

No. 55/2013 (Islamic Republic of Iran)

Communication addressed to the Government on 9 September 2013

Concerning Bahman Ahmadi Amouee

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. It was extended for a further three years in resolution 24/7 of 26 September 2013. 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. The case summarized below was reported to the Working Group on Arbitrary Detention.

4. Bahman Ahmadi Amouee, born in XXXX, is a national of the Islamic Republic of Iran. He usually resides in Tehran, where he works as an economist and a journalist specializing in economic analysis.

5. On 20 June 2009, Mr. Amouee was arrested in Tehran by Iranian Government agents. He was immediately detained in Evin Prison. On 28 June 2012, Mr. Amouee was transferred to Rajaei Shar Prison, where he remains today. The source states that he has been denied access to family visits.

It is reported that Mr. Amouee began a hunger strike on 26 July 2010, after being transferred to solitary confinement.

6. Mr. Amouee was found guilty of gathering and colluding with the intent to harm national security; spreading propaganda against the system; disrupting public security; and insulting the President. He was sentenced by the 54th Branch of the Revolutionary Court to a prison term of seven years and four months and to 34 lashes for carrying out anti-State activities. The source reports that his sentence has been reduced to five years.

7. The source states that prior to his arrest, Mr. Amouee wrote articles critical of the Iranian Government. It submits that these articles were used as evidence to establish the charges against him. In the source's view, punishing Mr. Amouee by sentencing him to imprisonment and 34 lashes for expressing his opinion constitutes a serious violation of international standards. The source argues that Mr. Amouee was not accorded his rights to due process and to a fair trial as guaranteed in the Universal Declaration of Human Rights and the International Covenant on Civil and Political Rights, to which the Islamic Republic of Iran is a party.

8. The source states that on 3 May 2011, the group, "Free Bahman Ahmadi Amouee", addressed a petition, which is published on the Internet, to the attention of the Head of the Judiciary and the Attorney General of Tehran, requesting Mr. Amouee's immediate and unconditional release. On 4 December 2012, the Committee of Concerned Scientists addressed a letter to Ayatollah Ali Khamenei, Supreme Leader of the Islamic Republic of Iran, urging him to intervene to overturn Mr. Amouee's sentence.

9. The source submits that Mr. Amouee's deprivation of liberty is arbitrary.

Response from the Government

10. The Working Group transmitted the allegations from the source to the Government of the Islamic Republic of Iran, requesting it to provide in its reply detailed information about Mr. Amouee's current situation and to clarify the legal provisions governing his continued detention.

11. It is regretted that the Government did not respond to the Working Group's request; nor has it requested an extension of the time limit for the reply, as provided for in the Working Group's methods of work.

Discussion

12. Mr. Amouee, an economist and journalist, was arrested on 20 June 2009 and detained for exercising his right to freedom of opinion and expression by writing and publishing articles critical of the Government of Iran. He was subsequently sentenced to seven years and four months' imprisonment and 34 lashes. His sentence was subsequently reduced to five years' imprisonment.

13. The charges against Mr. Amouee are based on provisions in the domestic laws of Iran, namely, gathering and colluding with the intent to harm national security; spreading propaganda against the system; disrupting public security; and insulting the President.

14. The Working Group's consistent position has been to assess the cases submitted to it in the light of international human rights norms and standards, and not domestic law. Vague charges, such as the ones stated above, are contrary to the rights protected and guaranteed under the Universal Declaration on Human Rights and the International Covenant on Civil and Political Rights and cannot, in the opinion of the Working Group, be used to justify Mr. Amouee's arrest and detention.

15. Information available to the Working Group, which has not been challenged by the Government, indicates that Mr. Amouee was arrested and detained for exercising his right to freedom of opinion and expression. The Working Group considers that the period of detention is disproportionate and inordinately long for writing articles critical of the Government.

16. The Working Group does not possess such succinct information regarding the investigation, trial and sentencing process. However, it notes the violations of Mr. Amouee's due process rights, including being held in solitary confinement and denied family visits. These impact on the right to be tried by a fair, impartial and independent tribunal and violate his right to due process.

Disposition

17. In the light of the foregoing, the Working Group on Arbitrary Detention renders the following opinion:

The deprivation of liberty of Bahman Ahmadi Amouee is arbitrary, being in contravention of articles 9, 10 and 19 of the Universal Declaration of Human Rights and articles 9, 14 and 19 of the International Covenant on Civil and Political Rights. It falls within categories II and III of the arbitrary detention categories referred to by the Working Group when considering cases submitted to it.

18. Consequent upon the opinion rendered, the Working Group requests the Government of the Islamic Republic of Iran to release Mr. Amouee forthwith and bring his situation into conformity with the requirements of international human rights instruments. If the case merits a trial, the Working Group requests the Government to ensure a fair, impartial trial, respecting all the guarantees thereof, as enshrined in the domestic law of the Islamic Republic of Iran and in international human rights law.

19. In view of the adverse effects of this wrongful arrest and detention on Mr. Amouee and his family, the Working Group requests the Government of the Islamic Republic of Iran to provide Mr. Amouee with appropriate reparation.

20. The Working Group recalls the Human Rights Council's call for all States to cooperate with the Working Group, to take account of its views and, where necessary, to take appropriate steps to remedy the situation of persons arbitrarily deprived of their liberty, and to inform the Working Group of the steps they have taken.¹

[Adopted on 21 November 2013]

¹Human Rights Council resolution 24/7, paras. 3, 7 and 9.