



Human Rights Council
Working Group on Arbitrary Detention**Opinions adopted by the Working Group on Arbitrary Detention at its sixty-seventh session, 26–30 August 2013****No. 18/2013 (Islamic Republic of Iran)****Communication addressed to the Government on 21 June 2013****Concerning Saeed Abedinialangashi****The Government has not replied to the communication.****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 (A/HRC/16/47, annex, and Corr.1), 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).

Submissions

Communication from the source

3. Mr. Saeed Abedinialangashi (hereinafter Mr. Abedini), 33 years of age, a dual national of Iran and United States of America (U.S.A), is a Christian pastor with residence in Boise, Idaho, U.S.A.

4. On 28 July 2012 during a visit to Tehran to visit family and to finalise arrangements for an orphanage he was building in Rasht, Iran, Mr. Abedini was taken off a bus at the border between Turkey and Iran as he was lawfully entering the country. The bus was stopped by individuals who reportedly identified themselves as members of the Iranian Revolutionary Guard Corps. The source reports that the Revolutionary Guard Corps detained Mr. Abedini, informing him that he must face criminal charges because of his Christian faith. After intense interrogations, Mr. Abedini was placed under house arrest at his parents' home in Tehran. He was told to wait for a court summons.

5. On 26 September 2012, Mr. Abedini received a summons informing him where to make an appearance. Five members of the Revolutionary Guard Corps reportedly raided his parents' home in Tehran and confiscated many of his belongings. They informed Mr. Abedini to pack a bag and then proceeded to take him to an unknown location. After four days without information on his whereabouts, the Revolutionary Guard Corps informed Mr. Abedini's family that he was held in solitary confinement in Evin Prison.

6. Reportedly, no arrest warrant was shown to Mr. Abedini when he was arrested on 28 July 2012. During the 26 September 2012 arrest, a warrant was shown but the arresting authorities refused to provide Mr. Abedini's family with a copy. The family was not given enough time to inspect the warrant to ascertain who the issuing authority was.

7. Regarding the reasons for the arrest, Mr. Abedini was informed that he had attempted to undermine the national security of the country (known as "eghdam alayhe amniate meli" in Farsi) by holding Christian worship services in private homes. The authorities also stated that by expressing his faith (including sharing his faith with others in a non-coercive manner), baptising fellow Christian believers and holding religious meetings outside of Iran, Mr. Abedini attempted to undermine national security. Mr. Abedini was sentenced to eight years in prison under the oversight of the Organization of Iranian Prisons.

8. The source reports that Mr. Abedini's initial arrest without a warrant was solely for the exercise of his fundamental freedoms. Additionally, he was denied access to his lawyer until less than 24 hours before his trial. He finally appeared before a judge on 21 January 2013 to present his defence. Mr. Abedini and his lawyer argued that his intention in gathering with Christian believers was motivated solely by his faith and that he had no intention to undermine the Government. The judge presiding in court allegedly requested Mr. Abedini's lawyer to go to the media and inform them that the trial was conducted fairly and that Mr. Abedini would be released on bail soon. Mr. Abedini's family however repeatedly sought bail and their requests were never granted.

9. During the week of his trial, Mr. Abedini was transferred from Ward 209 to Section 3 of Ward 350 at the request of his lawyer. Mr. Abedini had been denied medical treatment in Ward 209 relating to infections that allegedly resulted from several beatings. The ward doctor and nurse allegedly refused to treat him because as a Christian he was considered “unclean and an infidel.” Mr. Abedini’s family in Tehran was allowed to visit him on Mondays but he was not permitted to make telephone calls which prevented him from being able to contact his wife and two young children in the U.S.A.

10. On the second day of Mr. Abedini’s trial, he and his lawyer were reportedly barred from the courtroom while the witnesses including acquaintances and lay ministers (religious leaders) were questioned. One witness was reportedly asked about his association with Mr. Abedini, the current status of the Christian churches, the individual’s conversion to Christianity and how Mr. Abedini funded his travels and the orphanage that he was building.

11. On 27 January 2013, one week after Mr. Abedini had presented his defence he was convicted and sentenced. The court relied strongly on his activities with the Christian house churches between 2000 and 2005. A written verdict was reportedly not issued and Mr. Abedini’s lawyer was told that he had 20 days to appeal the verdict.

12. On 4 February 2013, Mr. Abedini’s lawyer filed an appeal against his conviction and sentence. In early April 2013, Mr. Abedini’s appeal was sent to Branch 36 of the Revolutionary Courts. According to the source, of the two appeal branches to which Mr. Abedini’s case could have been sent (notably Branch 36 and Branch 54), Branch 36 signified that the authorities were allegedly not willing to give the case an impartial review. The source alleges that judges of Branch 36 are known to rubber stamp decisions and follow directions given by higher authorities. On Sunday, 7 April 2013, Mr. Abedini’s lawyer again attempted to get him released on bail but his efforts were denied.

13. The source raises concerns regarding Mr. Abedini’s welfare and security. Reportedly, he has been beaten and threatened due to his Christian faith. In a letter written by Mr. Abedini on 10 January 2013, he stated that he had been told that he will be hanged for his faith in Jesus. He also informed of various death threats that he has received from his prison cell mates who have allegedly threatened to kill him during his sleep.

14. In late February 2013, it became known that Mr. Abedini was suffering from internal bleeding, an injury that resulted from physical beatings he reportedly endured during his interrogations. Mr. Abedini was said to have been examined by doctors in early March 2013 where it was determined that his injuries warranted immediate medical attention and that he needed to be transferred to a hospital outside the prison for treatment. According to the source, the authorities ignored this medical urgency for over a month.

15. The source reports that in an attempt to appease international pressure relating to Mr. Abedini’s case, prison officials took him to a private hospital in Tehran on 8 April 2013. Before doing so however, several guards forced Mr. Abedini to change his prison uniform and to put on a uniform that was normally issued to prisoners convicted of murder. When Mr. Abedini resisted, the prison guards reportedly physically abused him, beating him and kicking him in the stomach and exacerbating the internal bleeding he suffered. They stripped Mr. Abedini down and forced him to wear the offending uniform. When Mr. Abedini arrived at the hospital, he was reportedly paraded around the place and was not admitted or treated because according to the guards, no doctors or staff were present. Mr. Abedini was then returned to prison without being given the medical treatment he required.

16. Mr. Abedini was allegedly recently placed in solitary confinement for 10 days. Before being taken to solitary confinement, he complained of pain in his kidneys. He and several other prisoners in Ward 350 wrote a letter to prison officials in peaceful protest of their lack of access to medical care. In response to this letter, the Iranian officials reportedly

chose 10 prisoners to place under solitary confinement, Mr. Abedini being one of them. Although Mr. Abedini was returned to the general population in prison, he is still being denied necessary lifesaving medical treatment.

17. In light of the alleged human rights violations suffered by Mr. Abedini, the source submits that the Iranian Constitution provides protection for religious minorities and that it also prohibits the Government from punishing an individual for simply holding a certain religious belief stating that “[t]he investigation of individuals beliefs is forbidden and no one may be molested or taken to task simply for holding a certain belief. Moreover, article 38 states: “Any kind of torture used to extract an admission of guilt or to obtain information is forbidden. Compelling people to give evidence, or confess or take an oath is not allowed. Such evidence or confession or oath is null and void.”

18. The source further points out the following:

“The ICCPR requires that “everyone has the right to liberty and security of person. No one shall be subjected to arbitrary arrest or detention.” The ICCPR also identifies a number of procedural rights given to the accused, including the right “to have adequate time and facilities for the preparation of his defence...and to be tried in the [accused’s] presence.” Most importantly, the ICCPR guarantees that... “all persons shall be equal before the courts and tribunals. In the determination of any criminal charge against him, or of his rights and obligations in a suit at law, everyone shall be entitled to a fair and public hearing by a competent, independent and impartial tribunal established by law...Everyone charged with a criminal offence shall have the right to be presumed innocent until proved guilty according to law” (articles 9 and 14 of the ICCPR).

19. The source submits that the ICCPR also provides that everyone shall have the right to hold opinions without interference and that everyone shall have the right to freedom of expression; this right shall include freedom to seek, receive and impart information and ideas of all kinds. Such rights necessarily apply to religion as provided for by article 18 of the ICCPR. Moreover, the ICCPR requires States to provide special protection to religious minorities. In those States in which ethnic, religious or linguistic minorities exist, persons belonging to such minorities shall not be denied the right, in community with the other members of their group, to enjoy their own culture, to profess and practice their own religion, or to use their own language.

20. According to the source, because Christianity is a minority religion in Iran, Mr. Abedini deserves to be protected in accordance with the stipulations in the Iranian Constitution and the ICCPR. By denying him his right to equal treatment under the law and his right to peacefully express his religious beliefs, the authorities have explicitly violated their obligations under the ICCPR. Furthermore, due to his involvement in establishing an orphanage and encouraging the development of Christian house churches in the country, the authorities have arbitrarily deprived Mr. Abedini of his liberty and subjected him to inhuman treatment. The source submits that Mr. Abedini has been specifically targeted precisely for his religious expression which is a violation of the special protections provided to religious minorities in article 27 of the ICCPR.

21. The source submits that the violations suffered by Mr. Abedini such as being unable to meet with his attorney until only hours before the trial began and their exclusion from the entire second day of his trial, have prevented Mr. Abedini from effectively formulating his legal defence. The source also informs that a court administrator in the revolutionary courts intimidated and threatened those who attempted to assist Mr. Abedini with procuring bail. The source stresses that the existing problems with Mr. Abedini’s trial fall short of satisfying the fundamental procedural rights set out under the ICCPR. Furthermore, human rights violations have occurred at every phase of the criminal procedure: from arbitrary pre-

trial detention, to the use of severe and abusive interrogations to a binding court decision issued by a judge who the source alleges to be biased. The source points to these substantive violations specifically highlighting the infringements on Mr. Abedini's rights to freedom of expression, freedom of religion, freedom of peaceful assembly and freedom from inhuman treatment and torture.

Response from the Government

22. The Working Group regrets that the Government has not responded to the allegations transmitted by the Group on 21 June 2013.

23. Despite the absence of any information from the Government, the Working Group considers that it is in the position to render its Opinion on the detention of Mr. Abedini in conformity with paragraph 16 of its Methods of Work.

Discussion

24. The Working Group recalls that United Nations experts on Iran and freedom of religion expressed concern over the situation of religious minorities, including Christians, in Iran.¹ It was stressed by the Special Rapporteur on Iran that the arrest and prosecution of individuals for religious affiliation runs counter to the protection of minority religions in Iran's Constitution and constitutes a violation of Iran's obligations under the International Covenant, in particular to respect freedom of religion and belief and freedom of expression and association.² The experts reiterated that no individual should be arrested for peacefully exercising the rights to freedom of religion and belief, expression and association. According to the Special Rapporteur on freedom of religion, Iran should ensure that the right of Christians, as a group, to freedom of religion is granted in practice.³

25. The Human Rights Committee in its General Comment No. 22 emphasised that the right to freedom of thought, conscience and religion (which includes the freedom to hold beliefs) in article 18.1 of the ICCPR is far-reaching and profound; it encompasses freedom of thought on all matters, personal conviction and the commitment to religion or belief, whether manifested individually or in community with others.⁴

26. In another case concerning Iran, the Working Group stressed that the detention of persons solely because of the practice of their religious faith is a violation of the freedom of religion which is a fundamental right recognized both in the Universal Declaration of Human Rights (UDHR) and the International Covenant on Civil and Political Rights (ICCPR).⁵

27. The Working Group considers that in the case under consideration Mr. Abedini has been deprived of his liberty for peacefully exercising the rights to freedom of religion, belief, and association, as guaranteed under article 19 of the UDHR, and articles 18(1) and 19(2) of the ICCPR. Thus, the deprivation of liberty of Mr. Abedini falls within category II of the categories applicable to the consideration of cases submitted to the Working Group.

¹ See "UN experts on Iran and freedom of religion concerned over situation of religious minorities in the country", Geneva, 20 September 2012, <http://www.ohchr.org/en/NewsEvents/Pages/DisplayNews.aspx?NewsID=12551&LangID=E>

² Ibid.

³ Ibid.

⁴ General Comment No. 22: The right to freedom of thought, conscience and religion (Art. 18), CCPR/C/21/Rev.1/Add.4, 30 July 1993, para. 1.

⁵ Opinion No. 39/2008 (Islamic Republic of Iran), para. 17.

28. The Working Group also considers that in this case Mr. Abedini has been deprived of his liberty for being a practicing Christian for reasons of discrimination based on religion, in violation of articles 2 and 7 of the UDHR, as well as articles 18 and 26 of the ICCPR. Thus the deprivation of liberty of Mr. Abedini falls within category V of the categories applicable to the consideration of cases submitted to the Working Group.

29. The Government also choose not to rebut the allegations of the violation of Mr. Abedini's right to a fair trial as guaranteed under article 14 of the ICCPR and article 10 of the UDHR.

30. Such allegations include that in violation of article 14.3 (b) of the ICCPR, which guarantees the right of the accused to have adequate time and facilities for the preparation of his defence and to communicate with counsel of his own choosing, Mr. Abedini was denied access to his lawyer until less than 24 hours before the commencement of the trial.

31. Furthermore, in violation of article 14.3 (d) and (e) of the ICCPR, on the second day of the trial, he and his lawyer were barred from the courtroom while the witnesses including acquaintances and lay ministers (religious leaders) testified.

32. The Working Group considers that the non-observance of the international norms relating to the right to a fair trial in this case, namely article 10 of the UDHR and article 14(3) (b), (d) and (e) of the ICCPR, is of such gravity as to give the deprivation of liberty of Mr. Abedini an arbitrary character. Thus the deprivation of liberty of Mr. Abedini falls within category III of the categories applicable to the consideration of cases submitted to the Working Group.

Disposition

33. In the light of the preceding, the Working Group on Arbitrary Detention renders the following opinion:

The deprivation of liberty of Mr. Abedini has been arbitrary, being in contravention of articles 2, 7, 10, and 19 of the UDHR, and articles 14(3), 18(1), 19(2), and 26 of the ICCPR; it falls within categories II, III, and V of the categories applicable to the consideration of the cases submitted to the Working Group.

34. Consequent upon the opinion rendered, the Working Group requests the Government to take the necessary steps to remedy the situation of Mr. Abedini and bring it into conformity with the standards and principles set forth in the UDHR and the ICCPR.

35. The Working Group believes that, taking into account all the circumstances of the case, the adequate remedy would be to release Mr. Abedini and accord him an enforceable right to compensation in accordance with article 9.5 of the ICCPR.

36. In accordance with article 33(a) of its Revised Methods of Work, the Working Group considers it appropriate to refer the allegations of torture to the Special Rapporteur on torture for appropriate action.

[Adopted on 26 August 2013]