



**“Commemoration of the 25th Anniversary of the Working Group on Arbitrary Detention” Room XXIV of the Palais des Nations, Geneva, Switzerland, 28 November 2016**

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Arbitrary detention, especially when it is prolonged, is one of the worst human rights abuses. To take away someone’s freedom, for some arbitrary reason, and to impede that person from accessing the courts to challenge their detention, is an affront to one of the most basic aspects of what it is to be human: to be free, to exercise free will. Arbitrary detention is usually accompanied by other human rights violations: including, torture and ill-treatment; violation of the right to a fair trial.

Arbitrary detention can happen to anyone, whatever their political or religious beliefs, regardless of who they associate with, what they believe, and irrespective of their socio-economic conditions, or the country in which they live. But often, it is those who stand out from the crowd, because of what they say, believe or do, or those who are different – because of how they look, their identity, their nationality or citizenship status, their ethnicity, that are subjected to this kind of treatment. In this way, arbitrary detention is used as a form of punishment – to break individuals’ independent spirit, to make people conform, to silence opponents, to remind the wider society that difference is not tolerated.

Arbitrary detention is devastating for the persons detained, for whom life virtually stops. It is also devastating for their loved ones – their spouses, children, parents. There is a great sense of helplessness, because by its very nature, when arbitrary detention is allowed to happen, it usually means that the wider rule of law has been broken in the society; the victims feel helpless because they are locked up like animals in a cage, and are literally wasting away. But they are also helpless because they know that the law – the system of justice and all it entails – is not working for them. They are alienated, they are alone.

It makes me think of Zeinab Jalalian, a young Kurdish woman’s rights activist from Iran now serving a life sentence, who is progressively losing her eyesight and has been denied medical treatment. The Working Group has called on Iran to release her immediately and to provide her compensation.

It makes me think of Yemi and her three children; their father – British national Andy Tsege, was kidnapped from an airport in Yemen and rendered to Ethiopia where he has been held under a death sentence for 2.5 years. The Working Group was the first to issue a decision in the case – calling for Andy’s release. His children are growing up without their father.

It also makes me think of the family of Nazanin Zaghari Ratcliffe, a British-Iranian dual national who on a visit to see her family in Iran with her new baby, was detained and eventually sentenced to charges which have been kept secret from her and her defence lawyers. Her husband Richard has been unable to travel to Iran to see his wife, or to recuperate his baby. Nazanin is so desperate that she has recently gone on hunger strike and her family is worried that she is giving up all hope of being released. The Working Group, which issued its decision in her case at its last session, recognised not only that Nazanin had been arbitrarily detained, but that there was a pattern of arbitrarily detaining foreign or dual nationals.

The role of the Working Group on Arbitrary Detention cannot be overstated, both its urgent procedure and its detailed opinions.

Because it is open to individuals from all UN Member States, the WGAD doesn’t have the same limitations as some of the treaty bodies, which only allow for individuals to lodge complaints if States Parties have specifically recognised this possibility. This means that individuals who are arbitrarily detained in some of the most repressive States where the rule of law is absent or those States which apply regimes of exception to particular sectors of society to whom the rule of law does not apply, can have recourse to the Working Group. This can often be the only formal recourse to an independent adjudicative body.

It was really important for the Working Group to issue an Opinion in 2014 in the case of Mustafa Al Hawsawi, a Saudi national who was arrested in Pakistan in 2003, and after a period in secret detention in several other locations, was dumped in Guantanamo Bay, where he now faces a military commission trial. His military commission counsel are here today.

For the persons in detention, for their families, the fact that this Working Group has issued a decision is a sign of hope, it is an acknowledgement that their plight has not been forgotten.

For the states that are subjecting people to this treatment, it is a reminder that their actions are known, are being watched by the International Community, that these actions are wrong, and will not simply be forgotten or ignored. The Opinions also helpfully clarify what must be done to remedy the situation. Even though the Opinions are not

directly enforceable, they serve an important form of suasion, and are a crucial part of the arsenal for families and others fighting the release of their loved ones.

It is hoped though, on behalf of the four individuals I named, all of whom are all still arbitrarily detained, and on behalf of the countless others in similar situations, that States Parties of the UN redouble their efforts to see the Working Group decisions enforced.