

Mandates of the Working Group on Arbitrary Detention and the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment.

REFERENCE: UA
YEM 1/2014:

16 June 2014

Excellency,

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

In this connection, we would like to bring to the attention of your Excellency's Government information we have received regarding the incommunicado detention of **Mr. Ahmed Ghanem Maarouf Al Masraba** for almost 33 years.

According to the information received:

Mr. Ahmed Ghanem Maarouf Al Masraba (أحمد غانم معروف المسربية), a Yemeni businessman born in 1947, disappeared on 17 December 1981. Prior to his disappearance, he was a member of the Arab Socialist Baath Party, a left-wing party opposing the then Government of Northern Yemen. He usually resided in the district of Wusab, Dhamar Governorate, Yemen.

Mr. Al Masraba learned that he was wanted by the authorities of North Yemen as a consequence of his political involvement and decided to surrender himself, as he feared that he would otherwise be killed. On 17 December 1981, he left his home in the village of Medlab in Wusab, Dhamar Governorate in Northern Yemen and never returned home. Since then, his family unsuccessfully tried to obtain information about Mr. Al Masraba's fate and whereabouts from the authorities for more than 30 years.

However, Mr. Al Masraba's family learned that he was first held by the Military Intelligence in Sana'a and then in the Political Security prison of Sana'a as of 1984. In 2003, his son was informed by a security officer that Mr. Al Masraba was transferred from the Political Security prison of Sana'a to a secret prison located in Belad Arrous in the south of Sana'a. While Mr. Al Masraba's lawyer referred this information to the authorities and requested them to investigate the matter, no investigations were carried out. While his son also submitted his father's case to the Ministry of Human Rights twice, the applications did not yield any results.

Mr. Al Masraba's son was eventually authorized to visit his father. On 17 April 2014, Mr. Al Masraba's son agreed to be blindfolded by an officer of the Political Security and taken by car to an unknown location in Sana'a. At the final destination, he was taken to a basement where he finally saw his father after almost 33 years of his disappearance.

The authorities reportedly promised to have Mr. Al Masraba released to Al Hudaydah psychiatric hospital. It is reportedly common for the authorities to transfer the Political Security's detainees to psychiatric hospitals, so as to disguise the fact that they had been held in the Political Security's secret prisons and to prevent them from revealing the truth about the practice of secret detention. On 21 April 2014, Mr. Al Masraba's son went to Al Hudaydah psychiatric hospital, but was unable to find his father there. A few days later, Mr. Al Masraba's son went to the psychiatric hospital again and requested to meet his father. Instead, they brought him an old man whom he did not recognize and tried to convince him that it was his father. He then went to the Political Security prison in Al Hudaydah to obtain information about his father's whereabouts and to request his immediate release. The political security officials rejected his request and told him that he had to obtain authorisation from the former head of the Political Security, Mr. [REDACTED], who was dismissed in March 2014.

Serious concern is expressed that Mr. Al Masraba has been held in incommunicado detention for almost 33 years and that his precise whereabouts are currently unknown. We further express grave concern about the physical and psychological integrity of Mr. Al Masraba.

While we do not wish to prejudge the accuracy of these allegations or to express an opinion on whether or not the detention of Mr. Al Masraba is arbitrary, the above allegations appear to be in contravention of the right not to be deprived arbitrarily of his liberty, as set forth in article 9 of the Universal Declaration of Human Rights (UDHR) and article 9 of the International Covenant on Civil and Political Rights (ICCPR), to

which Yemen acceded to on 9 February 1987, as well as the right to fair proceedings before an independent and impartial tribunal, as set forth in article 10 of the UDHR and article 14 of the ICCPR. Further, paragraph 8b of Human Rights Council Resolution 16/23, states that prolonged incommunicado detention or detention in secret places can facilitate the perpetration of torture and other cruel, inhuman or degrading treatment or punishment and can in itself constitute a form of such treatment.

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

In view of the seriousness of the matter, we would appreciate a response on the steps taken by your Excellency's Government to safeguard the rights of Mr. Al Masraba in compliance with Yemen's international human rights obligations. We would also like to take this opportunity to urge your Excellency's Government to ensure that Mr. Al Masraba has access to his family members, a lawyer of his choice and medical personnel, if necessary.

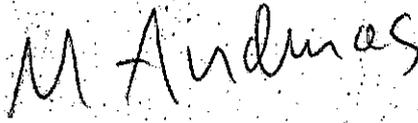
As it is our responsibility, under the mandates provided to us by the Human Rights Council, to seek to clarify all cases brought to our attention, we would be grateful for your observations on the following matters:

1. Please provide information and any comment you may have on the above-mentioned allegations.
2. Please provide information on the legal grounds for the detention of Mr. Al Masraba and explain how such measures are compatible with the international human rights law and standards.
3. Please provide information on the whereabouts of Mr. Al Masraba.
4. Please provide the details, and where available the results, of any investigation, 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.

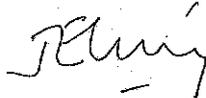
While awaiting a reply, we urge that all necessary interim measures be taken to halt the alleged violations and prevent their re-occurrence and in the event that the investigations support or suggest the allegations to be correct, to ensure the accountability of any person responsible of the alleged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

A handwritten signature in dark ink, appearing to read "M Andenas". The letters are cursive and somewhat stylized.

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

A handwritten signature in dark ink, appearing to read "J. Méndez". The signature is cursive and includes a horizontal line under the "z".

Juan E. Méndez
Special Rapporteur on torture and other cruel, inhuman or degrading
treatment or punishment