

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 Mohamed Ahmed Hussein,
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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November 13, 2015

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 Mohamed Ahmed Hussein of his liberty and continues to arbitrarily detain Mr. Hussein. Additionally and because Mr. Hussein has been held in pretrial detention without charge for over 650 days and subjected to grave prison conditions and egregious torture, urgent action is requested from the Working Group on Mr. Hussein's case in light of the time-sensitive nature and life-threatening circumstances facing Mr. Hussein.

Mr. Hussein is a student who was arbitrarily arrested at a police checkpoint for wearing a January 25 scarf and a t-shirt with the slogan: “a nation without torture”; Mr. Hussein, who was 18 years old at the time, was on his way home after participating in a peaceful demonstration to commemorate the third anniversary of the January 25 Revolution. According to the Arab Network of Human Rights Information (ANHRI), Mr. Hussein is the “youngest Arab prisoner of conscience.”² Today, Mr. Hussein, who has been in pretrial detention for over 650 days, has not been formally charged with a single crime. He remains in pretrial detention and continues to face persistent detention renewals, most of which were granted while he was absent from the courtroom, without prior notification to his lawyers, and absent an opportunity to present a case for the granting of bail. Despite attempts to appeal the judge’s detention renewal decisions, formal complaints to the Prosecutor-General have fallen on deaf ears.³ By failing to grant Mr. Hussein’s lawyers the opportunity to represent their client before the judge and denying them vital information about their client, serious violations to Mr. Hussein’s rights to enjoy legal counsel and be subject to a fair investigation and trial have been perpetrated.

Further, Mr. Hussein has been subjected to life-threatening circumstances and may be at risk for further grave violations in the event of the continuation of detention. When Mr. Hussein asked why he was first being detained, he was beaten by plainclothes policemen for at least 30 minutes and was then forcibly dragged by his feet to the nearest police station. Mr. Hussein was kept in an overcrowded, insect-infested cell with 50 detainees despite the fact that it was designed to house only 16 people. Thereafter, he was beaten by fellow inmates and threatened. At his National Security investigation, Mr. Hussein refused to be filmed while reading a confession that was written for him by the officers. He was then subjected to four hours of beatings and electric shocks to his back, hands, and testicles. Desperate to stop the overwhelming and egregious torture, Mr. Hussein agreed to confess to the false accusations of possessing Molotov cocktails and hand grenades, belonging to a “terrorist” group, protesting without authorization, and receiving money to protest. Despite attempts to inform the Prosecutor that his confession had been recorded under duress, no authorizing entity referred him to forensic examination or investigated his torture claims. While in detention, Mr. Hussein has been subject to at least two other beatings at the hands of prison guards that petitioners are aware of; during one of the incidents, two prison guards punched him in the stomach and slapped him across the

² Amira El-Fekki, ‘T-shirt detainee’ Mahmoud Hussein’s detention renewed, DAILY NEWS EGYPT, (Aug. 24, 2015), <http://www.dailynewsegypt.com/2015/08/24/t-shirt-detainee-mahmoud-husseins-detention-renewed/>.

³ Amira El-Fekki, Mahmoud Hussein’s detention expected to be renewed for 24th time, DAILY NEWS EGYPT, (Oct. 6, 2015), <http://www.dailynewsegypt.com/2015/10/06/mahmoud-husseins-detention-expected-to-be-renewed-for-24th-time/>.

face when he attempted to collect his belongings before a prison transfer. Complaints to the Prosecutor-General have resulted in neither investigation nor remedy.⁴

Although he has not been charged, Mr. Hussein is now being held at the Tora Investigations Prison, a complex that also houses criminal and political detainees who have been charged or sentenced for various crimes.⁵ As a young, 19-year old detainee, Mr. Hussein faces compounded risks and has been subjected to harassment by other detainees, likely exacerbated by his young age. There is no doubt that the harrowing torture that Mr. Hussein faced have put his health and life at significant risk and also leave him in fear that such treatment be repeated again. Additionally, the beatings that Mr. Hussein has endured from prison guards at different prisons during his detention affirm that Egyptian authorities continue to subject Mr. Hussein to cruel, inhuman, and degrading treatment and/or torture threatening his life and health on an ongoing basis while being arbitrarily detained as a pretrial detainee.

Reports of prison conditions at Tora and in many of Egypt's jails further affirm that Mr. Hussein's continued detention places his life and health at serious risk. Prison cells are often dirty, filled with cockroaches and ants, largely-overcrowded, and subject to extreme temperatures due to poor ventilation⁶. Detainees endure beatings, insults, sexual assault, and torture⁷; at times, they are arbitrarily prevented from meeting with family members and face the confiscation of various personal belongings⁸. Medical neglect is increasingly common and many detainees do not receive the treatment they require; when detainees are finally taken to the prison hospital, care is limited and resources are constrained⁹. The El-Nadeem Center for Rehabilitation of Victims of Violence documented more than 100 detainee deaths in prisons in 2014; the organization reports that the numbers have only increased for 2015.¹⁰ 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.¹¹ Further, when prosecutors have previously visited prisons, they have reportedly refused to listen to and record prisoner complaints¹². Finally, compensation for detainees who have been abused or mistreated is seldom issued; even rarer are cases that investigate detainee deaths in custody or reports of negligence and abuse.¹³

⁴ Amnesty International, *Urgent Action: Mahmoud Hussein's Detention Order Extended*, AMNESTY INTERNATIONAL, (Oct. 19, 2015), http://www.amnestyusa.org/sites/default/files/uaa28614_3.pdf.

⁵ *Id.*

⁶ 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/>.

⁷ 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>.

⁸ 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>.

⁹ 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](http://www.reuters.com/article/2015/09/03/us-egypt-brotherhood-prisons-specialreport/idUSKCN0R30Y420150903#qTto7jOb21AY8EOY.97).

¹⁰ Kristen McTighe, *Squalor and death in Egypt's prisons*, DW, (Feb. 6, 2015), <http://www.dw.com/en/squalor-and-death-in-egypts-prisons/a-18490546>.

¹¹ Maram Mazen, *Egypt rights lawyers say new prison law legalizes abuses*, AP, (Oct. 26, 2015), <http://news.yahoo.com/egypt-rights-lawyers-prison-law-legalizes-abuses-153926745.html>.

¹² 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>.

¹³ *Id.*

Mr. Hussein was arbitrarily detained and has faced life-threatening circumstances; today, he continues to be arbitrarily kept in pretrial detention and faces the possibility of grave risks to his health and life. Speaking about Mr. Hussein's case, Nicholas Pichaud of Amnesty International has said: “This case sums up everything that is wrong and criminal with Egypt. It shows the lengths security forces are willing to go to crush dissent. The crackdown has gone much further beyond the famous names - the thousands of ordinary Egyptians languishing behind bars including Hussein.”¹⁴

Accordingly, it is hereby requested that the Working Group consider this Petition pursuant to its Urgent Action Procedure.¹⁵ 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.

¹⁴ Farid Farid, *Egyptian student still in jail because of T-shirt*, DW, (Sept. 30, 2015), <http://www.dw.com/en/egyptian-student-still-in-jail-because-of-t-shirt/a-18747704>.

¹⁵ *Report of the Working Group on Arbitrary Detention*, A/HRC/16/47, Annex ¶ 7(b) (“*Revised Methods of Work*”), Jan. 19, 2011, at ¶ 22–24.

Questionnaire To Be Completed¹⁶

I. IDENTITY

1. **Family name:** Hussein
2. **First name:** Mahmoud Mohamed Ahmed
3. **Sex:** Male
4. **Birth date or age (at the time of detention):** January 1, 1996
5. **Nationality/Nationalities:** Egyptian
6. (a) **Identity document (if any):** Birth Certificate
(b) **Issued by:** Egyptian Ministry of Interior, Civil Status Organization
(c) **On (date):** January 8, 1996
(d) **No.:** 29601011415973 (National Identification Number)
7. **Profession and/or activity (if believed to be relevant to the arrest/detention):** Mr. Hussein is a student. He was detained while wearing a January 25 scarf and a “nation without torture” t-shirt.
8. **Address of usual residence:** Khanika, Qalubiya

II. ARREST

1. **Date of arrest:** January 25, 2014
2. **Place of arrest (as detailed as possible):** Police checkpoint in El-Marg (North-East Cairo, Egypt)
3. **Forces who carried out the arrest or are believed to have carried it out:** Police officers, among them plainclothes officers, at El-Marg checkpoint
4. **Did they show a warrant or other decision by a public authority?** No warrant or judicial order was presented prior to the arrest.
5. **Authority who issued the warrant or decision:** No warrant or judicial order was presented prior to the arrest.
6. **Reasons for the arrest imputed by the authorities:** At the time of arrest no reason was imputed by authorities. When Mr. Hussein asked police about why he was being

¹⁶ *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>.

detained, he was beaten by plainclothes policemen for at least 30 minutes and dragged to a nearby police station.

7. **Legal basis for the arrest including relevant legislation applied (if known):** At the time of the arrest no legal basis was presented.

III. DETENTION

1. **Date of detention:** January 25, 2014
2. **Duration of detention (if not known, probable duration):** Mr. Hussein has remained in pretrial detention since January 25, 2014. This amounts to over 650 days in pretrial detention.
3. **Forces holding the detainee under custody:** Prison Authorities/Ministry of Interior
4. **Places of detention (indicate any transfer and present place of detention):** Mr. Hussein spent six days at El-Marg Police Station beginning January 25, 2014. He was then transferred to Abu Zaabal Prison where he stayed from the end of January 2014 until May 2014. In May 2014, he was transferred to the Cairo Appeals Prison. On July 25, 2015, Mr. Hussein was transferred to Tora Investigations Prison. He remains at Tora today.
5. **Authorities that ordered the detention:** The Public Prosecution
6. **Reasons for the detention imputed by the authorities:** When Mr. Hussein was forced to “confess,” he did so to the “crimes” that police had reportedly accused him of: possessing explosives, belonging to a “terrorist group,” receiving money to demonstrate, and taking part in an unauthorized protest. To date, Mr. Hussein has not been formally charged with a single crime; he remains in pretrial detention and his case has not been referred to trial.
7. **Legal basis for the detention including relevant legislation applied (if known):** Article 142 and 143 of the Criminal Procedure Code (Law No. 150 of 1950, Amended Law No. 83 of 2013) allow pretrial detention for up to two years for crimes punishable by death or life imprisonment; Mr. Hussein is currently being held in pretrial detention under these provisions. Although Mr. Hussein has not been formally charged, his lawyers suggest that he faces the following possible charges: illegal protesting (Law No. 107 of 2013), illegal gathering (Law No. 10 of 1914), possessing weapons and explosives (Law No. 394 of 1954, Amended Law No. 10 of 2012), and belonging to a “terrorist” group (Article 86 of the Penal Code, Law No. 58 of 1937, with possible retroactive application¹⁷ of the Terrorism Law, Law No. 94 of 2015).

¹⁷ In September 2015, Egyptian media reported that the first judicial verdict under the new Terrorism Law (Law No. 94 of 2015) had been issued. The law was applied retroactively, surprising many legal scholars in light of Article 95 of the Egyptian Constitution which states: “Penalty shall only be imposed for acts committed after the effective date

IV. 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

In recent years, a number of political and legal measures have been implemented by Egyptian authorities to severely constrain the freedoms and liberties of citizens, many of which were furthered under the pretense of maintaining security and stability.

Most prominently, the Protest Law was passed in November of 2013 effectively banning any public gatherings of more than 10 people without government approval; the law also requires that protest organizers give notification to authorities three days prior. The law grants authorities broad discretion to prohibit demonstrations when they are deemed a threat to public order. Additionally, the law allows police forces to use gradual force to disperse protests, beginning with oral warnings and ultimately, utilizing birdshots.¹⁸ Punishments for the participation in unauthorized protests are also set forth.¹⁹

Additionally, the Terrorist Entities Law and the Terrorism Law were passed in December 2014 and August 2015, setting forth vague definitions for “terrorism” and which have been increasingly used to try political dissidents as terrorists. The Terrorist Entities Law grants the Public Prosecution the authority to issue a terrorist entities list and a terrorist list and thereafter, authorizes competent state bodies to dissolve entities, freeze assets, close affiliated buildings, ban meetings and membership, stop financial activities, and ban related slogans, among other things.²⁰ The Terrorism Law reiterates a broad, overly vague definition of terrorism, similar to that initially laid out in the country’s Penal Code, adds a number of new terrorist crimes, and lays out 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.²¹ Although the Terrorism Law was passed after Mr. Hussein’s arrest that is the subject of this Petition, worrying signs indicate that the Terrorism Law may be retroactively applied²², despite the fact that doing so would violate both domestic and international law that prohibit the retroactive application of punitive laws.

of the law imposing it.” Mada Masr, *5 sentenced to prison in first conviction under anti-terror law*, MADA MASR, (Sept. 16, 2015), <http://www.madamasr.com/news/5-sentenced-prison-first-conviction-under-anti-terror-law>.

¹⁸ Birdshots are a kind of shotgun shells.

¹⁹ David Kirkpatrick, *New Law in Egypt Effectively Bans Street Protests*, NEW YORK TIMES, (Nov. 25, 2013), http://www.nytimes.com/2013/11/26/world/middleeast/egypt-law-street-protests.html?_r=0.

²⁰ 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#>.

²¹ 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>.

²² Mada Masr, *supra* note 17.

Additionally, multiple other laws restricting rights and freedoms have been issued in the absence of a Parliament, including “amendments to the University and Azhar Laws on the removal and suspension of students and professors in light of their political activity; the introduction of a life imprisonment sentence for the receipt of foreign funds [under Article 78 of the Penal Code]²³; the transfer of non-Egyptians to their countries for purposes of judicial extradition; and the trial by the military judicial system of civilians accused of committing crimes against public facilities.”²⁴

Reports of recent human rights violations in Egypt have included the excessive use of force by security personnel, the suppression of civil rights, and due process constraints. Severe limitations on freedom of speech, expression, assembly, and association have been furthered through legislation and litigation. There has been consistent impunity for crimes committed by police, military, and security forces, with even significant incidents like the mass killings of 900 peaceful protesters in the Rabaa and Nahda sit-in dispersals left uninvestigated. In the few cases in which security personnel were tried, they were handed down minor sentences or acquitted despite extensive fact-finding by civil society organizations and evidence to the contrary.²⁵

Discussing the years 2013 and 2014, the Egyptian National Council for Human Rights stated that “the right to life witnessed horrible deterioration” and documented at least 2,600 deaths during the two-year period. Between July 2013 and May 2014, local non-governmental organizations in Egypt reported that at least 41,000 persons were detained, charged or sentenced. The National Council for Human Rights further added that, during this time, prisons were at 160 percent capacity and police stations were at 300 percent capacity. At least 124 deaths in custody as a result of medical negligence, torture, or ill-treatment took place.²⁶ The El-Nadeem Center for Rehabilitation of Victims of Violence documented more than 100 detainee deaths in prisons in 2014; the organization reports that the numbers have only increased for 2015.²⁷

”Whether they be an internationally known political activist or just a student who is wearing the wrong T-shirt,” the victims of the Egyptian government and authorities reflect an intentional trend to silence the country’s opposition, destroy the ambitions of free-thinkers, and consolidate the makings of a security state in which national security takes precedence over human and civil rights.²⁸

ii. Pretrial Detention in Egypt

Under the Egyptian Criminal Procedure Code, pretrial detention is an exceptional legal measure that is set forth only in cases in which (1) the offense is *in flagrante delicto*, (2) there is

²³ Malek Adly, *Article 78 of the Egyptian Penal Code and Its Effects on Human Rights Defending*.

²⁴ 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/>.

²⁵ U.S. Department of State, *Egypt 2014 Human Rights Report*, U.S. DEPARTMENT OF STATE, <http://www.state.gov/documents/organization/236808.pdf>.

²⁶ Human Rights Watch, *Egypt: Year of Abuses Under al-Sisi*, HUMAN RIGHTS WATCH, (Jun. 8, 2015), <https://www.hrw.org/news/2015/06/08/egypt-year-abuses-under-al-sisi>.

²⁷ Kristen McTighe, *supra* note 10.

²⁸ 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/>.

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.²⁹

In cases that meet the 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.³⁰ 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.³¹ In total, the Egyptian Criminal Procedure Code stipulates that pretrial detention cannot be extended for more than one-third of the maximum penalty for the possible charges: a maximum of six months for misdemeanors, 18 months for felonies, and two years for crimes carrying death or life imprisonment.³² 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 enjoy the authority to extend pretrial detention in 45-day periods without a maximum time limit, effectively creating a set of circumstances in which authorities can allow for indefinite pretrial detention.³³ In practice, it has been reported that courts regularly renew 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.³⁴

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 recently kept pretrial detainees in detention even after the expiration of the two-year maximum. At least 700 detainees remain in pretrial detention beyond the two year maximum including, Mr. Shawkan Abou Zeid, a photojournalist who was arrested while he was covering the Rabaa sit-in dispersals and who has been diagnosed with Hepatitis C, facing severe health deteriorations while in detention.³⁵

Under the rule of current President Abdul Fattah El-Sisi, pretrial detention has been used as a punitive measure against political prisoners³⁶. The 2014 Department of State Human Rights Report notes an "increased use of pretrial detention" in Egypt. As per official Egyptian Prison Authority counts announced in December 2014, out of 12,800 persons detained since June 2013, 7,389 were still being held in remand detention; the Department of State reports that this number

²⁹ *Criminal Procedure Code*, Law No. 150 of 1950, Amended Law No. 83 of 2013, Art. 134, <http://www1.umn.edu/humanrts/research/Egypt/criminal-code.pdf> (unofficial English translation).

³⁰ *Criminal Procedure Code*, *supra* note 29, Art. 142.

³¹ *Criminal Procedure Code*, *supra* note 29, Art. 143.

³² *Id.*

³³ *Criminal Procedure Code*, *supra* note 29, Arts. 142-143.

³⁴ Amnesty International, *supra* note 28.

³⁵ 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/>.

³⁶ ANHRI, *Extended Pre-trial Detention...Disguised Incarceration*, THE ARABIC NETWORK FOR HUMAN RIGHTS INFORMATION, (May 31, 2015), <http://anhri.net/?p=145083&lang=en>.

alone reflects a 360% increase over the prior year's estimate of pretrial detainees.³⁷ With local human rights organizations suggesting that the total number of detainees is closer to 40,000³⁸ and no reported change in detention trends in the time since, the number of pretrial detainees is likely to be even higher.

iii. The Detention of Mahmoud Mohamed Hussein

On January 25, 2014, 18 year old Mahmoud Mohamed Ahmed Hussein participated in a protest to commemorate the third anniversary of the January 25 Revolution and to demonstrate opposition to the Muslim Brotherhood and the military in Cairo, Egypt. When heading home in a bus, Mr. Hussein was stopped by police officers at a checkpoint in El-Marg (North-East Cairo); Mr. Hussein had no identifying characteristics about him save for a January 25 scarf and a t-shirt with "a nation without torture" slogan that he was wearing. At the checkpoint, police decided to detain Mr. Hussein. When he asked why he was being detained, Mr. Hussein was beaten by plainclothes police officers for about 30 minutes and then forcibly and violently dragged by his feet to the nearest police station. At El-Marg Police Station, Mr. Hussein was again beaten for about an hour by policemen in what is popularly-referred to as a prison "welcoming party." The police then accused Mr. Hussein of possessing Molotov cocktails and hand grenades, belonging to a banned group, protesting without authorization, and receiving money to protest.³⁹

Mr. Hussein was kept in a small cell that was infested with insects with a total of 50 detainees despite the fact that reports indicate it was designed to house only 16 persons.⁴⁰ His cellmates beat and threatened him at the instruction of the officers. Afterward, he was taken to a National Security investigation. At the investigation, an officer told Mr. Hussein that he would be filmed while reading a confession that was written for him by the officers; when Mr. Hussein refused, he was again violently beaten and tortured. Electric shocks were administered to his back, hands, and testicles for over four hours. Desperate to stop the torture, Mr. Hussein agreed under immense duress to falsely "confess" to the "crimes" of which the policemen had initially accused him. National Security officers then filmed this confession which was solely and directly a result of duress, cruel, inhuman and degrading treatment and torture. Later, Mr. Hussein's family members also reported that they observed physical signs that Hussein was tortured when they visited him in detention.⁴¹

After his recorded confession, Mr. Hussein was then taken to the State Security Prosecutor; there, he denied all accusations and told the Prosecutor that he had been forced to confess. Despite Mr. Hussein's complaint, the Prosecutor did not refer him to forensic examination to investigate his claims of torture. Mr. Hussein was then kept at El-Marg Police Station for six days. He was later transferred to the Abu Zabaal Prison and remained there until

³⁷ U.S. Department of State, *supra* note 25.

³⁸ Mada Masr, *Over 40,000 detained and prosecuted since July, Wikithawra reports*, MADA MASR, (May 25, 2014), <http://www.madamasr.com/news/over-40000-detained-and-prosecuted-july-wikithawra-reports>.

³⁹ Aftab Ali, *Amnesty International: Egyptian teenager has been in jail for over 500 days - for wearing an anti-torture T-shirt*, INDEPENDENT, (Jun. 16, 2015), <http://www.independent.co.uk/news/world/middle-east/amnesty-international-egyptian-teenager-has-been-in-jail-for-over-500-days-for-wearing-an-anti-10324121.html>.

⁴⁰ Amnesty International, *Urgent Action: Mahmoud Hussein's Detention Order Extended*, AMNESTY INTERNATIONAL, (Oct. 19, 2015), http://www.amnestyusa.org/sites/default/files/uaa28614_3.pdf.

⁴¹ Amnesty International, *supra* note 28.

May 2014. In May, he was then transferred to the Cairo Appeals Prison and kept there until July 25, 2015. In July, he was then transferred to Tora Investigations Prison where he remains today. Mr. Hussein has reported being severely beaten by prison guards while in detention on at least two separate occasions in July 2014 and July 2015; during one of the incidents, two prison guards punched him in the stomach and slapped him across the face when he attempted to collect his belongings before a prison transfer. Although his family and attorneys submitted complaints to report such abuses, the Prosecutor-General has not informed them of the findings of the investigation or any resolution to the complaints.⁴² While in detention, Mr. Hussein has celebrated his 19th birthday, has been forced to put his academic studies on hold, and has missed his brother's wedding.⁴³

To date Mr. Hussein has not been formally charged with a single crime and has not been referred to trial. Although the presiding judge of the Cairo Criminal Court has made determinations regarding the continued pretrial detention of Mr. Hussein in 15-day or 45-day intervals as technically allowed by Egypt's Criminal Procedure Code, at least 22 of the instances in which the judge made a detention renewal decision were made while Mr. Hussein was absent from the courtroom. The Ministry of Interior claimed that "security reasons were behind the inability to transfer prisoners to court."⁴⁴ Additionally, the court has delayed at least 24 of Mr. Hussein's detention renewal hearings for five to seven day periods at a time, depriving the process of regularity. By the next renewal session (scheduled for November 16, 2015), Mr. Hussein will have been in pretrial detention for 666 days.⁴⁵

b. Legal Analysis

For the reasons set forth below, the detention of Mr. Hussein constitutes an arbitrary deprivation of his liberty⁴⁶ under Category I, Category II, Category III, and Category V as set forth by the United Nations Working Group on Arbitrary Detention (herein, the Working Group).

Egypt is a state party to the International Covenant on Civil and Political Rights (ICCPR).⁴⁷ The rights enshrined in the ICCPR are incorporated into Egyptian domestic law and

⁴² Amnesty International, *Jailed Student Beaten for Moving Possessions*, AMNESTY INTERNATIONAL, (Jul. 16, 2015), <http://www.amnestyusa.org/sites/default/files/uaa28614.pdf>.

⁴³ Amnesty International, *supra* note 28.

⁴⁴ Amira El-Fekki, *supra* note 2.

⁴⁵ *Egypt renews detention of students held over anti-torture T-shirts: activists*, ALBAWABA, (Oct. 8, 2015), <http://www.albawaba.com/news/egypt-renews-detention-students-held-over-anti-torture-t-shirts-activists-752508>.

⁴⁶ An arbitrary deprivation of liberty is defined as a "depriv[ation] of liberty except on such grounds and in accordance with such procedures as are established by law." *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(1) [hereinafter ICCPR]. Such a deprivation of liberty is specifically prohibited by international law. *Id.* "No one shall be subjected to arbitrary arrest, detention or exile." *Universal Declaration of Human Rights*, G.A. Res. 217A (III), U.N. Doc. A/810, Art. 9 (1948) [hereinafter *Universal Declaration*]. "Arrest, detention or imprisonment shall only be carried out strictly in accordance with the provisions of the law." *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, Principle 2 [hereinafter *Body of Principles*].

⁴⁷ *United Nations Treaty Status: ICCPR*, http://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtmsg_no=IV-4&chapter=4&lang=en#EndDec.

are binding on the Government of the Arab Republic of Egypt through Article 93 of the Egyptian Constitution: "The State shall be bound by the international human rights agreements, covenants and conventions ratified by Egypt, and which shall have the force of law after publication in accordance with the prescribed conditions."⁴⁸

i. Category I: No Basis for Detention

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

A detention is arbitrary under Category I when it is "clearly impossible to invoke any legal basis justifying the deprivation of liberty."⁴⁹

First, it is clearly impossible to invoke any legal basis for Mr. Hussein's continued pretrial detention with near-automatic renewals. Detention renewals have been granted by the court at least 22 times without the hearing of testimony and without the submission or review of any evidence as to why Mr. Hussein must be detained while awaiting charges.

Under the Egyptian Criminal Procedure Code, pretrial detention 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.⁵⁰ In cases that meet the 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. 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. Ultimately, the Egyptian Criminal Procedure Code stipulates that pretrial detention cannot be extended for more than one-third of the maximum penalty for the possible charges: a maximum of six months for misdemeanors, 18 months for felonies, and two years for crimes carrying death or life imprisonment.⁵¹

Mr. Hussein was not detained while committing any offense; rather, he was detained while passing through a police checkpoint much like any citizen. Throughout the legal process, there has been no indication that Mr. Hussein may flee. There is no evidence to suggest that Mr. Hussein has been unwilling to cooperate with the authorities or that his temporary release would impede or harm the legal process. When Mr. Hussein has appeared in court, he has done so respectfully and, in the rare occasions that he has been allowed to do so, he has been a full participant in the process. Additionally, Mr. Hussein has a known residence in Egypt and no plans to depart Egypt. Since his birth, he has taken clear steps to establish a permanent home in Egypt, he is enrolled in the Egyptian schooling system, his family resides in Egypt, and he has no passport or means by which to leave the country.

⁴⁸ *Constitution of the Arab Republic of Egypt*, (2014), <http://www.sis.gov.eg/Newvvr/Dustor-en001.pdf>.

⁴⁹ *Revised Methods of Work*, *supra* note 15, ¶ 8(a).

⁵⁰ *Criminal Procedure Code*, *supra* note 29, Art. 134.

⁵¹ *Criminal Procedure Code*, *supra* note 29, Arts. 142-143.

While many of the accusations leveled against Mr. Hussein thus far, including belonging to a “terrorist” group and possessing explosives, implicate security or public order and potentially carry sentences of life imprisonment or death, over a period of more than 650 days, authorities have failed to file a single charge against Mr. Hussein. There is absolutely no evidence by which to justify the possibility that Mr. Hussein has been involved in any of the accused crimes mentioned at various points by authorities. In particular, Mr. Hussein’s purported “confession” was a direct and sole resort of torture and duress, which he recanted as soon as he was out of the hands of his torturers. Under Article 55 of the Egyptian Constitution⁵², statements made under the threat of or as a result of torture “shall be disregarded and not...relied upon”; thus, Mr. Hussein’s confession must be discarded.

The fact that authorities have left Mr. Hussein in pretrial detention for over 650 days without presenting evidence or charges for such serious alleged crimes, indicates that the Government has no valid claim against Mr. Hussein.

Second, the provisions of Egypt’s Criminal Procedure Code on pretrial detention that have been invoked to keep Mr. Hussein in pretrial detention without charges or evidence against him violate both domestic and international law and cannot serve as a basis by which the Government of Egypt continues to extend Mr. Hussein’s detention.

Under its constitutional obligations enshrined in Article 54 of the Egyptian Constitution⁵³, Article 6 of the African Charter on Human and Peoples' Rights⁵⁴, and Articles 9-11 of the ICCPR⁵⁵, 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 legal regime and practices do not violate Article 9(3) of the ICCPR which states that the Government 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.”⁵⁶ 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 are all factors to be considered.⁵⁷

⁵² *Constitution of the Arab Republic of Egypt*, *supra* note 48, Art. 55.

⁵³ *Constitution of the Arab Republic of Egypt*, *supra* note 48, Art. 54.

⁵⁴ *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).

⁵⁵ *ICCPR*, *supra* note 46, Art. 9-11.

⁵⁶ *ICCPR*, *supra* note 46, Art. 9.

⁵⁷ 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.

General Comment No. 8 (1982)⁵⁸ of the United Nations Human Rights Committee explains the notion of “promptly” by reference 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.⁵⁹ 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 breach must be provided. Even after a detainee has been brought before a judge to make detention renewal determinations, the absence of “satisfactory” explanations for why a detainee continued to be in pretrial detention without having been tried for a period of one year and nine months was unreasonable and a violation of Article 9(3) of the ICCPR.⁶⁰

The African Commission on Human and Peoples' Rights has similarly 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 wellbeing of the detainee.⁶¹ The 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.⁶² The 2011 Report of the UN Working Group on Arbitrary Detention concludes that “any detention must be exceptional and of short duration.”⁶³

The provisions of the Egyptian Criminal Procedure Code on the issue of pretrial detention are based on guidelines that are vague and subject to excessive discretion, facilitate pretrial detention for disproportionately lengthy periods 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,” leaving overly broad discretion and subjective determinations to the justices and the Prosecutor-General aligned with the State in Egypt and who are unlikely to make determinations in favor of prisoners of conscience. Further, the fact that pretrial detainees who face possible charges for crimes that carry death or life imprisonment sentences can be kept in detention for up to two years is egregious. Finally, the fact that pretrial detainees are only allowed to appeal their detentions via court hearings, many of

⁵⁸ *General Comment No. 8: Article 9 (Right to Liberty and Security of Persons)*, UN HUMAN RIGHTS COMMITTEE, Jun. 30, 1982, ¶2.

⁵⁹ 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 Human Rights Committee, *Grant v. Jamaica*, Communication No. 597/1994, ¶ 8.1; see also Human Rights Committee, *Morrison v. Jamaica*, Communication No. 663/1995, ¶ 8.2; see also Human Rights Committee, *Kurbanov v. Tajikistan*, Communication No. 1096/2002, ¶ 7.2; see also Human Rights Committee, *A. Berry v. Jamaica*, Communication No. 330/1988, ¶ 5.6.

⁶⁰ See Human Rights Committee, *A. Perkins v. Jamaica*, Communication No. 733/1997, ¶ 11.3.

⁶¹ *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.

⁶² 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, ¶ 43-44.

⁶³ *Report of the Working Group on Arbitrary Detention*, UNITED NATIONS HUMAN RIGHTS COUNCIL, A/HRC/16/47, Jan. 19, 2011.

which they are prevented from attending, and via formal complaints to the Prosecutor-General, who is generally complicit in the crackdown against prisoners of conscience, ensures that pretrial detainees are left without effective recourse and their cases without independent or impartial review.

Third, it must be noted that the provisions governing the crimes of which Mr. Hussein has been accused are (1) vague and legally problematic and (2) have increasingly been leveled by the State against prisoners of conscience in contexts in which the accused persons have committed no crime and there has been no legal basis by which to detain them.

Mr. Hussein presumably faces overly vague accusations under the Protest Law (and its predecessor: the Illegal Assembly Law of 1914), the Law on Weapons and Ammunition, and the Penal Code provisions on terrorism (with possible, unconstitutional retroactive application of the Terrorism Law). The Protest Law, which effectively bans most protests and places severe restrictions on those that are allowed to take place, violates Egypt's obligations to respect the right of citizens to peaceful assembly and its duty to limit any restrictions on the right to peaceful assembly only to what is necessary and proportionate.⁶⁴ The Penal Code provisions on terrorism⁶⁵ and subsequent Terrorism Law include terms that are overly broad in violation of international law resulting in a legal framework in which protestors and political opponents can be tried for "terrorist" crimes just for holding non-violent and political opinions.⁶⁶

Human rights organizations have documented trends by the Government of Egypt to charge political activists and journalists with terrorism charges and accusations similar to those leveled against Mr. Hussein in an effort to quiet political dissent. Arbitrary and politically motivated arrests have soared in recent years.⁶⁷ Many arrests have been undertaken under the Protest Law and Penal Code; Egyptian and international human rights organizations have consistently called for amendments to revoke these overly broad provisions that enable the government to detain dissenters and criminalize manifestations of expression, assembly, and association.⁶⁸ Thus, there is significant evidence to indicate that even if Mr. Hussein is finally charged with a crime, his ultimate charge, trial, and sentencing will be part of a larger unlawful initiative by the Government of Egypt to take punitive measures against non-violent, peaceful protesters and opposition members rather than because the accused in question is actually thought to have committed the alleged crimes in question.

ii. Category II: Substantive Fundamental Rights

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

⁶⁴ Human Rights Watch, *Egypt: Draft Law Would Effectively Ban Protests*, HUMAN RIGHTS WATCH, (Oct. 30, 2013), <https://www.hrw.org/news/2013/10/30/egypt-draft-law-would-effectively-ban-protests>.

⁶⁵ Mai El-Sadany, *Legislating Terror in Egypt*, TAHRIR INSTITUTE FOR MIDDLE EAST POLICY, <http://timep.org/esw/articles-analysis/legislating-terror-in-egypt/>.

⁶⁶ Human Rights Watch, *supra* note 21.

⁶⁷ Joe Stork, *Egypt's Political Prisoners*, HUMAN RIGHTS WATCH, (Mar. 6, 2015), <https://www.hrw.org/news/2015/03/06/egypts-political-prisoners>.

⁶⁸ Human Rights Watch, *Egypt: High Price of Dissent*, HUMAN RIGHTS WATCH, (Feb. 19, 2014), <https://www.hrw.org/news/2014/02/19/egypt-high-price-dissent>.

A detention is arbitrary under Category II when the detention results from the exercise of fundamental rights protected by international law. More specifically, the 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.”⁶⁹ In light of this, the detention of Mr. Hussein is arbitrary because the detention resulted from his exercise of (1) his right to freedom of opinion and expression⁷⁰ and (2) his right to freedom of peaceful assembly and association.⁷¹

1. The Egyptian Government Detained Mr. Hussein Because He Exercised His Rights to Freedom of Opinion and Expression

The Egyptian Government detained Mr. Hussein because he exercised his rights to freedom of opinion and expression when he wore a January 25 Revolution scarf and a t-shirt that called for a “nation without torture.”

Freedom of opinion and expression are guaranteed under international law by Article 19(1)-(2) of the ICCPR⁷² and Article 19 of the UDHR⁷³. The Human Rights Committee has determined that this right includes the right to express a dissenting political opinion.⁷⁴ In addition to these obligations under international law, Egypt is bound by Article 65 of its own Constitution⁷⁵ to respect the right of its citizens to freedom of opinion “verbally, in writing, through imagery, or by other means of expression and publication.” The United Nations Declaration on Human Rights Defenders 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.⁷⁶

Although the right to freedom of opinion and expression is not absolute under international law, Mr. Hussein’s exercise of his right does not fall under the acceptable 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.”⁷⁷ 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 a human rights defender, “the question of deciding which measures might meet the ‘necessity’ test in such situations does not arise.”⁷⁸

⁶⁹ *Revised Methods of Work*, *supra* note 15, ¶ 8(b).

⁷⁰ ICCPR, *supra* note 46, Art. 19.

⁷¹ ICCPR, *supra* note 46, Arts. 21-22.

⁷² ICCPR, *supra* note 46, Art. 19.

⁷³ *Universal Declaration*, *supra* note 46, Art. 19.

⁷⁴ *General Comment No. 34 (2011) on Article 19: Freedom of Expression*, UN HUMAN RIGHTS COMMITTEE, CCPR/C/GC/34, Sep. 12, 2011, ¶ 11.

⁷⁵ *Constitution of the Arab Republic of Egypt*, *supra* note 48, Art. 65.

⁷⁶ Office of the High Commissioner for Human Rights, *Who is a defender*, UNITED NATIONS HUMAN RIGHTS, <http://www.ohchr.org/EN/Issues/SRHRDefenders/Pages/Defender.aspx>.

⁷⁷ ICCPR, *supra* note 46, Art. 19.

⁷⁸ *Njaru v. Cameroon*, UNHRC, Views of 3 April 2007, UN Doc. CCPR/C/89/D/1353/2005, ¶ 6.4.

When police arbitrarily detained Mr. Hussein at El-Marg checkpoint, the only factors that distinguished him from any other passerby were his scarf and t-shirt. The failure of the State to identify evidence upon which to justify the detention of Mr. Hussein indicates that his political opinions and his status as a human rights defender are the only factors upon which the State made its decision to carry out Mr. Hussein's detention.

The detention of Mr. Hussein based on his decision to wear a scarf and t-shirt that convey political opinion and identify him as a human rights defender is not a restriction on freedom of opinion and expression allowed by international law. Mr. Hussein's decision to wear clothing that conveys peaceful political opinion (1) does not offend others, (2) reflects support for the peaceful January 25 Revolution that was recognized by the current Government, (3) does not call for violence or harm to national security or the public order, and (4) calls for universal principles, like the prohibition against torture, which are incorporated into Egypt's own domestic law and its international legal obligations. Both Mr. Hussein's scarf and t-shirt are protected forms of expression under international law. As a human rights defender and as a citizen exercising his rights, Mr. Hussein is owed these protections.

Thus, Mr. Hussein's current detention is arbitrary and is in violation of both his domestic and international fundamental rights to freedom of opinion and expression.

2. The Egyptian Government Detained Mr. Hussein Because He Exercised His Right to Freedom of Peaceful Assembly and Association

The Egyptian Government detained Mr. Hussein because he exercised his rights to freedom of peaceful assembly and association when he participated in a peaceful protest commemorating the January 25 Revolution and expressing opposition to the Muslim Brotherhood and the military.

Freedom of peaceful assembly and association are guaranteed by Article 20(1) of the UDHR⁷⁹ and Articles 21 and 22(1) of the ICCPR⁸⁰. Additionally and under its own domestic law, Egypt is mandated to respect the rights of its citizens to organize marches, demonstrations, and all forms of peaceful protests under Article 73 of its Constitution.⁸¹ The United Nations Declaration on Human Rights Defenders further affirms these rights for "individuals contributing to ... the effective elimination of all violations of human rights and fundamental freedoms of peoples and individuals."⁸²

Although the rights to freedom of peaceful assembly and association are not absolute under international law, Mr. Hussein's exercise of his right does not fall under the acceptable limitations set forth by the ICCPR. Under the ICCPR, the rights to freedom of peaceful assembly and 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

⁷⁹ *Universal Declaration*, *supra* note 46, Art. 20.

⁸⁰ *ICCPR*, *supra* note 46, Arts. 21-22.

⁸¹ *Constitution of the Arab Republic of Egypt*, *supra* note 48, Art. 73.

⁸² Office of the High Commissioner for Human Rights, *supra* note 76.

health or morals, or the protection of the rights and freedoms of others.⁸³ As reiterated earlier, the Human Rights Committee has found that there would be no “necessary” reason to arrest, torture, or threaten the life of a human rights defender.⁸⁴ Detaining Mr. Hussein in light of his participation in a peaceful protest commemorating a Revolution that was embraced by the ruling government and expressing peaceful disagreement with the Muslim Brotherhood and military is not necessary in a democratic society. Mr. Hussein’s political participation does not implicate the rights of others in any of the means laid out by the ICCPR restrictions, nor does it impede the security or safety of the nation as a whole. On the contrary, Mr. Hussein’s actions in exercise of his right to freedom of peaceful assembly alongside his status as a human rights defender are protected under international law.

Further, the provisions of the Egyptian Protest Law violates Egypt’s international legal obligations, restricting freedom of peaceful assembly and disregarding the country’s duty under the ICCPR.⁸⁵ ⁸⁶ In a 2014 Resolution, the European Parliament called upon the Government of Egypt to repeal or amend the Protest Law in line with the Constitution and the country’s international legal obligations.⁸⁷ The United Nations High Commissioner for Human Rights, Navi Pillay, also warned that the Protest Law is seriously flawed and must be amended or repealed.⁸⁸

iii. Category 3: 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.”⁸⁹ 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).⁹⁰

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 ICCPR⁹¹ and Principle 2 of the Body of Principles⁹² prohibit

⁸³ ICCPR, *supra* note 46, Arts. 21-22.

⁸⁴ Human Rights Committee, *Njaru v. Cameroon*, Views of 3 April 2007, UN Doc. CCPR/C/89/D/1353/2005, ¶ 6.4.

⁸⁵ Amnesty International, *supra* note 22.

⁸⁶ New York City Bar, *Letter to Egyptian President*, NEW YORK CITY BAR, (Aug. 21, 2014), <http://www2.nycbar.org/pdf/report/uploads/20072780-LettertoEgyptianPresidentonPublicAssembly.pdf>.

⁸⁷ European Parliament, *European Parliament resolution of 17 July 2014 on freedom of expression and assembly in Egypt*, (2014/2728(RSP)), <http://www.europarl.europa.eu/sides/getDoc.do?pubRef=-//EP//TEXT+TA+P8-TA-2014-0007+0+DOC+XML+V0//EN>.

⁸⁸ United Nations, *New anti-demonstration law in Egypt must be amended, urges UN rights chief*, UN NEWS CENTRE, (Nov. 26, 2013), <http://www.un.org/apps/news/story.asp?NewsID=46589#.VjJ2M9KrQ2w>.

⁸⁹ *Revised Methods of Work*, *supra* note 15, ¶ 8(c).

⁹⁰ *Body of Principles*, *supra* note 46.

⁹¹ ICCPR, *supra* note 46, Art. 9.

arbitrary arrest and detention and state that no one shall be deprived of liberty except on such grounds and in accordance with such procedure as are established by law. Similarly, under Article 54 of the Egyptian Constitution⁹³, unless a detainee is caught *in flagrante delicto*, it is not permissible to arrest or detain him except by virtue of a judicial order; Principle 4 of the Body of Principles⁹⁴ reiterates a similar notion.

When Mr. Hussein was stopped at El-Marg police checkpoint and subsequently detained, he was not caught while committing any crime. Further, police did not have a search or arrest warrant to justify Mr. Hussein's detention. In fact, when Mr. Hussein inquired as to why he was being detained, plainclothes policemen beat him for about 30 minutes and then forcibly dragged him to the nearest police station. At the police station, he was again beaten and subsequently tortured. It was only then that police officers told Mr. Hussein that he was being accused of a number of trumped-up charges. Despite informing Mr. Hussein of these accusations, authorities have failed to charge Mr. Hussein with a single crime in over 650 days of pretrial detention.

The continued failure of the Egyptian authorities to produce formal charges against Mr. Hussein, coupled with authorities' failure to inform Mr. Hussein of the reasons for his detention and failure to produce any judicial order or warrant meriting the excessive length of detention, violates Mr. Hussein's domestic and international due process rights.

2. Egyptian Authorities Violated Mr. Hussein's Rights by Failing to Inform Him of the Reasons for His Arrest

The Egyptian authorities have violated Mr. Hussein's right to be informed of the reasons for his arrest. Under Article 9(2) of the ICCPR⁹⁵ and Article 54 of the Constitution⁹⁶, Egypt is obligated to ensure that those who are 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 Principles⁹⁷ reiterate the same requirement. Article 14(3a) of the ICCPR⁹⁸ also guarantees the prompt knowledge of the accused of the charges leveled against him.

When police stopped Mr. Hussein at El-Marg police checkpoint and decided to arrest him, he was not informed of the reasons for his apprehension. When Mr. Hussein asked police officers about the reasons for his arrest, plainclothes policemen forcibly dragged him to the police station and detained him. Although Mr. Hussein was eventually orally informed of the crimes for which he may be accused by the security officers and his torturers, he has not been charged with a single crime in the more than 650 days that he has spent in pretrial detention. Despite repeated requests, his lawyers have not been granted access to any documentation regarding the potential charges he faces. The absence of legal documents or any form of a charge sheet as pertaining to Mr. Hussein's detention contributes to a lack of legal transparency which negatively implicates Mr. Hussein's due process rights at the most essential level.

⁹² *Body of Principles*, *supra* note 46, Principle 2.

⁹³ *Constitution of the Arab Republic of Egypt*, *supra* note 48, Art. 54.

⁹⁴ *Body of Principles*, *supra* note 46, Principle 4.

⁹⁵ *ICCPR*, *supra* note 46, Art. 9.

⁹⁶ *Constitution of the Arab Republic of Egypt*, *supra* note 48, Art. 54.

⁹⁷ *Body of Principles*, *supra* note 46, Principles 10, 13.

⁹⁸ *ICCPR*, *supra* note 46, Art. 14.

The failure of the police to inform Mr. Hussein of the reasons behind his detention and the continued failure of authorities to charge Mr. Hussein with a single crime thus violate both domestic and international due process rights.

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

Egyptian authorities have violated Mr. Hussein's right to be promptly brought before a judge. 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."⁹⁹ Principle 11(1) of the Body of Principles¹⁰⁰ further confirms this. Article 14(3c) of the ICCPR¹⁰¹ additionally reiterates the right of the accused to be tried without undue delay.

By being kept in pretrial detention for over 650 days, Mr. Hussein has been denied the prompt right to be brought before a judge and to be tried without undue delay. Additionally, although a judge has made determinations regarding the continued pretrial detention of Mr. Hussein in 15 or 45-day intervals as allowed by Egypt's Criminal Procedure Code, at least 22 of the instances in which the judge made a detention renewal decision were made while Mr. Hussein was absent from the courtroom due to the failure of security forces to transfer him to the courtroom prior to his hearing date. Thus, Mr. Hussein has been denied the right to be brought before a judge, both administratively and on the merits of any potential charge.

4. Egyptian Authorities Violated Mr. Hussein's Rights by Failing to Grant Him an Opportunity to Appeal the Lawfulness of his Detention and Impeding his Ability to Prepare an Adequate Defense

Egyptian authorities have violated Mr. Hussein's right to be granted an opportunity to appeal the lawfulness of his ongoing detention and his right to prepare an adequate defense. Under Article 9(4) of the ICCPR¹⁰², Egypt is mandated to bring Mr. Hussein before a court in order for the court to determine the lawfulness of his detention without delay. Further, Article 54 of the Egyptian Constitution¹⁰³ notes that every person whose freedom is restricted shall have the opportunity to file grievance before the court; decisions on the grievance are to be made within one week of the date of action, otherwise the detainee is to be released. Principle 11(3) of the Body of Principles¹⁰⁴ affirms that "a judicial or other authority shall be empowered to review as appropriate the continuance of detention." On the matter of the right to a defense, Article 14(3b) of the ICCPR¹⁰⁵ guarantees the right to have adequate time and facilities for the preparation of a detainee's defense. Although adequate time depends on the circumstances of the particular case,

⁹⁹ ICCPR, *supra* note 46, Art. 9.

¹⁰⁰ Body of Principles, *supra* note 46, Principle 11.

¹⁰¹ ICCPR, *supra* note 46, Art. 14.

¹⁰² ICCPR, *supra* note 46, Art. 9.

¹⁰³ Constitution of the Arab Republic of Egypt, *supra* note 48, Art. 54.

¹⁰⁴ Body of Principles, *supra* note 46, Principle 11.

¹⁰⁵ ICCPR, *supra* note 46, Art. 14.

the Human Rights Committee¹⁰⁶ has noted that facilities must include access to documents and other evidence that the accused requires to prepare his case.

By holding at least 22 detention renewal hearings for Mr. Hussein during his absence from the courtroom, Egyptian authorities have deprived Mr. Hussein of the opportunity to partake in the process by which decisions regarding his continued detention were made. Holding these sessions despite Mr. Hussein's unwilling absence from the courtroom denied him of the right to appeal these decisions and the right to be informed of all decisions impacting him. Further, because Mr. Hussein was absent from the courtroom, he was denied full access to the information regarding his case, thus impeding Mr. Hussein's ability to enjoy the time and facilities necessary to prepare a proper and adequate defense. Additionally, and although Mr. Hussein and his attorneys submitted complaints to the Prosecutor-General regarding Mr. Hussein's continued detention, such complaints were consistently either rejected or left unresponded to. In response to these complaints, the State further failed to provide sufficient information regarding the necessity to Mr. Hussein in pretrial detention. Thus, Mr. Hussein and his attorneys were severely and adversely impacted in their ability to provide an adequate defense; in fact, they were often left guessing as to the possible charges being levied against him, the State's justification for his continued detention renewals, and the best strategy by which to challenge his egregiously-lengthy time in pretrial detention.

The continued failure of the Egyptian authorities to provide fair, transparent, and speedy procedures by which Mr. Hussein can appeal his continued detention and the lack of transparency and information regarding the process has impeded the ability of Mr. Hussein to seek redress and to build an adequate defense and is thus, a violation of both his domestic and international due process rights.

5. Egyptian Authorities Violated the Right of Mr. Hussein to be Presumed Innocent Until Proven Guilty

Egyptian authorities have violated the right of Mr. Hussein to be presumed innocent until proven guilty. Under Article 14(2) of the ICCPR¹⁰⁷, Article 11(1) of the UDHR¹⁰⁸, Article 96 of the Egyptian Constitution¹⁰⁹, and Principle 36 of the Body of Principles¹¹⁰, 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.”¹¹¹ Article 10(2a) of the ICCPR states that “accused persons shall, save for exceptional circumstances, be segregated from convicted persons and shall be subject to separate treatment

¹⁰⁶ *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.

¹⁰⁷ *ICCPR*, *supra* note 46, Art. 14.

¹⁰⁸ *Universal Declaration*, *supra* note 46, Art. 11.

¹⁰⁹ *Constitution of the Arab Republic of Egypt*, *supra* note 48, Art. 96.

¹¹⁰ *Body of Principles*, *supra* note 46, Principle 36.

¹¹¹ *General Comment No. 13*, *supra* note 106, ¶7.

appropriate to their status as unconvicted persons.” Principle 8 of the Body of Principles¹¹² reiterates that unconvicted persons should be kept separately from convicted persons and should be treated accordingly.

By detaining Mr. Hussein in Abu Zaabal Prison, the Cairo Appeals Prison, and Tora Prison, Egyptian authorities have subjected Mr. Hussein to treatment that is similar to that of charged and sentenced persons. Rather than ensure that Mr. Hussein receives treatment that reflects his innocent status, Egyptian authorities have placed the young detainee side-by-side with charged and sentenced persons. Additionally, by torturing Mr. Hussein until he confessed to the alleged crimes that the authorities expressed intent to charge him with, authorities have treated Mr. Hussein as guilty from the very beginning of his detention. The decision to detain Mr. Hussein in the absence of a single piece of evidence and the failure to charge him in over 650 days of pretrial detention indicate the Egyptian Government’s approach to Mr. Hussein’s case and their intent to treat Mr. Hussein as guilty well before charge and sentencing.

6. Egyptian Authorities Violated the Right of Mr. Hussein to be Equal before the Courts and Tribunals

Egyptian authorities have violated the right of Mr. Hussein to be equal before the courts and tribunals. Article 14(1) of the ICCPR¹¹³ sets forth this right; according to the 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.”¹¹⁴

By depriving Mr. Hussein of the full due process rights, including the right to appear before the presiding judge and the right to be informed of the possible charges, Egyptian authorities have taken punitive measures against Mr. Hussein and established his pretrial detention as an opportunity to take disproportionate punitive action against Mr. Hussein for his political opinions. Everyday criminal detainees who face possible murder, rape, or theft charges undergo a regularized legal process under Egyptian domestic law. The State’s tendency to treat prisoners of conscience, including Mr. Hussein, in especially egregious manners and deprive such detainees of their full due process rights creates an inequity in the legal system.

7. Egyptian Authorities Violated the Right of Mr. Hussein to be Free from Cruel, Inhuman or Degrading Treatment or Punishment

Egyptian authorities have violated the right of Mr. Hussein to be free from cruel, inhuman or degrading treatment or punishment. Article 7 of the ICCPR¹¹⁵, Article 5 of the UDHR¹¹⁶, Articles 52 and 55 of the Egyptian Constitution¹¹⁷, and Principle 6 of the Body of Principles¹¹⁸ collectively establish this prohibition, colloquially considered a prohibition on

¹¹² *Body of Principles*, *supra* note 46, Principle 8.

¹¹³ *ICCPR*, *supra* note 46, Art 14.

¹¹⁴ *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.

¹¹⁵ *ICCPR*, *supra* note 46, Art. 7.

¹¹⁶ *Universal Declaration*, *supra* note 46, Art. 5.

¹¹⁷ *Constitution of the Arab Republic of Egypt*, *supra* note 48, Arts. 52, 55.

¹¹⁸ *Body of Principles*, *supra* note 46, Principle 6.

torture. Defining this prohibition, the Body of Principles states that it “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.”¹¹⁹ More broadly, Article 10(1) of the ICCPR¹²⁰ and Principle 1 of the Body of Principles¹²¹ 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 Constitution¹²² states that dignity is a right of every human being, that it may not be violated, and the State must respect and protect it.

Articles 1-2 and 4-7 of the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment¹²³, to which Egypt is a state party, also prohibits the infliction of physical or mental pain or suffering by a public official with the intention to intimidate or coerce. Article 55 of the Egyptian Constitution¹²⁴ further reiterates that any statements made by the detainee after torture, intimidation, coercion, or physical or moral harm shall be disregarded and shall not be relied upon; Article 14(3g) of the ICCPR¹²⁵ additionally states that no one will be compelled to testify against himself or confess guilt. Similarly, Principle 21 of the Body of Principles¹²⁶ prohibits the compulsion of detainees to confess or incriminate themselves.

When Mr. Hussein was first detained by police at El-Marg checkpoint, he was violently and forcibly dragged by police to the nearest police station. Thereafter, he was kept in an overcrowded cell with 50 other detainees despite the fact that the space was designed to house only 16. Mr. Hussein was beaten by other detainees and during at least two later incidents, beaten by police guards. Additionally, when Mr. Hussein refused to confess to the charges that police intended to accuse him of, he was beaten and given electric shocks to his back, hands, and testicles for four hours. Desperate to stop the torture, Mr. Hussein agreed to film the confession that authorities had demanded of him. Additionally, although Mr. Hussein reported his torture to the State Security Prosecution and although his family members and attorneys submitted complaints to the Prosecutor-General regarding the beatings that Mr. Hussein has endured while in detention, Mr. Hussein has never been referred to a forensic investigation to confirm or deny torture allegations. Authorities have unequivocally failed to inform Mr. Hussein, his family members, or his attorneys regarding the status of the complaints that have been submitted on his behalf. Thus, Mr. Hussein has been left without redress.

The consistent failure of the Egyptian authorities to appropriately investigate torture allegations, take measures to halt the abusive treatment that Mr. Hussein has been forced to endure, and provide compensation to Mr. Hussein in cases of torture violate his domestic and

¹¹⁹ *Id.*

¹²⁰ *ICCPR*, *supra* note 46, Art. 10.

¹²¹ *Body of Principles*, *supra* note 46, Principle 1.

¹²² *Constitution of the Arab Republic of Egypt*, *supra* note 48, Art. 51.

¹²³ *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.

¹²⁴ *Constitution of the Arab Republic of Egypt*, *supra* note 48, Art. 55.

¹²⁵ *ICCPR*, *supra* note 46, Art. 14.

¹²⁶ *Body of Principles*, *supra* note 46, Principle 21.

international due process rights. Further, the failure of the Egyptian authorities to explicitly discard the filmed confession that they ascertained from Mr. Hussein as a direct result of his torture adds yet another egregious element to the due process violations that Mr. Hussein has undergone.

iv. Category V: Discrimination Based on a Protected Class

The detention of Mr. Hussein due to his political opinions, political participation, and status as a human rights defender is arbitrary under Category V.

A detention is arbitrary under Category V when, in violation of international law, the detention is discriminatory “based on . . . political or other opinion . . . and aims towards or can result in ignoring the equality of human rights.”¹²⁷ Article 7 of the UDHR¹²⁸ and Article 26 of the ICCPR¹²⁹ further prohibit discrimination before the law on a number of grounds, including “political or other opinion”; similarly, Article 53 of the Egyptian Constitution guarantees equality before the law on the basis of political affiliation.¹³⁰ Mr. Hussein was detained at a police checkpoint after his participation in a peaceful protest on the third anniversary of the January 25 Revolution; he had been demonstrating against the Muslim Brotherhood and the military. When he was stopped at the police checkpoint and subsequently detained, Mr. Hussein was dressed in clothing which identified his political opinions: (1) a January 25 scarf and (2) a t-shirt with the “nation without torture” slogan. The only identifying elements distinguishing Mr. Hussein from any passerby were his politically-inclined clothing and, if known to the arresting police officers, his earlier participation in the politically-inclined protest. Thus, the facts indicate that Mr. Hussein was detained in light of his political opinions; by extension, his detention is discriminatory based on his political opinions and his status as a human rights defender.

The prosecution’s inability and failure to charge Mr. Hussein with a single crime over a period of more than 650 days collectively confirm the arbitrary nature of this detention under Category V.

V. 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 legal or administrative remedies available.

On the issue of detention and until Mr. Hussein’s detention reaches the technical two-year maximum for pretrial detention as set forth by Article 143 of the Criminal Procedure Code,

¹²⁷ *Revised Methods of Work*, *supra* note 15, ¶ 8(e).

¹²⁸ *Universal Declaration*, *supra* note 46, Art. 7.

¹²⁹ *ICCPR*, *supra* note 46, Art. 26.

¹³⁰ *Constitution of the Arab Republic of Egypt*, *supra* note 48, Art. 53.

there are only two means by which Mr. Hussein can challenge his continued detention renewals, both of which will almost certainly not result in remedy for Mr. Hussein.

First, Mr. Hussein and/or his lawyers have the right to testify and/or argue in favor of temporary release (with or without bail) before the presiding judge at Mr. Hussein's detention renewal hearings and thereafter, submit appeals to challenge detention renewals. Although the law technically mandates that the judge hear both the testimony of the accused and the Public Prosecution before extending detention for 45-day periods, there have been at least 22 instances in which Mr. Hussein's detention has been renewed while Mr. Hussein was not present in the courtroom. In these instances, the Ministry of Interior claimed that "security reasons were behind the inability to transfer prisoners to court."¹³¹ Additionally, the court has delayed at least 24 of Mr. Hussein's detention renewal hearings for five to seven day periods at a time, depriving the process of any semblance of regularity.¹³² In light of the Ministry of Interior's continued failure to ensure that Mr. Hussein is present before the court, coupled with the failure of the presiding judge to hold off on detention renewal decisions when the accused is not present, Mr. Hussein will almost certainly not be able to challenge his detention using the regular forms of judicial redress. Formal attempts to appeal the detention renewal decision have also been rejected by the court.¹³³

Second, Mr. Hussein and/or his lawyers can submit a complaint to the Public Prosecution regarding the decision to renew the detention itself and/or the fact that the detention has been renewed in a violative manner. Mr. Hussein's lawyers have previously submitted such complaints to allege that the absence of Mr. Hussein when a decision implicating his case has been made violates the Judicial Authority Law (Law No. 142 of 2006)¹³⁴; these complaints have not resulted in remedy for Mr. Hussein. The political alignment of the Prosecutor-General with the government further raises serious questions on whether such complaints will ever be met with adequate investigation and response.

On the issue of abuse in detention, Mr. Hussein has not been able to successfully seek redress for the egregious violations committed against him. When he was beaten for four hours, had electric shocks administered to his body, and was forced to confess to crimes that he did not commit, Mr. Hussein explained to the State Security Prosecution in New Cairo that he had been tortured and that the confession on record had been a result of said-torture. Despite Mr. Hussein's complaint, the Prosecutor did not refer Mr. Hussein to a forensic investigation nor did he order any investigation into his torture allegations. Thereafter, Mr. Hussein was beaten in detention on at least two occasions; although his family members and lawyers submitted official complaints to the Public Prosecution regarding the original allegation of torture and the subsequent beatings and were informed that the office opened an investigation into the

¹³¹ Amira El-Fekki, *supra* note 2.

¹³² Emir Nader, *Detention renewed for student detained over 500 days for anti-torture t-shirt*, DAILY NEWS EGYPT, (June 15, 2015), <http://www.dailynewsegypt.com/2015/06/15/detention-renewed-for-student-detained-over-500-days-for-anti-torture-t-shirt/>.

¹³³ Amira El-Fekki, *Court rejects T-shirt detainee Mahmoud Hussein's appeal on detention*, DAILY NEWS EGYPT, (Sept. 2, 2015), <https://www.dailynewsegypt.com/2015/09/02/court-rejects-t-shirt-detainee-mahmoud-husseins-appeal-on-detention/>.

¹³⁴ Emir Nader, *supra* note 132.

complaints, they have not been informed of any findings.¹³⁵ The delayed process and the failure of the authorities to react to serious allegations indicate that Mr. Hussein's violations will not be remedied.

More broadly, the status of Mr. Hussein as a pretrial detainee who has not yet been formally charged contributes to a state of limbo that impedes the achievement of both legal and administrative remedies for Mr. Hussein. In the absence of a charge sheet, accusations that have manifested into a forced confession, and the presence of almost no legal documentation regarding Mr. Hussein's case, his local lawyers face immense hurdles in identifying the strategy and tools best equipped to assist their client. The lack of transparency from the Public Prosecution and the failure of the judicial authorities to adhere to the procedures set forth by the law contribute to a process mired in turmoil and violate the due process rights of Mr. Hussein on the most basic and integral levels, closing the door on practically every domestic remedy.

VI. CONCLUSION

The arrest and continued detention of Mahmoud Mohamed Ahmed Hussein is an egregious violation of Mr. Hussein's 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 in extending the detention of Mr. Hussein and subjecting him to life-threatening treatment:

- The right to freedom of opinion;
- The right to freedom of expression;
- The right to freedom of assembly;
- The right to peaceful protest;
- The right to due process, including the right to be free from arbitrary detention, the right to be detained only with a judicial order, the right to be informed of the reasons for arrest, 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 cruel, inhuman or degrading treatment or punishment.

We hereby request that the United Nations Working Group on Arbitrary Detention issue an opinion finding Mr. Hussein's ongoing pretrial detention to be in violation of Egypt's obligations under international law; call for Mr. Hussein's immediate release; request that the Government investigate and hold accountable all persons responsible for the unlawful arrest, continued detention, and mistreatment of Mr. Hussein; and appeal the Government to award Mr. Hussein compensation for the violations he has endured while in detention.

¹³⁵ Amnesty International, *supra* note 4.

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

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