

HAUT-COMMISSARIAT AUX DROITS DE L'HOMME • OFFICE OF THE HIGH COMMISSIONER FOR HUMAN RIGHTS
PALAIS DES NATIONS • 1211 GENEVA 10, SWITZERLAND

Mandates of the Working Group on Arbitrary Detention; the Special Rapporteur on freedom of religion or belief; the Special Rapporteur on minority issues; and the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment

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Excellency,

We have the honour to address you in our capacity as Chair-Rapporteur of the Working Group on Arbitrary Detention; Special Rapporteur on freedom of religion or belief; Special Rapporteur on minority issues; and Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment pursuant to Human Rights Council resolutions 24/7, 22/20, 25/5, and 25/13.

In this connection, we would like to bring to the attention of your Excellency's Government information we have received regarding allegations of arbitrary detention and torture of Mr. **Hamid Kamali**, a Bahá'í follower in Yemen.

According to the information received:

Mr. Hamid Kamali, a Bahá'í follower in Yemen, was arrested by the authorities at his work place on 3 December 2013 in Balhaf, province of Shabwa. His arrest was allegedly ordered by the head of the National Security Agency who has since then also ordered the deportation of other Bahá'ís followers who are residing in the country.

On 17 December 2013, four armed men from the security force, together with two female officers from the criminal section of Security Department of west Al-Mukalla, went to the home of Mr. Kamali with a search warrant where they confiscated documents, including Mr. Kamali's passport and travel documents, several laptops, letters of Bahá'í institutions, a number of floppy discs and hard discs. When Mrs. Kamali demanded to know the charges brought against her husband, it was alleged that one of them referred to Mr. Kamali as a "destroyer of Islam and religion". Mr. Kamali had since his arrest been detained in the National Security Prison in Sana'a with no legal representation.

Reportedly, Mrs. Kamali was unable to visit her husband until an appointment was made on 31 August 2014. However, when she arrived at the prison with her three daughters, she was told that the visit could not take place without any justification. On 2 September 2014, Mrs. Kamali could finally visit Mr. Kamali when his custody was transferred from the National Security Agency to the Special Criminal Prosecution Unit. Mr. Kamali informed his wife that he had been subjected to “electric torture” and severe beatings during forty-five days, and that he had not been given any food and had lost 30 kilograms. He also sustained hearing loss in his left ear as a result of the beatings. Furthermore, he was blindfolded and made to sign a 19-page document, the contents of which were not made known to him.

Mr. Kamali is accused of “spying for Israel” and of proselytizing the Bahá’í faith, a religion that is considered to contradict and oppose Islam. Mrs. Kamali, along with two attorneys met with a Prosecutor of the Special Criminal Prosecution Unit, who refused to give them a copy of the charges filed against him. The Prosecutor claimed that through his years in the office, he has come across 22 individuals who were accused of being spies for Israel; all of whom were killed in prison and their deaths were reported as suicides.

Mrs. Kamali and the attorneys met with the Prosecutor again on the following day to further enquire about the investigation concerning her husband. The Prosecutor advised the attorneys to prepare two letters: one indicating that it is unlawful to detain a person for longer than 15 days without interrogation, which according to the Prosecutor would help to accelerate the process; the other requesting for Mr. Kamali’s family to visit him in prison. The Prosecutor signed both letters which were then presented to the leading judge of the case.

In response to the first letter, the judge told Mrs. Kamali that “your husband’s case concerns all the Bahá’ís. This is just the beginning; we are going to expel all of you out of Yemen. Those among you who are Yemeni will be prosecuted as apostates.” The judge also threatened Mrs. Kamali to stop exercising her profession as a teacher or he would make sure that she joined her husband in the prison. He further forbade her to speak to any Muslim or to engage in any other profession.

On 16 September 2014, Mr. Kamali was interrogated by the judge in connection to the charges against him in the presence of his attorney. Despite objections raised by the latter, the attorney was not allowed to speak.

Serious concern is expressed that Mr. Hamid Kamali was arrested on the ground of his religion or belief; that he was subjected to torture and severe beatings while in detention; and that he was forced to sign confessions that may be used in court against him. The allegations received also raise major concerns in relation to the independence of

the members of the judiciary, as well as their intolerant and discriminatory statements towards religious minorities.

Without expressing at this stage an opinion on the facts of the case and on whether the detention of Mr. Kamali is arbitrary or not, the above allegations appear to be in contravention of the right not to be deprived arbitrarily of liberty and to fair proceedings before an independent and impartial tribunal, as set forth in articles 9 and 10 of the Universal Declaration of Human Rights (UDHR) and articles 9 and 14 of the International Covenant on Civil and Political Rights (ICCPR), acceded to by the Republic of Yemen on 9 February 1987.

We would like to remind your Excellency's Government of the absolute and non-derogable prohibition of torture and other ill-treatment as codified in article 1 of the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (CAT), which Yemen accessed on 5 November 1991.

We are appealing to your Excellency's Government to ensure the right to freedom of religion or belief, in accordance with article 18 of the ICCPR and the UDHR, that guarantees the right to freedom of thought, conscience and religion, including freedom to change his religion or belief; and the right to manifest his religion or belief in teaching, practice, worship and observance either alone or in community with others and in public or private. Article 2 (1) of the 1981 Declaration of the General Assembly also emphasizes that no one shall be subject to discrimination by any State, institution, group of persons, or person on the grounds of religion or other belief.

Recognizing that those individuals affected are members of religious minorities in the Republic of Yemen, we would like to bring to your Excellency's Government attention the international standards regarding the protection of the rights of persons belonging to religious minorities, in particular to article 27 of the ICCPR, that guarantees minorities, inter alia, the right to profess and practice their own religion. Moreover, the 1992 Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities requires States to protect the existence and identity of religious minorities within their territories, to adopt appropriate legislative and other measures to achieve those ends (Article 1) and to ensure that persons belonging to minorities may exercise their human rights without discrimination and in full equality before the law (Article 4.1).

The full texts of the human rights instruments and standards recalled above are available on www.ohchr.org and can be provided upon request.

In view of the urgency of the matter, we would appreciate a response on the initial steps taken by your Excellency's Government to safeguard the rights of Mr. Hamid Kamali in compliance with the above international instruments and standards.

Since it is our responsibility under the mandate provided to us by the Human Rights Council to seek to clarify all cases brought to our attention, we would be grateful for your observations on the following matters:

1. Please provide any additional information and any comment you may have on the above-mentioned allegations;
2. Has a complaint been lodged by or on behalf of Mr. Kamali?
3. Please provide information concerning the legal grounds for the arrest and detention of Mr. Hamid Kamali and how these measures are compatible with international norms and standards as stated, inter alia, in the UDHR and the ICCPR.
4. Please provide the details, and where available the results, of any investigation, medical examinations of the alleged torture and severe beatings, and judicial or other inquiries carried out in relation to this case. If no inquiries have taken place, or if they have been inconclusive, please explain why.
5. Please indicate what measures have been taken to ensure that persons belonging to religious minorities, including members of the Bahá'ís, can exercise freely and without discrimination their right to freedom of religion and belief.

While awaiting a reply, we urge that all necessary interim measures be taken to halt the alleged violations and prevent their re-occurrence and in the event that the investigations support or suggest the allegations to be correct, to ensure the accountability of any person responsible of the alleged violations.

Your Excellency's Government's response will be made available in a report to be presented to the Human Rights Council for its consideration.

Please accept, Excellency, the assurances of our highest consideration.

Mads Andenas
Chair-Rapporteur of the Working Group on Arbitrary Detention

Heiner Bielefeldt
Special Rapporteur on freedom of religion or belief

IZSÁK Rita
Special Rapporteur on minority issues

Juan E. Méndez
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