

OPINION No. 18/2000 (ISRAEL)

Communication addressed to the Government on 24 February 2000

Concerning Ahmed Amar

The State 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 and reconfirmed by resolution 2000/36. 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, in 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 international standards relating to a fair trial set forth in the Universal Declaration of Human Rights and in the relevant international instruments accepted by the States concerned 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 case, especially since the facts and allegations contained in the communication have not been challenged by the Government.
5. Ahmed Amar, a Lebanese citizen, was allegedly arrested on 1 September 1986; the source contends that he was arrested without a warrant by members of the Israeli Defence Forces. He is said to have been sentenced to four years' imprisonment after a trial in which he had no legal representation. His sentence should have expired in 1991, but he continues to be held. He was initially held at Al-Khiam detention centre before being transferred to Bi'ir Sabee/Shata prison and subsequently to Askalan prison.

6. In the light of the above information, the Working Group concludes:

(a) That Ahmed Amar was arrested without a warrant;

(b) That he was detained in southern Lebanon at the Al-Khiam detention centre in conditions identical to those declared arbitrary by the Working Group in its Opinion No. 16/2000 concerning Rabah Abou Faour and other persons;

(c) That after having been sentenced to four years' imprisonment at the end of a trial in which he had no legal assistance, he continues to be held in detention even though his sentence has expired.

7. The Working Group therefore considers that the measure of deprivation of liberty taken against Ahmed Amar is in contravention of the provisions of article 9 of the Universal Declaration of Human Rights and of article 9 of the International Covenant on Civil and Political Rights, according to which no one may be subject to arbitrary detention. The Working Group finds that continued detention to be arbitrary inasmuch as there is no legal basis whatsoever for the continued detention of Ahmed Amar after his sentence has expired.

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

The deprivation of liberty of Ahmed Amar is arbitrary, being in contravention of article 9 of the Universal Declaration of Human Rights and article 9 of the International Covenant on Civil and Political Rights, and falls within category I of the categories applicable to the consideration of cases submitted to the Working Group.

9. The Working Group accordingly requests the Government to release Ahmed Amar with immediate effect, as he has served his sentence.

Adopted on 13 September 2000