

OPINION No. 18/2003 (SYRIAN ARAB REPUBLIC)

Communication addressed to the Government on 22 May 2003.

Concerning: Tanious Kamil El-Habr.

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

1. (Same text as paragraph 1 of opinion No. 15/2002.)
2. The Working Group conveys its appreciation to the Government for having submitted information concerning the case.
3. (Same text as paragraph 3 of opinion No. 15/2002.)
4. In the light of the allegations made, the Working Group welcomes the cooperation of the Government, but regrets that it did not provide the Working Group with the information it sought and did not facilitate, in practice, its task of examining the case. The reply of the Government was forwarded to the source, which provided the Working Group with its comments. 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.
5. According to the source, Tanious Kamil El-Habr, born in 1965, a Lebanese citizen and former sergeant in the Lebanese army, living in Dekwaneh, Lebanon, was arrested on 13 October 1990 in Aain Saadé city, Lebanon, by members of the Syrian intelligence forces. No arrest warrant was shown at the moment of his arrest. He was initially taken to the Syrian Intelligence Services Centre of Anjar, Lebanon. Later, he was transferred to the Palestine Branch Detention Centre in Damascus, Syria, without following any formal extradition procedure. Mr. El-Habr was first imprisoned in Mazzé prison in Syria, where his father was authorized to visit him.
6. According to the source, although Mr. El-Habr was not charged with any offence, Colonel Ahmad An Naasan, First Military Judge, ordered that he be held in detention. Subsequently, he was transferred to Palmyre prison, where he was denied the right to receive visits. The source further reports that Mr. El-Habr has been held incommunicado for long periods. He has been held in detention for more than 12 years without charges, trial or sentence.
7. The Government of the Syrian Arab Republic, in its reply, stated that the authorities concerned have no information about the detention of Mr. El-Habr.
8. In its comments on the Government's reply, the source indicated that Mr. El-Habr had received visitors while being held at the Syrian military prison of Mazzé and that his family had been informed by former political prisoners in Syria that he had been imprisoned with them in September 1993 at the air force intelligence prison near the Mazzé airport. According to the source, the two pieces of information confirmed Mr. El-Habr's presence in Syria.

9. The source maintains that Mr. El-Habr was arrested by the Syrian army together with 200 other Lebanese when it entered the eastern area of Beirut on 13 October 1990; he was subsequently transferred to Syria and placed in a detention facility under Syrian authority. The source provides information on the locations where Mr. El-Habr's relatives were able to visit him and where other prisoners say they saw him, while the Government maintains that the authorities concerned do not have any information about Mr. El-Habr's detention.

10. The Working Group, which has received other complaints alleging that the Syrian authorities have imprisoned persons who were arrested in Lebanon without legal basis and transferred in the same circumstances as Mr. El-Habr to Syria, where they continue to be held, believes that the information and evidence collected by the source are reliable enough for it to conclude that Mr. El-Habr is either being detained in Syria following his transfer there or was detained there for an extended period from 1990 to September 1993, the date on which he was last seen in a Syrian prison, without having been charged or sentenced and without any legal justification having been given to Mr. El-Habr or to his family for his arrest, transfer to Syria and prolonged detention.

11. It follows from the above considerations that the detention of Mr. El-Habr is arbitrary, given that there is absolutely no legal basis for it, and that it comes under category I of the categories applicable to the examination of cases submitted to the Working Group.

12. In the light of the foregoing, the Working Group renders the following opinion:

The detention of Tanious Kamil El-Habr is arbitrary as it is contrary to article 9 of the Universal Declaration of Human Rights and article 9 of the International Covenant on Civil and Political Rights, to which the Syrian Arab Republic is a party, and comes under category I of the categories applicable to the examination of cases submitted to the Working Group.

13. Having issued this opinion, the Working Group requests the Government to adopt the necessary measures to remedy the situation in order to bring it into line with the provisions and principles embodied in the Universal Declaration of Human Rights and the International Covenant on Civil and Political Rights.

Adopted on 5 September 2003
