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Human Rights Council Working Group on Arbitrary Detention

Opinions adopted by the Working Group on Arbitrary Detention at its sixty-ninth session (22 April–1 May 2014)

No. 18/2014 (Saudi Arabia)

Communication addressed to the Government on 10 October 2013

concerning Tawfiq Ahmad Ali Al Sabary

The Government has not replied to the communication.

The State is not a party to the International Covenant on Civil and Political Rights.

1. The Working Group on Arbitrary Detention was established in resolution 1991/42 of the former Commission on Human Rights, which extended and clarified the Working Group's mandate in its resolution 1997/50. The Human Rights Council assumed the mandate in its decision 2006/102 and extended it for a three-year period in its resolution 15/18 of 30 September 2010. The mandate was extended for a further three years in resolution 24/7 of 26 September 2013. In accordance with its methods of work (A/HRC/16/47 and Corr.1, annex), the Working Group transmitted the above-mentioned communication to the Government.

2. The Working Group regards deprivation of liberty as arbitrary in the following cases:

(a) When it is clearly impossible to invoke any legal basis justifying the deprivation of liberty (as when a person is kept in detention after the completion of his or her sentence or despite an amnesty law applicable to the detainee) (category I);

(b) When the deprivation of liberty results from the exercise of the rights or freedoms guaranteed by articles 7, 13, 14, 18, 19, 20 and 21 of the Universal Declaration of Human Rights and, insofar as States parties are concerned, by articles 12, 18, 19, 21, 22, 25, 26 and 27 of the International Covenant on Civil and Political Rights (category II);

(c) When the total or partial non-observance of the international norms relating to the right to a fair trial, established in the Universal Declaration of Human Rights and in the relevant international instruments accepted by the State concerned, is of such gravity as to give the deprivation of liberty an arbitrary character (category III);

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(d) When asylum seekers, immigrants or refugees are subjected to prolonged administrative custody without the possibility of administrative or judicial review or remedy (category IV); and

(e) When the deprivation of liberty constitutes a violation of international law for reasons of discrimination based on birth; national, ethnic or social origin; language; religion; economic condition; political or other opinion; gender; sexual orientation; or disability or other status, and aims towards or can result in ignoring the equality of human rights (category V).

Submissions

Communication from the source

3. The case summarized below was reported to the Working Group on Arbitrary Detention as follows:

4. Tawfiq Ahmad Ali Al Sabary is a Yemeni national born in 1981. Mr. Al Sabary is married and lives with his wife and two children in Harat Al Manzil, Dhamar, Yemen. The source reports that Mr. Al Sabary resettled in Yemen in 2009 after having lived in Medina in Saudi Arabia for a number of years.

5. On 11 June 2013, Mr. Al Sabary travelled to Saudi Arabia on a pilgrimage to Mecca. He was accompanied by his wife and two children. It is reported that Mr. Al Sabary complied with all administrative procedures to enter Saudi Arabia and obtained an entry visa for himself and his family at the Saudi Arabian embassy in Sanaa before their departure.

6. According to the source, the Saudi Arabian police stopped Mr. Al Sabary a few kilometres after he had crossed the border between Saudi Arabia and Yemen. The police asked him to exit the vehicle and present them with his identity documents. According to his wife, Mr. Al Sabary was arrested without being shown any warrant. Ms. Al Sabary was also not given any reason for the arrest of her husband. She immediately and directly returned to Yemen.

7. Two days following Mr. Al Sabary's arrest, the source conveys that his wife received a brief telephone call from her husband, informing her that he was being interrogated about a case in which he was not involved. He was unable to communicate to her the location of his detention as he, himself, was unaware of it. He was then given another opportunity a few weeks later to telephone his family to inform them that he was currently detained in Medina prison. At that time, he conveyed that no proper judicial proceedings had been commenced in his case, no date had been set for a trial and he had not been granted the right to access a lawyer.

8. Mr. Al Sabary's family fears that he may be at risk of torture, based on a general widespread concern that torture is frequently used against detainees in order to extract confessions.

Communication to the Government

9. The Working Group addressed a communication to the Government on 10 October 2013, requesting the Government to respond to the allegations made by the source. The Working Group requested the Government to provide it with detailed information about the current situation of Mr. Al Sabary and the allegations made both in respect of the facts and the applicable legislation.

10. The Government has not responded to the communication from the Working Group.

Further comments from the source

11. According to the information received from the source on 30 April 2014, Mr. Al Sabary was released on 20 February 2014 without having been subject to any judicial proceedings. The source reports that Mr. Al Sabary was immediately transferred to Yemen upon his release.

Disposition

12. The Working Group decides to file the case pursuant to subsection 17 (a) of its methods of work, in light of the fact that Mr. Al Sabary has been released.

[Adopted on 1 May 2014]
