

**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 2/2014:

9 July 2014

Excellency,

We have the honour to address you in our capacity as Chair-Rapporteur of the Working Group on Arbitrary Detention and the 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 alleged incommunicado detention of Mr. Sharif Mobley, a U.S. citizen who was initially apprehended in January 2010 due to his suspected contact with al-Qaeda. I wish to inform your Excellency's Government that this communication is also addressed to the Government of the United States of America.

According to the information received:

Mr. Sharif Mobley is a citizen of the United States of America, born on [REDACTED]. He moved to Yemen with his wife and young daughter in mid-2008. However, he and his family decided to return to the United States in late 2009, given the deteriorating security situation in Yemen.

When Mr. Mobley presented himself at the U.S. Embassy, the U.S. officials refused to process the family's travel documents and interrogated him about his contacts and activities in Yemen. After he left the Embassy, he noticed that he was being followed home. The family returned to the Embassy several times for assistance to no avail.

On the morning of 26 January 2010, two white vans pulled up in front of a small shop on Souq al-Maqaleh Street in Sana'a, Yemen, where Mr. Mobley had

stopped to take tea. Eight armed men dressed in black and with balaclavas came out of the vans and tried to apprehend Mr. Mobley without identifying themselves or showing a warrant. Mr. Mobley tried to escape their grasp, but he was shot twice in the leg and thrown into one of the vans. When Mr. Mobley asked to speak to U.S. consular authorities, his captors struck him in the head.

While Mr. Mobley's wife immediately reported the kidnapping to the U.S. Embassy on 26 January 2010, the consular officials refused to intervene. At 1:00 a.m. in the morning on 27 January 2010, fifteen to twenty soldiers and men in plain clothes raided Mr. Mobley's home. His wife and two children held at gunpoint and strip-searched.

In the meantime, Mr. Mobley was taken to the Police Hospital in Sana'a where his leg was operated. He was subsequently taken to the Police Hospital's 'prison ward', where he was blindfolded and continuously shackled and handcuffed to the hospital bed. After four days, two U.S. agents, who identified themselves as "█████" from FBI and "█████" from DOD", visited him. They told him that he was not under formal arrest and that he had no rights under the U.S. Constitution. Over the next few weeks, these two men interrogated him about his possible contact with Anwar Al-Aulaqi, considered to be one of the senior leaders of Al-Qaeda operating in Yemen. It is reported that Mr. Mobley's arrest and detention may also be linked to the attempted bombing of a Northwest Airlines plane on 25 December 2009 by a Nigerian national, for which al-Qaeda operatives in Yemen claimed responsibility. During one interrogation session, they dangled the keys to his house in his face, implying that his wife was either in their custody or at their mercy. They also threatened that he would be sent to prison and that he would be raped there. Furthermore, they told him that his wife would be seized and his children would be placed in an orphanage, and he would never see them again.

Approximately 21 to 25 days after Mr. Mobley's apprehension, the two agents told him that he was going to be taken to prison very soon. Shortly thereafter, he was hooded and shackled, put in the back of a van, and driven to an unknown location, which could possibly be the Political Security prison in Sana'a. Upon arrival, he was subjected to abuse and ill-treatment. He was beaten, kicked in the leg, and cursed by the guards. They then dragged him down a flight of stairs and left him on a metal slab, where he lost consciousness.

Mr. Mobley was then taken to the Jumhori Hospital in Sana'a, where he was held incommunicado for another three to four weeks. "█████" and "█████" came to interrogate him at least once during this period, and reiterated their previous threats. At no point, Mr. Mobley was permitted to see a lawyer or a consular official, or to contact his family.

On 7 March 2010, Mr. Mobley apparently attempted to escape from the Jumhori Hospital and killed a security guard and injured another in the process. He was subsequently transferred to the Political Security prison and initially investigated by the Specialized Criminal Court for the murder. His case was transferred to the Western District Court in Sana'a, as the prosecutor determined that there was no evidence to charge him with any terrorism offence.

Mr. Mobley was able to contact his family by phone for the first time on 12 April 2010, and a lawyer for the first time on 19 May 2010.

In about September 2010, Mr. Mobley was transferred to the Central Prison in Sana'a. He was last seen by his lawyers there on 27 February 2014 and his whereabouts have been unknown since then. Although Mr. Mobley's lawyers, who visited the Central Prison on 22 March 2014, were told that he had been transferred to the Political Security prison, they could not find him there. When they submitted a request to the Central Prison for information about him, the administration confirmed his transfer from the Central Prison but did not provide information about his destination. The administration, however, denied that he was in either the Political Security prison or the National Security prison. It is reported that Mr. Mobley's disappearance occurred the night before a court hearing was scheduled, in which his defense lawyers intended to introduce extensive evidence about the United States' role in his secret detention.

On 7 April 2014, Mr. Mobley's lawyer requested the U.S. Embassy to locate him and to ensure their access to him. The U.S. Embassy indicated that while they were aware of Mr. Mobley's disappearance, the Yemeni Government refused to disclose his whereabouts due to "security concerns".

On 10 April 2014, Mr. Mobley's lawyers looked for him in a prison run by Yemen's Central Security organization, a paramilitary force allegedly equipped and funded by the U.S. Government. However, they were told that Mr. Mobley was not detained there. The lawyers wrote to the Minister of Interior on that day, requesting access to Mr. Mobley. On 14 April 2014, Mr. Mobley's lawyers wrote to the U.S. Embassy, reiterating their request for information about his whereabouts and also noting the possibility that he may be held by the Central Security organization. While acknowledging the communication, the U.S. officials refused to answer.

On 10 and 25 June 2014, Mr. Mobley was scheduled to appear in court for his hearings. However, on both occasions, the Yemeni Government did not produce him, invoking the deteriorating security situation. To date, neither his family nor his lawyers or family have been informed of Mr. Mobley's whereabouts.

We express serious concern that Mr. Mobley has allegedly been detained without charge or trial since 16 January 2010, and has been held repeatedly incommunicado for prolonged periods during that time. We are also concerned that he has been interrogated repeatedly, physically ill-treated or even tortured and subjected to various threats against him and his family. We are further gravely concerned that Mr. Mobley's whereabouts are currently unknown to his family and his lawyers.

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. Mobley is arbitrary, the above allegations appear to be in contravention of Mr. Mobley's 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), acceded to by your Excellency's Government 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.

Moreover, 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 the United States of America ratified on 21 October 1994. We would also like to remind your Excellency's Government, that prolonged incommunicado detention or detention in secret places can facilitate the perpetration of torture or other cruel, inhuman or degrading treatment or punishment and can in itself constitute a form of such treatment. Furthermore, we would like to draw the attention of your Excellency's Government to article 12 of the CAT, which requires the competent authorities to undertake a prompt and impartial investigation wherever there are reasonable grounds to believe that torture has been committed, and article 7 of the CAT, which requires State parties to prosecute suspected perpetrators of torture. In this context, we would also like to recall paragraph 7b of the Human Rights Council Resolution 16/23.

The full texts of the human rights instruments and standards recalled above are available on [www.ohchr.org](http://www.ohchr.org) or 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. Mobley in compliance with the above international instruments.

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 any additional information and any comment you may have on the above-mentioned allegations.

2. Please provide information on the legal grounds for the arrest and continued detention, including incommunicado detention, of Mr. Mobley and explain how such measures are compatible with the international human rights law and standards.

3. Please provide information on the whereabouts of Mr. Mobley.

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 my highest consideration.

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

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

