

OPINION No. 39/2000 (ISLAMIC REPUBLIC OF IRAN)

Communication addressed to the Government on 13 April 2000

Concerning Abbas Amir-Entezam

The State is a party to the International Covenant on Civil and Political Rights

1. The Working Group on Arbitrary Detention was established by Commission on Human Rights resolution 1991/42. The mandate of the Working Group was clarified and extended by resolution 1999/50, and reconfirmed by resolution 2000/36. Acting in accordance with its methods of work, the Working Group forwarded the above-mentioned communication to the Government.
2. The Working Group regrets that the Government has not replied within the 90-day deadline.
3. 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, in 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 international standards relating to a fair trial 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).
4. According to the communication, Mr. Abbas Amir-Entezam, a 66 year-old Iranian engineer, was arrested on 28 September 1998 on charges of defamation. He was temporarily released in October 1999 to undergo medical treatment, but was returned to prison in December 1999 after granting an interview to an Iranian newspaper. Mr. Amir-Entezam is being held at Evin Prison, north of Tehran. He was permitted to leave prison on medial leave in March 2000, but was returned to prison nine days later, allegedly before he had recovered his health. It is alleged that the charges behind Mr. Amir-Entezam's arrest stem from his criticism of prison conditions and the treatment of prisoners at the time when Mr. Assadolah Lajavardi, a former prosecutor who was killed in 1998, was the chief of the country's prison system. These criticisms apparently were made in an interview granted to Voice of America when Mr. Amir-Entezam was under house arrest. Both Mr. Lajavardi's son and the National Prison Authority of Iran subsequently filed defamation charges against Mr. Amir-Entezam. According

to the information received, Mr. Amir-Entezam was not released on bail paid by his wife. In February 1999, Mr. Amir-Entezam was scheduled to appear before Branch 511 of Tehran's public court, but for unknown reasons, he was not present in court at that time. The court proceeded with the hearings in his absence, prompting his lawyers to leave the court in protest and call for a retrial. The request of the International Commission of Jurists to send an observer was also denied. This action of the court is said to contravene articles 570, 572 and 575 of the Constitution of Iran. Several weeks after the hearings, Branch 511 issued a public statement dismissing Mr. Amir-Entezam's case. Mr. Amir-Entezam served as deputy prime minister under the 1979 interim government of Mehdi Bazargan and is deemed to have solid knowledge of prison conditions and the treatment of prisoners in Iran's prisons, having served 16 years of a life sentence between 1980 and 1996. He had been arrested in December 1979 and charged with espionage for the United States on the basis of documents taken from the United States Embassy in Tehran while it was under occupation. These documents allegedly linked Mr. Amir-Entezam with several United States officials. Mr. Amir-Entezam was sentenced to death by an Islamic revolutionary court, despite the testimony of Mr. Bazargan that Mr. Amir-Entezam's meetings with United States officials had been authorized by the Government of Iran. The death sentence was subsequently commuted to life imprisonment and he was released from prison in 1996, although charges against him were never formally dropped. It is reported that Mr. Amir-Entezam has repeatedly requested an open trial in the course of which his name could be cleared and the suspended sentence dropped, but these requests have apparently been refused.

5. In the light of the foregoing, the Working Group notes that the charges of defamation against Abbas Amir-Entezam which are behind his detention are connected with an interview he allegedly granted to the Voice of America while under house arrest. During that interview, Abbas Amir-Entezam, who spent 16 years in prison between 1980 and 1996, criticized prison conditions and the treatment of prisoners at the time when Mr. Assadollah Lajavardi, a former procurator who was killed in 1998, was the chief of Iran's prison system. The Working Group also notes that Abbas Amir-Entezam has been under arrest since 28 September 1998 and has still not been brought to trial because Branch 511, a court of general jurisdiction before which he was to have appeared, declared that it lacked jurisdiction and referred his case to an Islamic revolutionary court.

6. In the opinion of the Working Group, the interview for which Abbas Amir-Entezam is reproached comes under the heading of his right to freedom of expression, a right guaranteed by article 19 of the Universal Declaration of Human Rights and by article 19 of the International Covenant on Civil and Political Rights. It therefore concludes that the detention of the above person as a result of this interview is arbitrary (category II).

7. Accordingly, the Working Group requests the Government to take the necessary steps to remedy the situation 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.

Adopted on 29 November 2000