

OPINION No. 15/1997 (BAHRAIN)

Communication addressed to the Government on 19 November 1996.

Concerning: Maythem Omran Hussain, Ammar Mohammed Ali Mohammed Majeed Al Zaki, Malek Abdallah, Ali Jaffer Mohammed Ali, Nour Alhoda Alqtan, Hassan Mohammed Ali, Sayed Adnan Sayed Jalal, Majeed Abdallah, Hussain Al-Sarah, Adel Hassan, Issa Mohammed, Hussain Abdul Aziz, Ahmed Abbas, Ahmed Abdul Nabi Alsari, Sadeq Jaffer, Mahmmoud Abdul Wahed Al-Shehab, Hassan Ma'touq, Basheir Abdallah Fadhel, Hussain Mohammed Ali, Ahmed Ali Abdul Shahid, Ali S. Mahfoudh S. Mohammed, Mahmmoud Mohammed, Mahmmoud Ahmed Dheif, Hashim S. Taj S. Hashim, Hassan Abdallah Mohammed Hussain, Mohammed S. Yousif S. Abdul Wahab, Mortadha Abdul Nabi Dhaif, Hussain S. Ahmed S. Hassan, Mansoor-Al-Qattan, Fadheil Ahmad Muhsin, Jalil Naser and Abbas Hassan Saif.

The State of Bahrain is not a party to the International Covenant on Civil and Political Rights.

1. The Working Group on Arbitrary Detention was established by resolution 1991/42 of the Commission on Human Rights. The mandate of the Working Group was clarified and extended by resolution 1997/50. Acting in accordance with its methods of work, the Working Group forwarded to the Government the above-mentioned communication.
2. The Working Group conveys its appreciation to the Government for having forwarded the requisite information in good time.
3. (Same text as paragraph 3 of Opinion No. 1/1997.)
4. In the light of the allegations made the Working Group welcomes the cooperation of the Government. The Working Group transmitted the reply provided by the Government to the source and received its comments.
5. According to the communication, the 33 persons concerned were minors who had been detained between July and November 1996 under the 1974 State Security Law, article 1, which reportedly provides for the administrative detention without charge or trial for up to three years. The detained minors were allegedly held incommunicado and denied access in particular to their families and doctors. According to the source, these minors were allegedly at high risk of torture. The minors included a boy aged 11 (Basheir Abdallah Fadhel); two boys aged 13 (Hussain Al-Sarah and Issa Mohammed); two boys aged 14 (Hussain Abdul Aziz and Hussain Mohammed Ali) and several others aged between 15 and 18.
6. In its reply, the Government described the allegations as the "recognisable product of the terrorists' propaganda that should be treated with extreme caution". It none the less provided some details about eight of the persons mentioned in the communication, as follows: Ahmed Ali Abdul Shahid, Ali S. Mahfoudh S. Mohammed (aged 16), Mahmmoud Mohammed (aged 18), Mahmmoud Ahmed Dheif, Hashim S. Taj. S. Hashim (aged 18), Hassan A. Mohammed Hussain (aged 17), Mohammed S.Y.S. Abdul Wahab (aged 17), and Hussain S. Ahmed S. Hassan. According to the Government these eight youths are not detained

arbitrarily and issues of their detention, trial and release are determined by due process of law. Of the others mentioned, four have been released (no details are given as to who these are) and there is no record of the remaining 21 persons ever having been detained or held in custody. The Government further provides details on the rules applicable in Bahrain for the detention of children under 15, and describes its cooperation with the ICRC.

7. In its observation on the Government's reply, the source refers to 20 out of the 33 minors concerned. It notes that these minors, aged between 11 and 17, were arrested in connection with protests to mark the first anniversary of a hunger strike undertaken by Sheikh Abdul Amir Al-Jamri, a jailed member of the dissolved Parliament. According to the source, these minors had not resorted or incited to violence. The source further alleges that in its response, the Government failed to clarify the legal position of the eight minors admittedly in detention.

8. The Working Group notes with regret that the Government did not react to the allegation concerning the 1974 State Security Law under which the persons concerned are reportedly detained. The Working Group refers to a previous decision it adopted regarding Bahrain, Decision 35/1995, and in particular to paragraphs 5, 9, and 12 to 17 of that Decision. The Working Group recalls its conclusion that the application of the State Security Law is liable to cause grave violations of the right to a fair trial, guaranteed by articles 9 and 10 of the Universal Declaration of Human Rights. The application of the State Security Law is also in contravention of principles 10, 11, 12, 13, 15, 16, 17, 18, 19 and in particular principle 33 of the Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment. Furthermore, the Government's reply fails to provide any information about the present legal status of the eight persons whom the Government confirms to be in detention; thus, it is not known whether they stood trial, and if so, what were the charges against them and what were the sentences meted out to them. Moreover, the Government's reply fails to identify the four persons who were reportedly released.

9. It appears from the above, since the Government does not challenge this, that the eight persons admittedly detained, are being held under the 1974 State Security Law. They are deprived of any contact with their families and lawyers and their families have not been informed of the reasons for their arrest and detention. This constitutes a violation of articles 9 and 10 of the Universal Declaration of Human Rights and of principles 10, 11, 12, 13, 15, 16, 17, 18, 19 and 33 of the Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment which is of such gravity as to confer on the deprivation of liberty an arbitrary character.

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

(a) The deprivation of liberty of Ahmed Ali Abdul Shahid, Al S. Mahfoudh S. Mohammed, Mahmoud Mohammed, Mahmoud Ahmed Dheif, Hashim S. Taj. S. Hashim, Hassan A. Mohammed Hussain, Mohammed S.Y.S. Abdul Wahab and Hussain S. Ahmed S. Hassan is arbitrary, as being in contravention of articles 9 and 10 of the Universal Declaration of Human Rights and principles 10, 11, 12, 13, 15, 16, 17,

18, 19 and 33 of the Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment, and falls within category III of the applicable categories to the consideration of the cases submitted to the Working Group.

(b) The cases of the other 25 persons concerned are kept pending for further information, in keeping with paragraph 14.1 (c) of its methods of work.

11. Consequent upon the opinion rendered, the Working Group requests the Government to take the necessary steps to remedy the situation, and bring it in conformity with the standards and principles set forth in the Universal Declaration of Human Rights. The Working Group further requests the Government to study the possibility of amending its legislation in order to bring it into line with the Universal Declaration of Human Rights and the other relevant international standards accepted by the State of Bahrain.

Adopted on 19 September 1997.

-----