

OPINION No 4/1999 (ISRAEL)

Communication addressed to the Government on 6 July 1998

Concerning Bilal Dakrub

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. 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 case, especially since the facts and allegations contained in the communication have not been challenged by the Government.
5. According to the allegation, Bilal Dakrub, a Lebanese citizen, was detained in Lebanon in 1986 by Israeli agents and taken to Israel, where he was tried on the charge of being a member of an illegal organization and sentenced to two and a half years' deprivation of liberty. After completing his sentence, he was kept in prison, allegedly, according to the source, in order to be used in possible negotiations on an exchange of detainees for Israeli citizens captured in Lebanon.

6. As the Government of Israel has not replied to the Working Group, the latter will render an opinion on the basis of the information available to it.

7. In the light of the information before it, the Working Group considers:

(a) That there is no information indicating that Bilal Dakrub has committed acts of violence;

(b) That membership of an “illegal organization”, on which no information is provided and in respect of which there is nothing to suggest that it has committed illicit acts, is simply the legitimate exercise of the right of association enshrined in article 20 of the Universal Declaration of Human Rights and article 22 of the International Covenant on Civil and Political Rights, to which Israel is a party;

(c) Furthermore, the extension of deprivation of liberty for more than 11 years after the completion of the sentence imposed without any court order is a classic case of arbitrary detention, because it lacks any legal basis that might justify it.

8. From the foregoing, it must be concluded that the deprivation of the liberty of the aforementioned person, even though it might be considered to be in compliance with domestic legislation, is not justified. Indeed, it is the legislation which contravenes the provisions of the above-mentioned articles of the Universal Declaration of Human Rights and the International Covenant on Civil and Political Rights.

9. In view of the above, the Working Group renders the following opinion:

The deprivation of liberty of Bilal Dakrub is arbitrary, as being in contravention of article 20 of the Universal Declaration of Human Rights and article 22 of the International Covenant on Civil and Political Rights, and falls within Category III (during completion of his sentence of two and a half years) and Category I (after completion of the sentence) of the categories applicable to the consideration of cases submitted to the Working Group.

10. Consequent upon the opinion rendered, the Working Group requests the Government:

(a) 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;

(b) To consider the possibility of amending its legislation in order to bring it into line with the Declaration and the other relevant international standards accepted by Israel.

Adopted on 20 May 1999