
Advance Edited VersionDistr.: General
20 June 2023

Original: English

Human Rights Council
Working Group on Arbitrary Detention**Opinions adopted by the Working Group on Arbitrary Detention at its ninety-sixth session, 27 March–5 April 2023****Opinion No. 25/2023 concerning Ahmed Ali Ahmed Yusuf, Alaa Mansoor Mohamed Redha Ahmed Ansaif, Husain Ali Hasan Ali Mohamed Matar, Husain Ali Jaafar Mohamed Abdulla, Mohamed Ali Mohsen Abdulla Baddaw and Sayed Husain Saeed Alawi Ali Mohamed Al-Khabbaz (Bahrain)**

1. The Working Group on Arbitrary Detention was established in resolution 1991/42 of the Commission on Human Rights. In its resolution 1997/50, the Commission extended and clarified the mandate of the Working Group. Pursuant to General Assembly resolution 60/251 and Human Rights Council decision 1/102, the Council assumed the mandate of the Commission. The Council most recently extended the mandate of the Working Group for a three-year period in its resolution 51/8.

2. In accordance with its methods of work,¹ on 23 December 2022 the Working Group transmitted to the Government of Bahrain a communication concerning Ahmed Ali Ahmed Yusuf, Alaa Mansoor Mohamed Redha Ahmed Ansaif, Husain Ali Hasan Ali Mohamed Matar, Husain Ali Jaafar Mohamed Abdulla, Mohamed Ali Mohsen Abdulla Baddaw and Sayed Husain Saeed Alawi Ali Mohamed Al-Khabbaz. The Government replied to the communication on 20 March 2023 and submitted additional information in a late response on 23 March 2023. The State is a party to the International Covenant on Civil and Political Rights.

3. The Working Group regards deprivation of liberty as arbitrary in the following cases:

(a) When it is clearly impossible to invoke any legal basis justifying the deprivation of liberty (as when a person is kept in detention after the completion of his or her sentence or despite an amnesty law applicable to him or her) (category I);

(b) When the deprivation of liberty results from the exercise of the rights or freedoms guaranteed by articles 7, 13, 14, 18, 19, 20 and 21 of the Universal Declaration of Human Rights and, insofar as States parties are concerned, by articles 12, 18, 19, 21, 22, 25, 26 and 27 of the Covenant (category II);

(c) When the total or partial non-observance of the international norms relating to the right to a fair trial, established in the Universal Declaration of Human Rights and in the relevant international instruments accepted by the States concerned, is of such gravity as to give the deprivation of liberty an arbitrary character (category III);

¹ [A/HRC/36/38](#).

(d) When asylum-seekers, immigrants or refugees are subjected to prolonged administrative custody without the possibility of administrative or judicial review or remedy (category IV);

(e) When the deprivation of liberty constitutes a violation of international law on the grounds of discrimination based on birth, national, ethnic or social origin, language, religion, economic condition, political or other opinion, gender, sexual orientation, disability, or any other status, that aims towards or can result in ignoring the equality of human beings (category V).

Submissions

Communication from the source

4. Ahmed Ali Ahmed Yusuf is a Bahraini university student from Sitra born in 1997.
5. The source reports that, on 9 February 2017, a joint security team consisting of personnel from the Criminal Investigation Directorate, the Special Security Force Command and the National Security Agency, arrested Mr. Yusuf while he was at sea, without presenting a warrant, as part of a security operation conducted by the Ministry of the Interior to capture two fugitive political prisoners, which resulted in the deaths of three people. Mr. Yusuf's foot was wounded by live bullets, an injury he still suffers from. The Ministry later published the reason for the arrest, accusing Mr. Yusuf of smuggling criminals and transferring guns and explosives.
6. In the weeks leading up to his arrest, Mr. Yusuf's family home was repeatedly raided and searched. The family was unaware of the reason and was not provided with any warrant or summons. Some items, including a laptop computer and other devices, were seized, the majority of which belonged to a member of Mr. Yusuf's family.
7. After his arrest, Mr. Yusuf was sent to Building 15² at Jau Prison, where he was subjected to forced disappearance for 40 days to obtain confessions from him under torture. The National Security Agency officers subjected Mr. Yusuf to torture, including beating him severely and inflicting electric shocks in the genital area; keeping him in chains, even during prayer time, with iron chains around his feet, hands and neck so that he would receive electric shocks; isolating him in a small room with cold air-conditioning; harassing him; and torturing him psychologically. Due to the torture, he was transferred to Al-Qalaa Hospital, before being returned to Jau Prison. After 40 days, Mr. Yusuf called his family and complained about the torture.
8. Two months after his arrest, he was transferred to Dry Dock Detention Centre, where an officer assaulted him, pulling him away from the cameras, beating and insulting him and forcing Mr. Yusuf to kiss the officer's feet and shoes. When the family met Mr. Yusuf for the first time, the signs of torture were still apparent.
9. Mr. Yusuf was among 59 defendants in a mass trial in which two defendants were sentenced to death and executed. He was convicted of concealing and harbouring fugitives, smuggling, maintaining a bomb factory in his house, possessing weapons and explosives in 2016 with the intention of using them for a terrorist act in 2017, training on the use of weapons in the Islamic Republic of Iran, joining a terrorist cell and financing terrorism.
10. The authorities denied Mr. Yusuf access to his lawyer during the interrogations. When Mr. Yusuf was presented before the Public Prosecutor's Office for the first time, six months after his arrest, the lawyer was present but was not allowed to speak to Mr. Yusuf. The lawyer was also present during the trial, but was not allowed to speak to Mr. Yusuf. Mr. Yusuf did not have adequate time and facilities to prepare for trial and he could not present evidence at trial, where a confession obtained through torture was used against him.
11. On 31 January 2018, Mr. Yusuf was sentenced to life imprisonment, which was upheld by the High Court of Appeal and the Court of Cassation. He is being held at Jau Prison.

² Reportedly used as an interrogation centre by the National Security Agency.

12. On 23 May 2021, he contracted coronavirus (COVID-19) disease while in Jau Prison but the authorities did not inform his family. Mr. Yusuf called his family once during his quarantine to inform them of his illness and the deteriorating situation regarding the spread of the virus in the prison. He received two doses of a COVID-19 vaccine.

13. Mr. Yusuf was denied the opportunity to continue his university degree.

14. Alaa Mansoor Mohamed Redha Ahmed Ansaif is a Bahraini student from Bani Jamra born in 1995. He was 17 years old and preparing to start university when he was arrested.

15. On 4 August 2013, at 10:35 a.m., masked intelligence agents in civilian clothes raided Mr. Ansaif's house after entering without warning or permission. They arrested Mr. Ansaif as part of a random raid on the village during Ramadan. Three cameras, a laptop computer and a phone were confiscated. No warrant was provided, nor a reason for the arrest.

16. Mr. Ansaif was subjected to enforced disappearance for nine days, during which his family did not receive any news about his whereabouts, despite their inquiries at the Budaiya police station and the Criminal Investigation Directorate, which denied having him in custody. He contacted his family on 7 August 2013 for only three seconds, telling them not to worry, without indicating his whereabouts. On 13 August 2013, Mr. Ansaif contacted his family again, informing them that he had been detained at Dry Dock Detention Centre since 12 August 2013 and had been subjected to an examination at Al-Qalaa Hospital.

17. During the nine days in which he was subjected to enforced disappearance, officers took Mr. Ansaif to the Criminal Investigation Directorate and tortured him to coerce a confession, beating him, torturing him psychologically and insulting his religious sect and beliefs. They transferred him to the Al-Rifaa police station to recover and to enable the signs of torture to disappear. Mr. Ansaif did not know where he was being held. He was later presented to the Public Prosecutor's Office without his lawyer, despite the lawyer having submitted a request to be present during any investigation, which the Office refused to receive. Mr. Ansaif was forced to sign a document prepared by the officers accusing him of photographing a street in Budaiya during the explosion of a gas cylinder. He confessed under torture and his coerced confessions were relied upon by the court. Reportedly, Mr. Ansaif was with his family members at the time of the incident in Budaiya and the allegations were fabricated.

18. On 15 August 2013, while meeting with his family for the first time since his detention, Mr. Ansaif informed them of the torture, whose marks were clearly apparent on his face and neck. Due to the torture and medical negligence, Mr. Ansaif had a broken jaw and many bruises, could not feel his face and was unable to speak. He now has breathing problems, painful knee cartilage injuries, poor eyesight and a spinal injury and is in constant pain. He only obtained a medical appointment and underwent a necessary operation for his nose a year after his arrest. He had been completely healthy prior to his arrest.

19. Throughout the investigation and trial, Mr. Ansaif was denied access to his lawyer. Mr. Ansaif did not have adequate time and facilities to prepare for the trial. While the lawyer was present at the trial, he was not allowed contact with Mr. Ansaif. Neither Mr. Ansaif nor his lawyer were allowed to present evidence during the trial.

20. The family was not informed of the proceedings, nor permitted to attend court sessions. Reportedly, the judge made a series of charges against Mr. Ansaif, who was required to reply true or false, and if he tried to talk or object, the judge asked him to remain silent.

21. On 18 March 2014, Mr. Ansaif was sentenced to 18 years' imprisonment on the charge of photographing a street in Budaiya during the explosion of a gas cylinder.

22. While in Jau Prison, Mr. Ansaif was charged with participating in a prison demonstration, on 10 March 2015, and sentenced to 15 additional years of imprisonment and a fine. The length of imprisonment was later reduced to 10 years on appeal. His total sentence amounted to 28 years in prison.

23. Mr. Ansaif's family filed several complaints to the Ombudsman and the National Institution for Human Rights concerning his torture. The officer who tortured him was sentenced to three months of imprisonment but the military court suspended the sentence. On

5 January 2017, the Third Higher Criminal Court of Appeal upheld the sentence against the officer but set a bail of 100 dinars to suspend its execution, so the officer was not imprisoned.

24. Mr. Ansaif tested positive for COVID-19 and spent 10 days in the isolation building. On 1 June 2021, he received a first dose of the COVID-19 vaccine, but the second dose was delayed.

25. Mr. Ansaif has not been permitted to enrol in university while imprisoned.

26. Husain Ali Hasan Ali Mohamed Matar is a Bahraini student born on 13 June 2004. He was 16 years old when arrested in June 2020.

27. Mr. Matar was first arrested in 2018 at the age of 14 years on political charges and sentenced to three years' imprisonment. He repeated his second year of middle school while in New Dry Dock Detention Centre but was not given a diploma. He was released in 2020 during Ramadan due to a royal pardon, when he had only a few days remaining in his sentence.

28. A month after his release, on 28 June 2020, an officer wearing civilian clothes arrested Mr. Matar outside the Roundabout 17 police station in Hamad Town. No warrant was provided, but a family member had received a summons by mobile telephone from an individual in the Ministry of the Interior to bring Mr. Matar to the police station for questioning, without no reason given. The individual insisted that the family must not enter the police station, but rather call his number and he would come out and take Mr. Matar inside. The individual was the same individual who had always threatened Mr. Matar, telling him every time he saw him, "I will always be behind you and I will never leave you alone."

29. Mr. Matar was taken into the police station, while his family waited outside. Eventually, an officer came out and gave the family Mr. Matar's belongings, telling them that they would be called with any updates.

30. During Mr. Matar's two-week interrogation at the Roundabout 17 police station, the officers tortured him to coerce a confession, including by forcing him to stand for long periods of time, excessive beatings, blindfolding, cutting his hair as a form of humiliation, preventing him from praying and depriving him of water and food. Due to the torture, Mr. Matar confessed to the charges and the confession was used against him at trial.

31. He was transferred to the Public Prosecutor's Office a week after his arrest. Mr. Matar was accused of assaulting a police officer and possession of Molotov cocktails in the village of Buri, although he lives in the village of Sehla. Reportedly, Mr. Matar was with his family when that incident took place. When the lawyer attended the session at the Public Prosecutor's Office, he and Mr. Matar were not allowed to speak. The lawyer observed that Mr. Matar was unable to speak because of the torture he had been subjected to.

32. For two weeks after his arrest, Mr. Matar was unable to contact his family, who had no news about him. Afterwards, he called to inform them that he was at the Dry Dock Detention Centre.

33. Throughout the investigation and trial, Mr. Matar's lawyer was not allowed to speak with him. Mr. Matar did not have adequate time and facilities to prepare for the trial. Neither Mr. Matar nor his lawyer were allowed to present evidence during the trial.

34. On 29 September 2020, Mr. Matar was sentenced to three years in prison, which was upheld by the appeal court, which also added a fine.

35. Mr. Matar was transported to New Dry Dock Detention Centre where he is being held.

36. Mr. Matar's family filed complaints to the Ombudsman regarding his deprivation of calls, clothing and treatment for his eyesight and his severe allergies, which were due to the unsanitary conditions in the prison. They have not received any response.

37. After contracting scabies, Mr. Matar was placed in sanitary isolation and eventually provided with a cream without a doctor's consultation, which worsened his condition. Mr. Matar also suffers from sickle cell anaemia.

38. Husain Ali Jaafar Mohamed Abdulla is a Bahraini student born on 26 August 1994.

39. On 17 October 2012, Mr. Abdulla was sentenced to six months of imprisonment and a fine of 200 dinars on charges of illegal assembly and rioting. He was released after serving five months in prison and paying the fine. After being sent several summonses in 2016, the family was asked by the authorities for another 200 dinars to stop the execution of the sentence.

40. On 26 August 2016, around the same day that the family paid the fine, Mr. Abdulla was arrested. Around 10 masked security officers in civilian clothing with police badges raided the house of a relative of Mr. Abdulla. They handcuffed Mr. Abdulla from the back with his head pressed against the wall, while filming with a camera. Four officers escorted him outside the house. No warrant was presented.

41. After his arrest, Mr. Abdulla was taken to the Criminal Investigation Directorate and then to the Khayala³ police station, where the officers subjected him to torture. After his arrest, the officers called him a terrorist. Mr. Abdulla was transferred to the family's stable and filmed in different areas there. Later, he was returned to the Directorate and subjected to severe torture on his legs and in his genital area. As a result, he was transferred to Al-Qalaa Hospital, where he received basic treatment.

42. Mr. Abdulla was interrogated for five days without his lawyer. He confessed under torture and the authorities made him sign the case records without permitting him to read them or know their content. He was able to briefly call his family for the first time, informing them that he was being held at the "interrogations".⁴ Prior to the call, his family knew nothing about his whereabouts and well-being, as he had been forcibly disappeared. Following the interrogations, Mr. Abdulla was transferred to Jau Prison, where he is serving a sentence that amounted to 17 years after appeals.

43. Mr. Abdulla was convicted in five cases. On 28 January 2013, 21 September 2014, and 15 April 2015, he was sentenced in absentia, without the presence of his lawyer, on charges of illegal assembly and rioting and possession of flammable canisters. The first judgment was upheld on appeal and the third judgment was upheld in absentia.

44. On 29 December 2015, he was sentenced in absentia to life imprisonment for attempting to detonate a bomb and attempted murder. On 13 March 2017, his sentence was reduced to 15 years on appeal.

45. On 4 April 2018, Mr. Abdulla was sentenced, in the presence of his lawyer, to one year's imprisonment and payment of a bail on charges of destruction by negligence and illegal assembly and rioting. The judgment was upheld on appeal.

46. Reportedly, neither the family nor Mr. Abdulla knew about the December 2015 case or the issuance of the life sentence, nor did they receive any summons in this regard. On the several occasions when the family house was raided, a summons had been issued requesting his attendance at the headquarters of the investigations building without mentioning the reasons. Mr. Abdulla did not have a lawyer during the proceedings or trial period. During the appeal, the family appointed a lawyer, who attended the sessions. Mr. Abdulla was deprived of his right to attend the hearings and did not know their details.

47. Throughout his cases, Mr. Abdulla was not allowed to defend himself and did not meet with a lawyer. He was not able to attend court hearings, except briefly on one occasion.

48. On 21 January 2021, Mr. Abdulla's family filed complaints with the Ombudsman and the National Human Rights Institution but received a response only from the latter, which noted that he was being held at Salmaniya Hospital. However, when contacted by the family, the prison administration insisted that Mr. Abdulla was still in prison. When the family went to the hospital, they saw Mr. Abdulla tied to the bed surrounded by police officers. He was on a waiting list for surgery following the rupture of his appendix due to the prison administration's negligence and delay in his treatment.

³ A police directorate in the Northern Governorate reportedly used as a torture centre in some cases.

⁴ Reportedly, detainees are often forced to make such calls, where "interrogations" refers to the Criminal Investigation Directorate, although the detainees are not always being held there.

49. In June 2021, Mr. Abdulla tested positive for COVID-19 and was transferred to Building 3 in Jau Prison, where infected prisoners were held. The authorities did not inform his family, nor did they provide him with any medical care or sanitary products.

50. He is continuing to pursue his high-school diploma, but books are only sometimes provided.

51. Mohamed Ali Mohsen Abdulla Baddaw is a Bahraini high-school student born on 14 September 1997 and living in Duraz.

52. Mr. Baddaw was first arrested when he was 14. Officers then released him with the threat that they would arrest him again when he turned 17. They pursued him for more than three years, which made Mr. Baddaw unable to live his childhood normally. He could not complete his studies because of the arrest.

53. On 16 January 2016, armed riot police arrested Mr. Baddaw at gunpoint from Al-Ettifaq Sports Club, near his house, where he was playing with a friend. No warrant was provided. He had received five summonses before the arrest, the most recent issued on 21 October 2014.

54. The officers took Mr. Baddaw in a civilian car to the Budaiya police station, where they beat him while he was handcuffed and blindfolded. He called his family hours after his arrest to inform them of his whereabouts. He was interrogated regarding a case for which he had been sentenced in absentia and regarding cases that were still being considered by the court. The officers tortured him to coerce a confession, beating him severely and breaking a chair on his back. He was deprived of sleep and was not permitted to pray. His lawyer was not allowed to attend the interrogation.

55. As a result of the torture, Mr. Baddaw was forced to sign confessions that he was not allowed to read. The confessions were used against him in trial.

56. On 17 January 2016, officers transferred Mr. Baddaw to New Dry Dock Detention Centre, where they also subjected him to torture. He called his family on the same day to tell them about his transfer.

57. Mr. Baddaw was convicted in 11 cases and sentenced to over 20 years of imprisonment on charges that included illegal assembly and rioting, the manufacture of usable or explosive canisters, damage through negligence, triggering an explosive device or attempting to do so, using explosives to endanger the property of others, attempted murder, endangering people's lives or safety, arson and deliberately endangering a private means of transport. In several of the cases, he was sentenced in absentia.

58. Mr. Baddaw was denied access to his lawyer during the interrogations and was never allowed to speak with him during the trial. He was also denied access to the adequate time and facilities to prepare for the trial and was not permitted to present evidence at trial.

59. His family filed several complaints with the Ombudsman and the National Human Rights Institution but received no response.

60. Mr. Baddaw suffers from vitiligo. While imprisoned at the New Dry Dock Detention Centre, he received treatment briefly in Salmaniya Hospital and only once did the prison authorities agree to give him the medicines brought by his family to the Detention Centre. While in Jau Prison, he has been deprived of treatment and has not received any medicines. He suffers from fainting, fatigue and poor hygiene due to the conditions in prison.

61. Mr. Baddaw could not finish his education as he declined to change his major.

62. Sayed Husain Saeed Alawi Ali Mohamed Al-Khabbaz is a Bahraini student born on 4 June 1998. He was 17 when arrested.

63. On 22 July 2015, civil patrol officers arrested Mr. Al-Khabbaz from the car he was in with his friends, after monitoring him following his departure from his house. No warrant was presented, nor did the authorities give a reason for the arrest. Mr. Al-Khabbaz learned after his arrest that he had been mentioned in other people's confessions and was therefore accused of illegal assembly and rioting.

64. The officers transferred Mr. Al-Khabbaz to the Criminal Investigation Directorate,⁵ where no interrogation took place, as all charges had already been written because of accusations made against him in confessions by others. The officers threatened to beat Mr. Al-Khabbaz if he refused to sign confessions. They tied his hands and blindfolded him. The officers took his fingerprint to use as his signature on papers that he was not allowed to see. He later understood that the papers contained confessions and charges against him.

65. After three days at the Criminal Investigation Directorate, he was transferred to pretrial detention at the Dry Dock Detention Centre.

66. Mr. Al-Khabbaz was convicted in two cases: illegal assembly, rioting and burning tires; and assault of a security officer. He was sentenced to three and seven years in prison, respectively. Upon appeal, the first verdict was upheld and the second was reduced to five years' imprisonment. The judgment was upheld by the Court of Cassation.

67. Throughout his trial and detention, Mr. Al-Khabbaz was denied access to his attorney. He was also denied access to adequate time and facilities to prepare for the trial and was not permitted to present evidence at trial. The confessions obtained through coercion from Mr. Al-Khabbaz and other individuals were used against him in trial proceedings.

68. Mr. Al-Khabbaz is being held at Jau Prison.

69. Mr. Al-Khabbaz's family filed one complaint with the National Human Rights Institution, stating that he had completed half of his term and deserved to be released with alternative punishment, and another complaint with the prison about his back and tooth pain resulting from torture, but received no response.

70. Although not infected with COVID-19, Mr. Al-Khabbaz was isolated for 10 days without knowing the reason.

71. Mr. Al-Khabbaz was unable to continue his high-school education after his imprisonment.

Analysis of violations

72. The source submits that all six individuals were students between 16 and 22 years of age and were arrested without being presented with a warrant or informed of the reason and were not brought promptly before a judge, in violation of article 9 of the International Covenant on Civil and Political Rights, thus rendering their detention arbitrary under category I. Some arrests were accompanied by a warrantless search or raid.

73. The source submits that some of the individuals were subjected to enforced disappearance.

74. All six individuals were subjected to unfair trials, denied access to legal counsel, forced to make confessions under torture, which were used against them, and in some cases sentenced in absentia. Bahrain failed to uphold fair trial norms, rendering all the individuals' deprivation of liberty arbitrary under category III.

75. The individuals have alleged that they were tortured, in violation of the obligations of Bahrain under the Covenant and the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. The use of coerced confessions violates article 15 of the Convention against Torture and is a criminal offence under article 209 of the Penal Code of Bahrain, yet no investigation has been initiated into the allegations of torture and no perpetrators have been held accountable.

76. While all the individuals were arrested as students, at least four of them have been denied their right to education and only high-school education is provided in prison. This violates article 26 of the Universal Declaration of Human Rights, articles 13 and 14 of the International Covenant on Economic, Social and Cultural Rights, article 18 of the International Covenant on Civil and Political Rights and articles 4, 5 and 7 of the Constitution of Bahrain.

⁵ He contacted his family in the morning and informed them where he was.

77. Five individuals have been denied access to adequate medical care, including COVID-19 precautions and treatment in the case of infection. This demonstrates a general pattern of violations by the Bahraini authorities of the right to health of the individuals in the detention and prison systems, which is protected under article 12 of the International Covenant on Economic, Social and Cultural Rights.

78. In five cases, the Government exercised discrimination based on religious sect or political or other opinion, in violation of article 2 of the Universal Declaration of Human Rights, articles 2 and 26 of the International Covenant on Civil and Political Rights, article 2 (2) of the International Covenant on Economic, Social and Cultural Rights and article 18 of the Constitution of Bahrain.

Response from the Government

79. On 23 December 2022, the Working Group transmitted the allegations from the source to the Government of Bahrain under its regular communication procedure, requesting a reply by 21 February 2023. Following the Government's request, an extension was granted until 21 March 2023.

80. In its reply of 20 March 2023, the Government submitted the following information.

81. Mr. Yusuf was involved with the formation of a terrorist organization with the purpose of committing crimes to disrupt public order, endanger the safety and security of the Kingdom, harm national unity and obstruct public authorities. During an investigation by the Public Prosecutor, Mr. Yusuf was asked whether he had a lawyer and he said that he did not. He was taken for observation by a forensic doctor and later confessed to involvement in terrorist activities. The court charged Mr. Yusuf with several crimes relating to participating in a terrorist group, supplying weapons to terrorists and attacks on law enforcement. The Court of Appeal subsequently sentenced him to life in prison.

82. Mr. Yusuf did not allege torture before the Public Prosecutor and the Special Investigation Unit did not receive any complaint regarding Mr. Yusuf.

83. Mr. Ansaif participated in several riots. In the first, a gas cylinder had been detonated inside a car near a public park. He confessed to his involvement and investigations corroborated his role in monitoring the violence. Mr. Ansaif was charged with possession of flammable containers and other related charges. Following an initial sentence and an appeal, he was sentenced to 15 years in prison. The second riot, in which the defendants carried out assaults resulting in the injury of law enforcement officers, led to subsequent charges against Mr. Ansaif and a final sentence of two years in prison.

84. The other riots occurred in prison and led to the attempted killing of law enforcement officers. During investigation into these crimes, all legal guarantees and medical protocols were followed. When asked whether he had a lawyer, Mr. Ansaif stated that he did not. The Government submits that Mr. Ansaif admitted to damaging the window in a reception building, thus allowing the rest of the inmates to escape and incite chaos. The Court of Appeal sentenced Mr. Ansaif to 10 years in prison.

85. The Special Investigation Unit acted on behalf of the allegations that Mr. Ansaif had been beaten by law enforcement officers during the prison riots, convicting 10 of the 13 accused public security officers. Mr. Ansaif did not claim torture before the Public Prosecutor and the Special Investigation Unit did not receive complaints regarding his being subjected to torture or ill-treatment in 2013.

86. The Government submits that it acted on a complaint received on 28 September 2021 from a family member of Mr. Ansaif, who alleged that Mr. Ansaif had been abused by law enforcement officers in the Correction and Rehabilitation Centre (Jau Prison). The Special Investigation Unit followed all appropriate legal and medical procedures and confirmed that there was insufficient evidence to support the claim.

87. Another complaint referred by the General Secretariat of the Office of the Ombudsman regarding a Correction and Rehabilitation Centre officer's bodily assault of Mr. Ansaif was received and processed by the Special Investigation Unit. The Minor Court sentenced the responsible officer to three months in prison.

88. From 14 February 2018 to 30 October 2022, Mr. Matar was involved in several assaults on law enforcement officers, destruction and setting fire to the electoral headquarters of a Bahraini candidate. During an interrogation, Mr. Matar was asked whether he had a lawyer and he said that he did not. He was charged with several offences relating to disturbing public security, violation of election procedures and possessing objects used to endanger the lives of the public.

89. The Court placed Mr. Matar in the Juvenile Welfare Centre, under the assurance that reports would be submitted on him every six months from the date the ruling became final. For his role in the 2020 incident, the Court of Appeal sentenced him to three years in prison and a fine. For the election-related incident, Mr. Matar was sentenced to three years in prison and a fine. Mr. Matar appealed his case, but it remains pending.

90. Mr. Matar did not claim torture before the Public Prosecutor, nor did the Special Investigation Unit receive any complaints about his being subjected to torture or ill-treatment in 2020. On 8 February 2022, the Special Investigation Unit received a complaint submitted by Mr. Matar's family member to the Ombudsman claiming that Mr. Matar had been beaten by a law enforcement officer while he was in Salmaniya Hospital. Mr. Matar refused to speak to the Unit about the complaint. The Ombudsman found that Mr. Matar had killed one of the inmates, which he denied. All medical and legal protocols were followed and the Unit ceased examination of the complaint due to the absence of valid evidence.

91. An additional notification from the Ombudsman detailed the physical assault of Mr. Matar and two other inmates by four law enforcement officers in the Correction and Rehabilitation Centre. The Special Investigation Unit took action and referred the officers to the High Criminal Court, which sentenced them each to one year in prison.

92. Mr. Abdulla participated in two riots, on 12 April and 13 April 2012. Following the Public Prosecutor's referral, the court charged Mr. Abdulla, who was a fugitive, with gathering, rioting and possession of Molotov cocktails and sentenced him to six months in prison for each event. The bail was set at 200 dinars for the first incident and 200 dinars for the second incident. The Court of Appeal upheld the initial sentences.

93. Mr. Abdulla was involved in two subsequent violent incidents on 19 December 2014 and 14 February 2016. These riots were linked to the planting of an explosive device and injury to law enforcement officers. Following fair legal procedures, the court charged Mr. Abdulla with invoking a terrorist purpose to attempt to kill law enforcement officers, possession of explosives and other similar charges. Mr. Abdulla was sentenced to life in prison and fined 2,782 dinars for the first riot. He received one year in prison for the second riot. The Court of Appeal amended his first sentence to 15 years in prison and upheld the second sentence. The Special Investigation Unit never received any complaints regarding Mr. Abdulla.

94. In a series of incidents, Mr. Badaw engaged in rioting and vandalism resulting in property damage, endangering people's lives, causing monetary damages, attempted murder in execution of a terrorist purpose and assault of law enforcement officers. All legal procedures were followed and the competent court charged and sentenced the defendants, including Mr. Badaw, to six months in prison for the first incident and five years in prison for the second incident. The defendants' appeals resulted in an amended sentence of three years' imprisonment for the second incident. The subsequent incidents resulted in sentences of three months, 10 years (amended following an appeal of the initial 15-year sentence), 2 years (amended from an initial 3-year sentence), 3 years (amended from a 7-year sentence), 1 year (granted on appeal), six months and 3 years, respectively. The Special Investigation Unit did not receive any complaints regarding Mr. Badaw.

95. Mr. Al-Khabbaz participated in two riots. In the first, a group set tires on fire and placed an object simulating the shape of explosives at the scene. In the second, two law enforcement officers were assaulted and injured. The necessary legal procedures were followed. Because the investigation revealed that Mr. Al-Khabbaz had been involved in planning the riots, he was charged with criminal arson and the use of explosives in a public place. The court sentenced Mr. Al-Khabbaz to two years of imprisonment for the first incident and seven years for the second incident. Following appeals, the verdict was upheld for the first sentence and the second sentence was amended to five years in prison.

96. The Government concluded that the riots had been intended to cause terror, resulting in additional charges. The court sentenced Mr. Al-Khabbaz to three years' imprisonment. Following an appeal, the Court amended the sentence to two years. The Special Investigation Unit did not receive any complaints regarding Mr. Al-Khabbaz. The Government submits that he was released to substitute his original sentence with one of the alternative sanctions set out in article 2 of Law No. 18 of 2017.

97. The Government stresses that the justice system in Bahrain provides the necessary legal guarantees for all defendants, the most important being the independence of the judiciary. The Government affirms that it provided all six individuals with the due process rights guaranteed by the national legislation, from the process of inference and arrest through the investigation, trial and issuance of the verdicts. As inmates, they were guaranteed health and social care and the procedural rights set out in the Correction and Rehabilitation Institution Law.

98. The Government further submits that national redress mechanisms and oversight institutions, such as the National Human Rights Institution, the Ombudsman and the Special Investigation Unit continue to investigate and hold accountable officials who have committed wilful acts that violate the law, the right to life, the right not to be subjected to torture or the right to liberty and security or, through their negligence, caused torture or ill-treatment of civilians, with the intent of taking legal, penal and disciplinary measures against them, including those in leadership positions, whether civilians or military personnel.

Further comments from the source

99. In its further comments of 31 March 2023, the source submits that the Government fails to address the major violations, claiming only that the authorities took the "necessary measures". The Government includes charges and cases that are not addressed in the complaint to divert attention from the actual violations.

100. The source reiterates that all the individuals, even the minors, were interrogated without the presence of their lawyers and were not promptly brought before a judge. While the Government indicates that they asked Messrs. Yusuf, Ansaif and Matar whether they had appointed a lawyer and were informed that they had not, it fails to mention that the court is responsible for appointing a lawyer should the accused not have one.

101. The families have submitted complaints to the Office of the Ombudsman and the National Institution for Human Rights but have received no response.

102. While the Government states that the officer who tortured Mr. Ansaif was sentenced to prison following a complaint to the Special Investigation Unit, this is misleading, as the officer avoided imprisonment by paying a fine. In relation to Mr. Matar, the source states that the forensic examination was conducted while the signs of torture were wearing off and that the Unit report falsely indicated that there had been no signs of torture.

103. The Government indicates that the measures it took during the COVID-19 pandemic had been successful, which is misleading, as there have been multiple COVID-19 outbreaks in prisons due to the lack of precautionary measures and proper sanitation. Messrs. Yusuf, Abdulla, Baddaw and Al-Khabbaz complained about the lack of precautionary measures and, ultimately, Messrs. Yusuf and Abdulla tested positive for the virus. They were subjected to medical negligence, which led to the deterioration of their health.

Discussion

104. The Working Group thanks the source and the Government for their submissions.

105. In determining whether the deprivation of liberty of the six individuals is arbitrary, the Working Group has regard to the principles established in its jurisprudence to deal with evidentiary issues. If the source has established a prima facie case for breach of international law constituting arbitrary detention, the burden of proof should be understood to rest upon the Government if it wishes to refute the allegations.⁶ Mere assertions by the Government

⁶ A/HRC/19/57, para. 68.

that those lawful procedures have been followed are not sufficient to rebut the source's allegations.

106. The Working Group notes that Mr. Ansaif, Mr. Mattar and Mr. Al-Khabbaz were no longer minors at the time of adoption of the present opinion. However, they were under 18 years of age at the time of their arrest and detention and their submissions will be considered in the light of the obligations of Bahrain under international human rights law, including the Convention on the Rights of the Child.

Category I

107. The source submits that all six individuals were arrested without being presented with a warrant or informed of the reason and were not brought promptly before a judge. The Government does not respond to these specific allegations in its reply but makes general submissions on the necessary measures and legal guarantees provided to them.

108. Pursuant to article 9 (1) of the International Covenant on Civil and Political Rights, no one shall be deprived of liberty except on such grounds and in accordance with such procedure as are established by law. To establish a legal basis for deprivation of liberty, the authorities must invoke that legal basis and apply it to the circumstances of the case.⁷ The international norms on detention include the right to be presented with an arrest warrant or the equivalent, except arrests that are made in flagrante delicto, under articles 3 and 9 of the Universal Declaration on Human Rights and article 9 (1) of the Covenant.⁸

109. Weighing the submissions of both parties, the Working Group concludes that none of the individuals were shown an arrest warrant or the equivalent. While neither the source nor the Government have addressed the issue of in flagrante delicto, the Working Group has consistently found in its jurisprudence that an offence is in flagrante delicto if the accused is either apprehended during the commission of a crime or immediately thereafter or is arrested in hot pursuit shortly after a crime has been committed.⁹ The Working Group concludes that Mr. Yusuf was arrested in flagrante delicto during a security operation, thus exempting the Government from the international norm of showing an arrest warrant, or the equivalent, during the arrest.

110. The source submits that none of the individuals were informed of the reasons for the arrest at the time of their arrest, in violation of article 9 (2) of the Covenant. The reasons for arrest must be provided immediately upon arrest.¹⁰ As the Working Group has stated, an arrest is arbitrary when it is carried out without informing the arrested person of the reasons for the arrest.¹¹

111. According to article 9 (3) of the Covenant, anyone arrested or detained on a criminal charge is to be brought promptly before a judge. As the Human Rights Committee has noted, 48 hours is ordinarily sufficient to satisfy the requirement of bringing a detainee "promptly" before a judge following his or her arrest; any longer delay must remain absolutely exceptional and be justified under the circumstances.¹² In the absence of information or justification from the Government, the Working Group finds that none of the individuals was brought promptly before a judicial authority, in violation of article 9 (3) of the Covenant.

112. In relation to Messrs. Ansaif, Matar and Al-Khabbaz, who were minors at the time of their arrest, the Working Group recalls articles 37 (b) and 40 (2) (b) (ii) of the Convention on the Rights of the Child, noting that, every child arrested and deprived of his or her liberty

⁷ See opinions No. 9/2019, No. 33/2019, No. 46/2019 and No. 59/2019.

⁸ Opinion No. 88/2017, para. 27.

⁹ Opinions No. 36/2017, para. 85; No. 53/2014, para. 42; No. 46/2012, para. 30; No. 67/2011, para. 30; and No. 61/2011, paras. 48 and 49. See also [E/CN.4/2003/8/Add.3](#), paras. 39 and 72 (a).

¹⁰ Human Rights Committee, general comment No. 35 (2014), para. 27. See also opinion No. 30/2017, paras. 58 and 59.

¹¹ Opinions No. 10/2015, para. 34; No. 46/2019, para. 51; No. 59/2019, para. 46; and No. 46/2020, para. 40.

¹² Human Rights Committee, general comment No. 35 (2014), para. 33. See also [CCPR/C/BHR/CO/1](#), paras. 39 and 40.

should be brought before a competent authority within 24 hours to examine the legality of the deprivation of liberty or its continuation.¹³

113. The source submits that some of these individuals were subjected to enforced disappearance of varying length. The Government does not deny this allegation and, in its late reply, lists the number of visits and video calls of the six individuals from the start of the COVID-19 pandemic until 8 March 2023. Acknowledging these submissions, the Working Group observes that, except for Mr. Matar, who was arrested in 2020, the remaining five individuals were arrested between 2013 and 2017. As such, the Government's submissions do not appear to contradict the source's submissions. The Working Group thus finds Messrs. Yusuf, Ansaif and Abdulla were subjected to enforced disappearance, which is an aggravated form of arbitrary detention.¹⁴

114. It appears that the individuals were unable to effectively exercise their right to challenge their detention so that a court could decide without delay on its legality in accordance with article 9 (4) of the Covenant. Holding persons so that they have no access or restricted access to the outside world, in particular to their family and lawyers, violates their right to challenge the lawfulness of their detention before a court under article 9 (4) of the Covenant.¹⁵ Judicial oversight of detention is a fundamental safeguard of personal liberty¹⁶ and is essential to ensuring that detention has a legal basis. Given that the individuals were unable to challenge their detention, their right to an effective remedy under article 8 of the Universal Declaration of Human Rights and article 2 (3) of the Covenant was also violated.

115. Further, as the Human Rights Committee has observed, giving prompt and regular access to family members and to independent medical personnel and lawyers is an essential and necessary safeguard for the prevention of torture and for protection against arbitrary detention and infringement of personal security.¹⁷ Accordingly, the Working Group finds that these individuals' right to contact with the outside world was denied, contravening rule 58 of the United Nations Standard Minimum Rules for the Treatment of Prisoners (the Nelson Mandela Rules)¹⁸ and principles 15 and 19 of the Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment.

116. In addition, the source makes unrefuted submissions about various warrantless searches conducted by authorities in the homes of several of the individuals and lists the items confiscated and property damaged during this process. While it is unclear if any material seized during these illegal searches was used during the legal proceedings, such conduct further demonstrates that the authorities' failure to follow proper procedures compounded the arbitrary nature of the detentions.

117. For the reasons set out above, the Working Group finds that the detention of the six individuals is arbitrary under category I.

Category III

118. The source argues that all six individuals were subjected to fair trial violations linked to their right to access legal counsel. Mr. Yusuf was interrogated without a lawyer. During his interview at the Public Prosecutor's Office, six months after his arrest, a lawyer was present but not allowed to speak. This was also the case during his trial. Messrs. Ansaif, Abdulla and Al-Khabbaz were denied a lawyer throughout their investigations and trials. Mr. Matar was not allowed to communicate with his lawyer throughout his investigation and trial. Mr. Baddaw was interrogated without a lawyer and his lawyer was not allowed to speak during his trial. In relation to Messrs. Yusuf, Ansaif and Matar, the Government submits that

¹³ Committee on the Rights of the Child, general comment No. 24 (2019), para. 90.

¹⁴ Human Rights Committee, general comment No. 35 (2014), para. 17. See also opinion No. 37/2021, para. 65.

¹⁵ See opinions No. 32/2019, No. 33/2019, No. 45/2019, No. 59/2019, No. 5/2020 and No. 41/2020.

¹⁶ A/HRC/30/37, para. 3.

¹⁷ Human Rights Committee, general comment No. 35 (2014), para. 58. See also opinion No. 84/2020, para. 69.

¹⁸ Opinions No. 35/2018, para. 39; No. 44/2019, paras. 74 and 75; and No. 45/2019, para. 76.

they were asked whether they had a lawyer and they said that they did not. In its further submissions, the source adds that the Government omits mentioning that the court is responsible for appointing a lawyer.

119. The Working Group recalls that all persons deprived of their liberty have the right to legal assistance by counsel of their choice at any time during their detention, including immediately after their apprehension, and that such access is to be provided without delay.¹⁹ The Working Group considers that the source has established that all six individuals did not have adequate access to a lawyer from the outset of their detention and at other key stages, including during their interrogation. As a result, they were not afforded the right to adequate time and facilities for the preparation of their defence and to communicate with counsel of their choosing under article 14 (3) (b) of the Covenant.

120. In the case of Messrs. Ansaif, Matar and Al-Khabbaz, the Working Group recalls their rights under articles 37 (d) and 40 (2) (b) (ii) of the Convention on the Rights of the Child to prompt access to legal assistance and to legal assistance in the preparation of their defence. States should ensure that a child is guaranteed legal or other appropriate assistance from the outset of the proceedings, in the preparation and presentation of the defence, and until all appeals and/or reviews are exhausted.²⁰

121. The source provided detailed descriptions of alleged severe acts of physical and psychological torture inflicted upon the individuals and specific refutations of the Government's claims in its further submissions. The Government submits that Messrs. Yusuf, Ansaif and Matar did not allege torture or ill-treatment before the Public Prosecutor or complain to the Special Investigation Unit following their arrests and that the Unit did not receive any complaints about Messrs. Badaw, Abdulla and Al-Khabbaz. While the Government submits that Messrs. Yusuf and Ansaif were observed by a forensic doctor, it does not specify the timing or outcome. In relation to Mr. Yusuf, the Government's response fails to mention that he was presented before the Public Prosecutor for the first time six months after his arrest. His family noticed signs of torture when they visited him for the first time, two months after his arrest in 2017. In relation to Mr. Matar, the source states that a forensic examination was conducted after the signs of torture were wearing off and that the report falsely indicated that there were no signs of torture. His lawyer observed during the session at the Public Prosecutor's Office that he was unable to speak due to torture. In its further submissions, the source submits that families have submitted complaints to the Ombudsman and the National Human Rights Institution but that there has been no response. Mr. Baddaw's family filed several complaints with the Ombudsman and the National Human Rights Institution but they did not receive any response and Mr. Al-Khabbaz's family filed one complaint to the National Human Rights Institution and another to the prison, regarding back and teeth pain resulting from torture, but did not receive any response.

122. The Working Group reiterates concerns about the independence and effectiveness of the Special Investigation Unit.²¹ In its concluding observations issued in 2017, the Committee against Torture noted that the investigative bodies of Bahrain, including the Ombudsman and the Special Investigation Unit, were not independent or effective. The Committee noted that, since their establishment in 2012, the Ombudsman and the Special Investigation Unit had had little or no effect and that the authorities had provided negligible information regarding the outcome of the activities of the Ombudsman and the Unit.²²

123. The Working Group concludes that the source has presented a credible prima facie case that the individuals were subjected to physical and psychological torture and ill-treatment. The alleged conduct violates article 5 of the Universal Declaration of Human Rights and article 7 of the Covenant. In relation to Messrs. Ansaif, Matar and Al-Khabbaz,

¹⁹ [A/HRC/30/37](#), principle 9 and guideline 8; Committee on the Rights of the Child, general comment No. 24 (2019), para. 95 (e); and [CRC/C/BHR/CO/4-6](#), para. 44 (b).

²⁰ Committee on the Rights of the Child, general comment No. 24 (2019), para. 49; and the United Nations Standard Minimum Rules for the Administration of Juvenile Justice (the Beijing Rules), rule 15.

²¹ [CAT/C/BHR/CO/2-3](#), para. 28; and opinion No. 4/2021, para. 72.

²² [CAT/C/BHR/CO/2-3](#), para. 28.

the Working Group recalls their rights under article 37 (a) and (c) of the Convention on the Rights of the Child and articles 2 and 16 of the Convention against Torture.²³ The use of physical or psychological force on a child is a serious abuse of power lacking in necessity and proportionality.²⁴ The Working Group recalls that the Committee against Torture has noted its concern about reports of torture of individuals who were minors at the time of arrest and about the incarceration of minors in Bahrain.²⁵

124. The source submits that Messrs. Yusuf, Ansaif, Matar, Abdulla and Baddaw were forced to confess or sign statements made under torture and duress and that those statements or confessions were used against them. Mr Al-Khabbaz was forced to sign a confession under the threat of torture. His hands were tied and he was blindfolded and threatened with a beating if he did not sign the confession. The burden is on the Government to prove that the statements of the individuals were given freely,²⁶ but it has not done so with any specificity. The Working Group is persuaded by the source's submissions that the six individuals confessed under torture and duress. The Working Group has repeatedly found that the admission into evidence of a statement obtained through torture renders the entire proceedings unfair.²⁷ Confessions made in the absence of legal counsel are not admissible as evidence in criminal proceedings.²⁸ Consequently, their right to be presumed innocent under article 14 (2) of the Covenant and not to be compelled to confess guilt under article 14 (3) (g) of the Covenant have been violated, as has principle 21 of the Body of Principles, which protects a detainee from self-incrimination or compelled confessions.

125. The Working Group recalls the Committee against Torture's finding that the intentional infliction of physical or psychological pressure to obtain a confession also violated the obligations of Bahrain under articles 2, 15 and 16 of the Convention against Torture. Moreover, the prosecutor was obliged to investigate and report the torture and forced confessions in accordance with guidelines 12 and 16 of the Guidelines on the Role of Prosecutors.²⁹ The Working Group has found that the admission of evidence from third parties extracted through torture also violates article 14 (3) (g) of the Convention on Civil and Political Rights.³⁰

126. The prohibition against the use of self-incriminating confessions is amplified when the victim is a child.³¹ In the cases of Messrs. Ansaif, Matar and Al-Khabbaz, the Working Group recalls the right to be presumed of innocence under article 40 (2) (b) (i) and the right not to be compelled to confess guilt under article 40 (2) (b) (iv) of the Convention on the Rights of the Child.³² The Committee on the Rights of the Child has expressed concern about the arbitrary detention of children, reports of the ill-treatment of children by police and in detention centres and the alleged use of torture by law enforcement officials to elicit confessions from children in detention in Bahrain.³³

127. The Working Group refers to the source's submission detailing the injuries arising from torture, the health issues linked to the conditions of detention and the medical negligence relating to the handling of the COVID-19 pandemic in the detention facilities, which led to the deterioration of the six individuals' health. The Working Group contrasts the severity and detail with which the source addresses these allegations with the overall general response of the Government. When the Government does respond regarding the specific medical treatment provided, the source, in its further submissions, either denies the Government's claims or explains the inadequacy of the medical care received. While the

²³ Opinions No. 41/2015, para. 42; and No. 2/2021, para. 74.

²⁴ Opinion No. 3/2017, para. 30; and [CRC/C/BHR/CO/4-6](#), paras. 26 and 27.

²⁵ [CAT/C/BHR/CO/2-3](#), paras. 42 and 43.

²⁶ Human Rights Committee, general comment No. 32 (2007), para. 41.

²⁷ See opinions No. 43/2012, No. 34/2015, No. 52/2018 and No. 59/2019.

²⁸ See opinions No. 14/2019 and No. 59/2019. See also [E/CN.4/2003/68](#), para. 26 (e); [A/HRC/45/16](#), para. 53; and Committee on the Rights of the Child, general comment No. 24 (2019), paras. 58–60.

²⁹ Opinions No. 47/2017, para. 29; and No. 63/2020, para. 42.

³⁰ Opinion No. 34/1995, paras. 6–8 (a).

³¹ Opinion No. 27/2014, paras. 27–30.

³² [CAT/C/BHR/CO/2-3](#), para. 16.

³³ [CRC/C/BHR/CO/4-6](#), paras. 26 and 27.

Government, in its late reply, sets out the general preventative measures taken to combat the pandemic, it does not engage with the individual allegations relating to its impact on the six individuals' health and the risk posed by their conditions of detention. The Working Group recalls that the denial of medical care can constitute a form of torture.³⁴ Given the serious allegations of torture and ill-treatment, the Working Group refers the present case to the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment.

128. Taking these factors into account, the Working Group finds that the violations linked to the six individuals' conditions of detention significantly undermined their ability to properly defend themselves. The Working Group has consistently concluded in its opinions that, when it is not possible for a person who is subjected to torture or other forms of ill-treatment or punishment to prepare an adequate defence before the judicial proceedings, this amounts to a fair trial violation.³⁵

129. The source also argues that Messrs. Yusuf, Ansaif, Matar and Al-Khabbaz were not allowed to present evidence in their own defence during their trials. The Working Group notes that the Government does not respond to this specific allegation and the Working Group thus concludes that the principle of the equality of arms under article 14 (3) (e) of the Covenant was violated. The Working Group refers the case to the Special Rapporteur on the independence of judges and lawyers.³⁶

130. In the case of Mr. Ansaif, reportedly, he was with his family members at the time of the incident in Budaiya and the allegations against him have been fabricated. The Government does not specifically rebut this submission. While the Working Group does not substitute itself for the role of a domestic fact finder, revelations that key prosecutorial evidence has been fabricated can be the basis for finding a due process violation.³⁷

131. The source argues that several individuals were sentenced in absentia. The Working Group refers to the source's submissions that Messrs. Abdulla and Baddaw were repeatedly sentenced in absentia. The Government does not respond on this specific issue. According to the Human Rights Committee, proceedings in the absence of the accused are compatible with article 14 (3) (d) of the Covenant only if the necessary steps are taken to summon accused persons in a timely manner and to inform them beforehand about the date and place of their trial and to request their attendance.³⁸ In relation to Mr. Abdulla, the Working Group finds a violation of article 14 (3) (d). In relation to Mr. Baddaw, the source has not provided sufficient information for the Working Group to make this assessment. The Working Group records its concern about the length of the sentences reportedly imposed in absentia: over 20 years for Mr. Baddaw and life imprisonment for Mr. Abdulla.

132. The Working Group concludes that the violations of the individuals' fair trial and due process rights are of such gravity as to render their detention arbitrary under category III.

133. While the Working Group recognizes that States have an obligation to investigate and prosecute those responsible for offences, it wishes to emphasize that this opinion is adopted without prejudice to the guilt or otherwise of the six individuals. States parties to the Covenant must uphold its provisions, violations of which have been identified in the present case.³⁹

Category V

134. While the source submits that the Government of Bahrain discriminated against five of the individuals on the basis of their religious sect or political or other opinion, the source does not adequately substantiate these allegations. As such, the Working Group is unable to reach a conclusion on the discriminatory nature of their detention under category V.

³⁴ A/HRC/38/36, para. 18; and opinions No. 20/2022, para. 104; and No. 65/2022.

³⁵ Opinions No. 32/2019, para. 42; No. 59/2019, para. 69; and No. 65/2022, para. 117.

³⁶ Opinion No. 4/2021, para. 101.

³⁷ Opinion No. 59/2016, para. 63.

³⁸ Human Rights Committee, general comment No. 32 (2007), para. 36.

³⁹ Opinion No. 62/2020, para. 77.

Concluding remarks

135. The Working Group is concerned by the severity of the torture alleged by the six individuals (some of whom were minors), the ongoing impact of the injuries suffered by them as a result and their other health issues. The Working Group reminds the Government of its obligations under article 10 (1) of the Covenant and of rules 1, 24, 27 and 118 of the Nelson Mandela Rules, which state that all persons deprived of their liberty must be treated with humanity and with respect for their inherent dignity, including by being allowed to enjoy the same standards of health care available in the community.⁴⁰

136. The Working Group also refers to the source's submission that all six individuals were students when arrested and that some of them are being denied their right to education, as only high-school education is provided in prison. While the Government does not address this issue, the Working Group recalls that the right to education is enshrined in article 26 of the Universal Declaration of Human Rights, article 18 of the Covenant, articles 13 and 14 of the International Covenant on Economic, Social and Cultural Rights and article 7 of the Constitution of Bahrain. The Working Group calls upon the Government to take measures to reverse or otherwise redress any prejudice that these six individuals are suffering in this regard.

137. These cases follow the pattern of numerous other cases brought before the Working Group in recent years concerning the arbitrary deprivation of liberty in Bahrain: warrantless, pretrial detention with limited access to judicial review, denial of access to lawyers, forced confession, torture and ill-treatment and denial of medical care.⁴¹ The Working Group recalls that, under certain circumstances, widespread or systematic imprisonment or other severe deprivation of liberty in violation of the rules of international law may constitute crimes against humanity.⁴²

138. The Working Group would welcome the opportunity to conduct a country visit to Bahrain. The Working Group visited Bahrain in October 2001 and considers that it is now an appropriate time to conduct another visit.

Disposition

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

The deprivation of liberty of Ahmed Ali Ahmed Yusuf, Alaa Mansoor Mohamed Redha Ahmed Ansaif, Husain Ali Hasan Ali Mohamed Matar, Husain Ali Jaafar Mohamed Abdulla, Mohamed Ali Mohsen Abdulla Baddaw and Sayed Husain Saeed Alawi Ali Mohamed Al-Khabbaz, being in contravention of articles 3, 5, 6, 8, 9, 10 and 11 (1) of the Universal Declaration of Human Rights and articles 2, 7, 9, 14 and 16 of the International Covenant on Civil and Political Rights, is arbitrary and falls within categories I and III.

140. The Working Group requests the Government of Bahrain to take the steps necessary to remedy the situation of the six individuals without delay and bring it into conformity with the relevant international norms, including those set out in the Universal Declaration of Human Rights and the International Covenant on Civil and Political Rights.

141. The Working Group considers that, taking into account all the circumstances of the case, the appropriate remedy would be to release the six individuals immediately and accord them an enforceable right to compensation and other reparations, in accordance with international law.⁴³ In the current context of the global COVID-19 pandemic and the threat that it poses in places of detention, the Working Group calls upon the Government to take urgent action to ensure their immediate release.

142. The Working Group urges the Government to ensure a full and independent investigation of the circumstances surrounding the arbitrary deprivation of liberty of the six

⁴⁰ Opinion No. 26/2017, para. 66.

⁴¹ See opinions No. 31/2019, No. 59/2019, No. 73/2019, No. 5/2020, No. 41/2020 and No. 87/2020.

⁴² Opinion No. 47/2012, para. 22.

⁴³ See deliberation No. 10 (A/HRC/45/16, annex I).

individuals, including the allegation that they were tortured, and to take appropriate measures against those responsible for the violation of their rights.

143. In accordance with paragraph 33 (a) of its methods of work, the Working Group refers the present case to the Special Rapporteur on torture and the Special Rapporteur on the independence of judges and lawyers, for appropriate action.

144. The Working Group requests the Government to disseminate the present opinion through all available means and as widely as possible.

Follow-up procedure

145. In accordance with paragraph 20 of its methods of work, the Working Group requests the source and the Government to provide it with information on action taken in follow-up to the recommendations made in the present opinion, including:

- (a) Whether the six individuals have been released and, if so, on what date;
- (b) Whether compensation or other reparations have been made to the six individuals;
- (c) Whether an investigation has been conducted into the violation of the six individuals' rights and, if so, the outcome of the investigation;
- (d) Whether any legislative amendments or changes in practice have been made to harmonize the laws and practices of Bahrain with its international obligations in line with the present opinion;
- (e) Whether any other action has been taken to implement the present opinion.

146. The Government is invited to inform the Working Group of any difficulties it may have encountered in implementing the recommendations made in the present opinion and whether further technical assistance is required, for example through a visit by the Working Group.

147. The Working Group requests the source and the Government to provide the above-mentioned information within six months of the date of transmission of the present opinion. However, the Working Group reserves the right to take its own action in follow-up to the opinion if new concerns in relation to the case are brought to its attention. Such action would enable the Working Group to inform the Human Rights Council of progress made in implementing its recommendations, as well as any failure to take action.

148. The Working Group recalls that the Human Rights Council has encouraged all States to cooperate with the Working Group and has requested them to take account of its views and, where necessary, to take appropriate steps to remedy the situation of persons arbitrarily deprived of their liberty, and to inform the Working Group of the steps they have taken.⁴⁴

[Adopted on 3 April 2023]

⁴⁴ Human Rights Council resolution 51/8, paras. 6 and 9.