



INTERNATIONAL COMMISSION OF JURISTS

Commission internationale de juristes - Comisión Internacional de Juristas

" dedicated since 1952 to the primacy, coherence and implementation of international law and principles that advance human rights "

15 August 2003

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Your Excellency,

The International Commission of Jurists (ICJ) consists of jurists who represent all the regions and legal systems in the world working to uphold the rule of law and the legal protection of human rights. The ICJ's Centre for the Independence of Judges and Lawyers (CIJL) is dedicated to promoting the independence of judges and lawyers throughout the world.

We are writing to you regarding the arrest and detention of Mr. Muhamed Mugarby on the charge of "impersonating a lawyer", a criminal offence that carries a term of six months to three years imprisonment. Mr. Mugarby is a prominent human rights lawyer and member of the International Bar Association and the International Association of Lawyers.

According to the information we have received, Mr. Mugarby was arrested on 8 August after a four-hour interrogation at the Office of the Prosecutor in Beirut, to which he had been ordered to report by two police officers. Reports indicate that he is now detained at Roumieh Prison in Beirut and that there is no set date for his release.

The apparent reason for Mr. Mugarby's arrest is that he has continued to practise law despite having been disbarred twice, in April 2002 and January 2003, by disciplinary committees of the Beirut Bar Association. In the first case, he was disbarred for having allegedly committed "legal violations that undermined the profession"; in the second, for continuing to practice despite the disbarment. Mr. Mugarby has appealed these two decisions to civil courts. In the meantime, while the courts did not rule on his appeals, he continued to practise law and his annual Bar fees were accepted, as well as the registration of his power of attorney at the Bar.

Mr. Mugraby's arrest and detention are in direct violation of the *International Covenant on Civil and Political Rights* (ICCPR), to which Lebanon is a party. Article 9 of the ICCPR prohibits arbitrary arrest and detention in the following terms:

*Article 9.1: Everyone has the right to liberty and security of person. No one shall be subjected to **arbitrary arrest** or **detention**. No one shall be deprived of his liberty except on such grounds and in accordance with such procedure as are established by law.*

We believe that Mr. Mugraby's arrest and detention are in retaliation for his outspoken criticism of Syria's alleged involvement in Lebanese politics and his accusations against a number of prominent Lebanese judges. Mr. Mugraby, a well-known lawyer who has enjoyed a long career, has also defended several anti-Syrian activists and worked on behalf of Lebanese detainees in Syrian prisons, professional activities for which he is being punished.

Targeting a lawyer in this manner constitutes a form of harassment and a violation of his freedom of expression. In this regard, we would like to draw your attention to the *United Nations Basic Principles on the Role of Lawyers*, which were adopted by the U.N. General Assembly in 1990. The *Principles* establish that Governments have the duty to ensure that lawyers can fulfil their functions without fear of harassment and that lawyers have the right to express their opinions. The *Principles* state:

Principle 16. Governments shall ensure that lawyers (a) are able to perform all of their professional functions without intimidation, hindrance, harassment or improper interference; and (c) shall not suffer, or be threatened with, prosecution or administrative, economic or other sanctions for any action taken in accordance with recognized professional duties, standards and ethics.

Principle 23. Lawyers like other citizens are entitled to freedom of expression, belief, association and assembly. In particular, they shall have the right to take part in public discussion of matters concerning the law, the administration of justice and the promotion and protection of human rights and to join or form local, national or international organizations and attend their meetings, without suffering professional restrictions by reason of their lawful action or their membership in a lawful organization.

Furthermore, the *Principles* require that all disciplinary proceedings against lawyers must be carried out before a fair and independent body and that decisions shall be subject to judicial review:

Principle 28. Disciplinary proceedings against lawyers shall be brought before an impartial disciplinary committee established by the legal profession, before an independent statutory authority, or before a court, and shall be subject to an independent judicial review.

As there are no valid grounds for Mr. Mugraby's arrest and detention, we urge your Government to immediately release him. We further ask that your Government desist from harassing and intimidating Mr. Mugraby and allow him to carry out his professional duties as a lawyer without any fear or hindrance.

Please receive the assurances of my highest consideration.

Ernst Lueber
Acting Secretary-General

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