



Human Rights Council
Working Group on Arbitrary Detention**Opinions adopted by the Working Group on Arbitrary
Detention at its sixty-third session, 30 April–4 May 2012****No. 16/2012 (Iraq)****Communication addressed to the Government on 2 March 2012****Concerning Hossein Dadkhah, Farichehr Nekogegan, Zinat Pairawi, Mahrash Alimadadi, Hossein Farsy, Hassan Ashrafian, Hassan Sadeghi, Hossein Kaghazian, Reza Veisy and Mohammad Motiee****No response has been received from the Government.****The State is 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. In accordance with its Methods of Work, 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 States concerned, is of such gravity as to give the deprivation of liberty an arbitrary character (category III);

(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);

(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 which aims towards or can result in ignoring the equality of human rights (category V).

Submission

Communication from the source

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

- (a) Hossein Dadkhah;
- (b) Farichehr Nekogegan;
- (c) Zinat Pairawi;
- (d) Mahrash Alimadadi;
- (e) Hossein Farsy;
- (f) Hassan Ashrafian;
- (g) Hassan Sadeghi;
- (h) Hossein Kaghazian;
- (i) Reza Veisy; and
- (j) Mohammad Motiee.

4. According to the source, these 10 persons of Iranian nationality are part of a group of 400 dissident members of the National Council of Resistance of Iran (NCRI) who accepted relocation from Camp Ashraf to Camp Liberty, a former United States of America military base near Baghdad international airport, in order to begin the process of having their refugee status reconfirmed. Before being transferred to Camp Liberty, these persons and their belongings were processed for 11 hours by security forces, under similar procedures to those for admitting inmates to prisons. Many belongings, such as wheelchairs, communication and video equipment, personal photographs, medicine, heaters and sanitary equipment were not allowed and were confiscated.

5. On their arrival at Camp Liberty, the relocated people were ordered to line up for a headcount, and told by the commanding officer that he would assign them their rooms. They felt as if they were in a prison. They then found themselves in a situation of deprivation of liberty, with no possibility of obtaining authorization to go out of the camp without being accompanied by the security forces. They could not receive visits either from relatives or legal counsels. The source reports that one lawyer, Hamid Jalil, was refused entry to the camp on 21 February 2012, when he was supposed to meet with one of the relocated persons.

6. According to the source, Camp Liberty is surrounded by a four-metre high concrete wall, and residents are not allowed to go out. Armed Iraqi police agents guard checkpoints inside the camp. A police headquarters is located adjacent to Section One where residents are housed, and police stations are located at the north and south gates and at the northeast

end of camp. Police patrols regularly enter the residents' resting area, just as prison guards would inspect the cells of inmates.

7. The source describes the conditions in Camp Liberty as inhumane and appalling. Rather than a relocation centre conforming to international standards, Camp Liberty is said to be an open-air detention centre. The health of persons held in Camp Liberty is at risk. The camp allegedly lacks the most basic infrastructure and sanitary conditions, electricity is only intermittent and running water supplies are insufficient. The residential area is surrounded by layers of sand bags and a concrete wall. Surveillance cameras and sound bugs are installed all around the camp. The private life of the residents is constantly under surveillance.

8. The source adds that residents are not allowed to leave the camp without military or police escort and that they are subjected to headcounts, heavy police presence and invasions of privacy, similar to conditions in a prison. The residents suffer from the lack of adequate living conditions; restrictions on transfer of assets and restrictions to freedom of movement. The source also reports that the Government is not allowing international monitors or visitors access to Camp Liberty.

9. The source recalls that persons held in Camp Liberty have "Protected Person" status under the Fourth Geneva Convention. They are asylum seekers and have not been charged with or found guilty of any offence. Indeed, they have all been living in Iraq for over 25 years.

10. Furthermore, the source expresses fear for the physical and psychological integrity of these persons, as they are facing unnecessary suffering and trauma, as well as being subjected to degrading and humiliating treatment. It recalls that Camp Ashraf, from where they were transferred, had twice been attacked by Iraqi military forces since the Iraqi Government took control of the camp from the United States military in 2009.

11. The source submits that the detention of the 10 above-mentioned persons is arbitrary and contrary to article 9 of the Universal Declaration of Human Rights, and articles 9, paragraph 1, and 10, paragraph 1, of the International Covenant on Civil and Political Rights to which the Republic of Iraq is a State party.

Response from the Government

12. The Working Group transmitted the above allegations to the Government of Iraq, requesting it to provide detailed information about the current situation of Hossein Dadkhah, Farichehr Nekogegan, Zinat Pairawi, Mahrash Alimadadi, Hossein Farsy, Hassan Ashrafian, Hassan Sadeghi, Hossein Kaghazian, Reza Veisy and Mohammad Motiee, and to clarify the legal provisions justifying their continued detention. The Working Group regrets that it has not received a response from the Government.

Discussion

13. In the absence of a response from the Government and further to its Methods of work, the Working Group can render an opinion on the basis of the information submitted to it by the source. The Government has not rebutted this information, although it had the opportunity to do so.

14. The Working Group is not unfamiliar with the situation of the residents of Camp Ashraf from which the above-mentioned persons were transferred to Camp Liberty, a

former military base of the United States of America in Baghdad. It had already issued opinion No.11/2010 (Iraq)¹ concerning the detention of Camp Ashraf residents.

15. Residents of Camp Liberty have the status of “protected persons” under the Fourth Geneva Convention; they are asylum seekers and have neither been charged with or tried for any offence.

16. The conditions in Camp Liberty are synonymous with those in a detention centre, as residents have no freedom of movement, nor interaction with the outside world, nor do they have freedom of movement and the semblance of a free life within the Camp. The situation of the residents of Camp Liberty is tantamount to that of detainees or prisoners.

17. The Working Group considers that there is no legal justification for holding the above-mentioned persons and other individuals in Camp Liberty, and that such detention is not in conformity with the standards and principles of international human rights law, and more specifically violates article 9 of the Universal Declaration of Human Rights and articles 9 and 10 of the International Covenant on Civil and Political Rights.

Disposition

18. In the light of the preceding, the Working Group on Arbitrary Detention renders the following Opinion:

The detention of Hossein Dadkhah, Farichehr Nekogegan, Zinat Pairawi, Mahrash Alimadadi, Hossein Farsy, Hassan Ashrafian, Hassan Sadeghi, Hossein Kaghazian, Reza Veisy and Mohammad Motiee is arbitrary, being in contravention of article 9 of the Universal Declaration of Human Rights and articles 9, paragraph 1, and 10, paragraph 1, of the International Covenant on Civil and Political Rights, and falling under category IV of the categories applicable to cases submitted for consideration to the Working Group.

19. Consequent upon the opinion rendered, the Working Group requests the Government to take the necessary steps to remedy the situation of these 10 persons and bring it into conformity with the standards and principles set forth in the Universal Declaration of Human Rights and the International Covenant on Civil and Political Rights.

20. Taking into account all the circumstances of the case, the Working Group considers that adequate remedy would be immediate release and lifting of all restraints on the free movement of these persons as well as an enforceable right to compensation, in accordance with article 9, paragraph 5, of the International Covenant on Civil and Political Rights.

[Adopted on 4 May 2012]

¹ Adopted on 7 May 2010 and concerning Jalil Gholamzadeh Golmarzi Hossein and 36 other persons.