United Nations Special Rapporteur on Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment explained that there is a 15 days limit between the two, "because at that point, according to the literature surveyed, some of the harmful psychological effects of isolation can become

¹⁸⁹ ICCPR, *supra* note 132, Art 7.

¹⁹⁰ Universal Declaration, *supra* note 143, Art. 5.

¹⁹¹ Constitution of the Arab Republic of Egypt, *supra* note 130, Arts. 52, 55.

¹⁹² Body of Principles, *supra* note 160, Principle 6.

¹⁹³ *Id.*

¹⁹⁴ Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, June 26, 1987, 1465 U.N.T.S. 85, Arts. 1-2, 4-7.

¹⁹⁵ ICCPR, *supra* note 132, Art 10(1).

¹⁹⁶ Body of Principles, *supra* note 160, Principle 1.

¹⁹⁷ Constitution of the Arab Republic of Egypt, *supra* note 130, Art. 51.

¹⁹⁸ POMED, *Egypt Daily Update: Interior Ministry Issues Controversial New Prison Regulations*, PROJECT ON MIDDLE EAST DEMOCRACY, (Feb. 22, 2017), http://pomed.org/regional-news-digests/egypt-daily-update-interior-ministry-issues-controversial-new-prison-regulations/?utm_content=buffer804e4&utm_medium=social&utm_source=twitter.com&utm_campaign=buffer.

¹⁹⁹ United Nations General Assembly, *Torture and other cruel, inhuman or degrading treatment - Interim report of the Special Rapporteur of the Human Rights Council on torture and other cruel, inhuman or degrading treatment or punishment*, A/66/268, 5 August 2011, para. 26. Available at: <http://solitaryconfinement.org/uploads/SpecRapTortureAug2011.pdf>.

²⁰⁰ *Id.*

irreversible.”²⁰¹ As the Subcommittee on Prevention of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment points out, “prolonged solitary confinement may amount to an act of torture and other cruel, inhuman or degrading treatment or punishment.”²⁰² Finally, the Special Rapporteur sets out various situations in which solitary confinement amounts to torture. Especially relevant to Mr. Hussein’s case is that “when solitary confinement is used intentionally during pretrial detention as a technique for the purpose of obtaining information or a confession, it amounts to torture;”²⁰³ and that when the detention conditions are so poor and the regime so strict that they lead to severe psychological and physical pain, solitary confinement amounts to torture.²⁰⁴

By holding Mr. Hussein in prolonged solitary confinement (89 days), the authorities subjected him to cruel, inhuman and degrading treatment that may amount to torture. This was done without any justifiable cause, and caused him severe psychological and physical stress. While in solitary confinement, Mr. Hussein was kept in a small, dark cell.²⁰⁵ The cell had no electricity, and had no ventilation, no air conditioning, and no heat. The cell had no bathroom and Mr. Hussein was only allowed to urinate in a plastic bowl inside of his cell. The cell was infested with bugs and feces, from previous prisoners. It had a terrible smell because of the lack of ventilation and bathroom. Mr. Hussein was only allowed out of his cell on very rare occasions. Sometimes, a week could go by without him being allowed out of his cell to walk. He did not have access to sunlight. Mr. Hussein was also forced to have his head shaved. He was constantly mistreated, and was denied adequate food and clothing.²⁰⁶ As a result, he lost a significant amount of weight, and now suffers from shortness of breath. He also developed rashes due to the contaminated environment of the cell he was held for the period of the solitary confinement. He never had rashes before.

The prison has also denied Mr. Hussein access to winter clothes ever since his arrest even though he had no heat in his cell despite the weather being very cold. Mr. Hussein started complaining of chest pain, despite not having a history of such symptoms before his detention.

Because the detention conditions were so poor and the regime so strict, and because it seems like Mr. Hussein was placed in solitary confinement for the purpose of obtaining confessions, he was subject to cruel, inhuman or degrading treatment and punishment, and likely torture.

As of the date of this filing, Mr. Hussein has still not been able to see a doctor and has not received any medication, despite the fact that he is suffering of chest pains, rashes, shortness of breath, loss of weight, and sever psychological and physical stress.

²⁰¹ *Id.*

²⁰² United Nations Subcommittee on Prevention of Torture, *Report on the visit of the Subcommittee on Prevention of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment to the Republic of Paraguay*, CAT/OP/PRY/1, para. 185.

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²⁰³ United Nations General Assembly, *supra* note 199, para. 73.

²⁰⁴ *Id.* para. 74.

²⁰⁵ Al Jazeera, *supra* note 5.

²⁰⁶ Al Jazeera, *supra* note 11.

Additionally, when Mr. Hussein was arrested on December 22, 2016, he was held in an unknown location until January 5, 2017. Keeping the defendant in such a situation constituted a form of mental abuse and contributed to a sense of fear. By failing to adhere to the standards set forth by law and using intimidation tactics to make Mr. Hussein feel vulnerable and beyond the protections of the law, security officials deprived Mr. Hussein of his dignity and inflicted clear mental pain for the purpose of weakening the defendant before his formal interrogation.

Finally, Mr. Hussein was under duress in the three forced “confession” videos.²⁰⁷ Mr. Hussein was coerced by the authorities to repeat the recording of his forced “confessions” over 20 times.

During his initial arrest, and throughout his time at the Tora Prison, including in prolonged solitary confinement, Mr. Hussein has been subjected to physical and mental abuse that has severely violated his dignity and right to personal integrity. In an attempt to weaken his resolve prior to interrogation, to punish him for his exercise of fundamental rights, to disincentivize him from continuing his journalism activities upon his release and to associate with Al Jazeera, Egyptian authorities have subjected Mr. Hussein to cruel, inhuman or degrading treatment and punishment, and likely to torture.

iv. Category V: Discrimination Based on a Protected Class

The detention of Mr. Hussein is arbitrary under Category V due to his association with Al Jazeera, the exercise of his freedom of expression, and his status as a journalist.

A detention is arbitrary under Category V when, in violation of international law, the detention is discriminatory “based on . . . any other status, that aims towards or can result in ignoring the equality of human beings.”²⁰⁸ Article 19 of the UDHR²⁰⁹ and Article 19 of the ICCPR²¹⁰ further prohibit discrimination before the law on a number of grounds, including “receiv[ing] and impart[ing] information and ideas of all kinds”; similarly, Article 53 of the Egyptian Constitution guarantees equality before the law on the basis of the expression one’s opinion.²¹¹

Mr. Hussein’s arrest and detention is a manifestation of the discrimination currently being perpetrated against him by Egyptian authorities in light of his protected status as a journalist exercising his freedom of expression as well as his freedom of association with the Al Jazeera Media Network, which includes the right to receive and impart information.

Since being detained, Mr. Hussein has been singled out by authorities and treated in a manner different than that which any everyday citizen facing possible murder or drug charges would be subjected to. Mr. Hussein has been subjected to solitary confinement; near-automatic detention renewals; egregious prison conditions; cruel, inhuman and degrading treatment that may amount to torture; and severe violations of his due process rights.

²⁰⁷ *Id.*

²⁰⁸ *Revised Methods of Work*, *supra* note 125, ¶8(e).

²⁰⁹ *Universal Declaration*, *supra* note 143, Art. 19.

²¹⁰ *ICCPR*, *supra* note 132, Art 19.

²¹¹ *Constitution of the Arab Republic of Egypt*, *supra* note 130, Art. 53.

II. INDICATE INTERNAL STEPS, INCLUDING DOMESTIC REMEDIES, TAKEN ESPECIALLY WITH THE LEGAL AND ADMINISTRATIVE AUTHORITIES, PARTICULARLY FOR THE PURPOSE OF ESTABLISHING THE DETENTION AND, AS APPROPRIATE, THEIR RESULTS OR THE REASONS WHY SUCH STEPS OR REMEDIES WERE INEFFECTIVE OR WHY THEY WERE NOT TAKEN.

Mr. Hussein does not have any effective or legal remedies available.

On December 29, 2016, Mr. Hussein's attorney filed three applications with the Public Prosecution Office requesting to be notified of any interrogation or renewal session, to have access to the case files to be able to challenge Mr. Hussein's detention, and finally for Mr. Hussein's daughter to be granted visitation rights. To date, the requests all remained unanswered and thus *de facto* denied.

On January 4, 2017, Mr. Hussein's lawyer filed an additional application to be granted visitation rights himself. As of the date of this filing this application remains unanswered.

On January 10, 2017, Mr. Hussein's lawyer followed up and notified the Public Prosecutor that he was not able to visit his client, nor review the case files, despite having filed several applications. As of the date of this filing, the Public Prosecutor has yet to respond to this communication.

On April 26, 2017, Mr. Hussein's lawyer submitted the latest request to have access to copies of the case files to the Public Prosecutor. As of the date of this filing this application remains unanswered.

Despite multiple requests, petitions, and communications, Mr. Hussein's situation has not changed and there is no reason to believe that he currently enjoys any effective or legal remedies available to improve his conditions. All attempts to challenge the detention of Mr. Hussein and all attempt to secure bail for the defendant have been outright ignored by the judiciary or otherwise unsuccessful. Requests for bail and conditional release have not been given proper or due consideration, and the *de facto* denial of these petitions has yet to be justified by any reasoning of the Court.²¹² The prosecution has refused to cooperate with Mr. Hussein's lawyer to provide the case files, and his was unable to visit his client for close to four months. When he was finally able to do so, it was in the presence of a prison warden, and for a very short period of time. Mr. Hussein's pretrial detention continues to be extended in near-automatic detention renewal hearings.

In the current political climate and in light of the trend for Egyptian authorities to use pretrial detention as a punitive measure against prisoners of conscience and journalists, it is unlikely that Mr. Hussein will be able to pursue any effective, legal remedy to secure his release or compensate him for his improper, arbitrary detention. Even if a legal avenue theoretically

²¹² Bar Human Rights Committee and EuroMed Rights, *Serious Concerns about Fairness of Belady Foundation Trial*, BAR HUMAN RIGHTS, (Mar. 22, 2016), http://barhumanrights.org.uk/sites/default/files/documents/biblio/bhrc_emhrn_statement-of-concern-aya-hegazy.pdf.

existed on paper, in practice the government has systematically ensured that it does not exist in practice.

III. CONCLUSION

The arrest and continued detention of Mr. Hussein is an egregious violation of his fundamental rights. The Government of the Arab Republic of Egypt has violated the following rights under various provisions of the Egyptian Constitution, Egyptian laws, and international law by unlawfully extending the pretrial detention of Mr. Hussein and subjecting him to mistreatment:

- The right to be free from arbitrary detention;
- The right to freedom of association and expression;
- The right to due process, including the right to be promptly brought before a judge, the right to appeal the lawfulness of detention, the right to prepare an adequate defense, the right to be presumed innocent before guilty, and the right to be equal before the courts; and
- The right to dignity and the right to be free from torture and cruel, inhuman or degrading treatment or punishment.

We hereby request that the United Nations Working Group on Arbitrary Detention:

1. Issue an opinion finding Mr. Hussein's arrest and ongoing pretrial detention to be in violation of Egypt's obligations under international law;
2. Call for Mr. Hussein's immediate release;
3. Request that the Government of Egypt investigate and hold accountable all persons responsible for the unlawful arrest, continued detention, and mistreatment of Mr. Hussein; and
4. Request the Government of Egypt to award Mr. Hussein compensation for the violations he has endured as a result of his unlawful arrest, arbitrary detention, and mistreatment while in state custody.

IV. FULL NAME AND ADDRESSES OF THE PERSON(S) SUBMITTING THE INFORMATION



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Annexes

Annex I: Transcript and translation of first forced “confession” video

Annex II: Transcript and translation of second forced “confession” video

Annex III: Egyptian Ministry of Interior’s statement on its Facebook page announcing Mr. Hussein’s detention

Annex I: Transcript and translation of first forced “confession” video:
<https://www.youtube.com/watch?v=zBDJNIZ6x 8>

CERTIFICATE OF TRANSLATION
The logo for TransPerfect Legal Solutions features a stylized 'T' in a blue square on the left, followed by the text 'TRANSPERFECT LEGAL SOLUTIONS' in white capital letters on a dark blue rectangular background.

TransPerfect Translations Ltd, 45 Moorfields, 5th Floor, London EC2Y 9AE, United Kingdom, a professional translation agency and international communications firm, is competent to translate from **Arabic** into **English**. We hereby certify that this translation is, to the best of our professional knowledge and belief, a faithful rendering of the following document:

Mahmoud Hussein ‘confession’ YouTube video, dated 25 December 2016

Signed: A handwritten signature in black ink that reads 'J Harrison'.

Name: Jacob Harrison

Title: Account Executive

Date: 29/03/2017

Filename: https://www.youtube.com/watch?v=zBDJNIZ6x_8

[00:00:00]

Mahmoud Hussein Gomaa: My name is Mahmoud Hussein Gomaa. I was born on 12 December 1966 in the Giza Governorate. I graduated from Cairo University's Faculty of Economics and Political Science in 1988. I began working at Al Jazeera News' Cairo Office in 2011. I worked with them for about four years. After the Revolution of June 30, and closure of the Cairo Office, I went to work in Doha as a Correspondents Supervisor. My work place was moved from Cairo to Doha. While in Doha, I found out that there is a movie about the Egyptian Army called "Al-Aasaker [The Soldiers]." The film was produced by Al Jazeera, and produced by a person called "Emad Al Sayed." He filmed the dramatic scenes in Lebanon and Qatar. These scenes have nothing to do with reality. They aim to distort the image of the Egyptian military and Egyptian soldiers. We, as Egyptians, immediately protested and objected to the content of this film and notified the editor of Egyptian affairs that we want to meet the management in an attempt to stop showing this film. However, the management ignored our opinions, and insisted on showing the film. We note that it is adopting an irresponsible approach and one that encompasses a strategy against the Egyptian state. We, along with many from other nationalities, expressed personal resentment. But these opinions were disregarded. Personally, I uploaded my photo while I was a soldier in 1988 on Facebook. I said that the Egyptian Army belongs to the Egyptian people, and that we refuse any abuse against the Egyptian Army from any entity, whatever its source.

[00:00:00]

محمود حسين جمعة : أنا أسمي محمود حسين جمعة مواليد 12 ديسمبر 1966 محافظة الجيزة , خريج كلية اقتصاد و علوم سياسية دفعة 88 من جامعة القاهرة , التحقت بالعمل بمكتب الجزيرة الاخبارية بمكتب القاهرة في 2011, و اشتغلت معاهم حوالي أربع سنين, و بعد قيام ثورة 30 يونيو و اغلاق مكتب القاهرة ذهبت للعمل في الدوحة كمشرف مراسلين. انتقل مقر عملي من القاهرة الى الدوحة , و خلال وجودي في الدوحة عرفت أن هناك فيلم عن الجيش المصري اسمه " العساكر " الفيلم أنتجته قناة الجزيرة و أنتجه شخص يسمى " عماد السيد" و قام بتصوير المشاهد التمثيلية في لبنان و في قطر, و هذه المشاهد لا تمت للواقع بصلة, و هي تستهدف تشويه صورة العسكرية المصرية و الجندية المصرية, احنا كمصريين على الفور قمنا بالاحتجاج و الاعتراض على مضمون هذا الفيلم و بلغنا المحرر في الشؤون المصرية بأننا عاوزين نقابل الادارة لمحاولة وقف عرض هذا الفيلم و لكن الادارة ضربت بأرأنا عرض الحائط و أصرت على عرض الفيلم في اشارة الى أنها بتنتهج نهج غير مسؤول و نهج يتضمن استراتيجيه لمعاداة الدولة المصرية و احنا ومعنا كثير من الجنسيات الأخرى أعربنا عن الامتعاض الشخصي] و لكن هذه الآراء لم يؤخذ بها, أنا على المستوى الشخصي نزلت صورتي و أنا عسكري سنة 88 على الفيس بوك و قلت أن الجيش المصري ملك للشعب المصري و إننا نرفض أي اساءة للجيش المصري من أية جهة أيا كان مصدرها.

Annex II: Transcript and translation of second forced “confession” video:
<https://www.youtube.com/watch?v=s1z1d6PzQwA>

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Mahmoud Hussein ‘equipment’ YouTube video, dated 25 December 2016

Signed: 

Name: Jacob Harrison

Title: Account Executive

Date: 29/03/2017

[00:00:00]

محمود حسين جمعة: أنا أسمي محمود حسين جمعة من مواليد الجيزة 12/12/1966 ساكن في المريوطية في الهرم، حاصل على بكالوريوس اقتصاد و علوم سياسية دفعة 88 جامعة القاهرة، اشتغلت في مجموعة وظائف في الاعلام قبل التحاقى بقناة الجزيرة، و اشتغلت في اذاعة صوت العرب و في قناة النيل للأخبار، و مدير مكتب تلفزيون السودان في القاهرة، و التحقت للعمل في قناة النيل للأخبار في أغسطس 2011 و أستمررت في العمل معهم حتى سبتمبر 2013 و عندها نشب حريق في مكتب القاهرة في مبنى دوجة ماسبيرو. الحريق نشب في الاستوديو الرئيسي و أدى تقريبا الى اتلاف ثلاث أو أربع كاميرات و جاءت الحماية المدنية لاطفاء الحريق و اطفاء الأرشيف و الأشرطة، و قالت أن سبب الحريق هو ماس كهربائي بعد ما بلغ المدير المالي و الإداري شرطة بولاق أبو العلا بالحادث، الان هذه الحاجات هي ما تبقى من معدات مكتب القاهرة تم نقلها الى احدى الشقق التابعة للقناة، و اتصل بي المدير الإداري و أبلغني أنه يحلّي المعدات دي عندي على سبيل أمانة و عهدة شخصية باعتباري أحد موظفي القناة، المعدات هي عبارة عن أجهزة مونتاج مكونة من ديسك و شاشة مونتاج و أيضا مونيترز و بلايرز لوضع شرائط المونتاج و Mixer صوت و شاشات Monitor و مجموعة من الكاميرات المحمولة، و أيضا مجموعة من شواحن البطاريات، و كشافات اضواء باحجام مختلفة و أيضا بطاريات كاميرات و تليفونات و رسيفرز بتاعت الصوت، و neck microphones ميكروفون العنق، و أيضا حوامل الكاميرات المحمولة و كابلات الصوت، نما إلى علمي أن القناة رافعة قضية بخصوص المعدات و لكن هذه المعدات موجودة قدامي، دي تقريبا تمثل 80% من المعدات الموجودة في....

Filename: <https://www.youtube.com/watch?v=s1z1d6PzQwA>

[00:00:00]

Mahmoud Hussein Gomaa: My name is Mahmoud Hussein Gomaa. I was born in Giza on 12/12/1966. I live in El Marutiya in Haram. I graduated from the Cairo University with a bachelor's degree in economics and political science in 1988. I worked in various media jobs before joining Al Jazeera. I worked at Sawt Al-Arab radio station, at Al-Nil News Channel, and as office manager of the Sudan Television in Cairo. I then began working at Al-Nil News Channel in August 2011, and continued to work there until September 2013 when a fire broke out at the Cairo Office in the Dohat Maspero Building. The fire broke out in the main studio, and damaged about three or four cameras. Civil Defence came to put out the fire, as well as put out the fire in the archives and tapes. It said that the cause of the fire was an electrical short circuit as reported by the financial and administrative manager who called BouLaq Abu El-Ela Police about the incident. Now, these things are what are left from the Cairo Office equipment. They were transported to one of the Channel's apartments. The administrative manager called me and told me that he would leave this equipment with me as a personal trust given that I am one of the Channel's employees. The equipment consists of editing equipment comprised of a disc, an editing screen, monitors and players for editing tapes, a sound mixer, monitor and a set of portable cameras, a set of battery chargers, flash lights of various sizes, camera batteries, telephones, voice servers, neck microphones, portable cameras tripods, and sound cables. It has come to my attention that the channel filed a lawsuit about the equipment. However, I have this equipment in front of me. It represents about 80% of the equipment located in...

Annex III: Egyptian Ministry of Interior's statement on its Facebook page announcing Mr. Hussein's detention



الصفحة الرسمية لوزارة الداخلية

December 25 at 4:20am · 🌐

(بيان وزارة الداخلية بشأن ضبط مدير المراسلين بالمقر الرئيسي لقناة الجزيرة بالدوحة لقيامه بإعداد تقارير تتضمن مواد إعلامية مفبركة ضد الدولة ليتم عرضها على تلك القناة مقابل مبالغ مالية)
توافرت معلومات لقطاع الأمن الوطني بإصدار مسئولى قناة الجزيرة القطرية تكليفات لبعض العناصر المتعاونة مع القناة داخل البلاد للإستمرار فى تنفيذ مخططاتها الإعلامى الهادف إلى إثارة الفتن والتحريض ضد مؤسسات الدولة وإشاعة حالة من الفوضى من خلال بث الأخبار الكاذبة وإعداد التقارير الإعلامية والمقالات والأفلام الوثائقية المفبركة .
وقد أمكن تحديد أحد القائمين على ذلك التحرك ويُدعى محمود حسين جمعة (مدير المراسلين بالمقر الرئيسى لقناة الجزيرة بالدوحة) وتبين إتخاذه من عدة مقرات إقامة له بمحافظة الجيزة وكذا مقر إقامة شقيقته وكرأ لتنفيذ المخطط المشار إليه وذلك لتفادى عمليات الرصد الأمنى فى ضوء عمل القناة بصورة غير شرعية بالبلاد وعدم حصولها على التراخيص اللازمة فضلاً عن إحتفاظه بأرشيف للتقارير الإعلامية والمقالات والأفلام الوثائقية المفبركة بتلك المقار .
أضافت المعلومات بقيام المذكور بعقد عدة لقاءات مع مسئولى القناة المشار إليها تلقى خلالها تكليفات بإختيار عدد من العاملين فى مجال الصحافة والإعلام لإعداد تقارير تتضمن مواد إعلامية مفبركة ضد الدولة ومؤسساتها وإرسالها عبر شبكة المعلومات الدولية (الإنترنت) ليتم عرضها على تلك القناة مقابل مبالغ مالية كبيرة .
يستهدف مخطط قناة الجزيرة والذي إضطلع المذكور بتنفيذه إثارة الجماهير ودفعهم لتعطيل مؤسسات الدولة عن القيام بأعمالها وتضخيم المشكلات الفئوية وتنظيم حملات إعلامية ضد الدولة من خلال عدد من اللجان الإلكترونية والإعلامية التابعة لقناة الجزيرة .
تم إستئذان نيابة أمن الدولة العليا وضبط المذكور وكذا آلاف من شرائط الفيديو وأعداد كبيرة من معدات التصوير وأجهزة الإضاءة والمونتاج ووحدات الذاكرة الخارجية والإسطوانات المدمجة التى يستخدمها فى تحركاته المؤتممة قانوناً .
تم عرض المذكور والمضبوطات على النيابة العامة لإتخاذ الإجراءات القانونية اللازمة .

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