

## **OPINION N. 16/2007 (Libyan Arab Jamahiriya)**

**Communication: addressed to the Government on 7 February 2007.**

**Concerning: Dr. Mohamed Hassan Aboussedra**

**The State has ratified the International Covenant on Civil and Political Rights.**

1. The Working Group on Arbitrary Detention was established by resolution 1991/42 of the Commission on Human Rights. The mandate of the Working Group was clarified and extended by resolution 1997/50. It was reconfirmed by Commission resolution 2003/31, General Assembly resolution 60/251 and Human Rights Council decision 1/102. Acting in accordance with its methods of work, the Working Group forwarded the above-mentioned communication to the Government.

1. The Working Group regrets that the Government has not provided information on the case despite the opportunity it was given to comment within the 90 day time limit.

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

I. When it manifestly cannot be justified on any legal basis (such as continued detention after the sentence has been served or despite an applicable amnesty act) (Category I);

II. When the deprivation of liberty is the result of a judgement or sentence for the exercise of the rights and freedoms proclaimed in articles 7, 13, 14, 18, 19, 20 and 21 of the Universal Declaration of Human Rights and also, in respect of States parties, by articles 12, 18, 19, 21, 22, 25, 26 and 27 of the International Covenant on Civil and Political Rights (Category II);

III. When the complete or partial non-observance of the relevant international standards set forth in the Universal Declaration of Human Rights and in the relevant international instruments accepted by the States concerned relating to the right to a fair trial is of such gravity as to confer on the deprivation of liberty, of whatever kind, an arbitrary character (Category III).

2. The case summarized hereafter has been reported to the Working Group on Arbitrary Detention as follows: Dr. Mohamed Hassan Aboussedra, aged 51, of Libyan nationality, is a medical doctor domiciled in Al Bayda. It was reported that he was arrested by agents of the Internal Security Services in Al Bayda on 19 January 1989, without informing him of any formal arrest warrant or charges laid against him. His four brothers were also secretly detained for three years until information was made available that they were detained at Abou Slim prison.

3. In 1995, Dr. Aboussedra was kept in detention while his brothers were released. According to the source, he was brought before a court in 2004, unfairly tried and sentenced to life imprisonment. The source affirms that no penal offence was put forth during the trial and that he was only reprimanded for his political attitude towards the People's Committees.

4. Dr. Aboussedra appealed to his verdict on 2 June 2005 and was sentenced to ten years imprisonment. The Appeals Court ordered his release since he had already served his prison term while in pre-trial detention.

5. However, on 9 June 2005, the detainee was removed from Abou Slim prison by agents of the Internal Security Services. No information has been provided on his current place of detention or on the reasons for his continued detention in spite of a judicial order for his release. The source adds that Dr. Aboussedra has been subjected to inhuman and degrading treatment while in detention and that his life is consequently put at risk.

6. According to the source, Dr. Aboussedra's detention is arbitrary in the sense that he is being kept in detention irrespective of the fact that he has already completed his sentence. It is therefore not possible to invoke any legal basis to justify his deprivation of liberty.

7. In the light of the allegations made, the Working Group would have welcomed the cooperation of the Government. Nevertheless, despite the absence of any information from the Government, the Working Group believes that it is in a position to render an Opinion on the facts and circumstances of the case, especially since the facts and allegations contained in the communication have not been challenged by the Government.

8. The Working Group notes that Dr. Mohamed Hassan Aboussedra has been sentenced in 2005 to a prison term of ten years and that the Appellate Court ordered his release on account of the years he had already spent in prison, from 1989 until 2005. However, he was not released. He was kept in detention instead and transferred to an unknown location. He has been secretly detained ever since, neither being able to consult a lawyer, nor presented to any judicial authority, nor charged by the Government with any offence.

9. In the light of the foregoing, the Working Group considers that the deprivation of liberty of Dr. Mohamed Hassan Aboussedra is arbitrary, being in contravention of articles 9 and 10 of the Universal Declaration of Human Rights and articles 9 and 14 of the International Covenant on Civil and Political Rights, falling under category I of the categories applicable to the consideration of cases submitted to the Working Group.

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

Adopted on 14 September 2007