

OPINION No. 19/1997 (ETHIOPIA)

Communication addressed to the Government on 11 July 1997.

Concerning: Amanuel Taye and Bulti Jambare

Ethiopia is 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 regrets that the Government has not replied within the 90-day deadline.

3. The Working Group regards deprivation of liberty as arbitrary in the following cases:

I. When it manifestly cannot be justified on any legal basis (such as continued detention after the sentence has been served or despite an applicable amnesty act) (category I);

II. When the deprivation of liberty is the result of a judgement or sentence for the exercise of the rights and freedoms proclaimed in articles 7, 13, 14, 18, 19, 20 and 21 of the Universal Declaration of Human Rights and also, in respect of States parties, by articles 12, 18, 19, 21, 22, 25, 26 and 27 of the International Covenant on Civil and Political Rights (category II);

III. When the complete or partial non-observance of the relevant international standards set forth in the Universal Declaration of Human Rights and in the relevant international instruments accepted by the States concerned relating to the right to a fair trial is of such gravity as to confer on the deprivation of liberty, of whatever kind, an arbitrary character (category III).

4. In the light of the allegations made, the Working Group would have welcomed the cooperation of the Government. In the absence of any information from the Government, the Working Group believes that it is in a position to render an opinion on the facts and circumstances of the cases, especially since the facts and allegations contained in the communication have not been challenged by the Government.

5. The communications received from the sources, a summary of which was forwarded to the Government, concerned the following persons:

(a) Amanuel Taye, aged 28, teacher, was reportedly arrested in April 1996 by the Ethiopian government security force at Yubdo elementary school, Wellega, Ethiopia. The detention was reportedly ordered by the Ethiopian government administrative authority of the region of Oromia. The arrest was apparently linked to accusations that he and 13 other local people were involved in a politically motivated killing. He was detained in Guliso prison until June 1996 and then transferred to Gimbi prison. Allegedly, no warrant nor any other decision by a public authority was shown to uphold the arrest. Also, no formal charge has been brought against him so far and he was being kept incommunicado. The source reported that this was the fourth time that he was imprisoned since 1992 and believed that the arrest was politically motivated because of his ethnic origin (Oromo) and because of his sympathizing and supporting the Oromo Liberation Front (OLF) between 1991 and 1992 when the OLF was in the transitional government.

(b) Bulti Jambare, aged 23, farmer, was reportedly arrested in April 1996 by the Ethiopian government security force at his home in Chalia, Gimbi, Wellega, Oromia, Ethiopia. He was detained in Guliso prison until June 1996, then transferred to Gimbi prison until April 1997 and finally to Karchale prison (Addis Ababa), where he was currently detained. Allegedly, no warrant nor any other decision by a public authority was shown to uphold the arrest. Also, no formal charge has been brought against him so far. The source reported that the family failed to obtain habeas corpus as the authority claimed that he was a political prisoner. The source also believed that the arrest was politically motivated because of his ethnic origin (Oromo) and because of his involvement in the OLF.

6. It appears from the above summary that the detention of Amanuel Taye was ordered by an administrative authority without a mandate. Moreover, that person has so far not been formally charged with any offence while being held incommunicado. It should be noted that, according to the source, this is the fourth time that this person is being deprived of his freedom since 1992. The Working Group therefore deems that the detention of Amanuel Taye is essentially of a political nature, linked to his Oromo origin and to his support of the Oromo Liberation Front between 1991 and 1992 when the OLF was in the transitional government.

7. As for Bulti Jambare who was also arrested without a warrant and has so far not been formally charged, the Working Group has no doubt of the political character of his detention, since it is precisely due to his being considered by the Ethiopian authorities as a political prisoner that he was refused a habeas corpus by the authorities.

8. It follows from the above that the deprivation of liberty of Amanuel Taye and Bulti Jambare is arbitrary since it is in violation of articles 9, 10 and 19 of the Universal Declaration of Human Rights and of articles 9, 14 and 19 of the International Covenant on Civil and Political Rights to which Ethiopia is a Party, as well as of Principles 10, 11, 18 and 19 of the Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment.

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

The deprivation of liberty of Amanuel Taye and Bulti Jambare is arbitrary, as being in contravention of articles 9, 10 and 19 of the Universal Declaration of Human Rights and articles 9, 14 and 19 of the International Covenant on Civil and Political Rights, and falls within categories II and III of the applicable categories to the consideration of the cases submitted to the Working Group.

10. 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 and the International Covenant on Civil and Political Rights.

Adopted on 1 December 1997.