

OPINION No. 31/2000 (ISRAEL)

Communication addressed to the Government on 13 April 2000

Concerning Mustafa Dirani

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

1. The Working Group on Arbitrary Detention was established by Commission on Human Rights resolution 1991/42. 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 the above-mentioned communication to the Government.
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 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. Mustafa Dirani, a Lebanese citizen aged 48, was abducted from his home in the town of Kasser Naba on 20 May 1994 by a commando of the Israeli security services. According to the source, he headed, at the time of his abduction a small pro-Iranian militia, the Believers' Resistance. It is claimed that he was abducted in an attempt to win the release of Ron Arad, an Israeli air force navigator captured by the Shiite Muslim Amal militia in Lebanon in 1986. Mr. Dirani was security chief of Amal at that time.

6. According to his family, Mr. Dirani has been kept in solitary confinement in an Israeli prison since his abduction. He has been denied the right to see his family or even to send or receive letters from them. The International Committee of the Red Cross and any other international humanitarian organization are said to have been denied access to him to check on his condition.
7. On 13 March 2000, Mr. Dirani's Israeli lawyer filed a suit for compensation and damages on Mr. Dirani's behalf against the Government of Israel, alleging that his client had been raped and tortured in detention to extract information from him about the whereabouts of Mr. Arad. According to the lawyer, Mr. Dirani was beaten, violently shaken, raped by a soldier brought in specifically for this purpose, sodomized by the head of the interrogation team, deprived of sleep and at one point forced to wear diapers after being fed laxatives.
8. According to the source, the delay in filing the compensation suit against the Government resulted from the incommunicado nature of Mr. Dirani's detention and his reluctance to talk about the events, for fear of reprisals. It is alleged that he was only allowed legal representation in the autumn of 1998, almost four and a half years after his abduction.
9. As it has received no response from the Government of Israel, the Working Group will render an opinion on the basis of the information available to it.
10. It is clear to the Working Group from the allegations that Mr. Dirani was abducted and held incommunicado for more than six years solely so that he could be used to obtain information that might help locate, or even be exchanged for, an Israeli soldier captured in 1986, unjustifiable acts that render his detention devoid of any legal basis.
11. Apart from the conditions of his detention and the treatment he was subjected to during that time, which was the subject of an urgent appeal by the Special Rapporteur of the Commission on Human Rights on the question of torture earlier this year, the Working Group notes that Mr. Dirani also did not obtain any legal assistance during the first four and a half years of his detention, during which time he was denied a fair trial or any remedy, which constitutes a breach of articles 9, 10 and 11 of the Universal Declaration of Human Rights and articles 9 and 14 of the International Covenant on Civil and Political Rights, and reaffirms the arbitrary nature of his detention.
12. In the light of the foregoing, the Working Group renders the following opinion:

The deprivation of liberty of Mustafa Dirani 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 I of the categories applicable to the consideration of cases submitted to the Working Group.
13. Having rendered this opinion, the Working Group requests the Government to take the necessary steps to remedy the situation of Mustafa Dirani, in accordance with the standards and principles set out in the Universal Declaration of Human Rights and the International Covenant on Civil and Political Rights, to which it is a party.

Adopted on 27 November 2000