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**Human Rights Council  
Working Group on Arbitrary Detention****Opinions adopted by the Working Group on Arbitrary  
Detention at its seventy-fifth session, 18-27 April 2016****Opinion No. 10/2016 concerning Befekadu Hailu, Zelalem  
Kibret, Atnaf Berhane, Natnail Feleke, Mahlet Fantahun,  
Abel Wabella, Tesfalem Waldyes, Asmamaw Hailegiorgis  
and Edom Kassaye (Ethiopia)**

1. The Working Group on Arbitrary Detention was established in resolution 1991/42 of the 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 1/102 and extended it for a three-year period in its resolution 15/18 of 30 September 2010. The mandate was extended for a further three years in resolution 24/7 of 26 September 2013.

2. In accordance with its methods of work (A/HRC/30/69), on 16 October 2015 the Working Group transmitted a communication to the Government of Ethiopia concerning Befekadu Hailu, Zelalem Kibret, Atnaf Berhane, Natnail Feleke, Mahlet Fantahun, Abel Wabella, Tesfalem Waldyes, Asmamaw Hailegiorgis, and Edom Kassaye. The Government has not replied to the communication. The State is a party to the International Covenant on Civil and Political Rights.

3. 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 him or her) (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

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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 on the grounds of discrimination based on birth, national, ethnic or social origin, language, religion, economic condition, political or other opinion, gender, sexual orientation, disability or any other status, that aims towards or can result in ignoring the equality of human beings (category V).

## **Submissions**

### *Communication from the source*

4. The case submitted by the source involves nine individuals, six of whom are co-founders of the blog entitled “Zone 9”. The other three are freelance journalists and close social associates of the blog co-founders, and had campaigned on behalf of the Zone 9 blog. All nine individuals are citizens of Ethiopia. The source provided the following information on each of the nine individuals involved in this case:

5. Befekadu Hailu is a 36-year-old information and communications technology specialist, blogger and writer. He is a co-founder of the Zone 9 blog. He has worked as a journalist for various publications and maintains his own blog.

6. Zelalem Kibret is a 29-year-old lawyer and lecturer. He is a co-founder of the Zone 9 blog. He is active on social media, and maintains a blog on education issues.

7. Atnaf Berhane is a 27-year-old information technology specialist and human rights activist. He is a co-founder of the Zone 9 blog. He writes a blog and is active on Twitter. He works for the Addis Ababa city administration.

8. Natnail Feleke is a 28-year-old economist by training and a human rights activist. He is an employee of the Construction and Business Bank and is active within the Ethiopian Economic Association. He is a co-founder of the Zone 9 blog. He maintains a blog and has an active presence on Facebook and Twitter.

9. Mahlet Fantahun is a 32-year-old graduate in applied mathematics. She works as a database administrator at the Ministry of Health in Addis Ababa. She is a co-founder of the Zone 9 blog and is known for her Facebook activism.

10. Abel Wabella is a 30-year-old engineer, translator, and blogger. He is a co-founder of the Zone 9 blog. He writes for his own blog and for an international news website, Global Voices.

11. Tesfalem Waldyes is a 32-year-old freelance journalist who has written for a number of Ethiopian publications. He served as editor of an Amharic-language weekly newspaper, which is no longer in circulation.

12. Asmamaw Hailegiorgis is a 31-year-old journalist and senior editor at an influential Amharic-language news magazine. With a background in information technology, he has also broadcast a radio programme.

13. Edom Kassaye is a 32-year-old freelance journalist, translator, and active member of the Ethiopian Environmental Journalists Association. She previously worked at several newspaper and radio outlets.

14. The Zone 9 blog was founded in May 2012. The blog's name refers to the eight zones in Kaliti Prison near Addis Ababa, where political prisoners are believed to be detained. Articles posted on the Zone 9 blog focused on human rights and social justice issues and were often critical of the Government, particularly the ruling Ethiopian People's Revolutionary Democratic Front coalition. However, the source points out that contributors to the Zone 9 blog consistently emphasized the importance of peaceful political reform, highlighting the protections afforded under the Ethiopian Constitution and urging the Government to respect those provisions.

15. Examples of the blog's initiatives included campaigns to inform the public about their constitutional rights, particularly to freedom of expression and to freedom of association and assembly. These initiatives received considerable attention nationally and internationally. As part of the group's broader campaigns, Zone 9 bloggers published their own individual articles that were then circulated online.

16. In reaction to the articles posted on the Zone 9 blog, the Ethiopian authorities blocked access to the site inside the country, although it continued to be available outside Ethiopia and the organizers were able to circulate articles within the country through the use of social media. The source alleges that the co-founders of the blog were placed under surveillance, and that security officials repeatedly interviewed Mr. Feleke and Ms. Kassaye about the leadership of Zone 9 and whether the group worked with international non-governmental organizations. During the interviews, investigators expressed concern that the blog was a threat to national security. In late 2013, the Zone 9 bloggers stopped posting critical articles due to pressure from the authorities and fear of retaliation.

#### Arrest and pretrial detention of the nine individuals

17. On 23 April 2014, six months after the bloggers stopped campaigning on the blog, they posted an article entitled "We'll keep talking about constitutionalism using our constitutional rights". In that post, they stated that they would focus on the upcoming election and other topics of debate. The bloggers pledged to notify readers of any further attempts by the authorities to exert pressure on them.

18. Two days later, on 25 April 2014, all six members of the Zone 9 blog and two of the independent journalists were arrested by the police. The other independent journalist, Mr. Hailegiorgis, was arrested on 26 April 2014. According to the source, police searched their residences, seizing computers, newspapers, books, and computer discs. The nine individuals were initially held and interrogated at the Maekelawi detention facility in Addis Ababa.

19. The source alleges that all nine individuals were subjected to ill-treatment during the interrogations. The ill-treatment reportedly included being blindfolded, beaten with sticks and cables, kicked, gagged, stomped on, held in stress positions, forced to perform exercise and insulted. Moreover, female detainees were interrogated while they were fully or partially undressed, in the presence of male officers, and the detainees were deprived of food and sleep and were held in solitary confinement for prolonged periods or in cold conditions with limited access to natural light. The source further alleges that, during the interrogation process, the nine individuals were forced to state that the purpose of their peaceful activities was to facilitate the violent overthrow of the Government and were made to sign confessions. They were warned not to report the ill-treatment. Despite this, all nine individuals subsequently brought a complaint concerning their ill-treatment before the Ethiopian Human Rights Commission. Three of them also filed complaints regarding their ill-treatment with the courts.

20. On 27 April 2014, the nine individuals were brought before the Arada First Instance Court in Addis Ababa. They were accused working with foreign organizations that claimed

to promote human rights, supporting their ideas and receiving funding to incite public violence through social media. The source states that the police did not indicate which foreign organizations the nine individuals were believed to have worked with, and did not provide any other specific allegations against them. However, local reports indicated that the individuals were arrested because of their work with Article 19, a human rights organization based in the United Kingdom of Great Britain and Northern Ireland that supports freedom of expression and the right to information.

21. The proceedings were not open to the public and the nine individuals were not allowed access to legal counsel. The Court authorized their detention under article 59 (2) of the Criminal Procedure Code for the purposes of continuing the investigation.

*Joint urgent appeal*

22. On 30 April 2014, the Working Group and four special procedure mandate holders<sup>1</sup> transmitted a joint urgent appeal to the Government seeking information regarding the treatment and well-being of the nine individuals and urging the Government to safeguard their rights. In the joint urgent appeal, the mandate holders requested information regarding the nine individuals, in particular:

- (a) Whether the facts alleged in relation to their cases were accurate;
- (b) Whether a complaint had been lodged on their behalf;
- (c) The legal grounds for their arrest and detention, and whether those measures were compatible with international norms and standards;
- (d) Whether they had access to family members, legal counsel, and medical personnel;
- (e) What measures had been taken to ensure that bloggers and journalists in Ethiopia were able to carry out their peaceful and legitimate activities and express and associate freely without fear of harassment, stigmatization or criminalization of any kind.

23. The Working Group regrets that it did not receive a response from the Government to the joint urgent appeal.

*Further information provided by the source*

24. On 7 and 8 May 2014, the Arada First Instance Court reauthorized the detention of all nine individuals under the Criminal Procedure Code. They were not granted access to a lawyer until 7 May 2014, even though they had previously requested legal counsel. While the proceedings were reportedly open to the public, the source states that many of the supporters, journalists, and diplomats present were unable to attend the hearings because the room chosen was too small.

25. During court proceedings held on 17 May 2014, the Government invoked the 2009 Anti-Terrorism Proclamation. The police indicated that the nine individuals were being investigated and detained under article 20 of the Proclamation. According to the source, although the provisions of the Proclamation allow the court to release suspects on bail provided that they have not been formally charged, the court refused the bail application of

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<sup>1</sup> The Chair-Rapporteur of the Working Group on Arbitrary Detention, the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, the Special Rapporteur on the rights to freedom of peaceful assembly and of association, the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment and the Special Rapporteur on violence against women, its causes and consequences.

the nine individuals on the grounds that the investigation was ongoing. The source states that the Ethiopian courts repeatedly remanded them in custody for the purpose of continuing the criminal investigation, even though neither the police nor the prosecution provided specific information regarding their alleged crimes.

26. On 17 July 2014, the nine individuals were officially charged with terrorism under article 4 of the Anti-Terrorism Proclamation and “outrages against the Constitution” under article 238 (1) of the Ethiopian Criminal Code. They were then transferred from the Maekelawi detention facility to the Kaliti and Kilinto prisons.

27. The source states that, before the start of their trial, high-ranking Ethiopian officials, including the Prime Minister and the Minister of Communications and Information Technology, publicly accused the nine individuals of being part of a regional terror plot and of “attempting to foment a colour revolution”, and warned other journalists about associating with such “terrorist networks”. According to the source, no details were given in the charge sheets to support the alleged terrorist activity. The evidence provided by the prosecutor to justify the charge of serious violations of national security appeared to rely heavily on the defendants’ blog posts and articles. The source points out that the most specific allegation appeared to be the claim that they took part in training workshops on Internet security, using a widely used and publicly available tool developed by a respected human rights organization.

28. After having extended the pretrial detention of the nine individuals on 11 occasions, on 21 November 2014, the Court ruled that the prosecution had failed to present the charges with sufficient clarity. Subsequently, the Court dropped the charges of “outrages against the Constitution” under article 238 (1) of the Criminal Code, and ordered the Government to amend the charges to include specific information on the terrorist activity in which the nine individuals had allegedly participated or attempted to incite.

29. On 3 December 2014, the prosecutor filed a substantively identical charging sheet and the Court once again authorized the detention of the nine individuals. Despite repeated requests for additional information issued by the Court on 16 December 2014, and 5 and 14 January 2015, the prosecutor provided no further information, and the Court reauthorized the detention of the bloggers. As at 26 January 2015, when the present communication was filed by the source, the nine individuals had spent nine months in detention, and the charges against them had yet to be finalized..

#### *Submissions regarding arbitrary detention*

30. The source submits that the arrest and detention of Messrs. Hailu, Kibret, Berhane, Feleke, Fantahun, Wabella, Waldyes, Hailegiorgis, and Kassaye was arbitrary in accordance with categories II and III of the categories applied by the Working Group.

31. The source argues that the arrest, detention and prosecution of the six Zone 9 bloggers and three independent journalists was directly related to the peaceful exercise of their rights to freedom of expression and association under articles 19 and 20 of the Universal Declaration of Human Rights and articles 19 (2) and 22 of the International Covenant on Civil and Political Rights. Therefore, the source contends that their detention was arbitrary under category II. The source reiterates that, before arresting the nine individuals, the Government placed the Zone 9 bloggers under surveillance and repeatedly questioned members of the group, instilling so much fear that they suspended posting critical articles on the website for six months. Moreover, just days after announcing that the blog would be revived to cover important national issues, including the upcoming election, members of the group and the journalists associated with them were arrested and questioned about their writing. According to the source, it is telling that the Government used articles written by group members as evidence of their guilt.

32. The source argues that the permissible limitations on the freedom of expression and association in the Covenant, particularly those that are often invoked by Governments in relation to national security, do not apply in this case. The source submits that the Government must specify the precise nature of the threat posed by the protected activity, and demonstrate the proportionality of the limitation by establishing a direct and immediate connection between the activity and the threat. The source argues that the Government must meet a particularly high threshold when imposing restrictions on the peaceful activities of journalists and rights activists.

33. The source also points to the overly broad and vague anti-terrorism and national security laws in Ethiopia, which enable the Government to criminalize peaceful dissent, arguing that the present case is part of a much larger trend of the misuse of these laws. The source argues that the provisions of the Criminal Code and the Anti-Terrorism Proclamation applied in this case are examples of such laws. The source notes that the definition of a terrorist act (punishable by 15 years in prison or by death) under article 3 of the Proclamation includes any act that “endangers, seizes, puts under control, or causes serious interference or disruption of a public service” with the purpose of “coercing the government, intimidating the public or a section of the public, or destabilizing or destroying the fundamental political, constitutional, economic or social institutions of the country”. Similarly, the offence of “outrages against the Constitution” under article 238 (1) of the Criminal Code covers an overly broad range of conduct, and carries a prison sentence of between 3 and 25 years.

34. The source further submits that the violations of the nine individuals’ right to a fair trial are of such gravity as to render their deprivation of liberty arbitrary under category III. The alleged violations include:

(a) Physical and psychological ill-treatment of the nine individuals in detention, amounting to torture and resulting in coerced confessions contrary to article 7 of the Covenant and the obligations of Ethiopia under the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment;

(b) Failure to provide an independent and impartial tribunal, and violation of the nine individuals’ right to be presumed innocent under articles 10 and 11 of the Universal Declaration of Human Rights, article 14 (1) and (2) of the Covenant, and principle 36 (1) of the Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment. The source argues that the repeated reauthorization of pretrial detention and failure to hold the prosecution to account for failing to provide sufficient evidence indicated a lack of impartiality on the part of the courts. The source further submits that statements made by high-ranking government officials before the trial undermined the fairness of the criminal process;

(c) Failure to allow access to legal counsel violated article 14 (3) (b) and (d) of the Covenant. The nine individuals were not permitted to communicate with legal counsel during the 10-day period between their arrests on 25 and 26 April 2014 and the second detention hearing on 7 May 2014. At their initial hearing on 27 April 2014, the bloggers had also been brought before the Court without any legal representation.

35. On 5 August 2015, the source notified the Working Group that Mr. Kibret, Ms. Fantahun, Mr. Waldyes, Mr. Hailegiorgis and Ms. Kassaye had been released from prison on 8 July 2015 and the charges against them had been dropped, almost 15 months after their initial arrest. No official explanation was given for their release or the continued detention of the other four bloggers. In a media interview, the Minister of Communications and Information Technology indicated that the prosecutor had withdrawn the charges against five of the accused because they were “just accomplices whereas the remaining bloggers are the main actors”.

*Response from the Government*

36. On 16 October 2015, the Working Group transmitted the allegations made by the source to the Government under its regular communication procedure, with particular reference to the four bloggers remaining in detention.<sup>2</sup> The Working Group requested the Government to provide detailed information by 15 December 2015 on the current situation of the four bloggers, and to clarify the legal provisions justifying their continued detention. The Working Group also requested the Government to provide details regarding the conformity of their trial with international law, particularly international human rights instruments to which Ethiopia is party.

37. The Working Group regrets that it received no response from the Government. The Government did not request an extension of the time limit for its reply, as provided for in the Working Group's methods of work. Under paragraph 15 of its methods of work, the Working Group may render an opinion in the absence of a response from the Government.

*Further updates from the source*

38. On 26 October 2015, the source provided a further update to the Working Group. According to the source, Messrs. Hailu, Berhane, Feleke and Wabella were acquitted of terrorism charges on 16 October 2015. The four bloggers were released from prison the following day, almost 18 months after their initial arrest. However, a new charge of incitement to violence under article 257 of the Criminal Code was brought against Mr. Hailu, and he was released on bail. The new charge against Mr. Hailu is based on the same evidence as that described above.

39. As at 23 March 2016, none of the nine individuals remained in prison. However, the Government had appealed the acquittal of Messrs. Hailu, Berhane, Feleke and Wabella, and they were awaiting the final appeal before the Supreme Court. Mr. Hailu was awaiting trial for the additional charge brought against him. The source notes with concern that the four bloggers remain at risk of re-imprisonment if the Supreme Court reverses the verdict of acquittal, or if Mr. Hailu is convicted of the new charge.

**Discussion**

40. The Working Group welcomes the release from detention of all of the nine individuals.

41. Under paragraph 17 (a) of its methods of work, the Working Group reserves the right to render an opinion, on a case-by-case basis, on whether the deprivation of liberty was arbitrary, notwithstanding the release of the persons concerned. In this case, the Working Group considers that it is important to render an opinion, having taken into account the following factors:

(a) The alleged silencing of prominent critical voices, in what appears to be a pattern of conduct by the Government seeking to criminalize the peaceful exercise of human rights;<sup>3</sup>

<sup>2</sup> The regular communication also referred briefly to the facts pertaining to the five individuals who had been released, as the allegations against all nine individuals were based on the same evidence.

<sup>3</sup> See, for example, opinions No. 2/2015, No. 62/2012 (discussed below), No. 28/2009 and No. 18/1999. See also a statement published by six special procedure mandate holders urging Ethiopia to stop using anti-terrorism legislation to curb human rights (Office of the United Nations High Commissioner for Human Rights, news release (Geneva, 18 September 2014), available at: [www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=15056&LangID=E](http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=15056&LangID=E)). In the

(b) Information provided by the source that four of the nine individuals remain at risk of being returned to prison, as outlined above;

(c) Multiple alleged violations of the right to a fair trial under international human rights law;

(d) Serious allegations of ill-treatment, possibly amounting to torture, of the nine individuals;

(e) The length of time the nine individuals were held in detention (almost 15 months for five of the nine, and almost 18 months for the other four) before they were released.

42. The release of the nine individuals does not absolve the Government of its obligations under international law, including the obligation to provide compensation for harm suffered, if the deprivation of liberty is found to be arbitrary.

43. In its jurisprudence, the Working Group has established the ways in which it deals with evidentiary issues. If the source has established a prima facie case for breach of international requirements constituting arbitrary detention, the burden of proof should be understood to rest upon the Government if it wishes to refute the allegations.<sup>4</sup>

44. In this case, the Government has chosen not to challenge the prima facie, credible allegations made by the source. These allegations strongly suggest that the bloggers and journalists were detained solely for exercising their rights to freedom of expression and of association, rather than for any alleged terrorist acts. The Working Group takes note of the fact that the bloggers and journalists were arrested two days after resuming their criticism of the Government in the Zone 9 blog, and that their articles on human rights and social justice appear to have been used as the primary sources of evidence against them. Indeed, the release of five of the individuals, and the acquittal of the other four, suggests that the Government never had a strong case against any of the bloggers.

45. Moreover, the Working Group has had regard to other reliable information that supports the source's claims. In particular, the Working Group recalls its opinion No. 62/2012,<sup>5</sup> a case similar to the present one in many respects. In that case, Ethiopia was found to have arbitrarily deprived a journalist and blogger of his liberty, constituting a violation falling within categories II and III, by applying the overly broad provisions of the Anti-Terrorism Proclamation. As in the present case, no details were provided as to the specific threat posed by the journalist, and the Working Group concluded that the prosecution of the journalist was a direct consequence of the exercise of his right to freedom of expression. The Working Group has reached the same conclusion in the present case.

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statement, the mandate holders noted the following: "Two years after we first raised the alarm, we are still receiving numerous reports on how the anti-terrorism law is being used to target journalists, bloggers, human rights defenders and opposition politicians in Ethiopia." In addition, during the consideration of Ethiopia in the second cycle of the universal periodic review, a number of States expressed concern that journalists and media providers continued to be arbitrarily detained under the Anti-Terrorism Proclamation and recommended that Ethiopia ensure that the freedoms of expression and of association were not criminalized under the Proclamation. See A/HRC/27/14, paras. 30, 43, 49, 73, 75, 77, 103, 132-33, 140, 148, 155.104-108, 155.161-163, 156.5-6, 157.7, 157.18, 158.32-35 and 158.50-53.

<sup>4</sup> See, for example, A/HRC/19/57, para. 68, and opinion No. 52/2014.

<sup>5</sup> See opinion No. 62/2012.

46. Thus, the Working Group concludes that the nine individuals were deprived of their liberty in violation of articles 19 and 20 of the Universal Declaration of Human Rights and articles 19 (2) and 22 of the Covenant on Civil and Political Rights. The deprivation of liberty falls within category II, as applied by the Working Group.

47. Furthermore, the Working Group considers that the source's allegations disclose serious violations of the right to a fair trial. The Working Group is particularly concerned about the alleged acts of torture of the nine individuals in violation of article 5 of the Universal Declaration of Human Rights and article 7 of the Covenant, resulting in coerced confessions. The information provided by the source indicates that the confessions were taken into account in determining the charges brought against the nine individuals. The charge sheet refers to signed confessions which may be used as evidence. The charge sheet then lists the nine individuals, indicating that they had signed confessions, and noting the number of pages of each document, presumably referring to their written confessions.

48. The Working Group recalls general comment No. 32 on the right to equality before courts and tribunals and to a fair trial, published by the Human Rights Committee, in which the Committee states in paragraph 41 that, under article 14 (3) (g) of the Covenant, it is unacceptable to torture or subject a person to other ill-treatment in order to extract a confession, and that the burden is on the State to prove that statements made by the accused have been given of their own free will.<sup>6</sup> The Working Group concurs with the European Court of Human Rights, which has found that the admission of statements obtained as a result of torture or of other ill-treatment as evidence in criminal proceedings renders the proceedings as a whole unfair. This finding applies irrespective of the probative value of the statements and irrespective of whether their use was decisive in securing the defendant's conviction.<sup>7</sup> The Working Group reminds the Government of its obligations under articles 2 and 15 of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment to prevent acts of torture in any territory under its jurisdiction,<sup>8</sup> and to ensure that any statement made as a result of torture is not invoked as evidence in any proceedings. The Working Group will refer this matter to the relevant special rapporteur for further consideration and, if necessary, appropriate action.

49. Furthermore, the source has submitted credible information that the nine individuals were deprived of the right to an independent and impartial tribunal and the presumption of innocence, as well as the right to legal representation prior to their second detention hearing on 7 May 2014. The Working Group takes note of the fact that the Court ultimately acquitted four of the nine defendants in October 2015, which suggests a degree of independence and impartiality. However, the fact that the Court repeatedly allowed the proceedings to continue and failed to hold the prosecution to account for presenting its case also suggests a lack of independence, which the Government has not rebutted with information to the contrary. As a result, the four bloggers were detained for almost 18 months before they were acquitted, their cases likely serving as a significant deterrent to the exercise of freedom of expression and association by others in a similar position.

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<sup>6</sup> See CCPR/C/GC/3223.

<sup>7</sup> See, for instance, European Court of Human Rights, *Gäfgen. v. Germany*, application No. 22978/05, judgment of 1 June 2010, para.166; *El Haski v. Belgium*, application No. 649/08, judgment of 25 September 2012, para. 85.

<sup>8</sup> See also the United Nations Standard Minimum Rules for the Treatment of Prisoners (the Nelson Mandela Rules), rules 1 and 57 (3). These rules reiterate the absolute prohibition of torture and other cruel, inhuman or degrading treatment or punishment for prisoners, and state that allegations of such treatment must be dealt with immediately and must result in a prompt and impartial investigation by an independent national authority.

50. The Working Group recalls its list of principles concerning the compatibility of anti-terrorism measures with articles 9 and 10 of the Universal Declaration of Human Rights and articles 9 and 14 of the Covenant.<sup>9</sup> In line with these principles, the detention of persons suspected of terrorist activities must be accompanied by concrete charges, and the accused persons must have a right to enjoy the necessary guarantees of a fair trial, such as access to legal counsel and representation. These protections were not afforded to the bloggers and journalists in this case.

51. The Working Group therefore concludes that the breaches of articles 10 and 11 of the Universal Declaration of Human Rights and article 14 of the Covenant are of such gravity as to render the deprivation of liberty of the nine individuals arbitrary, falling within category III of the categories referred to by the Working Group when considering cases submitted to it.

52. Finally, the Working Group notes with concern the fact that the Government has not responded to the serious allegations in this case. The Working Group recalls that the Human Rights Council called 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.<sup>10</sup>

### **Disposition**

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

The deprivation of liberty of Befekadu Hailu, Zelalem Kibret, Atnaf Berhane, Natnail Feleke, Mahlet Fantahun, Abel Wabella, Tesfalem Waldyes, Asmamaw Hailegiorgis and Edom Kassaye was arbitrary, being in contravention of articles 5, 9, 10, 11, 19 and 20 of the Universal Declaration of Human Rights and articles 7, 9, 14, 19 and 22 of the Covenant; it falls within categories II and III of the arbitrary detention categories referred to by the Working Group when considering cases submitted to it.

54. Consequent upon the opinion rendered, the Working Group requests the Government to take the necessary steps to remedy the situation of the nine individuals named above without delay and to bring it into conformity with the standards and principles set forth in the Universal Declaration of Human Rights and the Covenant.

55. Taking into account all the circumstances of the case, the Working Group considers that the adequate remedy would be to accord the nine individuals named above an enforceable right to compensation under the provisions of article 9 (5) of the Covenant for the harm they suffered during their arbitrary deprivation of liberty. Under international law, victims of arbitrary deprivation of liberty are entitled to seek and obtain effective reparations from the State, which includes restitution, compensation, rehabilitation, satisfaction and guarantees of non-repetition.

56. The Working Group urges the Government to ensure that the nine individuals named above are not subjected to further ill-treatment. The Working Group also urges the Government to fully investigate the circumstances surrounding their arbitrary deprivation of liberty, and to take appropriate measures against those responsible for the violation of their rights.

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<sup>9</sup> See A/HRC/10/21, paras. 50-55. In addition, see the Principles and Guidelines on Human and Peoples' Rights while Countering Terrorism in Africa, parts 1 (F) and (I), 3 and 4. The Principles and Guidelines were officially released in Addis Ababa on 29 January 2016.

<sup>10</sup> Human Rights Council resolution 24/7, para. 3.

57. In accordance with paragraph 33 (a) of its methods of work, the Working Group refers the allegations of torture and ill-treatment to the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment for appropriate action.

*[Adopted on 20 April 2016]*

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