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## Oman

OMN/01 - Talib Al-Mamari

### *Decision adopted by the Committee on the Human Rights of Parliamentarians (Geneva, 30 November 2015)*

The Committee,

*Referring* to the case of Mr. Talib Al-Mamari, a former member of the *Majlis A'Shura* (the Lower House of Parliament) of Oman,

*Taking into account* the information obtained in the course of the official visit (26-29 May 2015) by a Committee delegation to Oman in addition to the regular information provided by the Chairman of the *Majlis A'Shura*, including on the occasion of the hearing with the Committee, held on 16 October 2015; *also taking into account* the information provided by the complainants,

*Recalling* the following facts regarding Mr. Al-Mamari's arrest, prosecution and sentencing:

- Mr. Talib Al-Mamari, then a member of the *Majlis A'shura* of Oman, was sentenced on 10 October 2013 to a seven-year prison term and a fine of 1,000 riyals in connection with his participation in a demonstration on 22 August 2013 calling on the Government to adopt measures to combat pollution; he was convicted on charges of (i) participating in a "riotous assembly" of more than 10 persons with intent to disrupt public order; (ii) deliberately obstructing public highways; and (iii) inciting the people of Liwa to demonstrate in front of Sohar port, and deliberately spreading biased reports violating the dignity of the State;
- Mr. Al-Mamari was released on bail on 11 October 2013 pending the appeal, but rearrested later that same day on accusations that he was responsible for incitement during Friday prayers at the mosque; a brief video material, presumably linked to the incident, was presented by the Chairman of the *Majlis A'Shura* to the Committee and shows Mr. Al-Mamari saying: "If the government policy towards citizens does not change in the coming five years there will be a storm";
- On 16 December 2013, the Court of Appeal sentenced Mr. Al-Mamari to three years in prison and a 500-riyal fine for impairing the honour of the State as well as one year in prison and a 500-riyal fine for "disturbing public order" and "obstructing traffic"; in the whole period preceding the appeal, Mr. Al-Mamari's lawyer was denied access to his client; the Supreme Court overturned the appeal decision against him in February 2014 and ordered a retrial in the Court in Liwa - the town in which the alleged crime took place - as opposed to the Court in Muscat; despite that ruling, the retrial was held in Muscat, with Mr. Al-Mamari being continuously detained for several months without the possibility of bail; after a series of proceedings, where several violations of due process and a lack of judicial independence were alleged by one of the complainants, Mr. Al-Mamari was sentenced on 6 August 2014 to one year's imprisonment and a 200-riyal fine for participating in the demonstration and three years' imprisonment and a 500-riyal fine for organizing the demonstration; the court also ruled that the sentences would be served consecutively; the verdict was upheld on 30 October 2014 but the sentence was reduced to three years in prison; the verdict was confirmed by the Supreme Court on 24 February 2015,

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*Recalling* that, with regard to the demonstrations in which Mr. Al-Mamari took part and the precise circumstances of his arrest, the complainants affirm the following:

- The demonstrations in which Mr. Al-Mamari participated were peaceful and were held in protest against pollution in Liwa; the demands of the demonstrators were not political, as they merely requested the Government to protect the health of Liwa inhabitants affected by the pollution; according to the complainants, Mr. Al-Mamari was arrested and sentenced on account of his having exercised his freedom of peaceful assembly; they emphasize that many people reported that he attended the demonstration as a mediator and was carrying out his duty as a member of parliament, concerned by popular demands;
- On 23 August 2013, Mr. Al-Mamari held meetings with other parliamentarians and security authorities about the protests and the security forces' response; at the end of the meeting, Mr. Al-Mamari returned to his brother's house, where he was staying after being injured by the police intervention in the demonstration; Mr. Al-Mamari was arrested by security forces after they raided his brother's house in the early hours of 24 August 2013;
- In the course of the demonstrations, members of the security forces fired tear gas and used water cannons to disperse the crowd and Mr. Al-Mamari was among those injured by the violent police intervention; the Chairman of the *Majlis A'Shura* noted in his letter of 6 March 2014, however, that the *Majlis* could not review the medical report on injuries of the citizens concerned, as none had lodged official complaints; however, according to the Chairman, members of the *Majlis* did not notice any injuries requiring medical treatment on the day following the event,

*Recalling* the following information provided by the Chairman of the *Majlis A'Shura*:

- The region of Liwa received large-scale investments which had been very beneficial to the people; while there may have been some pollution, the Government ensured that acceptable limits were not exceeded and five ministers had gone to the area to set such limits; if there was any serious concern about pollution the Parliament would have been the first to know about it and to adopt a critical position;
- Mr. Al-Mamari had not discussed the issue of pollution with him before his arrest, or raised it at the appropriate parliamentary committee; Mr. Al-Mamari's colleagues in Parliament had advised him not to take to the streets and instead to use his powers in Parliament to plead his cause;
- Mr. Al-Mamari was grandstanding, had an agitated personality and had caused trouble on previous occasions; he had been involved in the demonstrations in retaliation for the Sohar Port authorities' having withdrawn funding to his constituency, as attested by a letter from Mr. Al-Mamari to those authorities,

*Considering* that the video footage provided by the Chairman of the *Majlis A'Shura* regarding the demonstration shows a group of some 100 individuals marching peacefully in the surroundings of Sohar Port in the presence of a large number of riot police, with part of the footage filmed from one of the vehicles equipped with a high-pressure water cannon as it shoots water at the crowd; the film also briefly features some individuals throwing rocks, including members of the riot police,

*Recalling* that the complainants affirm that Mr. Al-Mamari's prosecution has to be seen in the following context: Since his election to Parliament in 2011, Mr. Al-Mamari has staunchly defended his province's interest in Parliament, especially denouncing environmental damage and pollution in the region, and has come to be known for criticizing the Government for its lack of commitment to the rule of law and good governance; the complainant also affirms in this respect that Mr. Al-Mamari's conviction follows previous incidents of harassment in connection with his parliamentary work; it alleges that Mr. Al-Mamari was arrested in the context of the popular protests in 2011 demanding a more inclusive political process in Oman; he was detained for nearly 48 hours and then released after reportedly being beaten and ill-treated by police officers; in 2012, the Public Prosecutor's Office initiated proceedings against him because of a Facebook post criticizing an employee of the Ministry of Housing and requested the *Majlis A'Shura* to lift Mr. Al-Mamari's parliamentary immunity, which it did not do; in late 2012, Mr. Al-Mamari was assaulted in a hotel room and handcuffed by police officers, who reportedly beat and threatened him,

*Recalling also* that, on 9 May 2014, one of the complainants expressed alarm over the arrest and detention of three individuals – at least one of whom was a relative of Mr. Al-Mamari – allegedly apprehended for publicly defending Mr. Al-Mamari and calling for his release; those arrests were confirmed by the other complainant, with the nephew of Mr. Al-Mamari having reportedly been detained for 67 days,

*Considering* that the United Nations Special Rapporteur on the rights to freedom of peaceful assembly and of association conducted a mission to Oman between 8 and 13 September 2014 and that he was not permitted to meet with Mr. Al-Mamari; *considering* that in his report on the mission (A/HRC/29/25/Add.1), the Special Rapporteur concludes the following:

- The rights to freedom of peaceful assembly and of association are both platforms and collective exercises of other fundamental freedoms; they foster accountability, ethnic equity, cultural diversity, tolerance, participation and good governance, which in turn promote stability and peace;
- In his meetings with the Government, the Special Rapporteur observed a consistent focus on maintaining peace, order and stability in Oman, often used as the rationale for limiting assembly and association rights. Nevertheless, in his view, human rights are the foundation for true and sustainable stability. Stability flows organically through involvement and consensus, as part of a social contract in which everyone freely participates;
- The legal environment for the exercise of the rights to freedom of peaceful assembly and of association in Oman is problematic and needs to be strengthened with reference to international human rights standards. The country's impressive achievements in building the economy, maintaining stability and modernizing society are threatened in the long term by a climate in which the populace is not free to associate and organize itself to address its concerns or pursue its own interests. Silencing voices of dissent is not a viable approach going forward. When a Government fails to provide an outlet for popular sentiment, it loses a valuable opportunity to feel the pulse of the nation, and effectively creates a sealed vessel under pressure that will eventually explode with dire consequences,

*Considering* that the United Nations Working Group on Arbitrary Detention was seized of the case of Mr. Al-Mamari and, upon examination of all the information made available from the complainants and the authorities, concluded on 21 November 2014 that Mr. Al-Mamari's detention had been arbitrary and called on the authorities to release him immediately; with regard to the legal provisions criminalizing the harming of the dignity of the State with the gathering of at least 10 individuals intending to breach public order, it was the opinion of the Working Group that "The law allows a broad interpretation which may result, as it occurred in the case under consideration, in a violation of the right to freedom of peaceful assembly and association",

*Recalling* that the Omani parliamentary authorities have repeatedly affirmed that freedom of opinion and expression and freedom of peaceful assembly are fully protected in Oman, including for members of parliament,

*Considering* that the Committee delegation which visited Oman in May 2015 understood from the meetings it held with the Omani authorities that there was a special committee with representatives from the police, prosecution and prison authorities which regularly reviewed prisoners' files to ascertain whether they fulfilled the requirements for early release; where they did, the committee made a recommendation to H.E. the Sultan, who would then decide to grant a pardon, often on an auspicious occasion such as a religious holiday or the National Day of Independence; in the meeting with the prosecution authorities, it was said that Mr. Al-Mamari had been eligible for release in the past, but that, because of his speech at a mosque after his release on 10 October 2013, he had been rearrested; several interlocutors mentioned that the Sultan had granted multiple pardons on three occasions since 2011 and that pardons were therefore not unusual; it was further mentioned that the special committee met five times a year and that the next auspicious occasion for a pardon would present itself at the end of Ramadan (Eid-al-Fitr) on 18 July 2015; the Director General of Prisons confirmed that Mr. Al-Mamari had thus far shown good behaviour in prison; *considering also* that in the course of the visit to Oman and the meetings with the different authorities, a clear consensus emerged that Mr. Al-Mamari should and would be released soon,

*Considering* that the IPU delegation which travelled to Oman was able to meet with Mr. Al-Mamari in prison and that the latter, upon being asked what he intended to do after his detention, stated that he did not exclude going back to teaching, although not necessarily at Sohar University and that his real dream was to become an environmental activist,

*Considering also* that Mr. Al-Mamari was not released on the occasion of Muslim holidays which took place in July and September 2015 and that the Chairman of the *Majlis A'Shura* informed the Committee, at the hearing held on 16 October 2015, that he was doing his utmost to assist the Committee and had also approached the relevant Omani authorities in support of Mr. Al-Mamari's release, which was likely to occur on Oman's National Day on 18 November 2015,

*Considering further* that the Committee decided at its most recent session, in light of the information provided by the Chairman, to await the passing of that date and, failing his release, to adopt the present decision under its emergency procedure pursuant to the Procedure for the examination and treatment of complaints; *considering finally* in this regard that Mr. Al-Mamari, as of his arrest in August 2013, has already served over two-thirds of his final prison sentence and remains in prison to date,

1. *Thanks* the Chairman of the *Majlis A'Shura* for facilitating the mission and for his personal commitment to promoting a satisfactory solution to the case of Mr. Al-Mamari;
2. *Deeply regrets* nevertheless that Mr. Al-Mamari remains imprisoned despite strong official indications from the Omani authorities that he was going to be released at some juncture in the last six months;
3. *Firmly believes* that Mr. Al-Mamari was prosecuted and convicted on the basis of charges and legal provisions which infringed his legitimate right to freedom of assembly and freedom of expression; *affirms* in this regard that the evidence provided by the authorities in no way show Mr. Al-Mamari to have been directly responsible for any violence or for anything that could possibly be termed direct incitement to violence;
4. *Calls* therefore on the Omani authorities to release Mr. Al-Mamari forthwith and to ensure that, once free, he can fully enjoy his basic human rights in line with relevant international standards;
5. *Requests* the Secretary General to convey this decision to the authorities and the complainants and to disseminate its contents to the wider public.
6. *Decides* to continue examining the case.