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CR/GT/ma 2612/2015

The Secretary General of the United Nations (High Commissioner for Human Rights) presents his compliments to the Permanent Representative of Denmark to the United Nations Office at Geneva and has the honour to transmit herewith the (advance unedited) text of the Views, adopted by the Human Rights Committee on 9 November 2017, concerning communication No. 2612/2015, submitted to the Committee for consideration under the Optional Protocol to the International Covenant on Civil and Political Rights, on behalf of Mr. A.S.G.M.

In accordance with the established practice, the text of the Views will be made public, without disclosing the author's identity.

A handwritten signature in black ink, appearing to be 'Gey'.

17 November 2017


**International Covenant on
Civil and Political Rights**

Advance unedited version

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Human Rights Committee
**Views adopted by the Committee under article 5(4) of the
Optional Protocol, concerning communication No. 2612/2015^{*}**

<i>Communication submitted by:</i>	A.S.G.M. (represented by counsel, Søren Rafn, from Copenhagen Refugee Community)
<i>Alleged victim:</i>	The author
<i>State party:</i>	Denmark
<i>Date of communication:</i>	13 May 2015 (initial submission)
<i>Document references:</i>	Decision taken pursuant to rule 97 of the Committee's rules of procedure, transmitted to the State party on 20 May 2015 (not issued in document form)
<i>Date of adoption of Views:</i>	9 November 2017
<i>Subject matter:</i>	Deportation from Denmark to Egypt
<i>Procedural issues:</i>	Failure to sufficiently substantiate allegations
<i>Substantive issues:</i>	Risk of torture or cruel, inhuman or degrading treatment
<i>Articles of the Covenant:</i>	7
<i>Articles of the Optional Protocol:</i>	2

* Adopted by the Committee at its 121st session (16 October – 10 November 2017).

** The following members of the Committee participated in the examination of the present communication: Yadh Ben Achour, Ilze Brands Kehris, Sarah Cleveland, Olivier de Frouville, Christof Heyns, Yuji Iwasawa, Marcia V.J. Kran, Photini Pazartzis, Mauro Politi, José Manuel Santos Pais, Anja Seibert-Fohr, Yuval Shany and Margo Waterval.



1.1 The author of the communication is Mr. A.S.G.M., an Egyptian national born on August 1986. The author claims that by forcibly deporting him to Egypt, Denmark would violate its obligations under article 7 of the International Covenant on Civil and Political Rights. The Optional Protocol to the Covenant entered into force for Denmark on 23 March 1976. The author is represented by counsel.

1.2 On 20 May 2015, pursuant to rule 92 of the Committee's rules of procedure, the Committee, acting through its Special Rapporteur on new communications and interim measures, requested the State party not to deport the author to Egypt while his case is under consideration by the Committee. On 11 June 2015, the Refugee Appeals Board (RAB) suspended the author's deportation from the State party until further notice, in compliance with the Committee's request.

The facts as submitted by the author

2.1 The author is of Arab ethnicity and of Muslim faith. He used to live in Egypt. He alleges that in July 2005, he handed in all relevant documents to do his military service at the military conscription office in ██████████, Egypt. He was supposed to start his military service at the end of August 2005; however, he failed to show up. Instead, he took several small jobs in Cairo.

2.2 In 2007, police agents detained him near the train station in ██████████. As he could not demonstrate that he had carried out his military service, he was brought to a police station and told to wait for an officer. After two hours, he asked permission to leave since he had to pick up her sister who was doing an exam in the area. The police took his fingerprints and released him. He was told that he could expect to be picked up at his home, but no one came in the following days. He went back to Cairo to work.

2.3 In June 2008, the author left Egypt through the airport to avoid military service. He claims that although he used his passport and an exit permit, his departure was illegal, as people were not allowed to leave the country as long as they had not performed the military service. He travelled to Libya and Italy, where he was arrested and deported back to Egypt in July 2008 together with other Egyptian migrants. On his arrival at Cairo airport, he was detained for 5-6 days by the police. During his detention, he was brought to different police stations, interrogated about his illegal departure, and reminded that he had not performed military service. The author was finally released at the airport and told to register at the place where he had delivered his file for serving his military service. He went back to his home in ██████████ and stayed there for a week. Then he moved to Cairo where he spent 14 days before departing illegally from Egypt and travelling to Libya and Italy again. His parents and siblings however stayed in Egypt and currently live there.

2.4 The author stayed in Italy until late December 2010 when he left to Denmark. On December 2010, he applied for asylum before the Danish Immigration Service (DIS), using a false name, Mr F.B.A, and giving false grounds for asylum.¹ He alleges that he provided false information due to "fear" and "bad advice". On July 2011, the DIS found his application manifestly unfounded, without a right to appeal to the Refugee Appeals Board (RAB).

2.5 The author then went back to Italy. After losing his existing passport, the author addressed to the Egyptian embassy in Rome where he received a new passport in 2012, valid for one year. He had to leave a copy of his old passport (which was still valid) at the Embassy. In the new passport it was written by the Embassy: "Conscript situation. Draft age". In September 2013, the author moved to Switzerland, where he applied for asylum on ██████████.

¹ See also para. 4.5 below.

September 2013. However, the Swiss authorities transferred the author back to Denmark in accordance with the Dublin Regulations.

2.6 On 10 October 2013, the author entered Denmark again. He informed the police about his real identity, as indicated in his passport, and submitted an application for asylum. He alleged that he feared to be arrested upon arrival in Egypt, convicted to several years of imprisonment since he left the country illegally twice, without carrying out the military service, and was subjected to inhuman and degrading treatment while in prison. He also claimed that he feared persecution by the authorities because he supported former President Mohammed Mursi and the Muslim Brotherhood. The author stated that he did not want to carry out the military service because the military was not fair to draftees and humiliates them and also because it treated the population unfairly, in particular poor people. There was no justice in Egypt since courts always ruled in favour of State agents.

2.7 During his interviews with the DIS on 10 April and 10 November 2014, the author stated inter alia that he sympathized and supported the Islamic Brotherhood, but that he had not carried out any activity for them; that he had not participated in political activities in Egypt; that he did not perform the military service because he had to provide for his family and the salary was insufficient and because the military did not help people; and that no one from the authorities looked for him between 2005-2008 after he failed to show up for military service. When asked why he would be imprisoned if this was not the case when he was detained in 2008, he replied that after the revolution in 2011 the situation became different, and that they took everyone to do military service. In addition, the author submitted that he participated in a Facebook group from which it appeared that he supported former President Mohamed Mursi and the Muslim Brotherhood. When asked to log in, he used the name F.Z. When asked, how the Egyptian authorities would know that this account belongs to him, he replied that his photo appeared in the profile. He further explained that his real name did not appear in any part of the profile as a measure of safety. Likewise, his real name did not appear in his Tweeter account.

2.8 Upon the DIS' request, on 26 August 2014 the Danish Ministry of Foreign Affairs provided a memorandum on the punishment of draft evaders in Egypt (the memorandum).² It noted that it is not possible for draft evaders to leave the country legally, since no male over the age of 18 can be issued a passport or leave the country without a certificate from the military either allowing him to leave the country while drafted or proving him an exemption from service. The memorandum also stated that the penalty for evasion of conscription depends on the situation and on the age of the person. Notably if the draft evader is over the age of 30 and simply did not show up for the medical examination or did not submit his papers to confirm his military status upon turning 18, he stands trial in a military court and if found guilty is punished either with no less than 2 years in prison or a fine between 2,000 and 5,000 EGP or both penalties. According to the Military Prosecutor, common practice in such cases is to hold a quick hearing session in a Military Court and impose on the defendant a fine, but not the prison sentence. There is no article in the Military Conscription Law No. 127 of 1980 (MCL) that addresses leaving the country to avoid conscription specifically. However, article 54 of the MCL addresses 'all other violation' by imposing a penalty of no less than 2 years in prison or a fine between 200 and 500 EGP or both penalties. Since leaving the country without submitting the relevant military documents is not allowed, avoiding conscription in that manner would fall under the 'other violations' punishable by article 54, or stricter provisions from the (civil) Penal Code if the Military Prosecution seeks the assistance of the General Prosecution. The fact that the draft evader travelled without presenting his military service status documentation, will place him on the 'wanted list' by the Egyptian authorities. The person would then either be subject to articles 50 or 54 or to stricter penalties under the civilian Penal Code if the Military Prosecution seeks the assistance of the General Prosecution. According to the Military Prosecution Office, a draft evader who left Egypt, re-entered the country and was requested to contact the conscription office, after

² The case file contains a copy of the memorandum.

which he left the country again would be considered a repeat draft evader and subject to no less than 7 years imprisonment under article 50 of the MCL. However, the Military Prosecutor could also seek the assistance of the General Prosecutor in such cases, since the draft evader would be classified as "wanted" by the authorities and "stricter" penalty could apply in accordance with the Penal Code. The penalty for draft evasion was normally enforced.

2.9 On December 2014, the DIS dismissed the author's request for asylum. Although it accepted the author's explanation about his asylum motive, it did not find probable that if returned he would be in a concrete and individual conflict with the Egyptian authorities to require asylum. It noted that according to the author's own accounts he had not been contacted by the authorities concerning his military service between 2005 and 2008, prior to his departure from Egypt, he had not been punished for his military evasion or illegal departure when he returned to Egypt in 2008, and he was able to get a new passport at the Egyptian embassy in Rome in 2012. Furthermore, even if he would be punished for military evasion upon return to Egypt, the DIS did not find the possible imprisonment penalty disproportionately high. The DIS stated that the author's support for former president Mohammed Mursi and the Muslim Brotherhood on Facebook and Twitter since 2011 could not in itself lead to a different assessment because it was not plausible that the Egyptian authorities were aware of these profiles and who was behind them, since the profiles were created under a different name and contained few pictures of the author. The DIS sent the author's case to the RAB for a final decision in accordance to section 53 a (2) of the Danish Aliens Act.

2.10 On April 2015, the RAB dismissed the author's request for asylum and found that the author had not rendered it probable in a credible manner that the Egyptian authorities would pursue him because of his draft evasion, as established in the decision of the DIS. The RAB noted that the author had not been a member of any political or religious associations or organisations, nor had he been politically active in any other way; and that there had been no inquiries from the military to his family. It was further stated that for the author's credibility assessment, the RAB also attached some importance to the fact that the author previously entered Denmark and stated that he was a stateless Palestinian, submitting a very different asylum request. Against this background, the RAB concluded that the author had not rendered it probable that the author's latest illegal departure and his alleged inconspicuous support for the Muslim Brotherhood might independently be recognised as persecution or abuse justifying asylum under section 7(1) or (2) of the Aliens Act. The author claims that he has exhausted all domestic remedies.

The complaint

3.1 The author claims that Denmark would violate its obligations under article 7 of the Covenant by deporting him to Egypt where he will be exposed to at least 7 years of imprisonment and torture or cruel, inhuman or degrading treatment or punishment in prison.³ The RAB considered that he failed to render probable in a credible manner that the Egyptian authorities would persecute him if deported, without explaining in detail the basis for its findings.

3.2 The author points out that he does not claim that avoiding the military service in itself had a consequences on him other than the two occasions in which he was detained. However, since he left his country twice illegally, he would be considered a "repeat draft evader" in

³ The author refers inter alia to UNHCR Guidelines on international protection No. 10: Claims to Refugee Status related to Military Service within the context of Article 1A (2) of the 1951 Convention and/or the 1967 Protocol relating to the Status of Refugees (12 November 2014); UK Home Office the Operational Guidance Note: Egypt, October 2014, and Human Rights Watch, *Rash of Deaths in Custody* (21 January 2015).

Egypt and he will be sentenced for a period of at least 7 years for draft evasion.⁴ In addition, he claims that although it is correct the RAB's findings that he would not be at risk of persecution by the mere fact of being an ordinary supporter of the Muslim Brotherhood, in his case it should be considered as the context of his persecution by the authorities as draft evader and his opposition to President Abdel Fattah al-Sisi.

3.3 Reports by States and well-known NGOs indicate that prison conditions in Egypt are harsh and can be life-threatening, with overcrowding, poor sanitation, a lack of healthcare and generally unhealthy conditions being particular problems.⁵ In addition, the human rights situation has deteriorated since 2015, after President al-Sisi's administration started.

3.4 In the context of the most recent asylum request, the RAB took into account the information provided by the author in his first request when assessing the credibility of his accounts. In this connection, the author submits that since he acknowledged that he provided a false identity and information in his first asylum request in Denmark, and explained before the Danish authorities the reasons why he did so, the RAB should have omitted this information in its decision of April 2015.

State party's observations on admissibility and merits

4.1 On 20 November 2015, the State party provided observations on the admissibility and merits of the communication. The State party considers that the author has failed to establish a prima facie case for the admissibility of his allegations under article 7 of the Covenant. There are no substantial grounds for believing that he risks being subjected to torture, or to cruel, inhuman or degrading treatment if returned to Egypt, and therefore the communication is manifestly ill-founded and should be declared inadmissible. Should the Committee be of the view that the author's allegations are admissible, the State party maintains that article 7 of the Covenant would not be violated in case of return of the author to Egypt.

4.2 The State party provides a detailed description of the asylum proceedings under the Aliens Act and of the organization and competence of the RAB.⁶ Decisions of the RAB are based on an individual and specific assessment of the relevant case. The asylum-seeker's statements regarding his grounds for seeking asylum are assessed in light of all relevant evidence, including what is known about conditions in the country of origin (background material). The RAB is responsible not only for examining and bringing out information on the specific facts of the case, but also for providing the necessary background material, including information on the situation in the asylum-seeker's country of origin or first country of asylum.⁷

4.3 The author did not produce any essential new information about his case before the Committee beyond that already relied upon in connection with his asylum proceedings. The State party considers that the information provided was already thoroughly reviewed by the RAB in its decision of April 2015. Among other information, the memorandum of 26 August 2014 on the punishment of draft evaders in Egypt, prepared by the Ministry of Foreign Affairs following a request for consultation made by the DIS, was included in the basis of the decisions made by the DIS and the RAB on December 2014 and April 2015, respectively, as was also various other background information on the situation in Egypt.

4.4 The State party notes that the RAB found that the author had not rendered it probable in a credible manner that, as alleged, the Egyptian authorities pursued him because of his

⁴ The author refers to the memorandum of the Danish Ministry of Foreign Affairs (see para 2.8 above).

⁵ See footnote 3.

⁶ See Communication 2379/2014, *Obah Hussain Ahmed v. Denmark*, Views adopted on 8 July 2016, paras. 4.1-4.3.

⁷ The State party notes that the background material regarding Egypt available to the RAB can be found in the following website: www.fln.dk/da/baggrundsmateriale.

draft evasion. The RAB observed in this respect that, according to his own statement, he was registered by the military in the summer of 2005 for the purpose of compulsory military service, which was in accordance with his age at the time; that he was subsequently in contact with the Egyptian authorities in both 2007 and 2008, in the latter case in connection with his return after his illegal departure, without there being any real consequences of his alleged evasion of military service; and that the military had not contacted his family looking for him. In its credibility assessment, the RAB also gave some weight to the fact that the author had previously entered Denmark on [REDACTED] December 2010 and had then stated that he was a stateless Palestinian from Gaza with a different name and very different grounds for asylum.

4.5 The State party informs the Committee that in his first asylum application the author referred to the general situation in Gaza, including the situation of stateless Palestinians, the tensions between Fatah and Hamas and the poor treatment his parents gave to him, in comparison with his brothers. As his reason for providing incorrect information on his identity and grounds for asylum during his first stay in Denmark, the author stated at the asylum screening interview on [REDACTED] January 2014, after his second arrival in Denmark, that he was scared as he did not want to be returned to Egypt and that everything previously said by him was a lie. He had gone back to Denmark from Switzerland because he had been told in Switzerland that he would not have any problems in Denmark due to his previous lies. In this connection, the State party maintains that the author has failed to give a reasonable explanation as to why he provided incorrect information about his identity and his grounds for asylum; and that this generally weakens his credibility.

4.6 The State party summarizes the main author's statements concerning his compulsory military service in the interviews with the DIS (see para 2.7 above) and maintains that, based on his own accounts, the RAB found that the author was not "wanted" by the Egyptian authorities and that his evasion of military service has had no real consequences for him. Likewise, the author stated during the asylum proceedings that he had not experienced any problems having a passport issued in 2008, nor had he experienced any problems having a passport issued at the Egyptian embassy in Rome in 2012. He further stated, on the one hand, that the Egyptian embassy in Rome was not aware that he was not allowed to use his passport to leave the country and, on the other hand, that it was the embassy that had written 'Conscript situation. Draft age.' in his passport. At the oral hearing before the RAB, the author was confronted with his statement to the Swiss authorities that a passport had been issued to him in 2005 and that it was valid only for two months because he was to perform compulsory military service. The author responded that passports had been issued to him in 2005 and 2008 and confirmed that the passport issued in 2005 had been valid for two months. When confronted with the circumstance that the passport issued to him in 2012 also had a brief period of validity as he was to perform compulsory military service, the author responded in the affirmative and stated that the validity of a passport was seven years, but that it appeared from page 4 or 5 of his old passport that it was valid for two months. In the new passport, the period of validity was given as either one or seven years. When asked how a passport with a normal period of validity could be issued to him in 2012 when it had not been possible in 2005, the author replied that the validity was the same. The author later stated that the passport from 2008 had a period of validity of seven years, that it had a stamp and that it was written by hand that he was not allowed to leave the country without a permit. When asked whether the passport from 2005 had a normal period of validity, the author replied that he did not recall. Against this background, the RAB found that the author had failed to render it probable in a credible manner that the Egyptian authorities allegedly pursued him because of his draft evasion. The State party further notes that at the hearing before the RAB on [REDACTED] April 2015, the author stated that he had had various small jobs in Cairo from 2005 to 2008; and that it appears from the case file that the author did not even try to hide from the authorities between 2005 and 2008, during which period he allegedly evaded military service.

4.7 The State party maintains that according to the memorandum, the punishment for evading compulsory military service in Egypt depends on the situation and the relevant person's age (see para 2.7 above). It also appears from the memorandum that, according to

practice, persons who have not enlisted for compulsory military service, but are not otherwise reported wanted by the military, will receive considerably more lenient sentences than persons reported wanted by the military or persons who have forged documents. In this framework, persons older than 30 years of age who have not enlisted for compulsory military service, but are not otherwise reported wanted by the military, will be sentenced under article 49 of the MCL and that in most cases by far – if they are found guilty – the punishment will be a fine of EGP 2,000 to 5,000, but not imprisonment. Therefore, if the author has turned 30 upon his return to Egypt, he will probably be only fined EGP 2,000 to 5,000. The State party also maintains that the consequences described for failure to enlist for compulsory military service in due time are not disproportionate relative to Danish legal tradition. The circumstances that Egyptian legislation authorises long-term prison sentences – an authority that is seldom used – and that any such prison sentence might have to be served under conditions contrary to article 7 of the Covenant cannot lead to a different assessment of the matter either as the author has failed to render it probable that he in particular would be at a special risk of receiving such a sentence.

4.8 The State party notes that in the interviews with the DIS on January, April and November 2014, the author stated that he sympathised with the Muslim Brotherhood and that he was a supporter of Egypt's former President Mohamed Mursi; but that he was not registered as a member of the Muslim Brotherhood and had not personally performed any activities for the Muslim Brotherhood or in support of President Mursi. The author also submitted that he had not experienced conflicts in Egypt at any time due to his political conviction. Accordingly, the RAB found that he had not attracted attention to himself because of his alleged sympathy and support for the Muslim Brotherhood, and that he had performed no activities for the Muslim Brotherhood of a nature likely to make him a subject of interest to the Egyptian authorities. The State party further notes that the *Country Information and Guidance, Egypt: Muslim Brotherhood*, issued by the UK Home Office and updated on 30 September 2014, states that although the Egyptian government is able, under Egyptian law, to detain anyone suspected of membership of the Muslim Brotherhood, arrests and detentions have primarily been of high and mid-level leaders and those taking part in protests against the government which have become violent. It further appears from the report that, given the sheer scale of the number of members and supporters, the Egyptian government is unlikely to have the capacity, capability or interest in seeking to persecute everyone associated with the Muslim Brotherhood. The report also notes that there is no evidence to suggest that merely being a member of, or, in particular, a supporter of the Muslim Brotherhood will put a person at risk of persecution. Against this background, the RAB found that the author's sympathy and support for the Muslim Brotherhood did not independently entail that he would risk persecution or abuse justifying asylum under section 7(1) or (2) of the Aliens Act if returned to Egypt. The changed situation in Egypt resulting from the events in 2012 and 2013 in connection with the election and subsequent removal of President Mursi could not lead to a different assessment of the matter either.

4.9 The author's communication to the Committee merely reflects that he disagrees with the assessment of his credibility made by the RAB in the case at hand, without identifying any irregularity in the decision-making process or any risk factors that the RAB had failed to take properly into account. In this connection, the State party maintains that, the author is in fact trying to use the Committee as an appellate body to have the factual circumstances advocated in support of his claim for asylum reassessed by the Committee. However, the Committee must give considerable weight to the findings of the RAB, which is better placed to assess the findings of fact in the authors' cases.

Author's comments on the State party's observations

5.1 On 23 January 2017, the author submitted his comments on the State party's observations and reiterated his previous allegations that the RAB's decision of April 2015 arbitrarily dismissed his asylum request and that thus his removal to Egypt would constitute a violation of article 7 of the Covenant.

5.2 The author maintains that the State party's observations misinterpret the memorandum, in particular concerning the fact that upon return, he will be subject to 7 years imprisonment or more. The State party's observations are based on the assumption that the author is not "wanted" by the Egyptian authorities, and omits parts of the memorandum that are relevant to the author's case. Notably, the memorandum states that a draft evader who left Egypt twice would be considered a repeat draft evader and subject to no less than 7 years imprisonment under article 50 of the MCL. However, the Military Prosecutor could also seek the assistance of the General Prosecutor in such cases, since the draft evader would be classified as "wanted" by the authorities and stricter penalty could apply in accordance with the Penal Code; that this would be the case even if the draft evader was 30 years old or more; and that the penalty for draft evasion was normally enforced.

5.3 The fact that in 2007 and 2008 the Egyptian authorities detained and subsequently released the author, without consequences; as well as that the Egyptian Embassy in Rome issued a passport on the author's name in 2012, does not mean that he is not "wanted" by the authorities now. He highlights that he should be considered as "wanted" by the Egyptian authorities mainly because he did not show up for his military service and left his country of origin twice illegally, even though on the last occasion the authorities told him to report to the conscription office.

5.4 The author alleges that although he is not a prominent supporter or member of the Muslim Brotherhood, he could easily be identified as member or supporter of this organization since he is from ██████████, a city where the Muslim Brotherhood has a strong support. In this connection, he submits that the assessment of the risk he would face in Egypt should not take his support for the Muslim Brotherhood separately, but together with his situation as a draft evader that strongly opposes to President al-Sisi. He further submits that the human rights situation and the prisons conditions in Egypt have continued deteriorating.⁸

Issues and proceedings before the Committee

Consideration of admissibility

6.1 Before considering any claim contained in a communication, the Committee must decide, in accordance with article 93 of its rules of procedure, whether the communication is admissible under the Optional Protocol to the Covenant.

6.2 As required under article 5 (2) (a) of the Optional Protocol, the Committee has ascertained that the same matter is not being examined under another procedure of international investigation or settlement.

6.3 The Committee notes the author's claim that he has exhausted all effective domestic remedies available to him. In the absence of any objection by the State party in that connection, the Committee considers that the requirements of article 5 (2) (b) of the Optional Protocol have been met.

6.4 The Committee notes the State party's challenge to the admissibility of the communication on the ground that the author's claim under article 7 of the Covenant is unsubstantiated. The Committee however considers that the author has raised numerous risk factors –which cumulatively- sufficiently substantiated his claims for the purposes of admissibility. Accordingly, the Committee declares the communication admissible and proceeds to its consideration on the merits.

⁸ The author refers to 2015 Amnesty International Report: Egypt; 2017 Human Rights Watch World Report: Egypt; and 2016 Cairo Institute for Human Rights Studies' Annual Report.

Consideration of the merits

7.1 The Committee has considered the communication in the light of all the information made available to it by the parties, as provided for under article 5, paragraph 1, of the Optional Protocol.

7.2 The Committee notes the author's allegations that his deportation to Egypt by the State party would constitute a violation of article 7 of the Covenant since he will be considered a repeat draft evader in his country of origin. Therefore, he will be subjected to a disproportional sentence of at least 7 years imprisonment, severe prison conditions and ill-treatment. The Committee also notes the State party's arguments that the DIS and the RAB thoroughly reviewed the allegations and documentation brought in the author's communication and concluded that he is not in need of asylum or international protection.

7.3 The Committee recalls its general comment No. 31 in which it refers to the obligation of States parties not to extradite, deport, expel or otherwise remove a person from their territory when there are substantial grounds for believing that there is a real risk of irreparable harm such as that contemplated by articles 6 and 7 of the Covenant.⁹ The Committee has also indicated that the risk must be personal¹⁰ and that there is a high threshold for providing substantial grounds to establish that a real risk of irreparable harm exists.¹¹ Thus, all relevant facts and circumstances must be considered, including the general human rights situation in the author's country of origin.¹² The Committee further recalls its jurisprudence that considerable weight should be given to the assessment conducted by the State party, and that it is generally for the organs of States parties to the Covenant to review or evaluate the facts and evidence of the case in order to determine whether such a risk exists, unless it is found that the evaluation was clearly arbitrary or amounted to a manifest error or denial of justice.¹³

7.4 In the present case, the Committee observes that the author does not claim that he needs international protection because he did not perform compulsory military service in Egypt due to reasons of conscience. Rather, he mainly alleges that since he is a draft evader who left Egypt twice illegally, he will be classified as "wanted" by the authorities and subjected to no less than 7 years imprisonment under article 50 of the MCL, and that this is confirmed by the memorandum of the Danish Ministry of Foreign Affairs. According to the author, in order to determine the risk of harm that he would face in Egypt, his situation as repeat draft evader, should be assessed together with his support to the Muslim Brotherhood, his opposition to President al-Sisi, and Egypt's prison conditions.

7.5 The Committee notes that the penalties imposed to a repeat draft evader in Egypt, as stated by the memorandum of the Danish Ministry of Foreign Affairs, are lengthy, and that reports submitted by the parties,¹⁴ indicate that prison conditions are very harsh in Egypt, that inmates are subjected to severe abuses by the authorities, including torture and enforced disappearance; that this is particularly the case of members or supporters of the Muslim Brotherhood; and that impunity for serious abuses remains in place. In the case at hand,

⁹ See general comment No. 31 (2004) on the nature of the general legal obligation imposed on States parties to the Covenant, para. 12.

¹⁰ Communications No. 2007/2010, *X v. Denmark*, Views adopted on 26 March 2014, para. 9.2; No. 282/2005, *S.P.A. v. Canada*, decision adopted on 7 November 2006; No. 333/2007, *T.I. v. Canada*, decision adopted on 15 November 2010; and No. 344/2008, *A.M.A. v. Switzerland*, decision adopted on 12 November 2010; and No. 692/1996, *A.R.J. v. Australia*, Views adopted on 28 July 1997, para. 6.6.

¹¹ Communications No. 2007/2010, *X v. Denmark*, para. 9.2; and No. 1833/2008, *X v. Sweden*, Views adopted on 1 November 2011, para. 5.18.

¹² *Ibid.*

¹³ See, inter alia, communications No. 2393/2014, *K. v. Denmark*, Views adopted on 16 July 2015, para. 7.4. and No. 1957/2010, *Lin v. Australia*, Views adopted on 21 March 2013, para. 9.3.

¹⁴ See footnote 3 and 8 above.

however, the Committee observes that the author's alleged support of the Muslim Brotherhood and former President Mursi is limited to opinions on Facebook and Twitter accounts which are not under his name. According to his own statements, he is not a member of the Muslim Brotherhood and has not personally carried out any activity for this organization or in support of former President Mursi in Egypt. Nor has he been a member of any political or religious associations or organisations. The Committee further observes that although the author failed to perform his military service in 2005, he did not encounter problems with the authorities between 2005 and 2008. In this period, he was detained twice and subsequently released by the Egyptian authorities, who were aware of his failure to perform military service, without consequences –in the latter case in connection with his return after illegal departure from Egypt-. Furthermore, in 2012, after his second departure from Egypt, the author approached the Egyptian Embassy in Rome and was able to obtain a passport, without any problem. In all this time, the military has made no inquiries about the author to his family in Egypt. Against this background, the DIS and the RAB dismissed the author's request for asylum since they found that he had not rendered it probable in a credible fashion that the Egyptian authorities would persecute him and subjected him to a treatment contrary to article 7 of the Covenant due to his draft evasion and alleged support for the Muslim Brotherhood. In examining his asylum request, the authorities reviewed the author's allegations, taking into due consideration States' and NGOs' reports about the human rights situation in Egypt, as well as the memorandum of the Ministry of Foreign Affairs on the punishment of draft evaders in Egypt, prepared by request of the DIS. They also noted false claims made by the author in previous asylum proceedings, which detracted from his credibility. The author disagrees with these decisions. However, he has not convincingly explained that he may be targeted by the Egyptian authorities due to his situation as draft evader or that he may be perceived as supporter of the Muslim Brotherhood. Nor has he explained why the DIS' and RAB's decisions are clearly arbitrary or manifestly unreasonable, for instance due to their failure to take properly into account a relevant risk factor. Accordingly, the Committee cannot conclude that the removal of the author to Egypt would constitute a violation of article 7 of the Covenant.

8. The Human Rights Committee, acting under article 5, paragraph 4, of the Optional Protocol to the International Covenant on Civil and Political Rights, is of the view that the author's removal to Egypt would not violate his rights under article 7 of the Covenant.