

OPINION No. 8/2009 (UNITED ARAB EMIRATES)

Communication addressed to the Government on 14 October 2008.

Concerning Mr. Hassan Ahmed Hassan Al-Diqqi.

The State is not a party to the International Covenant on Civil and Political Rights.

1. The Working Group on Arbitrary Detention was established by resolution 1991/42 of the former Commission on Human Rights. Its mandate was clarified and extended by Commission's resolution 1997/50. The Human Rights Council assumed the Working Group's mandate by its decision 2006/102 and extended it for a further three-year period by resolution 6/4 of 28 September 2007. Acting in accordance with its methods of work, the Working Group forwarded the above-mentioned communication to the Government.

2. The Working Group expresses its thanks to the Government for having submitted information on the allegations transmitted.

3. The Working Group regards deprivation of liberty as arbitrary in the following cases:

I. 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 sentence or despite an amnesty law applicable to him) (category I);

II. 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);

III. 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).

4. The case was transmitted to the Working Group as follows:

5. Mr. Hassan Ahmed Hassan AL-DIQQI (hereafter Mr. Al-Diqqi) is a citizen of the United Arab Emirates born on 3 January 1957. He is an accountant by trade, having held various posts within the administration of U.A.E., an independent expert with consultative status to the courts, and a human rights defender.

6. It was reported that Mr. Al-Diqqi was arrested on 20 July 2008, in Sharjah, and taken to premises of the State Security Services. According to the information received, it would have been proposed to Mr. Al-Diqqi that he ceases all political

activity and closes his Internet website, or else he would be facing legal proceedings concerning a case of rape. He refused such proposal.

7. Mr. Al-Diqqi was then taken to the central prison where he is currently detained. His arrest was not officially communicated to his family, but rather reported in a press article, non-signed, published on 24 July 2008 in the daily newspaper *Al-Imarat Al-Yawm*, considered to be close to the authorities. This article presented Mr. Al-Diqqi as the person behind a rape crime committed three years before on a Filipino female citizen, and for which he would be sentenced *in absentia* to capital punishment. Another press article, non-signed, in the daily *Al Itihad*, also considered to be close to Government, published on 26 July 2008, presented Mr. Al-Diqqi as the 'initiator of an Internet website which aims at politicising his case which is of criminal nature'.

8. During a recent family visit to the prison, Mr. Al-Diqqi confirmed to the visitor: that he was indeed subjected to blackmailing by the authorities since his arrest; and that he was indeed asked to shut down his Internet site and to cease all activities pertaining to defence of human rights in his country; all of it in exchange for his release.

9. The source maintains that Mr. Al-Diqqi might be victim of fabricated legal proceedings by the authorities, with the sole aim of discrediting Mr. Al-Diqqi as a human rights defender known throughout the country, and to cause him to cease all related activities.

10. The source further notes that Mr. Al-Diqqi's arrest was decided in order to impede him to give his contribution to the Third session of the Universal Periodic Review by the United Nations Human Rights Council, which took place in December 2008, and on which the human rights situation of the United Arab Emirates was examined.

11. According to the source, the arrest and detention of Mr. Al-Diqqi are exclusively due to the exercise of his right to freely and peacefully express his political opinions and that of denouncing human rights violations and abuse within his country. His arrest and detention are clearly connected to Mr. Al-Diqqi's engagement in the fight against violations of human rights and fundamental freedoms in the United Arab Emirates; the purpose behind these being to prevent him from pursuing peaceful activities but also de facto ban all activity of this nature in the country.

12. Furthermore, the source argues that the authorities are maintaining a secure grip on the activities of human rights defenders, with the express aim at create a complete blackout on all information concerning human rights violations in the Emirates.

13. The source also provides information concerning Mr. Al-Diqqi's work in defence of human rights, and denouncing violations in the country. In 2006, Mr. Al-Diqqi created his own organisation for defence of human rights, the Emirates People's Rights Organisation (Emirates PRO), which has not been recognized by the authorities. This organisation is known throughout the country via Mr. Al-Diqqi's Internet website, in which he denounces the absence of civil and political freedoms, as

well as various abuses and violations of the rights of his fellow citizens. The source notes that the content of his 'weekly letters' is an indicator of his legalist and pacifist battle against arbitrariness and for the establishment of the rule of law.

14. On 27 April 2009, the Government reported that the case file was sent back to the court by the Department of Public Prosecutions and Mr. Hasan Ahmad Al-Daqui (Al-Diqqi) was released on bail. His passport was confiscated in accordance with the applicable laws of the State and the matter is currently before the competent judicial body.

15. The source confirmed that Mr. Al-Diqqi was released on 12 May 2009, reiterating that he was deprived of his liberty since 20 July 2008, that is to say, nearly 10 months, without any other reasons than the mere exercise of his fundamental rights to freedom of opinion and expression and his work as human rights defender, and in order to obtain the closing of his Internet web-site (www.emiratespro.com), which was indeed achieved.

16. Mr. Al-Diqqi's arrest was not communicated to his family. Their relatives became aware of his detention solely by pro-Government media, which presented him as a delinquent linked to the commission of offences of a common nature. However, Mr. Al-Diqqi's responsibility for the commission of such offences was never demonstrated. The same court which imposed him the death penalty subsequently modified its decision, imposing first ten years of imprisonment and then lowering its condemnation to six months of imprisonment, when Mr. Al-Diqqi had already spent more than nine months in prison.

17. The Working Group notes that Mr. Al-Diqqi is the founder of the non-governmental human rights organization Emirates People Rights Organisation (Emirates PRO), which has permanently denounced human rights violations in his country, which has caused inconveniences in the authorities which motivated his arrest.

18. The Working Group recalls that the Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms (Declaration on Human Rights Defenders), adopted by the General Assembly on 8 December 1998 (A/RES/53/144), recognizes the right of human rights defenders to seek, obtain, receive and hold information relating to human rights, as well as recognizes their unhindered access to and communications with non-governmental and intergovernmental organizations. Human rights defenders have the right to investigate, gather information regarding and report on human rights violations. They are entitled to bring their reports to the attention of the public and to publish their findings directly or by conduit of the media. The Declaration recognizes the right of human rights defenders to investigate and to debate whether human rights and fundamental freedoms are observed and respected in a particular region or country, both in the law as in practice. The Declaration on Human Rights Defenders contains a series of principles and rights that, in the Working Group's view, are based on human rights standards enshrined in the Universal Declaration of Human Rights and in the Charter of the United Nations.

19. The Working Group further notes that the Government of the United Arab Emirates, together with around other 25 States, submitted a declaration in which it declares that the Declaration on Human Rights Defenders should be interpreted in conformity with its domestic legislation. However, the Working Group considers that such domestic legislation should be in full conformity with the Universal Declaration of Human Rights and with all applicable human rights principles and standards, including those contained in the Declaration on Human Rights Defenders of 8 December 1998.

20. Although Mr. Al-Diqqi's detention and the consequent judicial process against him may have been in conformity with the domestic legislation of the United Arab Emirates, that fact does not deprive his detention of its arbitrary character according to international law.

21. Paragraph 17 (a) of the methods of work of the Working Group provides that even if the person has been released, the Working Group reserves the right to render an Opinion whether or not the deprivation of liberty was arbitrary, on a case-by-case basis. Given the character of Mr. Al-Diqqi's detention, the Working Group has decided to render an Opinion on his case, notwithstanding his release.

22. Consequently, the Working Group renders the following Opinion:

The deprivation of liberty of Mr. Hassan Ahmed Hassan Al-Diqqi was arbitrary according to category II of the categories applicable by the Working Group to the consideration of the cases which have been submitted to it, and was in serious contravention of articles 9, 11, 18, 19, 20 and 21 of the Universal Declaration of Human Rights and of the Declaration on Human Rights Defenders, as well as of Principles 1, 2, 10, 11, 12, 13, 15, 16, 17 and others of the Body of Principles for the Protection of All persons under Any Form of Detention or Imprisonment, adopted by the General Assembly by its resolution 43/173 of 9 December 1988.

23. Consequent upon the Opinion rendered, the Working Group requests the Government to remedy the situation of Mr. Al-Diqqi and to grant him an adequate reparation.

Adopted on 1 September 2009