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Human Rights Council
Working Group on Arbitrary Detention

Opinions adopted by the Working Group on Arbitrary Detention at its eighty-ninth session, 23–27 November 2020

Opinion No. 75/2020 concerning Muhammad Iqbal (Qatar)

1. The Working Group on Arbitrary Detention was established in resolution 1991/42 of the Commission on Human Rights. In its resolution 1997/50, the Commission extended and clarified the mandate of the Working Group. Pursuant to General Assembly resolution 60/251 and Human Rights Council decision 1/102, the Council assumed the mandate of the Commission. The Council most recently extended the mandate of the Working Group for a three-year period in its resolution 42/22.
2. In accordance with its methods of work (A/HRC/36/38), on 6 April 2020, the Working Group transmitted to the Government of Qatar a communication concerning Muhammad Iqbal. The Government replied to the communication on 5 June 2020. 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 Covenant (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 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. Muhammad Iqbal is a citizen of Pakistan born in 1962. He is the holder of a passport issued by the Pakistani authorities and a permanent resident in the United States of America. He also holds a Qatari temporary residence permit issued by the Qatari authorities. At the time of his arrest, he was living in Qatar.

5. The source reports that Mr. Iqbal is a company director who arrived in Qatar in 2018 with a view to setting up a factory. Having been granted an investor visa, he established a factory to supply goods to State-owned industries in Qatar.

a. Context

6. The source submits that, as Mr. Iqbal is a Pakistani, the threat of perceived competition by a non-Qatari of South Asian descent might have been a motivating factor in his detention. According to the source, Mr. Iqbal was given permission to establish his own business in Qatar. Mr. Iqbal has reportedly achieved business success in Qatar by operating his company, of which he is the sole proprietor, which is rare in Qatar as a non-Qatari.

7. The source reports that, prior to December 2018, Mr. Iqbal had been prevented from leaving the country several times. He had performed multiple trips to the immigration authorities and the police, where he was told that there was no record of court cases or travel bans against him and that there was nothing stopping him from leaving. The court had also reportedly informed him that there was no case against him in the court system. The official documents proving that there were no cases against him included a police clearance certificate dated 23 February 2018 stating that no previous criminal conviction had been reported against him in Qatar and a document of the public prosecution showing that the case in connection with which he had supposedly been detained had been dismissed on 13 May 2018.

8. Nevertheless, each time that Mr. Iqbal went to the airport, he was told he could not leave. The source reports that he was able to leave Qatar once, in October 2018, and returned in January 2019. Upon his return, Mr. Iqbal was again told that there were no court cases or warrants pending.

9. According to the source, the only reason Mr. Iqbal came back to Qatar in January 2019 was because he had been told by the public prosecution that the procedures relating to his arson case and insurance claim had been completed and that he should return to Qatar to claim the insurance money, which he was going to use to reopen the factory. The source argues that this was, however, a ruse to bring him back to Qatar and that no such conclusion had been reached.

b. Arrests

10. According to the source, Mr. Iqbal was arrested three times based on a decision taken unilaterally by a court in December 2018, without a hearing. Mr. Iqbal had not been notified about that decision, which is believed to have been taken by the court of Al-Sadd, a neighbourhood of Doha. He became aware of the decision when he went to the police station for an unrelated matter, namely a traffic accident, in January 2019. On that occasion, the police informed Mr. Iqbal that he had been charged with throwing rubbish on the road and sentenced to two years of detention. The source reports that the procedure seems to have been initiated following a complaint filed against Mr. Iqbal for reasons unknown to him.

11. According to the source, as soon as Mr. Iqbal became aware of the decision of December 2018, he appealed it. He was set a deadline of 6 March 2019 to submit a response in person in court. Mr. Iqbal then went to the authorities to inform them that an appeal hearing had been scheduled, and that the arrest order thus should be halted until the appeal was heard on 6 March 2019.

12. On 22 January 2019, despite Mr. Iqbal's appeal and the scheduled hearing date, Mr. Iqbal was arrested by the Qatari police, following a court order of the authorities.

13. The source submits that Mr. Iqbal was released on 23 January 2019 following an application for release, after having been detained in Capital Police Station for 36 hours. He had no access to a lawyer during that time.

14. The source submits that Mr. Iqbal went to the court in late January 2019 to confirm the date of the hearing and was reassured that the hearing would be held on 6 March 2019.

15. In February 2019, the lawyer appointed by Mr. Iqbal after his arrest filed a request to the Al-Sadd court to gain access to his file. No response was received.

16. The source notes that the offence of throwing rubbish attracts a fine of 500 riyals, not a jail sentence. Mr. Iqbal's lawyer was not aware that it may also attract the measure of deprivation of liberty.

17. The source reports that when Mr. Iqbal went to the Al-Sadd court for the appeal hearing on 7 March 2019 he was informed that his hearing date had been moved by the court without him being notified of the change. On the same day, Mr. Iqbal was allegedly arrested for a second time. The only reason given for his arrest was that he had not appeared at the hearing that had been rescheduled for 6 February 2019.

18. The source submits that, following an intervention by his lawyer, Mr. Iqbal was released on 8 March 2019, having been detained in the Capital Police Station for 36 hours.

19. The source submits that when Mr. Iqbal was released a new court hearing date was set for 18 April 2019. Upon inquiries, the court repeatedly denied that the original hearing date had been changed.

20. On 17 April 2019, Mr. Iqbal changed his lawyer because the first one was unresponsive and had stopped answering. He had reportedly stepped down on 17 April 2019, one day before the hearing date.

21. The source submits that the second lawyer did not perform any work on the case other than making a court appearance on 18 April 2019. That lawyer did, however, request the court for more time to prepare a response and to change the lawyer of record. The judge reportedly accepted the request and the lawyer of record was changed.

22. A few days later, the second lawyer informed Mr. Iqbal that the court had ruled, on 1 May 2019, without informing them, of a hearing date, thereby giving Mr. Iqbal an opportunity to be heard and to defend himself or to provide any legal arguments or evidence. By doing so, the Al-Sadd court had allegedly revised its decision of December 2018 to a one-year detention sentence and ruled that no more appeals were allowed.

c. Arrest and detention

23. On 13 May 2019, Mr. Iqbal was allegedly arrested at his apartment in Doha by authorities believed to be from the Criminal Investigation Department. He was brought to the Detention Prison Division in Al-Rayyan, Doha.

24. No warrant or other decision by a public authority was reportedly shown to Mr. Iqbal, and no legal basis was given for his arrest or for his subsequent detention.

25. The source alleges that Mr. Iqbal has been denied access to his case file as his requests, made before and after detention, have always been rejected. After he was arrested, Mr. Iqbal sent numerous requests to the Ministry of the Interior from jail through the authorities to obtain information on his case file. No response was received. The source submits that Mr. Iqbal kept sending a request every month from May to November 2019.

26. The source reports that following Mr. Iqbal's arrest, the police authorities in the jail undertook inquiries that confirmed that there was still nothing on his record. When Mr. Iqbal learned that no arrest warrant or case was linked to his national identification document, starting in November 2019 he reportedly submitted several requests for release through the police officers in the jail, who forwarded them to the authorities and subsequently to the Ministry of the Interior. Those requests were firstly based on the absence of a legal basis for Mr. Iqbal's detention, as there was nothing damning in the court system nor any evidence of wrongdoing, and secondly on the denial of access to his case file. Subsequent requests cite the fact that Mr. Iqbal was told that he was in administrative detention, which further points

to the lack of a legal basis. Reportedly, no responses were received to these requests. When he attempted to follow up, Mr. Iqbal was always told that the system was slow.

27. The source notes that, while Mr. Iqbal has reportedly shown good behaviour since the day he was detained, this has not resulted in any leniency in his sentence or any sympathy from the prison officers.

28. During the first week of February 2020, Mr. Iqbal was reportedly assaulted in prison by an inmate with a knife for unknown reasons. He did not sustain any injuries. Reportedly, the inmate who assaulted Mr. Iqbal had also placed a knife among Mr. Iqbal's possessions and alerted the authorities. The inmate who assaulted him was allegedly spared any punishment because he had been in jail for over five years. According to the source, however, Mr. Iqbal was placed in solitary confinement without being given any reasons. He remained in solitary confinement for one week, during which time he was not given a change of clothes. Nor did the prison authorities inform Mr. Iqbal's family about his whereabouts during that period, despite being asked to do so on several occasions.

29. The source further submits that, in February 2020, Mr. Iqbal became eligible for what is locally called a "three-quarters" release, which applies when 75 per cent of a sentence has been served. In the present case, such a release could have occurred three months before the sentence was scheduled to end on 13 May 2020. The source notes that no response was received to the request for such a release and that it remained unsure if Mr. Iqbal would be released in February 2020.

30. It is reported that Mr. Iqbal asked a person in jail to put him into contact with a lawyer who could submit his application for a "three-quarters" release from outside the prison system. The lawyer reportedly informed Mr. Iqbal that his court records had been sealed for political reasons and that his application for early release would therefore not be considered.

31. The source submits that, for reasons that may be motivated by the above-mentioned considerations, Mr. Iqbal's lawyers, both of whom were criminal defence attorneys qualified to pursue the case, quickly stopped working and answering. The second lawyer did not officially step down but did not perform any work on the file other than making a court appearance on 18 April 2019. Shortly after Mr. Iqbal was jailed in May 2019, the second lawyer stopped answering telephone calls.

32. According to the source, Mr. Iqbal was told on a continuous basis that something would happen in the upcoming days. However, he remained detained and his situation did not change. The court submitted that no hearings or proceedings were foreseen.

33. Owing to restrictions imposed to avoid the spread of the coronavirus disease (COVID-19), Mr. Iqbal's family was reportedly prevented from visiting him, as Qatar has banned entry to the country for Pakistani citizens. Mr. Iqbal has reportedly not been allowed any visits since November 2019. The source submits that the prison system does not provide adequate protection against the pandemic, especially given Mr. Iqbal's advanced age, high blood pressure, diabetes and fragile state.

Response from the Government

34. On 6 April 2020, the Working Group transmitted the allegations made by the source to the Government through its regular communications procedure. The Working Group requested the Government to provide by 5 June 2020 detailed information about the situation of Mr. Iqbal and any comments on the source's allegations. Moreover, the Working Group called upon the Government to ensure Mr. Iqbal's physical and mental integrity.

35. In its response of 5 June 2020, the Government states that the applicable laws in the present case are the Penal Code (Law No. 11 of 2004) and the Criminal Procedure Code (Law No. 23 of 2004).

36. According to the Government, Mr. Iqbal was convicted of attempted fraud and sentenced to two and a half years in prison and deportation (case No. 2017/2065). In a civil action, he was ordered to pay the victim a compensation of 137,300 United States dollars. The public prosecution ordered that he be seized to enforce the ruling.

37. On 6 February 2019, the appeal court dismissed Mr. Iqbal's appeal in absentia. On 6 March 2019, Mr. Iqbal was arrested with a view to enforcing the judgment. Upon being informed, he expressed his desire to file an appeal and a hearing was scheduled for 17 April 2019. The competent court then ordered his release on 7 March 2019 by suspending the enforcement pending the decision of the appeal court while imposing a travel ban.

38. On 17 April 2019, the appeals court reduced Mr. Iqbal's sentence to one year in prison. The public prosecution ordered that he be seized for the enforcement of the judgment.

39. On 15 May 2019, Mr. Iqbal was arrested for the enforcement of the judgment. After notifying Mr. Iqbal of the judgment, the public prosecution ordered the enforcement of the judgment by issuing a warrant restricting Mr. Iqbal's liberty. On 13 May 2020, Mr. Iqbal completed his sentence.

40. During his detention, Mr. Iqbal had access to necessary health care in accordance with the provisions of national legislation and relevant international standards. He received the necessary treatment and medications for diabetes and blood pressure. His state of health was regularly monitored through regular visits to the clinical doctor.

41. As for the other cases against Mr. Iqbal (No. 2019/11448 and No. 2019/10011) on charges of issuing bad cheques, the public prosecution ordered that the sentence handed down in the first case be temporarily suspended until the decision of the appeal court. In the second case, Mr. Iqbal was sentenced to three months in prison and ordered to pay 500 riyals in bail. He paid the bail and was released on 14 May 2020.

42. The Government affirms that all measures taken against Mr. Iqbal were carried out under the supervision of the competent judicial authority in a manner consistent with national laws and relevant international standards, without prejudice to or derogation from any of the guarantees for the defendant during both the investigation and the trial stages. In accordance with the presumption of innocence, he was released until a judgment by the competent court was handed down following a fair trial.

43. According to the Government, Mr. Iqbal's relatives were allowed to make regular visits to him in prison, in accordance with the procedures.

44. The Government maintains that it has taken preventive measures to protect prison inmates from the COVID-19 pandemic.

45. The Government concludes with the assurance that human rights issues are the cornerstone of its comprehensive reform policy, which represents a strategic choice, and stresses its readiness to engage in dialogue on matters that fall within the common interest of promoting and protecting human rights.

Further comments from the source

46. In its response, the source states that Mr. Iqbal committed no fraud in Qatar and the Government's insistence that there was an attempted fraud without proof is impossible to understand. No such information has ever been presented.

47. The source again emphasizes that the requests for the case file when filing the appeal were ignored without reason. This prevented a proper response by Mr. Iqbal.

48. According to the source, Mr. Iqbal received no proper medical check-up or medication for his diabetes during his detention. The request for dental treatment was denied for nine months, which has prevented Mr. Iqbal from eating meat.

49. The source states that Mr. Iqbal was never taken to court from prison during his appeal.

50. With respect to cases No. 2019/10011 and No. 2019/11448, the source submits that Mr. Iqbal was never taken to court during his detention.

51. Despite Mr. Iqbal's release on 13 May 2020, he still has a travel ban attached to his identification document and is unable to leave Qatar.

Discussion

52. The Working Group thanks the Government and the source for their submissions.

53. The Working Group has in its jurisprudence established the ways in which it deals with evidentiary issues. If the source has established a *prima facie* case for breach of international law constituting arbitrary detention, the burden of proof should be understood to rest upon the Government if it wishes to refute the allegations (A/HRC/19/57, para. 68).

54. At the outset, the Working Group welcomes Mr. Iqbal's release on bail on 14 May 2020. With his release, the Working Group has the option of filing the case or rendering an opinion in conformity with paragraph 17 (a) of its methods of work. In the present case, the Working Group has decided to render an opinion. In making this decision, the Working Group gives particular weight to the fact that, although Mr. Iqbal has been released, the circumstances in which he was detained were serious and warrant further attention. The Working Group also notes that Mr. Iqbal has been released on bail, that the release is conditional and that presumably the proceedings against him could continue.

i. Category I

55. The Working Group will first consider whether there have been violations under category I, which concerns deprivation of liberty without any legal basis being invoked.

56. The source submits that, on 22 January 2019, despite Mr. Iqbal's appeal and the scheduled hearing date, Mr. Iqbal was arrested for the first time by the Qatari police, following a court order of the authorities. On 7 March 2019, Mr. Iqbal was allegedly arrested for a second time. No reason was given for that arrest, except that he had not appeared at the hearing of 6 February 2019. On 13 May 2019, Mr. Iqbal was allegedly arrested for a third time by authorities believed to be from the Criminal Investigation Department. No warrant or other decision by a public authority was reportedly shown to Mr. Iqbal, and no legal basis was given for his arrest or for his subsequent detention. The Government states that the third arrest was based on a warrant issued by the public prosecution following the judicial order of 17 April 2019. It does not, however, challenge the allegation that Mr. Iqbal was not informed of the reasons for his arrest.¹

57. On the basis of the foregoing, the Working Group notes that, despite the fact that the last arrest of Mr. Iqbal was based on a judicial order, he was not informed of its content. The Working Group recalls that, in order to invoke a legal basis for the deprivation of liberty, the authorities should have informed Mr. Iqbal of the reasons for his arrest, at the time of arrest, and promptly informed him of the charges.² Carrying out a judicial order that is not communicated to the person to whom it is addressed is a violation of article 9 (1) of the Covenant. Moreover, the failure of the authorities to inform Mr. Iqbal of the reasons for his arrest at the time of the arrest violates article 9 of the Universal Declaration of Human Rights, article 9 (1)–(2) of the Covenant and principle 10 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, and renders his arrest devoid of any legal basis.

58. Moreover, the Working Group cannot help but note that, following his first arrest on 22 January 2019, for 36 hours, Mr. Iqbal was effectively deprived of his right to legal counsel and representation, which is procedurally inherent in the right to liberty and security and the prohibition of arbitrary detention, in violation of articles 3 and 9 of the Universal Declaration of Human rights, article 9 (1) of the Covenant, principles 15, 17 and 18 of the Body of

¹ The Working Group has maintained, from its early years, that the practice of arresting persons without a warrant renders their detention arbitrary. See, for example, decisions No. 1/1993, paras. 6–7; No. 3/1993, paras. 6–7; No. 4/1993, para. 6; No. 5/1993, paras. 6 and 8–9; No. 27/1993, para. 6; No. 30/1993, paras. 14 and 17 (a); No. 36/1993, para. 8; No. 43/1993, para. 6; No. 44/1993, paras. 6–7. For more recent jurisprudence, see opinions No. 38/2013, para. 23; No. 48/2016, para. 48; No. 21/2017, para. 46; No. 63/2017, para. 66; No. 76/2017, para. 55; No. 83/2017, para. 65; No. 88/2017, para. 27; No. 93/2017, para. 44; No. 3/2018, para. 43; No. 10/2018, para. 46; No. 26/2018, para. 54; No. 30/2018, para. 39; No. 38/2018, para. 63; No. 47/2018, para. 56; No. 51/2018, para. 80; No. 63/2018, para. 27; No. 68/2018, para. 39; and No. 82/2018, para. 29.

² See, for example, opinion No. 10/2015, para. 34. See also opinions No. 32/2019, para. 29; No. 33/2019, para. 48; No. 44/2019, para. 52; No. 45/2019, para. 51; and No. 46/2019, para. 51.

Principles and principles 1, 5, 7, 8, 21 and 22 of the Basic Principles on the Role of Lawyers. According to principle 9 and guideline 8 of the United Nations Basic Principles and Guidelines on Remedies and Procedures on the Right of Anyone Deprived of Their Liberty to Bring Proceedings Before a Court (A/HRC/30/37, annex), persons deprived of their liberty have the right to legal assistance by counsel of their choice at any time during their detention, including immediately after the moment of apprehension, and must be promptly informed of this right upon apprehension; moreover, access to legal counsel should not be unlawfully or unreasonably restricted).³ Access to legal counsel from the outset of detention is an essential safeguard in ensuring that the detainee can challenge the legal basis for his or her detention.⁴

59. The Working Group recalls that Mr. Iqbal did not benefit from the “three-quarters” release, for which he became eligible in February 2020, after he had served 75 per cent of his sentence. The source submitted that no response was received to this request, which was not addressed by the Government. In the present case, the “three-quarters” rule effectively meant that Mr. Iqbal had reached the end of the legal term of his sentence. The Working Group recalls its past jurisprudence dealing with cases in which detainees had been kept in detention beyond the expiry of their sentence and in accordance with which it has found that holding a person after the completion of a sentence is without legal basis.⁵ The Working Group therefore finds a further breach under category I.

60. Furthermore, the Working Group notes the lack of proportionality of the sentence handed down for one of the alleged offences. On the occasion in question, the police allegedly told Mr. Iqbal that he had been charged with throwing rubbish on the road and sentenced to two years of detention. It is also submitted that such an offence attracts the fine of 500 riyals, not the deprivation of liberty. The Working Group therefore finds that a legal basis for detention is lacking, in breach of article 9 (1) of the Covenant. The Working Group also notes that Mr. Iqbal’s lawyers were not aware of the sentence of deprivation of liberty for this offence. It thus recalls article 14 (1) of the Covenant, according to which all persons shall be equal before the courts and tribunals.

61. Finally, the Working Group notes that Mr. Iqbal was charged and detained for the issuance of bad cheques, which violates the right not to be subjected to imprisonment merely for being unable to fulfil a contractual obligation under article 11 of the Covenant.⁶ The Working Group recalls that detention for the inability to pay a debt is prohibited in international law.

62. For the reasons outlined above, the Working Group considers that Mr. Iqbal’s deprivation of liberty lacks a legal basis and is thus arbitrary, falling under category I.

ii. Category III

63. The Working Group notes that Mr. Iqbal was not informed of the court hearings of 6 February and 1 May 2019 and was thus deprived of an opportunity to be heard, to defend himself or to provide any legal arguments or evidence. Mr. Iqbal’s multiple requests to access his case file, which he submitted during the period from May to November 2019, were left unanswered, thus hindering his ability to prepare his legal defence, an allegation not rebutted by the Government. Furthermore, according to the Government’s submission, Mr. Iqbal appears to have been tried in absentia, when, on 6 February 2019, the appeal court dismissed his appeal. Nor was he notified of or present during the court hearings in December 2018 and on 1 May 2019.

64. In the Working Group’s view, given the above, the Government failed to respect Mr. Iqbal’s right to a fair and public hearing by a competent, independent and impartial tribunal established by law, which is inherent in the right to liberty and security of person, in accordance with articles 3, 9, 10 and 11 (1) of the Universal Declaration of Human Rights,

³ See also Human Rights Committee general comment No. 32 (2007), para. 34.

⁴ See opinion No. 40/2020, para. 29.

⁵ Opinions No. 2/2016, para. 35; No. 61/2012, para. 13; No. 18/2010, paras. 14–16; and No. 21/2000, para. 16.

⁶ See opinions No. 31/2001 and No. 38/2013. See also A/HRC/42/39/Add.1, para. 65.

articles 9 (1) and 14 (1) and (3) (b) and (d) of the Covenant, principles 15, 17 and 18 of the Body of Principles and principles 1, 5, 7, 8, 21 and 22 of the Basic Principles on the Role of Lawyers.⁷

65. Furthermore, the Working Group recalls that access to the case file must, in principle, be granted to the detained person from the outset.⁸ In this context, it also recalls guideline 5 of the Basic Principles and Guidelines, which provides that the factual and legal basis for the detention shall be disclosed to the detainee and/or his or her representative without delay so as to provide adequate time to prepare the challenge, and guideline 11 of the same Basic Principles and Guidelines. The Working Group also recalls that lack of access to file materials to present a defence gives rise to non-observance of the international norms relating to the right to a fair trial.⁹

66. The Working Group also notes that, in the present case, the reason why the application for an early release was not considered was that the court records had been sealed for political reasons. In the Working Group's view, this fact points to a breach of the principle of equality of arms in the proceedings and, therefore, to a violation of article 10 of the Universal Declaration of Human Rights and article 14 (3) (b) of the Covenant.¹⁰ In accordance with paragraph 33 (a) of its methods of work, the Working Group refers the present case to the Special Rapporteur on the independence of judges and lawyers, for appropriate action.

67. Furthermore, the Working Group recalls that Mr. Iqbal was not notified of the timing of hearings on several occasions, including of the hearing initially scheduled for 7 March 2019 and changed to 6 February 2019, as well as the court hearing of 1 May 2019. The Working Group finds this to be a breach of the principles guiding adversarial proceedings and of the principle of equality of arms and a violation of article 14 (1), on equality before the courts, and of article 14 (3) (d), on the right of everyone to be tried in their presence and to defend themselves in person, of the Covenant.

68. The Working Group also recalls that, during its visit to Qatar from 3 to 14 November 2019, it had been informed of numerous instances where judgments had been handed down without the knowledge of the defendant, as a result of proceedings that had been initiated and carried out without a proper attempt to summon the individual concerned to attend the hearing. In that context, the Working Group had noted that the detaining authority must ensure the presence of the detainee at trial and that trials in absentia were only compatible with article 14 (3) (d) of the Covenant if the necessary steps were taken to inform the accused person of the charges, to summon such persons in a timely manner, to inform them in advance about the date and place of their trial and to request their attendance.¹¹

69. The Working Group expresses its concern about the prima facie allegation of ill-treatment of Mr. Iqbal during detention, including the denial of proper medical treatment for his conditions. In this regard, the Working Group recalls articles 5 and 25 of the Universal Declaration of Human Rights, articles 7 and 10 (1) of the Covenant, article 16 (1) of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, principle 6 of the Body of Principles and rule 1 of the United Nations Standard Minimum Rules for the Treatment of Prisoners (the Nelson Mandela Rules).¹² The Working Group takes this opportunity to remind the Government of its obligation under article 10 (1) of the Covenant to ensure that all persons deprived of their liberty are treated with humanity and respect for their inherent dignity. The Working Group refers the present case to the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health, for further consideration.

⁷ See <https://spcommreports.ohchr.org/TMResultsBase/DownloadPublicCommunicationFile?gld=24130>.

⁸ See opinions No. 30/2020, para. 95, and No. 78/2018, para. 79.

⁹ See opinion No. 70/2018. See also A/HRC/WGAD/2019/32, para. 46.

¹⁰ See opinions No. 76/2018, No. 53/2019 and No. 29/2020.

¹¹ A/HRC/45/16/Add.2, paras. 63–64. See also Human Rights Committee general comment No. 32 (2007), para. 36, and opinion No. 60/2020.

¹² General Assembly resolution 70/175, annex.

70. Given the above, the Working Group concludes that the violations of the right to a fair trial and due process are of such gravity as to give Mr. Iqbal's deprivation of liberty an arbitrary character that falls within category III.

iii. Category V

71. The Working Group observes that Mr. Iqbal appears to have been imprisoned on the basis of his economic status and for being a foreign national and that the authorities have displayed an attitude towards him that can only be characterized as discriminatory. There appears to be a history of treating Mr. Iqbal, who is a non-Qatari business owner, with the aim of arbitrarily depriving him of his property on the basis of his national or ethnic origin, in violation of the right to own property under article 17 of the Universal Declaration of Human Rights and article 5 (d) (v) of the International Convention on the Elimination of All Forms of Racial Discrimination. The Working Group considers that the only plausible explanation for this treatment is that the authorities targeted Mr. Iqbal because of the perceived threat of economic competition by a non-Qatari.

72. In addition, the Working Group notes that Mr. Iqbal was imprisoned on charges of issuing bad cheques, in other words because of his economic status. The Working Group recalls that international human rights law prohibits the deprivation of liberty for the inability to fulfil a contractual obligation, as stipulated in article 11 of the Covenant.¹³ This prohibition is non-derogable and is in fact part of customary international law. It is arbitrary as it discriminates against individuals on the basis of their economic status.¹⁴

73. For these reasons, the Working Group considers that Mr. Iqbal was deprived of his liberty on discriminatory grounds, in other words for being a foreign national conducting economic activities in Qatar. His deprivation of liberty violates articles 2 and 7 of the Universal Declaration of Human Rights and articles 2 (1) and 26 of the Covenant and is arbitrary under category V.

Disposition

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

The deprivation of liberty of Muhammad Iqbal, being in contravention of articles 2, 3, 7, 9, 10 and 11 (1) of the Universal Declaration of Human Rights and articles 2 (1), 9 (1)–(2), 10 (1), 11, 14 (1) and (3) (d) and 26 of the International Covenant on Civil and Political Rights, is arbitrary and falls within categories I, III and V.

75. The Working Group requests the Government of Qatar to take the steps necessary to remedy the situation of Mr. Iqbal without delay and bring it into conformity with the relevant international norms, including those set out in the Universal Declaration of Human Rights and the Covenant.

76. The Working Group considers that, taking into account all the circumstances of the case, the appropriate remedy would be to accord Mr. Iqbal an enforceable right to compensation and other reparations, in accordance with international law.

77. The Working Group urges the Government to ensure a full and independent investigation of the circumstances surrounding the arbitrary deprivation of liberty of Mr. Iqbal and to take appropriate measures against those responsible for the violation of his rights.

78. In accordance with paragraph 33 (a) of its methods of work, the Working Group refers the present case to the Special Rapporteur on the independence of judges and lawyers and the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health, for appropriate action.

79. The Working Group requests the Government to disseminate the present opinion through all available means and as widely as possible.

¹³ See also Human Rights Committee general comment No. 35 (2014), para. 14.

¹⁴ A/HRC/45/16/Add.2, paras. 46–49.

Follow-up procedure

80. In accordance with paragraph 20 of its methods of work, the Working Group requests the source and the Government to provide it with information on action taken in follow-up to the recommendations made in the present opinion, including:

- (a) Whether compensation or other reparations have been made to Mr. Iqbal;
- (b) Whether an investigation has been conducted into the violation of Mr. Iqbal's rights and, if so, the outcome of the investigation;
- (c) Whether any legislative amendments or changes in practice have been made to harmonize the laws and practices of Qatar with its international obligations in line with the present opinion;
- (d) Whether any other action has been taken to implement the present opinion.

81. The Government is invited to inform the Working Group of any difficulties it may have encountered in implementing the recommendations made in the present opinion and whether further technical assistance is required, for example through a follow-up visit by the Working Group.

82. The Working Group requests the source and the Government to provide the above-mentioned information within six months of the date of transmission of the present opinion. However, the Working Group reserves the right to take its own action in follow-up to the opinion if new concerns in relation to the case are brought to its attention. Such action would enable the Working Group to inform the Human Rights Council of progress made in implementing its recommendations, as well as any failure to take action.

83. The Working Group recalls that the Human Rights Council has encouraged all States to cooperate with the Working Group and has requested them 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.¹⁵

[Adopted on 25 November 2020]

¹⁵ Human Rights Council resolution 42/22, paras. 3 and 7.