

OPINION No. 10/1998 (ISRAEL)

Communication addressed to the Government on 1 October 1997

Concerning: Ribhi Qattamesh, Imad Sabi and Derar Al Aza

The State is a party to the International Covenant on Civil and Political Rights

1. The Working Group on Arbitrary Detention was established pursuant to resolution 1991/42 of the Commission on Human Rights. The mandate of the Working Group was clarified and extended pursuant to resolution 1997/50. Acting in accordance with its methods of work, the Working Group forwarded the above-mentioned communication to the Government.
2. The Working Group regrets that the Government has not replied within the 90-day deadline.
3. (Same text as paragraph 3 of Opinion 1/1998.)
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. Ribhi Qattamesh, aged 41, a journalist and lawyer, resident of the city of El-Bireh, West Bank, was reportedly arrested at his home on 28 March 1994. After being interrogated for a month and a half, a military commander issued a six months' administrative detention order, from 11 May until 26 September 1994. This was then extended several times: to 25 February, 24 August and 23 November 1995, and 22 February and 21 June 1996. The source reports that Qattamesh has still not been released and is still in administrative detention, serving his seventh consecutive detention order. Until August 1996, Qattamesh appealed all his detention orders before a military judge. Reportedly, all the orders were upheld on the basis of secret information. The source submits that Qattamesh is currently suffering from heart disease and ulcers and had to be hospitalized at the Ramle hospital.
6. Imad Sabi, aged 35, Executive Director of Bisan Research and Development Center and a member of Palestinian Housing Rights Movement (PHRM), resident in Ramallah, West Bank, was reportedly arrested near the entrance of Am'ary refugee camp on the Ramallah-Jerusalem Road, on 20 December 1995. He was brought to Beit El military camp and then transferred to Megiddo prison where he is currently being held. Before being arrested, on 12 December 1995, Sabi served without trial or charges a six months' administrative detention order issued by the General Commander of the West Bank. The reason for his detention is unknown, although it is believed to be political in nature. In June 1996, the order was renewed, first until October 1996 and then until April 1997. The source reports that Sabi has not been charged, which makes it impossible for him to prove his innocence.

7. Derar al Aza, aged 31, from Anza refugee camp, Bethlehem district (area A), was reportedly arrested at his home on 31 May 1995. A first administrative detention order was issued for six months, until 30 November 1995. This was then extended several times: until 29 March 1996, 28 September 1996 and 27 March 1997. The source reports that in all of these orders the only reason given for detention was his being a senior PFLP (Popular Front for the Liberation of Palestine) activist. Al Aza has not been released yet and is currently held in Megiddo military detention centre. Until August 1996, Al Aza appealed all his detention orders before a military judge. Reportedly, all the appeals were rejected.

8. Since August 1996, all administrative detainees have maintained a boycott on appeals, to protest against lack of due process.

9. According to the source, the above-mentioned cases of administrative detention are arbitrary for the following reasons:

(a) Information used against the detainees is being kept from them and their lawyers. This makes it impossible for the detainees to challenge the allegations;

(b) The wide use of extensions suggests that detention orders may be extended indefinitely.

10. From the allegations, it is clear that Mr. Qattamesh's detention since 28 March 1994 has been continuously renewed without a charge having been brought to date. He is apparently serving his seventh consecutive detention order. Qattamesh has no effective remedy to prove his innocence, the appeal to a military judge having been upheld on the basis of secret information. Similarly, Imad Sabi detained on 20 December 1995, is also serving his third detention without being brought to trial. In the case of Derar-Al Aza, the facts reveal that he is serving his fifth successive detention order and that he has been in administrative detention for over two years. The source suggests that the only reason for Al Aza's detention is his being a senior PFLP activist. All his appeals against the various detention orders were rejected and the orders upheld.

11. In the case of the above three individuals, there is a consistent pattern of conduct directed at ensuring their continued detention without recourse to an effective legal remedy. Prolonged periods of administrative detention, without remedy, would render the detention illegal. The detainees have a right to be tried without undue delay. Such a course of conduct on the part of the State violates the rights guaranteed under articles 9 and 10 of the Universal Declaration and articles 9 and 14 of the International Covenant on Civil and Political Rights, as well as of principles 10, 11, 12 and 23 of the Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment. The violation of the right to a fair trial is of such gravity as to confer on the deprivation of liberty an arbitrary character.

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

The deprivation of the liberty of Ribhi Qattamesh, Imad Sabi and Derar Al Aza is arbitrary, as being in contravention of articles 9 and 10 of the Universal Declaration of Human Rights and articles 9 and 14 of the International Covenant on Civil and Political Rights, and falls within Category III of the categories applicable to the consideration of the cases submitted to the Working Group.

13. Consequent upon the opinion rendered, the Working Group requests the Government to take the necessary steps to remedy the situation and bring it into conformity with the standards and principles set forth in the Universal Declaration of Human Rights.

Adopted on 15 May 1998.