

**OPINION No. 11/2002 (SYRIAN ARAB REPUBLIC)**

Communication addressed to the Government on 28 September 2001

Concerning: Fawaz Tello, Habib Issa, Walid al-Bouni, Hasan Saadoun, Habib Saleh, Aref Dalila, Kamal Labouani, Riad al-Turk, Riad Seef, Mohamed Maamun al-Homsi

**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 Commission resolution 1997/50, and reconfirmed by resolution 2000/36. Acting in accordance with its methods of work, the Working Group forwarded to the Government the above-mentioned communication.

2. The Working Group conveys its appreciation to the Government for having provided the requisite information in good time concerning one of these cases, namely that of Mohamed Maamun al-Homsi. The Government's reply was transmitted to the source, which provided the Working Group with its comments thereon. As for the other cases, the Working Group regrets that the Government has not replied within the 90 days' time limit, nor in the period of extension it has requested and obtained from the Working Group.

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 is of such gravity as to confer on the deprivation of liberty, of whatever kind, an arbitrary character (category III).

4. In the light of the allegations made, the Working Group welcomes the cooperation of the Government concerning one of these cases, namely that of Mohamed Maamun al-Homsi. The Working Group believes that it is in a position to render an opinion on the facts and circumstances of the case, in the context of the allegations made and the response of the Government thereto. As for the other cases, the Working Group would have welcomed the

cooperation of the Government. In 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 cases, especially since the facts and allegations contained in the communication have not been challenged by the Government.

5. According to information received from the source, Fawaz Tello, Habib Issa, Walid al-Bouni, Hasan Saadoun, Habib Saleh, Aref Dalila, Kamal Labouani, Riad al-Turk, Riad Seef and Mohamed Maamun al-Homsy were detained on various days in September 2001, beginning from the first of that month, and were taken to the Adra Prison in Damascus.

6. Mr. Fawaz Tello, born in Damascus in 1961, an engineer and a member of the Dialogue National Forum and of the *Mountada Al-Hiwar al Watani* Forum, was arrested during the night of 11 September 2001 in Damascus by members of the Political Security Department Forces.

7. Mr. Habib Issa, born in Misiyf-Hama in 1956, living in Damascus, a lawyer and spokesperson for the *Mountada Jamal al-Aattasii* Forum, a founding member of the *Comités de la renaissance de la société civil (CRSC)*, a civil society forum, and well known for his legal defence of political detainees, was arrested during the night of 11 to 12 September 2001 by members of the Political Security Department Forces.

8. Mr. Walid al-Bouni, born in Aleppo in 1963, a medical doctor and a Dialogue National Forum organizer, was arrested at his home by members of the Political Security Department Forces on 9 September 2001, after having attended a political seminar held at Mr. Riad Seef's house on 6 September 2001.

9. Mr. Hassan Saadoun, born in 1941 in Qamishii, District of Al-Hassaka in northern Syria, a Debate Forum activist, was arrested on 9 September 2001.

10. Mr. Habib Saleh, a 52-year-old, born in Tartus, a businessman and a CRSC activist, was arrested in Tartus on 9 September 2001. He had been interrogated by the authorities earlier this year.

11. Mr. Aref Dalila, born in Latakia in 1943, living in Dommar close to Damascus, an economist, a Damascus University professor and a founding member of CRSC, was also arrested on 9 September 2001 by members of the Political Security Department Forces after appearing in a television programme at Al-Jazeera television channel.

12. Mr. Kamal Labouani, a 44-year-old, born in Zabadani, a medical doctor, a member of the administrative council of the Committees for the Defence of Democratic Freedoms and Human Rights in Syria and a member of the editorial staff of *Amarji* publication was arrested at his house in September 2001, after having attended a political seminar held at Mr. Riad Seef's house on 6 September 2001.

13. Mr. Riad al-Turk, a 71-year-old, born in Homs in 1930, a lawyer, co-founder of the *Rassemblement national démocratique* and the first secretary of the Communist Party-Political Bureau, was arrested on 1 September 2001 at a clinic in Tartus where he was receiving medical treatment following heart problems. He is also said to be suffering from diabetes. He was

apparently arrested after appearing in a programme at Al-Jazeera television channel. It was further reported that between 1980 and 1998 Mr. Riad al-Turk had spent 18 years in prison because of his opposition to the Government, without having been tried.

14. Mr. Riad Seef, a member of Parliament aged 54, born in Damascus in 1947, and living in Sehaya, Damascus, was arrested at his home on 9 August 2001 by members of the Political Security Department Forces.

15. Mr. Mohamed Maamun al-Homsi, born in Damascus in 1956, living in Azbakyya, Damascus, reportedly suffering from diabetes, and an independent member of Parliament, was arrested on 9 August 2001 by members of the Political Security Department Forces, two days after he went on hunger strike in protest at alleged corruption and excessive power wielded by the security forces.

16. The source alleges that following their arrest most of these persons were held incommunicado with no access to medical treatment or to lawyers of their own choosing. The source further alleges that as yet no formal charges have been brought against them. According to the source, all these cases involve political opponents and human rights activists from civil society groups who prior to their detention had been subjected to political persecution. It is alleged that they were arrested merely for having expressed their ideas peacefully in an attempt by the Government to suppress and prevent the activities of opposition political parties and human rights organizations.

17. In its reply, the Government provided information only about the case of Mohamed Maamun al-Homsi, but made no mention of the other cases referred to in the present communication.

18. The Government maintains that the security forces learned that Ma'amun al-Homsi had committed grave offences against the security of the State and its public authorities and that they passed this information on to the Public Prosecutor, who ordered that no legal action be taken against him since he was entitled to parliamentary immunity in accordance with article 67 of the Constitution.

19. The Government goes on to say that after reviewing this file the Public Prosecutor, noting that the offences imputed to Mr. al-Homsi were punishable by law, submitted a report to the Minister of Justice, requesting that the President of the People's Assembly grant the judiciary permission to institute legal proceedings against Mr. al-Homsi. The President of the People's Assembly gave his permission and Mr. al-Homsi was arrested and handed over for questioning on a number of counts.

20. The Government concludes by saying that Mr. al-Homsi was afforded the guarantees necessary to preserve his dignity, that he was permitted to engage 10 lawyers, that visitors, including lawyers, members of his family and friends, were allowed to visit him, and that he was provided with medical care and treatment free of charge. It is asserted by the Government that Mr. al-Homsi was found guilty of the charges against him, that he exercised his right of appeal to the Court of Cassation, which is currently reviewing his case, and that his trial was held in public

and attended by officials of various foreign embassies (e.g. United States of America, Netherlands, Canada, Japan, Norway, Italy and France), as well as representatives of international news agencies.

21. Commenting on the Government's reply, the source stated that MPs Mohamed Maamun al-Homsi and Riad Seef were sentenced by the Damascus Criminal Court to five years in prison following their trials, held in March and April, respectively. The trials are believed by the source to have been conducted in an unfair manner.

22. Concerning the cases of Fawaz Tello, Habib Issa, Walid al-Bouni, Hasan Saadoun, Habib Saleh, Aref Dalila, Kamal Labouani, Riad al-Turk and Riad Seef, no information, as mentioned earlier, has been received from the Government.

23. While the source initially stated that no formal charges were brought against the persons mentioned in the preceding paragraph, it subsequently submitted new information to the effect that Aref Dalila, Habib Saleh and Walid al-Bouni have had further charges (*atteinte à la Présidence*) pressed against them, reportedly following recordings made of their conversations while in detention. According to this information, Mr. Dalila is reported to have been subjected to torture.

24. It is claimed that those persons face restrictions on visits by families and lawyers and that lawyers are denied access to their files. It is also stated that representatives of the local human rights committees are forbidden to attend the court sessions which are being held in camera, that statements by the detainees are extracted under duress and that no testimony by the defence is accepted.

25. Having regard to the allegations made by the source, to the Government's reply concerning the case of Mohamed Maamun al-Homsi and to the information, which has not been challenged by the Government, concerning the other cases, the Working Group makes the following observations:

(a) With respect to the case of MP Mohamed Maamun al-Homsi, the Working Group notes that he was detained for peacefully exercising his right to freedom of opinion and expression, which is guaranteed by international law. Arrested after going on hunger strike, he exercised his right to freely express his views without using violence, a fact confirmed by the information received and not challenged by the Government. Moreover, no details are given about how his actions, which were deemed punishable by law, could be said to have involved the use of violence in his political activities as a member of Parliament;

(b) However, concerning the allegation that Mr. Mohamed Maamun al-Homsi was not given a fair trial, the Working Group does not consider that it has sufficient evidence to assert that there was complete or partial non-observance of the international standards relating to a fair trial of such gravity as to confer on his deprivation of liberty an arbitrary character;

(c) Regarding the cases of Fawaz Tello, Habib Issa, Walid al-Bouni, Hasan Saadoun, Habib Saleh, Aref Dalila, Kamal Labouani, Riad al-Turk and Riad Seef, the Working Group notes that these persons were detained for having taken part in various forums in support of a

group holding meetings and encouraging wider political participation, and that they carried out their activities peacefully, which was not denied by the Government, in exercise of their rights to freedom of assembly, expression and opinion, as guaranteed by international law;

(d) Finally, the circumstances under which legal proceedings were taken against these persons, with lawyers being denied access to their files, hearings held in closed session and the court not allowing the defence counsel to properly represent the defendants, a fact not been denied by the Government, are of such gravity as to confer on their deprivation of liberty an arbitrary character.

26. In the light of the foregoing, the Working Group is of the opinion that the deprivation of liberty suffered by Mohamed Maamum al-Homsî is arbitrary, being contrary to articles 18 and 19 of the Universal Declaration of Human Rights and articles 18 and 19 of the International Covenant on Civil and Political Rights, and falls within category II of the principles applicable to the consideration of cases submitted to the Working Group.

27. The deprivation of liberty suffered by Fawaz Tello, Habib Issa, Walid al-Bouni, Hasan Saadoun, Habib Saleh, Aref Dalila, Kamal Labouani, Riad al-Turk, Riad Seef is equally arbitrary, being contrary to articles 9, 10, 18 and 19 of the Universal Declaration of Human Rights and articles 9, 14, 18 and 19 of the International Covenant on Civil and Political Rights, and falls within categories II and III of the principles applicable to the consideration of cases submitted to the Working Group.

28. Consequently, the Working Group requests the Government to take the necessary steps to remedy the situation of the above-mentioned persons by bringing it into conformity with the standards and principles set forth in the International Covenant on Civil and Political Rights.

Adopted on 12 September 2002