

OPINION No. 27/1999 (Uzbekistan)

Communication addressed to the Government on 30 March 1999

Concerning Umarkhon Nazarov, Akhmadali Salomov and Abdurashid Nasriddinov

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, 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 cases, especially since the facts and allegations contained in the communication have not been challenged by the Government.
5. Umarkhon Nazarov, aged 33, Akhmadali Salomov, aged 49, and Abdurashid Nasriddinov, aged 29, were detained on 28 February and 17 March 1999, and reportedly charged with “attempting to overthrow the constitutional order of Uzbekistan”. It is alleged that their arrest and detention is part of a clampdown on so-called “Islamic extremists” and others, including the banned political opposition, their families and associates, whom

President Karimov of Uzbekistan holds responsible for a series of bomb explosions in Tashkent on 16 February 1999. All three detained individuals are related to the independent Imam Obidkhon Nazarov, who is sought by the Uzbek authorities for promoting "Wahhabism", an allegedly extreme form of Islam, for preaching illegally and attempting to establish an Islamic State.

6. Umarkhon Nazarov is one of the younger brothers of Obidkhon Nazarov and a citizen of Kyrgyzstan. On 17 March 1999, he was visiting his uncle, Akhmadali Salomov, in Namangan, Uzbekistan, when 15 armed policemen burst into Mr. Salomov's home, apparently looking for Obidkhon Nazarov. Both men were detained on charges of attempting to overthrow the constitutional order of Uzbekistan. According to the source, Umarkhon Nazarov is being held at the Namangan regional police department. On 22 March 1999, his lawyers were allowed access to him, but his family has not been allowed to see him. Akhmadali Salomov is being held at the Namangan regional department of internal affairs. It is alleged that he has not been allowed to see his lawyer or his family.

7. Abdurashid Nasriddinov is the brother of Obidkhon Nazarov's wife, Munira Nasriddinova, who had herself recently been detained for 10 days. Abdurashid Nasriddinov was arrested on 28 February 1999 in Namangan and charged with attempting to overthrow the constitutional order of Uzbekistan and organizing mass disturbances. He is said to be held at Namangan prison and to have been denied access to a lawyer and to his family.

8. It is reported that the Uzbek authorities are planning to transfer Umarkhon Nazarov, Akhmadali Salomov and Abdurashid Nasriddinov to the same detention centre and to link their criminal cases, charging them additionally with being members of an armed criminal gang.

9. According to the source, the Government of Uzbekistan has used the Tashkent bombings as a mere pretext to clamp down on perceived sources of opposition to President Karimov. Apart from the above-mentioned individuals, numerous other known or suspected opposition sympathizers, and suspected members of Islamic congregations, are said to have been arbitrarily detained. It is further reported that during the Government's recent campaign against the perceived spread of "Wahhabism", several individuals were detained solely for their alleged affiliation to independent Islamic congregations.

10. The allegations made by the source have never been refuted by the Government, although it had the opportunity to do so.

11. The Working Group observes that the three above-named persons have been detained without charge or trial and, in two of the three cases, without the opportunity to contact their lawyers or families. These facts constitute a clear violation of articles 9 and 10 of the Universal Declaration of Human Rights, articles 9 and 14 of the International Covenant on Civil and Political Rights, and principles 15, 16, 17, 18, 19, 32 and 33 of the Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment. This violation of the right to a fair trial is of such gravity as to confer an arbitrary character upon their detention.

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

The deprivation of the liberty of Umarkhon Nazarov, Akhmadali Salomov and Abdurashid Nasriddinov is arbitrary, being in contravention of articles 9 and 10 of the Universal Declaration of Human Rights, articles 9 and 14 of the International Covenant on Civil and Political Rights, and principles 15, 16, 17, 18, 19, 32 and 33 of the Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment, and falls within category III of the principles applicable to the consideration of cases submitted to the Working Group.

13. Consequently, the Working Group requests the Government to take the necessary steps to remedy the situation and to bring it into conformity with the standards and principles set forth in the Universal Declaration of Human Rights and the International Covenant on Civil and Political Rights.

Adopted on 29 November 1999