

OPINION No. 12/1998 (INDONESIA)

Communication addressed to the Government on 14 July 1997

Concerning: Adnan Beuransyah

The State is not 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 case, especially since the facts and allegations contained in the communication have not been challenged by the Government.
5. Adnan Beuransyah, aged 39 and a journalist by profession, was arrested on 16 August 1990 in Aceh, western Sumatra by the Indonesian military intelligence services. The district court of Banda Aceh, which ordered the detention, accused him of supporting the armed opposition group, Aceh Merdeka, by attending meetings and distributing illegal pamphlets. The source alleges that Adnan Beuransyah was held in pre-trial incommunicado military detention for nearly eight months after his arrest. During this period he was allegedly tortured. He is alleged to have confessed to the charges of involvement in Aceh Merdeka after torture. When he testified in court, he sought to retract his confession which, according to him, was extracted under torture. The Court reportedly refused to accept the retraction. He was consequently convicted under the Anti-Subversion Law (Presidential Decree 11/1969) and sentenced to eight years' imprisonment. On appeal, in 1992, the High Court increased the sentence to nine years.
6. Though the Government of Indonesia did not respond to the communication of 14 July 1997 by which the Working Group transmitted the case of Adnan Beuransyah, on 11 August 1998 the source informed the Working Group that Beuransyah had been set free in April 1998, by which time he had probably completed his sentence. His release in these circumstances, after almost eight years, does not in any manner affect the nature of his detention, which the Group considers arbitrary.
7. There is nothing to show that Adnan Beuransyah was convicted for indulging in violence or for having given any logistical or other active support to violent activities. He is alleged to have attended meetings and

distributed illegal pamphlets. At those meetings, the opposition group Aceh Merdeka's goals and methods were allegedly discussed. He was not even accused of being a member of Aceh Merdeka. Being a journalist, his attending such meetings could even be otherwise justified. Such an association, if punishable under the Anti-Subversion Law (Presidential Decree 11/1983), would make such a law suspect.

8. Adnan Beuransyah's conviction was based on his confession, which was allegedly extracted. The source gives details of the extent of torture by quoting part of his testimony:

"As soon as we got to Lamponing (the local headquarters of the internal security agency), I was stripped to my underwear and my hands were handcuffed behind me. Then I was shown into a room where I was treated inhumanely. I was kicked and punched about the chest and legs until I fell to the floor. I was forced into consciousness, only to be kicked and punched all over my body. I collapsed again and had difficulty breathing."

In these circumstances, in the absence of independent unimpeachable evidence, it was unsafe to have convicted Adnan Beuransyah under the Anti-Subversion (Presidential Decree 11/1983).

9. The Working Group is of the opinion that the detention of Adnan Beuransyah is arbitrary. Article 5 of the Universal Declaration of Human Rights stipulates that no one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment. Article 11 of the Universal Declaration of Human Rights stipulates that no one shall be held guilty of any penal offence on account of any act or omission which does not constitute an offence. The Working Group believes that the participation of Adnan Beuransyah in a meeting of an opposition group cannot be an activity punishable under a penal statute. Since the conviction based on a confession, which was apparently extracted, is suspect, the Working Group believes that the detention is clearly arbitrary and violates articles 5 and 11 of the Universal Declaration of Human Rights.

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

The deprivation of the liberty of Adnan Beuransyah is arbitrary, as being in contravention of articles 5 and 11 of the Universal Declaration of Human Rights, and falls within Category II of the categories applicable to the consideration of cases submitted to the Working Group.

11. 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 and to take appropriate initiatives with a view to becoming a party to the International Covenant on Civil and Political Rights.

Adopted on 17 September 1998.