

DECISION No. 21/1996 (BAHRAIN)

Communication addressed to the Government of the State of Bahrain on 20 February 1996.

Concerning: Hassan Ali Fadhel, Issa Saleh Issa and Ahmad Abdulla Fadhel, on the one hand and the State of Bahrain, on the other.

1. The Working Group on Arbitrary Detention, in accordance with the revised methods of work adopted by it and in order to carry out its task with discretion, objectivity and independence, forwarded to the Government concerned the above-mentioned communication received by it and found to be admissible, in respect of allegations of arbitrary detention reported to have occurred.
2. The Working Group takes note of the information forwarded by the Government concerned in respect of the cases in question within 90 days of the transmittal of the letter by the Working Group.
3. (Same text as para. 3 of Decision No. 35/1995.)
4. In the light of the allegations made the Working Group welcomes the cooperation of the Government of the State of Bahrain. The Working Group transmitted the reply provided by the Government to the source and received its comments. The Working Group believes that it is in a position to take a decision on the facts and circumstances of the cases, in the context of the allegations made and the response of the Government thereto.
5. According to the communication submitted by the source, a summary of which was forwarded to the Government, scores of minors, including Hassan Ali Fadhel and Issa Saleh Issa, both aged 12, and Ahmad Abdulla Fadhel, aged 13; all three pupils from Jedhafs, were reported to have been arrested in November 1995. The three above-mentioned were reportedly arrested on 15 November. The source added that 200 pupils were arrested on 28 November 1995 at Al-Jabria secondary school, following their protest of the death sentence allegedly pronounced against the 27-year-old prisoner Issa Qambar. It was further reported that the pupils were taken by the police in five buses to an unknown place. The source alleged that scores of citizens, including children between 12-16 years of age were arbitrarily detained during the month of November. The authorities have allegedly refused to reveal the names and the whereabouts of the detainees who were allegedly also denied access to their families.
6. The Government in its reply dated 21 May 1996 categorically refuted the allegation by the source which it described as a "recognisable product of terrorist propaganda which should be viewed against the background of the continuing unrest in Bahrain and therefore treated with extreme caution".
7. As to the facts alleged, the Government says, in reference to the three children allegedly detained on 15 November 1995, that no one was detained arbitrarily. All the persons arrested in November 1995 following violent disturbances were either released or tried by tribunals in keeping with the law.

8. The Working Group regrets to note that the Government's reply does not make it possible to ascertain what persons were tried and who was released. No details are given as to the legal situation of those who were tried and the charges brought against them. Nor does the Government inform the Group about the sentences meted out to those convicted. Furthermore, the Government does not deny that among those arrested and detained there were children.

9. The source in its observations to the Government's reply challenges the Government's affirmation that all those arrested in November 1995 in relation to the unrest were either tried or released. The source claims that it has documented many cases of people held for more than one year without being charged or tried, apparently under administrative detention. The Bahraini Information Minister admitted in February 1996, according to the source, that about 200 of those arrested in 1994-1995 were "still under interrogation". The Decree Law of State Security Measures of October 1974 permitted administrative detention at the discretion of the Minister of Interior for renewable periods of three years. In addition, although the law allowed for a petition to the Attorney General challenging the detention every three months, lawyers have told the source that many of those arrested since November 1995 were held without an official order and thus could be detained for months without any possibility of review.

10. It appears from the facts as described above that the detention since 15 November 1995 of the three aforementioned children is solely motivated by the fact that they protested against the death sentence pronounced against Issa Qambar. There is nothing to indicate that by doing so they had resorted or incited to violence. Their detention is therefore motivated by activities which they had exercised in their right to freedom of opinion and expression, as well as their right to freedom of peaceful assembly, rights which are guaranteed by articles 19 and 20 of the Universal Declaration of Human Rights.

11. In the light of the above the Working Group decides:

(a) The detention of Hassan Ali Fadhel, Issa Saleh Issa and Ahmad Abdulla Fadhel is declared to be arbitrary being in contravention of articles 19 and 20 of the Universal Declaration of Human Rights and falling within category II of the principles applicable in the consideration of the cases submitted to the Working Group.

(b) To transmit the present decision to the Committee established by the United Nations to monitor the implementation of the Convention on the Rights of the Child, to which the State of Bahrain is a party.

12. Consequent upon the decision of the Working Group declaring the detention of the three above-mentioned children to be arbitrary, the Working Group requests the Government of the State of Bahrain to take the necessary steps to remedy the situation in order to bring it into conformity with the provisions and principles incorporated in the Universal Declaration of Human Rights.

Adopted on 17 September 1996.