

PETITION TO:
UNITED NATIONS
WORKING GROUP ON ARBITRARY DETENTION

Chairman/Rapporteur: Mr. José Guevara (Mexico)
Vice-Chairperson: Ms. Leigh Toomey (Australia)
Vice-Chairperson: Ms. Elina Steinerte (Latvia)
Mr. Sètonджи Roland Adjovi (Benin)
Mr. Seong-Phil Hong (Republic of Korea)

HUMAN RIGHTS COUNCIL
UNITED NATIONS GENERAL ASSEMBLY

In the Matter of

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| OLA YUSEF AL-QARADAWI Citizen of Qatar and Legal Permanent Resident of the United States | HOSAM AL-DIN KHALAF Citizen of Egypt and Legal Permanent Resident of the United States |
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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, 24/7, and 33/30.¹

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¹ Resolutions 1997/50, 2000/36, and 2003/31 were adopted by the UN Commission on Human Rights extending 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, G.A. Res. 60/251, ¶ 6 (Mar. 15, 2006), has further extended the mandate through Resolution 6/4, 15/18, 20/16, 24/7, and 33/30.

INTRODUCTION

As set forth in the attached Petition, the Egyptian Government is arbitrarily depriving Ola Al-Qaradawi and her husband Hosam Khalaf of their liberty. Ola and Hosam have been detained without charge by the Egyptian authorities since June 30, 2017. Egypt's violations of Ola and Hosam's due process rights under international law include arrest without warrant, search without warrant, denial of access to legal counsel and family, and extended pre-trial detention without charge. Indeed, they have been detained under a series of indefinite 15-day detention orders by a prosecutor and have yet to even be presented to a judge.

Beyond the due process abuses in the case, Ola and Hosam are also being subjected to cruel, inhuman, and degrading treatment that may also amount to torture. They are being held in *incommunicado* solitary confinement 24 hours a day in prisons under the authority of the Ministry of Interior. Their cells are dark, small, and without beds or toilets, and they have consistently been denied access to their lawyers and family. Unlike other prisoners, they are not permitted to purchase food and water from the canteen or receive food from family, and must rely on low-quality and contaminated food and water. They are further being denied necessary medical and personal care.

Ola is currently being held in Al-Anater prison, in a cell that measures 160cm by 180cm (5.25 feet by 5.9 feet). There are no windows or ventilation in the cell, except for a small hole towards the hallway that admits some light. The only time Ola is able to leave her cell is for approximately five minutes each day to use the bathroom. Ola finds herself compelled to reduce her food intake in an attempt to avoid the need to use the toilet. As a consequence of limited, poor-quality food and unhealthy prison conditions, Ola has lost a significant amount of weight. Through informal channels, the family has learned that she was recently admitted to the prison clinic for a short period of time, but little is known about her current state of health. Lawyers who saw Ola during her detention renewal session on August 27 reported that she appeared very weak.

Hosam is currently detained in a maximum security wing of Tora prison, one of the most notorious prisons in Egypt where allegations of the use of torture are widespread.² His detention conditions are similar to Ola's detention conditions, with no access to a bed or sunlight. Hosam's health is also suffering. Recently, Hosam reported pain in his eyes to the prison doctor and requested a medical checkup at his own cost. However, this request was refused by prison authorities. A second request was submitted to the prosecution, but thus far the family does not know what came of that request.

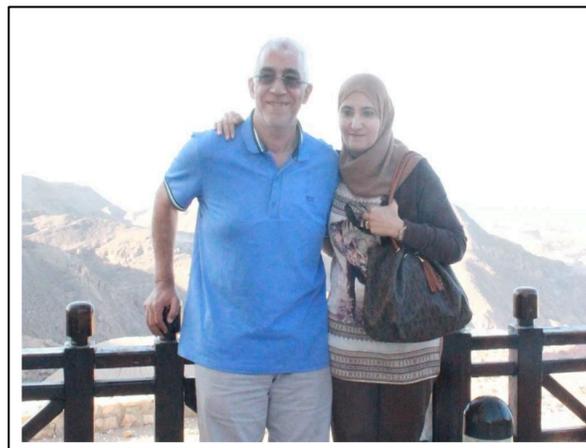
Ola and Hosam have been denied all contact with their family; they have not been permitted any visits or phone calls. Ola and Hosam have only seen their legal counsel for brief moments during the temporary detention renewal sessions; their communications are not confidential. Ola, a Qatari citizen, has also been denied consular visits.

² See e.g. Robert Kennedy, *Q&A: 50 Days in Egypt's Notorious Tora Prison*, AL JAZEERA, Jan. 27, 2014, available at <http://www.aljazeera.com/indepth/features/2014/01/qa-50-days-egypt-notorious-tora-prison-20141271153197179.html>.

On September 8, 2017, Amnesty International issued an Urgent Action appeal confirming the inhuman conditions and calling on the Egyptian authorities to immediately end the solitary confinement and poor prison conditions under which they are being held.³ Amnesty urged the Egyptian authorities to protect Ola and Hosam from mistreatment and torture, and to permit them access to their families and lawyers. On September 14, 2017, Human Rights Watch also published a statement affirming that Ola and Hosam’s basic rights have been violated under international law.⁴

The detention of Ola and Hosam is the most recent act of the Egyptian Government’s long-running campaign to restrict civil society and eliminate dissent and freedom of expression. According to Human Rights Watch, the Sisi government is pursuing “political stability at any cost” and “perpetuating the same abuses that fueled the 2011 uprising.”⁵ They note that the police and security forces routinely act with impunity, engaging in torture and enforced disappearance against political opponents, and that new repressive legislation “threaten[s] to effectively eradicate independent civil society.”⁶

Accordingly, it is hereby requested 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 reconfirmed by Resolutions 2000/36, 2003/31, and Human Rights Council Resolutions 6/4, 15/18, 20/16, 24/7, and 33/30.⁷



Ola and Hosam

³ Full statement attached to end of this submission. *Urgent Action: Couple Held in Solitary Confinement for 66 days (Egypt: 206.17)*, AMNESTY INT’L, Sept. 8, 2017, available at <https://www.amnestyusa.org/wp-content/uploads/2017/09/uaa20617.pdf> [hereinafter Amnesty Int’l Urgent Action].

⁴ Full statement attached to end of this submission. *Egypt: Detained Couple Denied Fundamental Rights*, HUMAN RIGHTS WATCH, Sept. 14, 2014, available at <https://www.hrw.org/news/2017/09/14/egypt-detained-couple-denied-fundamental-rights>.

⁵ “WE DO UNREASONABLE THINGS HERE” TORTURE AND NATIONAL SECURITY IN AL-SISI’S EGYPT, HUMAN RIGHTS WATCH, Sept. 5, 2017, available at <https://www.hrw.org/report/2017/09/05/we-do-unreasonable-things-here/torture-and-national-security-al-sisis-egypt>.

⁶ *Egypt*, HUMAN RIGHTS WATCH, last visited Sept. 21, 2017, available at <https://www.hrw.org/middle-east/n-africa/egypt>.

⁷ Methods of Work of the Working Group on Arbitrary Detention, A/HRC/36/38, July 13, 2017, at ¶¶ 22–24.

QUESTIONNAIRE FOR OLA AL-QARADAWI AND HOSAM KHALAF

IDENTITY OF OLA AL-QARADAWI

- 1. Family name:** Al-Qaradawi
- 2. First name:** Ola Yusef
- 3. Sex:** Female
- 4. Birth date:** December 15, 1961
- 5. Nationality:** Qatari citizenship; Legal Permanent Resident of the United States
- 6. (a) Identity document (if any):** Passport
(b) Issued by: Qatar
(c) On (date): November 29, 2016
(d) No.: 01318107
- 7. Profession and/or activity (if believed to be relevant to the arrest/ detention):**
Employee of the Embassy of Qatar in Cairo
- 8. Address of usual residence:** 19-44 Street El Mokattam, Cairo, Egypt

IDENTITY OF HOSAM KHALAF

- 1. Family name:** Khalaf
- 2. First name:** Hosam Al-Din
- 3. Sex:** Male
- 4. Birth date:** July 26, 1959
- 5. Nationality:** Egyptian citizenship; Legal Permanent Resident of the United States
- 6. (a) Identity document (if any):** Passport
(b) Issued by: Egypt
(c) On (date): Not known
(d) No.: A18753154
- 7. Profession and/or activity (if believed to be relevant to the arrest/ detention):** Civil Engineer and business owner
- 8. Address of usual residence:** 19-44 Street El Mokattam, Cairo, Egypt

ARREST OF OLA AL-QARADAWI AND HOSAM KHALAF

1. Date of arrest: June 30, 2017

2. Place of arrest (as detailed as possible): The family's vacation home in Ramses Village, Alexandria, along the north coast of Egypt.

3. Forces who carried out the arrest or are believed to have carried it out: State Security agents from the Burg al-Arab Division of Egyptian State Security, a branch of the Interior Ministry and the highest domestic national security body in Egypt.

4. Did they show a warrant or other decision by a public authority? No warrant or any other type of document was shown to Ola and Hosam at the time of their arrest. The State Security agents requested that Ola and Hosam accompany them to their local office for questioning, but the agents did not inform Ola and Hosam that they were under arrest. To date, neither Ola and Hosam nor their counsel have been shown any warrant for their arrest.

5. Authority who issued the warrant or decision: Not applicable, as no warrant was presented.

6. Reasons for the arrest imputed by the authorities: At the time of their arrest, Ola and Hosam were given no reason for their arrest. In fact, Ola and Hosam were not aware that they were under arrest when State Security agents asked them to accompany them for questioning.

Ola and Hosam's family later learned that State Security agents initially claimed that Ola and Hosam were taken in for questioning for violating an asset freeze, as they were moving furniture out of their vacation home, which the agents claimed belonged to Ola's father, who has been subject to an asset freeze in Egypt as of 2015. However, as it was apparent from Egyptian property records that Ola's father does not own the vacation home and yet Ola and Hosam are still detained, it was clear that this was not the real reason for their arrest.

7. Legal basis for the arrest including relevant legislation (if known): As there was no warrant for their arrest, there is no known legal basis for Ola and Hosam's arrest.

DETENTION OF OLA AL-QARADAWI AND HOSAM KHALAF

1. Date of detention: June 30, 2017 – present

2. Duration of detention (if not known, probable duration): 3 months, 3 days

3. Forces holding the detainee under custody: State Security Authorities / Ministry of Interior Prison Authorities

4. Places of detention (indicate any transfer and present place of detention):

June 30, 2017 – July 2, 2017: unknown place of detention

July 2, 2017 – present: Ola is detained at Al-Anater Prison, Qalyubia (north outskirts of Cairo). Hosam is detained at Tora Prison / Shadeed 2, Mansheya El-Masry, Qesm Torah (south outskirts of Cairo)

5. Authorities that ordered the detention: State Security prosecutor from the Ministry of Interior.

6. Reasons for the detention imputed by the authorities: No official reason has been given for Ola and Hosam’s ongoing detention and no documentation of any kind have been provided to their counsel. Informally, state-run media have claimed Hosam and Ola are suspected of being members of the Muslim Brotherhood, “financing a terrorist group” and “joining a group that has no legal basis.”

7. Relevant legislation applied (if known): Ola and Hosam are being detained pursuant to renewable 15-day detention orders.

CIRCUMSTANCES OF THE ARRESTS AND DETENTIONS OF OLA AL-QARADAWI AND HOSAM KHALAF

I. STATEMENT OF FACTS

A. Background of Ola Al-Qaradawi and Hosam Khalaf

Ola Yusuf Al-Qaradawi (55), a U.S. legal permanent resident, is a Qatari national of Egyptian origin. She was born and raised in Qatar, where she earned a bachelor’s degree in biology from Qatar University in 1983. In 1984, she moved to the U.S. to complete a master’s degree at the University of Texas-Austin. Ola is the daughter of well-known Islamic scholar Sheikh Yusuf Al-Qaradawi and her late mother Isaad Abdelgawad Alharam. Ola works at the Qatari Embassy in Cairo as an administrative staffer. Ola has no political affiliations, and she has never been politically active.

Hosam Al-Din Ali Ali Khalaf (58), a U.S. legal permanent resident, is an Egyptian national raised in the U.S. from 1960-1965 and 1968-1971. After earning a bachelor’s degree in civil engineering from the University of Assiut in Egypt, he moved back to the U.S. to complete a master’s degree from 1984-1988, also at the University of Texas-Austin.

After completing their studies, Ola and Hosam moved back to Egypt with their children, where Hosam started his own construction business. Ola and Hosam have three children.

Ola has never been politically active. In fact, as an employee of the Qatari embassy, which requires stringent security clearance, political activism would be in violation of her terms of employment. Hosam is a member of the Al-Wasat Party (Center Party), a moderate Islamist liberal party. The party was created in 1996 as an alternative to the Muslim Brotherhood, as its

creators objected to the Brotherhood's strict internal governance structure and believed in a more liberal interpretation of Islam. The Carnegie Endowment for International Peace observed:

The party's religious ideology is drawn from the *Wasatiyya* (Centrist) school of thought, a liberal interpretive tradition in Islamic thinking that is firmly anchored in Islamic law but seeks to interpret its principles in a manner consistent with the values of a liberal democratic system.⁸

In the wake of the 2011 revolution, Al-Wasat became the first new party to be officially registered.⁹ Hosam has served in senior administrative roles for the party, though he has not been active since 2013. It continues to be registered as a political party in Egypt to this day and, since its registration, it has never been declared illegal or designated a terrorist group.

In early 2017, Ola and Hosam were granted U.S. green cards that authorized them to move to the U.S. Before their unlawful arrests, they were in the process of moving to Seattle, Washington, to live near their daughter and grandchildren; they still hope to do so once released from prison and permitted to travel.

B. History of Past Politically Motivated Persecution Against Hosam

In early 2014, it became apparent that the Egyptian authorities were targeting Hosam for persecution because of his political affiliation. When he tried to travel, he was unlawfully blocked from leaving the country at the airport. No official explanation was given.

Later that year in the summer of 2014, Hosam was arbitrarily arrested during a wave of arrest of members of political parties,¹⁰ including many senior members of Al-Wasat. Though no formal charges were ever filed against him, the unofficial accusation was that he was part of the Muslim Brotherhood, which was patently false. He was detained arbitrarily for nearly two years under renewable temporary detention orders. Hosam was held in Tora prison, one of the worst prisons in Egypt, where he was deprived of adequate food and water, access to sunlight, and visits from family. On March 22, 2016, he was released after a decision by the Prosecutor General to remove him from the open investigation.

Since 2016, Hosam has not attempted to leave Egypt. After receiving his U.S. green card in 2017, he contacted Egyptian authorities to get verbal confirmation that he would be allowed to travel, but he was told that he would not be allowed to leave the airport.

To be absolutely clear, neither Ola nor Hosam have ever been a member of nor provided support to the Muslim Brotherhood.

⁸ *Wasat Party*, CARNEGIE ENDOWMENT FOR INTERNATIONAL PEACE, Sept. 16, 2010, available at <http://carnegieendowment.org/2010/09/16/wasat-party-pub-54916>.

⁹ *Id.*

¹⁰ See e.g., *Egypt: Rampant Torture, Arbitrary Arrests and Detentions Signal Catastrophic Decline in Human Rights One Year After Ousting of Morsi*, AMNESTY INT'L, July 3, 2014, available at <https://www.amnesty.org/en/latest/news/2014/07/egypt-anniversary-morsi-ousting/>.

C. Current Situation: Arbitrary Arrests of Ola and Hosam

On June 30, 2017, Ola and Hosam were residing at their vacation home on the north coast of Egypt. They had hired movers to remove old furniture from the house in order to make room for new furniture. Around 10 pm, State Security agents from the Burg Al-Arab Division (referring to the local area) came to Ola and Hosam's vacation home and detained everyone inside, including the movers.

The agents also had no arrest warrant, but they asked Ola and Hosam to accompany them to the State Security's Burg Al-Arab office for questioning. No reason for the request for questioning was given. Ola and Hosam complied and were taken to the station. However, they were not under the impression that the State Security agents intended to arrest them.

The agents searched the vacation home after Ola and Hosam had left. Later that night, agents in Cairo entered Ola and Hosam's primary residence and confiscated personal property. Among the confiscated items was Ola's Qatari passport, which contained her U.S. green card. There was no search warrant for either the vacation home or Cairo home.

However, Ola and Hosam were immediately detained at the State Security Office, where they were questioned without the presence of their lawyers. For the first two days, family and lawyers did not know their whereabouts, conditions, or treatment.

On July 2, 2017, Ola and Hosam were brought to the State Security's Prosecutor's Office, where they were informally told that they were "under investigation." They were also told that they had been added to a mass investigation case "Case #316,"¹¹ a pre-existing investigation that appears to include over 250 people and involves a number of vague allegations related to terrorism. However, Ola and Hosam were not told the specific allegations against them, nor were they informed of any charges.

D. Current Situation: Arbitrary Detention of Ola and Hosam

After the meeting at the Prosecutor's Office, Ola and Hosam were transported to prisons near Cairo controlled by the Egyptian Interior Ministry. Ola was taken to Al-Anater Prison (other spellings include 'Qanatir' or 'Qanater'); Hosam was taken to Tora Prison. The family was informed of their whereabouts shortly thereafter by a contact who had found out.

As Ola and Hosam have not been formally charged with any crime, they are currently detained pursuant to temporary orders, which facially purport to authorize their detentions. Under Egyptian law, State Security prosecutors may indefinitely order 15 days of preventative detention for individuals suspected of committing felonies.¹² This period of detention is subject

¹¹ See *Renewal of the Detention of the Daughter of Qaradawi and her Husband for 15 Days on Accusations of Financing Terrorist Groups*, AL-YOUM AL-SABAA, July 26, 2017, available at <http://www.youm7.com/story/2017/7/26/ابنة-حبس-تجدد-وزوجها-الفرضاوي-3340895>.

¹² Egyptian Crim. Pro. Code, Art. 142, available at https://static1.squarespace.com/static/554109b8e4b0269a2d77e01d/t/554b9890e4b029f0ef3a188d/1431017616683/Egypt+Criminal+Procedure+Code_English_Final.pdf (Temporary detention shall end upon the elapse of a fifteen-day period as of the date of incarceration of the person accused. Nevertheless, the investigating magistrate may,

to renewal by the prosecutor for up to five months, in 15-day increments. At that point, the prosecutor must submit a case to a relevant judge who can release the accused person or renew the detention for up to 45 days at a time.¹³ This detention can extend from the stage of initial investigation through all stages of criminal judicial proceedings.

Thus far, the temporary orders have been renewed six times – on July 12, July 26, August 13, August 27, September 11-12, and September 24. Each time, Ola and Hosam have been brought individually before the prosecutor, who issued the decision. Ola and Hosam’s lawyer is present during these sessions, but is not given any opportunity to present any type of defense or argument against continued detention. Additionally, their lawyers have attempted to challenge their ongoing detention on at least six occasions, but all of their requests have been summarily denied.

Additionally, the lawyers have been prohibited from visiting Ola and Hosam in their prisons, including during the initial days of their detention during which Ola and Hosam were interrogated without the presence of a lawyer. This pattern of denial to legal counsel has continued unabated. The only times that Ola and Hosam have been able to see their lawyers are during the temporary detention renewal sessions held every 15 days. However, any conversations with their lawyers during these sessions have been very brief and not confidential, and all they are able to discuss are their prison conditions and deteriorating health.

Ola and Hosam have had no visits since their detention began on June 30, 2017. They have not been permitted to see one another, and all visits with lawyers and family have been denied. As a Qatari national, Ola should be permitted to have consular visits, however those visits have also been denied.

Ola is currently detained at Al-Anater prison, a women’s prison in Cairo, infamous for its cruel treatment and terrible conditions. Women in Al-Anater have reported being forced to live in filthy prison cells crawling with cockroaches and insects, where the water contains sewage and causes skin infections.¹⁴ Strip searches and invasive body inspections are common, and books, radio, and even letters can be prohibited at the discretion of the prison authorities.¹⁵ Political prisoners are treated with particular cruelty – under surveillance continually, beaten, harassed, and subjected to additional arbitrary punishments.¹⁶

Ola is currently being held in a cell that measures 160cm by 180cm (5.25 feet by 5.9

upon hearing the statement of the Public Prosecution and the person accused, issue an order extending the period of detention for an extra period or periods that shall not, in total, exceed a 45- day period).

¹³ *Id.*, at Art. 143, (If the investigation has not been concluded and the investigating magistrate deems it necessary to extend the period of temporary detention for a period of time exceeding that prescribed under the abovementioned article, the documents shall, prior to the elapse of the aforementioned period and after hearing the statement of the Public Prosecution and person accused, be transferred to the Consultation Chamber of the Misdemeanor court of appeal to issue an order extending the period of detention for consecutive periods that shall not exceed forty five days each).

¹⁴ *Life In An Egyptian Prison*, AL JAZEERA, Aug. 14, 2015, available at <http://www.aljazeera.com/news/2015/08/life-egyptian-prison-150812112621901.html>.

¹⁵ *Id.*

¹⁶ Christien Petré, *A Glimpse into Egypt’s Al Qanatar Women’s Prison*, MIDDLE EAST MONITOR, July 21, 2014, available at <https://www.middleeastmonitor.com/20140721-a-glimpse-into-egypts-al-qanatar-womens-prison/>.

feet), with no bed or toilet. There are no windows or ventilation in the cell, except for a small hole towards the hallway that admits some light. She is held *incommunicado* and in solitary confinement for 24 hours a day. The only time Ola is able to leave her cell is for approximately five minutes each day to use the bathroom in the early morning. Ola finds herself compelled to reduce her food intake in an attempt to avoid the need to use the toilet.

Unlike other detainees, she is not permitted to purchase food or water from the canteen and must rely on low-quality and insufficient prison rations. The food that she is brought is often inedible, therefore there have been times where she does not eat for several days in a row, and the water she drinks comes from the prison washroom and is contaminated, coming out of the faucet murky and foul-smelling. The little information the family has been able to glean on Ola's prison conditions is substantiated by several recently published reports.¹⁷ According to her lawyers, who have only seen her during the detention renewal sessions, she has lost a significant amount of weight and appears very weak.

Hosam is being held in the notorious Tora Prison in Shadeed 2 Wing. At Tora Prison, which was built to house both criminal and political detainees, there are numerous confirmed reports of brutal beatings, the use of solitary confinement for extended periods, and prohibitions on written materials and personal belongings, including blankets.¹⁸

Like Ola, Hosam is held *incommunicado* and in solitary confinement 24 hours a day. He is in a small cell without windows or ventilation. He is also prohibited from purchasing food and water, and has been denied medical treatment. Recently, he reported pain in his eyes to the prison doctor and requested a medical checkup at his own cost. However, this request was refused by prison authorities. A second request was submitted to the prosecution, but thus far nothing has happened.

E. Unofficial Allegations of Basis for Detention

Ola and Hosam have not been charged with any crime. Neither they nor their lawyers have been given any official reason for their arrest and continued detention. They also have not been provided with any documents or evidence in relation to their ongoing detention.

Unfortunately, Ola and Hosam's case is not unique in Egypt, where arbitrary detention, political imprisonment, and forced disappearances are key tools by which the state cracks down on domestic dissent. Abuse by the security and judicial systems is one of the most pervasive gross violations of human rights in Egypt under the Sisi government. Activists claim that as many as 60,000 political prisoners may be jailed.¹⁹ Egyptian citizens and foreigners alike are detained pursuant to broad range of allegations and alleged offenses.²⁰

¹⁷ *Life In An Egyptian Prison*, supra note 14.

¹⁸ *50 Days in Egypt's Notorious Tora Prison*, supra note 2.

¹⁹ Joshua Hammer, *How Egypt's Activists Became 'Generation Jail'*, NEW YORK TIMES, Mar. 14, 2017, available at <https://www.nytimes.com/2017/03/14/magazine/how-egypts-activists-became-generation-jail.html>.

²⁰ *Egypt Ranks Third in the World for Number of Journalists Imprisoned in 2016: CPJ*, DAILY NEWS EGYPT, Dec. 14, 2016, available at <https://dailynewsegypt.com/2016/12/14/604727/>.

As of the date of this petition, it is believed that Ola and Hosam are being detained due to false informal allegations that they are associated with the Muslim Brotherhood. Under the Sisi government, the Muslim Brotherhood is a banned political organization. **Ola and Hosam have repeatedly affirmed that they are not, nor have they ever been, members of the Muslim Brotherhood or any terrorist organization.** In fact, Ola has never been politically active. Hosam was a senior member of a political group that disassociated itself from the Muslim Brotherhood and ran against the Muslim Brotherhood in the 2012 elections.

Initially at the time of their arrest, it appeared that Ola and Hosam were detained because they were moving furniture out of their vacation home. The State Security agents initially claimed that they thought the house still belonged to Ola's father, who has been subject to an asset freeze in Egypt as of 2015.²¹ But the home is actually owned by Ola's late mother for over 15 years. If the home had been owned by Ola's father, no one would have been permitted to move any belongings out of the home. The family was initially told the situation would be resolved once the State Security agents realized that the house was not owned by Ola's father, but was in fact owned by her late mother. However, as it was apparent from Egyptian property records that Ola's father does not own the vacation home and yet Ola and Hosam are still detained, it is clear that this was not the real reason for their arrest. It should also be noted the arrests took place only three weeks after the Quartet announced its actions against Qatar.

Ola and Hosam's lawyers were subsequently told informally by the State Security prosecutor during the July 12 detention renewal hearing that there are two suspected crimes being investigated by the prosecutors – the “financing of a terrorist group” and “joining a group that has no legal basis.” However, the Egyptian government has not provided any information of any kind to support any potential claims against Ola and Hosam.

Yet despite not having provided any documents or evidence to Ola and Hosam and their lawyers, the Egyptian Government released public statements about Ola and Hosam, claiming that they had been charged. On July 3, 2017, media reported a statement from the State Security prosecutor's office which claimed that Ola and Hosam “were arrested over allegations of being members of the Muslim Brotherhood” and that they were charged with “not obliging to the constitution and the rule of law . . . harming national unity and peace . . . [and] threatening the society's security.”²²

²¹ Sheikh Yusef al-Qaradawi is an Egyptian Sunni cleric currently living in Qatar. He has been regarded as an intellectual figure of the Muslim Brotherhood. *Yusuf al-Qaradawi*, BERKLEY CENTER FOR RELIGION, PEACE & WORLD AFFAIRS, available at <https://berkeleycenter.georgetown.edu/people/yusuf-al-qaradawi>. The Sisi government, along with the other Arab countries aligned against Qatar, recently listed al-Qaradawi as a terrorist and demanded that Qatar take action against him. Qatar rejected this demand as “baseless.” For further background on al-Qaradawi, see Sudarsan Raghavan & Joby Warrick, *How A 91-Year-Old Imam Came to Symbolize the Feud Between Qatar and Its Neighbors*, WASHINGTON POST, June 27, 2019, available at https://www.washingtonpost.com/world/middle_east/how-a-91-year-old-imam-came-to-symbolize-feud-between-qatar-and-its-neighbors/2017/06/26/601d41b4-5157-11e7-91eb-9611861a988f_story.html?utm_term=.ed66310e28c9.

²² *Egypt Arrests Daughter and Son-in-Law of Prominent Muslim Scholar el-Qaradawi*, DAILY SABAH MIDEAST, July 3, 2017, available at <https://www.dailysabah.com/mideast/2017/07/03/egypt-arrests-daughter-and-son-in-law-of-prominent-muslim-scholar-el-qaradawi>. See also *Egypt Detains al-Qaradawi's Daughter and Son-in-Law*, ALJAZEERA, July 3, 2017, available at <http://www.aljazeera.com/news/2017/07/egypt-detains-daughter-son-law-yusuf-al-qaradawi-170703153830190.html>; *The Decision to Add 296 Members of the Muslim Brotherhood to the*

It is important to emphasize that if any such evidence of wrongdoing had existed, there would have been no need for Egyptian authorities to arrest Ola and Hosam without an arrest warrant or search their homes without search warrants, let alone hold them extended detention without charge or trial. On the contrary, specific information detailing the allegations against them could have easily been presented to the judge in the case and both the arrest and search warrants would have appeared facially valid and consistent with Egypt's obligations under international law.

On August 17, 2017, Arab-language media reported that the assets of Ola, Hosam, and five of Ola's siblings had been frozen by the Egyptian government, based on allegations of affiliation with the Muslim Brotherhood and terrorist activity.²³ The Government has routinely turned to the freezing of assets against thousands of Egyptians over the past several years as a tool to control its people.²⁴ This is a tactic that in this case has found Ola and Hosam guilty by association without any evidence having been presented or any opportunity given to them to refute these allegations. It is clearly a politically-motivated decision, likely implemented to retroactively try and justify their illegal detention.

On August 30, 2017 the Egyptian courts listed 296 individuals as part of Case #316 on the terrorist list, including Ola and Hosam.²⁵

To be clear, Ola and Hosam strenuously deny even the informal suggestions that they are linked to any terrorist or illegal group. Ola and Hosam are not, nor have they ever been, members of the Muslim Brotherhood, which has been listed by Egypt as a terrorist entity. As discussed above, Ola has no political affiliations. Hosam is a member of the Al-Wasat political party, which is a legally-registered political party. It is not a terrorist organization, nor has it ever been described or labeled as such.

Hosam was previously arbitrarily detained from 2014-2016 and investigated for almost two years, before he was released. He was never charged with any crime. The Egyptian authorities under President Sisi have not been reticent in charging, imprisoning, or even executing purported terrorists on real or flimsy evidence, or even when they had no evidence at all. Therefore, if Egyptian authorities had any evidence that Hosam had any real or imagined connection to terrorism, they would very likely have charged him with such crimes between 2014-2016, when he was previously detained by them.

"Terrorist List" Reveals the Charges of the Prosecution Against al-Qaradawi's Daughter, AL-AKHBAR LIBIA, Aug. 30, 2017, available at <http://www.akhbarlibya.net/arabic-news/702963.html>.

²³ *Press Release: Egyptian Authorities Victimize Ola and Hosam's Family Members*, FREE OLA AND HOSAM CAMPAIGN, Aug. 18, 2017, available at <http://www.freeolaandhosam.org/2017/08/13/solitary-confinement-renewed-for-the-3rd-time-without-due-legal-process/>. See also *Cairo Freezes Assets of 6 of Al-Qaradawi's Children*, AL JAZEERA, Aug. 17, 2017, available at <http://www.aljazeera.net/news/arabic/2017/8/17/من-عسنة-أموال-على-تتحفظ-القاهرة> (in Arabic).

²⁴ *Joint NGO Letter; Call for Strong Action on Egypt at the UN Human Rights Council*, FEDERATION INTERNATIONALE DE DROITS DE L'HOMME (FIDH), June 6, 2017, available at <https://www.fidh.org/en/issues/human-rights-defenders/joint-ngo-letter-call-for-strong-action-on-egypt-at-the-un-human>.

²⁵ *The Decision to Add 296 Members*, *supra* note 22.

II. LEGAL ANALYSIS

For the reasons set forth below, the detention of Ola Al-Qaradawi and her husband Hosam Al-Din Khalaf constitutes an arbitrary deprivation of their liberty²⁶ under Category III as set forth by the United Nations Working Group on Arbitrary Detention (Working Group).

Egypt is a party²⁷ to the International Covenant on Civil and Political Rights (ICCPR), and must therefore abide by all its provisions contained therein. In addition, the rights provided for in the ICCPR are binding on the Government not only as a matter of international law but also because the Egyptian Constitution explicitly states that international human rights agreements have full legal weight in Egypt. Article 93 of the Egyptian Constitution, which took effect in 2014, declares that “The state is committed to the agreements, covenants, and international conventions of human rights that were ratified by Egypt. They have the force of law after publication in accordance with the specified circumstances.”²⁸

A. Category III: Due Process Rights

The Working Group considers a deprivation of liberty to be a Category III arbitrary detention “[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.”²⁹ Additionally, the Working Group will look to the Body of Principles for the Protection of All Persons Under Any Form of Detention or Imprisonment (Body of Principles).³⁰

Article 55 of the Egyptian Constitution further guarantees the right of its citizens to due process protections: “All those who are apprehended, detained or have their freedom restricted shall be treated in a way that preserves their dignity.”³¹ The Constitution goes on to state that “Any violation of the above is a crime and the perpetrator shall be punished under the law.”³²

²⁶ An arbitrary deprivation of liberty is defined as any “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, G.A. Res 2200A (XXI), 21 U.N. GAOR Supp. (No. 16), at 52, U.N. Doc. A/6316 (1966), 999 U.N.T.S. 171, *entered into force* 23 March 1976, at 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, at 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, at Principle 2, G.A. Res. 47/173, Principle 2, 43 U.N. GAOR Supp. (No. 49) at 298, U.N. Doc. A/43/49 (1988) [hereinafter *Body of Principles*].

²⁷ *United Nations Treaty Status: ICCPR*, available at http://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtdsg_no=IV-4&chapter=4&lang=en#EndDec (noting that Egypt acceded to the treaty on Jan. 14, 1982).

²⁸ Constitution of the Arab Republic of Egypt (2014), Art. 93 *available at* https://www.constituteproject.org/constitution/Egypt_2014.pdf.

²⁹ Office of the High Comm’r for Human Rights, United Nations, Fact Sheet No. 26: The Working Group on Arbitrary Detention, pt. IV(B).

³⁰ *Body of Principles*, *supra* note 26.

³¹ Constitution of the Arab Republic of Egypt (2014), *supra* note 28, at Art. 55.

³² *Id.*, at Art. 55.

Because the Egyptian Government violated numerous procedural requirements under both international and domestic law in this case, the continued detention of Ola and Hosam is arbitrary under Category III.

1. The Egyptian Government Arrested Ola and Hosam Without a Warrant.

Article 9 of the ICCPR provides that “no one shall be deprived of his liberty except on such grounds and in accordance with such procedure as are established by law.”³³ Article 9 of the Universal Declaration states that “no one shall be subjected to arbitrary arrest, detention or exile.”³⁴ Under the Body of Principles, an arrest “shall only be carried out strictly in accordance with the provisions of law”³⁵ and shall be “duly recorded” with the reasons for the arrest, the time of the person’s first appearance before a judicial authority, and information about the place of custody.³⁶

The Egyptian Constitution also provides that arrests must be pursuant to a valid warrant, except in exceptional circumstances: “Personal freedom is a natural right which is safeguarded and cannot be infringed upon. Except in cases of in flagrante delicto, citizens may only be apprehended, searched, arrested, or have their freedoms restricted by a causal judicial warrant necessitated by an investigation.”³⁷ Additionally, Egyptian law requires a valid and specific search warrant in order for authorities to enter and search private property.³⁸

In this case, Ola and Hosam were not arrested pursuant to an arrest warrant. When State Security agents arrived at their home June 30, 2017, the agents did not show any type of warrant, nor did they inform Ola and Hosam that they were under arrest. Additionally, the agents did not show any search warrants before they search Ola and Hosam’s vacation home or the permanent residence in Cairo, and seized personal property.

2. The Egyptian Government Failed to Provide Ola and Hosam With a Reason for Their Arrest and Is Holding Them Without Charge.

ICCPR Article 9(2) provides that anyone arrested “shall be informed, at the time of arrest, of the reasons for his arrest and shall be promptly informed of any charges against him.”³⁹ Similarly, the Egyptian Constitution guarantees citizens the right to be promptly informed of the reasons for their arrest: “All those whose freedoms have been restricted shall be immediately informed of the causes therefor [sic],”⁴⁰ and the Egyptian Criminal Procedure Code provides that “Any person arrested or placed in temporary detention shall immediately be informed of the

³³ ICCPR, *supra* note 26, at Art. 9(1).

³⁴ Universal Declaration, *supra* note 26, at Art. 9.

³⁵ Body of Principles, *supra* note 26, at Principle 2.

³⁶ *Id.*, at Principle 12.

³⁷ Constitution of the Arab Republic of Egypt (2014), *supra* note 28, at Art. 55.

³⁸ Constitution of the Arab Republic of Egypt (2014), *supra* note 28, at Art. 58 (“Upon entering or searching homes, those inside shall be notified and informed of the warrant issued in this regard”).

³⁹ ICCPR, *supra* note 26, at Art. 9(2).

⁴⁰ Constitution of the Arab Republic of Egypt (2014), *supra* note 28, at Art. 54.

reasons thereof . . . [and] The person shall immediately be notified of the charges made thereagainst.”⁴¹

It has been 95 days since Ola and Hosam’s arrest, and yet **Ola and Hosam have not been formally charged with any crime**. At the time of their arrest, neither Ola and Hosam, nor their family, nor their lawyers were given a reason for their arrest. Since then, they have not received any official explanation for their arrests and continued detention.

Ola and Hosam’s lawyers have been told informally that Ola and Hosam were suspected of “terrorist” activities. However, this claim is patently false and runs counter to the original reason given for their detention, which was the removal of furniture that Egyptian authorities believed was a violation of the asset freeze to which Ola’s father was subject.

It must be emphasized that, though public media reports state that Ola and Hosam have been charged, neither Ola nor Hosam nor their lawyers have been presented with even a single paper in writing asserting what they are suspected of doing, let alone that they have been charged with a crime.

3. The Egyptian Government Has Subjected Ola and Hosam to Extended Pre-Trial Detention.

International law includes a presumption against pre-trial detention. Article 9(3) of the ICCPR states that “Anyone arrested or detained on a criminal charge shall be brought promptly before a judge or other officer authorized by law to exercise judicial power and shall be entitled to trial within a reasonable time or to release. It shall not be the general rule that persons awaiting trial shall be detained in custody.”⁴²

The UN Human Rights Committee, the body of state parties that definitively interprets the ICCPR, has consistently interpreted this to mean that “pre-trial detention should be the exception and that bail should be granted, except in situations where the likelihood exists that the accused would abscond or destroy evidence, influence witnesses or flee from the jurisdiction of the State party.”⁴³ The Human Rights Committee has concluded that ICCPR is violated when a state cannot sufficiently explain why “setting an appropriate sum of bail and other conditions of release” does not satisfy any concern about the accused.⁴⁴

Article 36(2) of the Body of Principles further upholds this right, “The arrest or detention of such a person pending investigation and trial shall be carried out only for the purposes of the administration of justice on grounds and under conditions and procedures specified by law. The imposition of restrictions upon such a person which are not strictly required for the purpose of the detention or to prevent hindrance to the process of investigation or the administration of

⁴¹ Egyptian Crim. Pro. Code, *supra* note 12, at Art. 139.

⁴² ICCPR, *supra* note 26, at Art. 9(3).

⁴³ Communication No. 526/1993, *M. and B. Hill v. Spain* (Views adopted on 2 April 1997), UN doc. GAOR, A/52/40 (vol. II), p. 17, ¶ 12.3.

⁴⁴ *Id.*

justice, or for the maintenance of security and good order in the place of detention shall be forbidden.”⁴⁵

Ola and Hosam are being held in pre-trial detention pursuant 15-day temporary detention orders issued by the prosecutor and not even by a judge. They have not been given any reason justifying their ongoing pre-trial detention, or any opportunity to meaningfully contest the detention. While their lawyers have attempted to challenge their detention, all requests have been summarily denied. As such, Ola and Hosam have not been afforded any opportunity to be released on condition, and are therefore being detained in violation of the international law barring preventative detention except in exceptional circumstances.

4. The Egyptian Government Has Detained Ola and Hosam Incommunicado and Without Access to Their Family.

Incommunicado detention is prohibited by international law. Principle 19 of the Body of Principles states “a detained or imprisoned person shall have the right to be visited by and to correspond with, in particular, members of his family.”⁴⁶ Principle 15 further states that “communication of the detained or imprisoned person with the outside world, and in particular his family or counsel, shall not be denied for more than a matter of days.” The Egyptian Constitution also enshrines the right of access to family: “All those whose freedoms have been restricted shall . . . be allowed to immediately contact their family and lawyer”⁴⁷

Ola and Hosam have been detained *incommunicado* for **95 days so far**. There are brief moments every 15 days when their detention orders have been renewed when they see their counsel, but otherwise they are totally cut off from the outside world.

For the first two days of their detention, their whereabouts were completely unknown to their family and lawyers. Since their detentions in Al-Anater and Tora prisons began on July 2, 2017, they have been prohibited from communicating with their family. No visits or phone calls have been permitted. Furthermore, as discussed below in relation to cruel, inhuman and degrading treatment, possibly amounting to torture, Ola and Hosam have been denied all contact with the outside world as they have been held in solitary confinement continuously.

5. The Egyptian Government Denied Ola and Hosam Access to Legal Counsel.

Article 14(3) of the ICCPR ensures the right of an individual “[i]n the determination of any criminal charge against him. . . to communicate with counsel of his own choosing” and “to defend himself in person or through legal assistance of his own choosing.”⁴⁸ Principle 18(1) of the Body of Principles further elaborates that “[a] detained or imprisoned person shall be entitled to communicate and consult with legal counsel.”⁴⁹ While the Body of Principles does not

⁴⁵ *Body of Principles*, *supra* note 26, at Principle 36(2).

⁴⁶ *Id.*, at Principle 19.

⁴⁷ Constitution of the Arab Republic of Egypt (2014), *supra* note 28, at Art. 54.

⁴⁸ ICCPR, *supra* note 26, at Art. 14(3)(b),(d).

⁴⁹ *Body of Principles*, *supra* note 26, at Principle 18(1).

specifically identify when access to counsel must be granted, Principle 15 notes that, notwithstanding exceptional circumstances, “communication of the detained or imprisoned person with the outside world, and in particular his family or counsel, shall not be denied for more than a matter of days.”⁵⁰ The Egyptian Constitution enshrines the right of a detainee to immediately speak with a lawyer.⁵¹ The Constitution goes on to guarantee that “Questioning of the person may only begin once his lawyer is present.”⁵²

Ola and Hosam have not been permitted access to their counsel. When they were arrested and initially questioned by the State Security agents, their lawyer was not informed and was therefore not present – a direct violation of the Egyptian Constitution. As their detention continues, they have been denied all visits with their lawyers. The only times Ola and Hosam have even seen their lawyers are during the brief detention renewal sessions. At these sessions, Ola and Hosam cannot discuss any details of their case, as any conversations they have are in the presence of the State Security prosecutor and are therefore not confidential.

6. The Egyptian Government Has Denied Ola and Hosam Access to All Information.

Article 14(3) of the ICCPR ensures the right of an individual “[i]n the determination of any criminal charge against him... [t]o have adequate time and facilities for the preparation of his defense.”⁵³ This includes access to documents and other evidence which the accused requires to prepare his case.⁵⁴ In practice, this means that “(t)he accused or his lawyer must have the right to act diligently and fearlessly in pursuing all available defences and the right to challenge the conduct of the case if they believe it to be unfair.”⁵⁵

Neither Ola and Hosam, nor their counsel, have seen any official documents or evidence from the Egyptian Government explaining the reasons for their arrest and detention, or any formal charges against them. As such, Ola and Hosam are completely unable to meaningfully challenge their ongoing temporary detention, and are unable to even contemplate preparing a defense to any potential charges that may be leveled against them.

7. The Egyptian Government Violated Ola and Hosam’s Right to the Presumption of Innocence.

The ICCPR and UDHR also afford individuals “the right to be presumed innocent until proved guilty according to law.”⁵⁶ The Human Rights Committee has noted that the presumption of innocence is expressed in unambiguous terms:

⁵⁰ *Id.*, at Principle 15.

⁵¹ Constitution of the Arab Republic of Egypt (2014), *supra* note 28, at Art. 54.

⁵² *Id.*

⁵³ ICCPR, *supra* note 26, at Art. 14(3)(b).

⁵⁴ *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)*, OFFICE OF THE UN HIGH COMMISSIONER FOR HUMAN RIGHTS, Apr. 13, 1984, at ¶ 9.

⁵⁵ *Id.*, at ¶ 11.

⁵⁶ ICCPR, *supra* note 26, at Art. 14(2); *Universal Declaration*, *supra* note 26, at Art. 11(1).

The burden of proof of the charge is on the prosecution and the accused has the benefit of 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.⁵⁷

In *Raúl Linares Amundaray v. Venezuela*, the Working Group applied this principle in finding that any hindrance of the ability to exercise the right be presumed innocent until proven guilty according to law in a public trial constitutes a violation of the right to a fair trial.⁵⁸ Additionally, according to Principle 36(1) of the Body of Principles, “A detained person suspected of or charged with a criminal offence shall be presumed innocent and shall be treated as such until proved guilty according to law in a public trial at which he has had all the guarantees necessary for his defence.”⁵⁹

This right is also protected in the Egyptian Constitution, which explicitly states that “The accused is innocent until proven guilty in a fair court of law, which provides guarantees for him to defend himself.”⁶⁰

Ola and Hosam have not been afforded the right to the presumption of innocence. Since their arrest, fabricated statements about their case have been made public by the Egyptian government through the media. As such, Ola and Hosam have effectively been tried in the court of public opinion without even been charged with any crime.

B. The Egyptian Government’s Ongoing Denial of Medically Appropriate Detention Conditions Constitutes Cruel, Inhuman, and Degrading Treatment

Article 7 of the ICCPR and Article 5 of the Universal Declaration state that “[n]o one shall be subjected to torture or to cruel, inhuman, or degrading treatment or punishment.”⁶¹ Principle 24 of the Body of Principles further elaborates that “medical care and treatment shall be provided whenever necessary” to persons who are detained or imprisoned.⁶² Egyptian law also prohibits the use of torture and other forms of cruel treatment: “[detained persons] may not be tortured, terrorized, or coerced. They may not be physically or mentally harmed, or arrested and confined in designated locations that are appropriate according to humanitarian and health standards.”⁶³

Previously, when speaking about solitary confinement, the former UN Special Rapporteur on Torture stated the following:

⁵⁷ *General Comment No. 13*, *supra* note 54.

⁵⁸ *Raúl Linares Amundaray v. Bolivarian Republic of Venezuela*, Communication No. 28/2012, UN HUMAN RIGHTS COMMITTEE, at ¶ 29.3.

⁵⁹ *Body of Principles*, *supra* note 26, at Principle 36(1).

⁶⁰ Constitution of the Arab Republic of Egypt (2014), *supra* note 28, at Art. 96.

⁶¹ *ICCPR*, *supra* note 26, at Art. 7; *Universal Declaration*, *supra* note 26, at Art. 5.

⁶² *Body of Principles*, *supra* note 26, at Principle 24.

⁶³ Constitution of the Arab Republic of Egypt (2014), *supra* note 28, at Art. 55.

Whatever the name, solitary confinement should be banned by States as a punishment or extortion technique . . . Considering the severe mental pain or suffering solitary confinement may cause, it can amount to torture or cruel, inhuman or degrading treatment or punishment when used as a punishment, during pretrial detention, [or] indefinitely. . . .⁶⁴

The Egyptian Government's treatment of Ola and Hosam during their detention has violated these international and domestic standards.

Ola is currently being held in a cell in Al-Anater Prison that measures 160cm by 180cm (5.25 feet by 5.9 feet), with no bed or toilet. There are no windows or ventilation in the cell, except for a small hole towards the hallway that admits some light. She is held *incommunicado* and in solitary confinement for 24 hours a day. The only time Ola is able to leave her cell is for approximately five minutes each day to use the bathroom. Ola finds herself compelled to reduce her food intake in an attempt to avoid the need to use the toilet.⁶⁵

Unlike other detainees, she is not permitted to purchase food or water from the canteen and must rely on low-quality and insufficient prison rations. The food that she is brought is often inedible, therefore there have been times where she does not eat for several days in a row and the water she drinks comes from the prison washroom and is contaminated, coming out of the faucet murky and foul-smelling. The little information the family has been able to glean on Ola's prison conditions is substantiated by several recently-published reports.⁶⁶ According to her lawyers, who have only seen her during the detention renewal sessions, she has lost a significant amount of weight and appears very weak. Ola recently became very ill and was brought to the prison clinic. However, no information is known about the medical examination, or whether she was given any medication or treatment.

Similar to his wife, Hosam is held *incommunicado* and in solitary confinement 24 hours a day. He is in a small cell without windows or ventilation. He is also prohibited from purchasing food and water, and has been denied medical treatment. Recently, he reported pain in his eyes to the prison doctor and requested a medical checkup at his own cost. However, this request was refused by prison authorities. A second request was submitted to the prosecution, but thus far nothing has happened.

As a result of these conditions, both Ola and Hosam are suffering severe mental and emotional stress, however the extent of their suffering is unknown as they are not permitted any contact with the outside world. Their respective ages, 55 and 58 years old, make Ola and Hosam particularly vulnerable to cruel, inhuman and degrading treatment, and torture. Without intervention, it is unclear how much longer Ola and Hosam can withstand this physical and psychological distress imposed by Egyptian prison authorities.

⁶⁴ *Solitary Confinement Should Be Banned in Most Cases, UN Expert Says*, UN NEWS CENTRE, Oct. 18, 2011, available at <http://www.un.org/apps/news/story.asp?NewsID=40097#.WZUZJq3Mxok>.

⁶⁵ *Amnesty Int'l Urgent Action*, *supra* note 3.

⁶⁶ *Life In An Egyptian Prison*, *supra* note 14.

The Government of Egypt's ongoing denial of medically appropriate detention conditions for Ola and Hosam constitutes cruel, inhuman, and degrading treatment and may soon amount to torture that could result in serious injury or death if it is not addressed.

INDICATE INTERNAL STEPS, INCLUDING DOMESTIC REMEDIES, TAKEN

At this point, there are no viable domestic remedies to pursue. Ola and Hosam have been given no meaningful opportunity to contest their detention, or challenge their detention conditions. Their lawyers have filed six requests asking the prosecutor to release Ola and Hosam from solitary confinement and to permit them to meet with their family and counsel in accordance with international and domestic law unsuccessfully appealed the detention renewals. However without any official charges or evidence against Ola and Hosam, the lawyer has no means of challenging their detention as a whole.

Even if there were domestic remedies available, it is very unlikely that Ola and Hosam would be able to successfully challenge their detention conditions. The Egyptian state has been repeatedly cited by international and human rights organizations for systematically denying its citizens due process rights and their fundamental human rights. Preventative custody and pretrial detention are used routinely to detain civilians for months and even years before charges are filed and court proceedings are initiated.⁶⁷

Furthermore, the Egyptian judiciary cannot be categorized as independent. Several reports have documented the judiciary's pattern of issuing politically-motivated decisions.⁶⁸ The judiciary has also shown that it cannot be counted on to restrain other branches of government and agencies to uphold the rule of law.⁶⁹ Of particular concern in the case of Ola and Hosam are the expedited procedures in the Egyptian Criminal Procedure Code that diminish the legal and personal rights for those accused of political crimes.⁷⁰

⁶⁷ EGYPT 2016 HUMAN RIGHTS REPORT, US DEP'T OF STATE, 2016, *available at* <https://www.state.gov/documents/organization/265706.pdf>.

⁶⁸ *Id.* See also WE DO UNREASONABLE THINGS HERE, *supra* note 5.

⁶⁹ For example, despite numerous reports of forced disappearances, torture, and extrajudicial killings, the Ministry of the Interior has claimed that "there were no forced disappearances in the country and no detainees held incommunicado or beyond judicial oversight in contravention of Egyptian law." EGYPT 2016 HUMAN RIGHTS REPORT, *supra* note 67.

⁷⁰ WE DO UNREASONABLE THINGS HERE, *supra* note 5.

International Statements of Support

A. Amnesty International Urgent Action, Sept. 8, 2017

UA: 206/17 Index: MDE 12/7069/2017 Egypt

Date: 8 September 2017

URGENT ACTION

COUPLE HELD IN SOLITARY CONFINEMENT FOR 66 DAYS

Ola al-Qaradawy and her husband Hossam Khalaf have been detained in solitary confinement since 3 July. On 30 June, security forces arrested them on charges of belonging to the Muslim Brotherhood. They are both detained in poor prison conditions.

Hossam Khalaf, a 59-year-old Egyptian engineer and member of the legally registered Al Wasat Islamic Political Party, is held at Tora Maximum Security Prison 2, in Cairo, while his wife **Ola Al-Qaradawy**, a 55 year-old Qatari national of Egyptian origins, has been detained at Al Qanater Women Prison in Qalyubia. On 3 July, State Security Prosecution ordered their detention on charges of belonging to the Muslim Brotherhood. Prison authorities immediately placed them in solitary confinement, and denied them access to their lawyers and families.

Prison authorities placed Ola al-Qaradawy in a small solitary cell of about 160cmx180cm in size without a bed or a toilet and which lacks sufficient ventilation and lighting. Prison guards allow her only five minutes every morning to use an external toilet. She finds herself compelled to reduce her food intake to avoid the need to go to the toilet. Lawyers who saw Ola al-Qaradawy in the office of the State Security Prosecution on 27 August said that she appeared very weak. Also, unlike other inmates, she is denied time outside her cell.

Hossam Khalaf has been suffering from pain in his eyes since his detention. Prison authorities rejected his request to undergo medical checks at his own expense in an external hospital. He is confined to his cell for 24 hours a day.

Hossam Khalaf and Ola al-Qaradawy's lawyers and relatives filed six requests and complaints to the State Security Prosecution asking for the end of their solitary confinement and allow them to receive family and lawyers' visits. Despite the fact that prison regulations grant those on pre-trial detention the right to receive at least two visits every month, the Prosecutors rejected all of these requests.

Prolonged solitary confinement can amount to torture or other ill-treatment, according to UN Standard Minimum Rules for the Treatment of Prisoners (Mandela Rules) and must not be imposed under any circumstances.

1) TAKE ACTION

Write a letter, send an email, call, fax or tweet:

- Calling on the Egyptian authorities to immediately end the solitary confinement of Ola al-Qaradawy and Hossam Khalaf, ensuring that they are held in humane conditions and receive adequate healthcare;
- Urging them to provide Ola al-Qaradawy and Hossam Khalaf with access to their families and lawyers;
- Urging them to ensure that Ola al-Qaradawy and Hossam Khalaf are protected from torture and other ill treatment and are treated in accordance with the Mandela Rules at all times.

Contact below official by 20 October, 2017:

Minister of Interior
Minister Magdy Abd el-Ghaffar
Ministry of Interior
Cairo, Arab Republic of Egypt
F: +202 2794 5529
E: center@moi.gov.eg or HumanRightsSector@moi.gov.eg
Salutation: Dear Minister

Ambassador Yasser Reda, Embassy of Egypt
3521 International Ct NW, Washington DC 20008
Fax: 202 244 4319 -OR- 202 244 5131 Phone: 202 895 5400
Email: embassy@egyptembassy.net
Twitter: @MfaEgypt
Salutation: Dear Ambassador

2) LET US KNOW YOU TOOK ACTION

[Click here](#) to let us know if you took action on this case! *This is Urgent Action 206.17*

Here's why it is so important to report your actions: we record the actions taken on each case—letters, emails, calls and tweets—and use that information in our advocacy.

**AMNESTY
INTERNATIONAL**



URGENT ACTION

COUPLE HELD IN SOLITARY CONFINEMENT FOR 66 DAYS

ADDITIONAL INFORMATION

Relatives and lawyers of Ola al-Qaradawy and Hossam Khalaf believe that isolating them in solitary confinement, preventing visits and not providing them with adequate food and medical care make them more vulnerable to medical problems. International standards on the treatment of prisoners prohibit prolonged or indefinite solitary confinement.

On 30 June, security forces raided Ola al-Qaradawy's summer house, in the North Coast of Alexandria, while she was there on vacation with her husband, Hossam Khalaf, who is a member in Al Wasat Islamic Party. Police forces took them to Burj Al-Arab police station and referred both of them to State Security Prosecution in Cairo. Prosecutors interrogated them for two days and ordered their detention for 15 days on charges of belonging to and financially supporting the Muslim Brotherhood group. Prosecutors have been renewing their detention since then. Security forces also raided their apartment in Cairo and confiscated money and Ola al-Qaradawy's personal jewellery and Hossam Khalaf's work documents.

On 17 August, a state-appointed committee tasked with overseeing the finances of alleged Muslim Brotherhood affiliates froze Ola al-Qaradawy and Hossam Khalaf's assets along with those of another 14 individuals. The committee claimed that they belonged to the Muslim Brotherhood. On 30 August, the Cairo Criminal Court designated Ola al-Qaradawy and Hossam Khalaf's as "terrorists" according to the Terrorist Entities Law number 8 of 2015.

Ola Al-Qaradawy is the daughter of Youssef Al-Qaradawy, an Egyptian national who lives in Qatar and is designated by the Egyptian authorities as a "terrorist" since June 2017. Hossam Khalaf is an engineer and a member in the legally-registered Al Wasat Islamic political Party. Authorities had detained him for two years between 2014 and 2016 on charges of belonging to the Muslim Brotherhood. Public Prosecution ordered his release on 22 March 2016 without charging him.

Name: Ola Al-Qaradawy (f) and Hossam Khalaf (m)
Gender m/f: both

AMNESTY
INTERNATIONAL



B. Human Rights Watch, Sept. 14, 2017

September 14, 2017

Egypt: Detained Couple Denied Fundamental Rights

Arbitrarily Arrested; Held Absent “Official” Charges

By Human Rights Watch

(Beirut) – Egyptian authorities have repeatedly violated a married couple’s due process rights since their June 30, 2017 arrest and subsequent detention, Human Rights Watch said today. Interior Ministry forces arrested Ola al-Qaradawi, 55, and her husband, Hosam Khalaf, 58, without a warrant over an alleged Muslim Brotherhood link while they vacationed in Egypt’s North Coast and have held both in solitary confinement for at least 70 days.

According to a statement provided to Human Rights Watch by the family’s United States-based lawyer, National Security agents went to the couple’s summer house and took them for questioning at a nearby police station. While the agents did not show a warrant, the couple complied. Their family was unaware of where police kept them for two days, until a lawyer told the family that he saw them by chance in the Supreme State Security Prosecution’s building in Cairo.

“Egypt’s Interior Ministry is bulldozing not only over the embattled judiciary’s authority but also over everyday Egyptians like Ola al-Qaradawi and Hosam Khalaf’s basic rights,” said Sarah Leah Whitson, Middle East and North Africa director at Human Rights Watch. “Their case is a sad example of what has become all-too-familiar in Egypt.”

Since the army’s forcible removal of former President Mohamed Morsy in July 2013, prosecutors in Egypt have been holding thousands of people in pretrial detention for periods up to several years.

Egyptian security claimed the reason for the interrogations was the couple’s presence in the summer house, owned by Ola al-Qaradawi’s father, Yusuf al-Qaradawi, an Islamic cleric whose assets are frozen for alleged links to the outlawed Muslim Brotherhood. But the family’s lawyer and Ola al-Qaradawi’s daughter, Aayah, both told Human Rights Watch that the property officially belonged to Ola’s deceased mother.

On the night of June 30, National Security agents searched the couple’s home in Mokattam, a neighborhood in Cairo, without a warrant, and confiscated the Ola’s jewelry, her passport, and other possessions, her daughter said.

The family's lawyer said that Supreme State Security prosecutors interrogated the couple separately without a lawyer present. On July 2, prosecutors ordered them detained pending investigations on terrorism-related accusations but failed to present any charges in an official way. Prosecutors have since renewed their detention without judicial review.

One family member told Human Rights Watch that a prosecutor who interrogated the wife told her during the interrogation that he knew "there was nothing" to her case but that he "couldn't do anything."

Prison authorities refused to allow lawyers to visit the couple in detention and prosecutors denied them access to legal documents pertaining to the case, including an official written copy of the charges. These violations have hampered the couple's ability to mount a legal defense, their lawyer said. Additionally, Ola's lawyer claimed that authorities have denied her consular rights to the Qatari Embassy, as she is a dual Qatari-Egyptian national. Hosam has been held in the Maximum Security Prison II in the Tora Prison complex, while his wife is in the al-Qanater Women's Prison, both in Cairo.

Relatives of the couple and their lawyer said they have been held in inhumane prison conditions. They are confined to their 1.6 x 1.8-meter cells with no windows or ventilation for 24 hours a day, with Ola allowed to leave her cell once a day for five minutes to use the bathroom. The lawyer said they are inadequately fed and that authorities have not allowed family members to deliver food or other items to supplement the inadequate prison diet. Lawyers said Ola appeared to have lost a considerable amount of weight.

In 2016, Human Rights Watch found that the authorities' treatment of prisoners in Scorpion Prison, a maximum-security facility within the Tora Prison complex where many prominent opposition and Muslim Brotherhood political figures have been held since 2013, violated a host of protections afforded to detainees.

One of the family's lawyers said that he has been able to meet with his clients only on four occasions for just a few minutes during the pretrial detention renewal sessions. Hosam was an active member of al-Wasat Party between 2011 and 2013, holding several senior administrative roles. Al-Wasat Party opposed the 2013 military coup, and has become a target of the widespread government crackdown on dissent. Authorities have detained its vice-president, Essam Sultan, in Scorpion Prison for four years and held Abu al-Ela Mady, the party leader, in pretrial detention for two years, releasing him in August 2015 with no trial.

Hosam was arbitrarily arrested in 2014 and detained for two years without trial. As with thousands of politically motivated arrests in Egypt, prosecutors periodically renewed Hosam's detention, but never sent him to trial. He was released in March 2016. Ola's father is the well-known Qatar-based Islamic preacher and scholar Sheikh Yusuf al-Qaradawi, head of the International Union for Muslim Scholars. He is critical of the 2013 military coup that ousted president Morsy.

In May 2015, a group of 159 Muslim scholars issued a statement endorsing “al-Qasas” or “retaliation” against those who are responsible for killing “innocents” in Egypt, including retaliation against judges, politicians, and media figures. The statement was signed by the Union for Muslim Scholars’ vice president, Sheikh Ahmed Raissouni, but not endorsed by al-Qaradawi. However, Egyptian officials and pro-government media focused their criticism on al-Qaradawi.

The religious endowments minister, Mohamed Goma’a, encouraged placing al-Qaradawi on Egypt’s “terrorist list.” Al-Qaradawi was sentenced to death in absentia along with Morsy and 98 other defendants, only six of whom were in custody, in June 2015. Human Rights Watch’s analysis of the case shortly after the verdict found that the trial was flawed and that the judges failed to establish individual criminal guilt.

In February 2017, a Cairo criminal court placed more than 1500 people, including al-Qaradawi, on a terrorist list. Egypt has repeatedly demanded al-Qaradawi’s extradition from Qatar. A government-controlled committee also froze his assets for alleged links to the outlawed group, the Muslim Brotherhood. On August 17, the same committee ordered an asset freeze of 16 more people, including six of al-Qaradawi’s children, his daughter, Ola, and her husband, Hosam Khalaf.

The International Covenant on Civil and Political Rights, which Egypt has ratified, prohibits arbitrary detention. According to the United Nations Human Rights Committee, the body that monitors compliance with the covenant, detentions are arbitrary if not in accordance with due process of law or are manifestly disproportional, unjust, or unpredictable.

International law also requires that detainees be presented speedily before a judge, usually within 48 hours, to review their detention. It also provides for a trial within a reasonable time. Pretrial detention in the Egyptian Criminal Procedure Code should only be used in certain cases such as when fearing the escape of a defendant or when a defendant has the ability to affect the evidence. But prosecutors rarely, if ever provide an explanation of their decisions and have been using pretrial detention unjustly to keep political dissidents in prisons.