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Human Rights Council Working Group on Arbitrary Detention

Opinions adopted by the Working Group on Arbitrary Detention at its eighty-sixth session, 18–22 November 2019

Opinion No. 73/2019 concerning nine minors (whose names are known by the Working Group) (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 42/22.

2. In accordance with its methods of work (A/HRC/36/38), on 10 July 2019 the Working Group transmitted to the Government of Bahrain a communication concerning nine minors. The Government replied to the communication on 6 September 2019. 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);

(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. The source submits the cases of nine Bahraini minors. According to the source, their cases demonstrate a pattern of arbitrary detention in Bahrain. A summary of the allegations is contained in the annex.*

Minor A

5. Minor A is a 15-year-old male. On 12 November 2018, an officer at Al-Maarid police station contacted minor A's father and asked him to bring minor A, who was then 14 years of age, to the Office of Public Prosecution the following day. According to the source, the police did not inform minor A's father of the reason for the summons. On 13 November 2018, minor A went with his father to the Office in Manama, where police officers from the Ministry of the Interior arrested him and informed his father that they would transfer minor A to the Juvenile Care Centre in Isa Town.

6. On the day of minor A's arrest, the authorities charged him with participation in an illegal assembly, rioting and possession of Molotov cocktails. According to the source, out of fear, minor A confessed to the charge of participation in an illegal assembly. However, he denied the other charges and told police that he had only been standing at a demonstration in Karbabad and had not been holding anything in his hands.

7. The police transferred minor A to Al-Maarid police station to interrogate him. About two hours later, the police transferred him back to the Juvenile Care Centre in Isa Town. The source alleges that the authorities held minor A incommunicado for three days after his arrest, when he was able to call his family. Minor A's family was permitted to visit only one week after the arrest. The authorities detained minor A for a week pending his investigation. The police took him to the Office of Public Prosecution every week to extend the period of his detention until his conviction.

8. The source reports that minor A was tried during three court sessions, on 23 and 30 December 2018 and 6 January 2019. He met his lawyer only twice, during the hearing on 23 and 30 December 2018. The court found minor A guilty of participation in an illegal assembly and sentenced him to six months in the Juvenile Care Centre in Isa Town. The sentence included the possibility of a further six months of detention unless minor A obtained a certificate of good conduct. Neither minor A's lawyer nor his parents were present during the sentencing hearing on 6 January 2019. Minor A's parents asked a police officer how to appeal and was told that an appeal would be "useless" and that minor A should serve his six-month sentence.

9. Minor A remains in detention at the Juvenile Care Centre in Isa Town.

Minor B

10. Minor B is a 16-year-old male. On 13 May 2018, at approximately 3.45 a.m., officers in plain clothes and masks, accompanied by riot police wearing yellow uniforms, raided the family home and arrested minor B, who was then 15 years of age. The source alleges that the police did not state the reason for minor B's arrest, nor did they provide a warrant for the search of the home or the arrest.

11. At 6 a.m. on the day of his arrest, minor B called his family and told them that he was at the Criminal Investigation Directorate. After 15 days, minor B was able to call his family again and to inform them that he was still at the Directorate. However, the police never did take minor B to the Directorate but, rather, held him in the investigation building at Jau Prison.

12. According to the information received, the authorities held minor B in the investigation building at Jau Prison for 35 days of interrogation. Minor B's lawyer was not present during the interrogation, nor was minor B allowed to contact his lawyer throughout

* Reproduced as received, in the language of submission only.

the interrogation. During the interrogation, the authorities beat, cursed, blindfolded and handcuffed minor B, and forced him to stand for long periods. The authorities forced minor B to confess to charges such as rioting and carrying bombs and Molotov cocktails, as well as to implicate other people in criminal activity, even though he did not know them. Minor B's family did not find out that he was never at the Criminal Investigation Directorate until 22 June 2018.

13. On 17 June 2018, the authorities transferred minor B to Dry Dock Detention Centre. Minor B called his family to inform them of his location. Minor B's family finally met him at Dry Dock on 22 June 2018.

14. The source alleges that on 8 September 2018 an officer at Dry Dock insulted and beat minor B. The officer stomped on minor B's face with his shoes and pepper-sprayed his face, which caused minor B to vomit repeatedly. After minor B's family filed a complaint with the Ombudsman for the Ministry of the Interior, the authorities transferred the officer to another ward but did not inform the family of any investigation or measures taken to punish the officer.

15. According to the source, the authorities charged minor B with espionage. The interrogators never informed minor B about his espionage charge, nor did they interrogate him about the charge. Minor B only learned about the charge from his parents, who were informed by his lawyer. A court acquitted minor B on 16 October 2018. During the court hearing, minor B's lawyer was informed of a new case against him, in which he was charged with rioting and carrying bombs and Molotov cocktails in the "14 February coalition" case.

16. On 27 December 2018, the court found minor B guilty and sentenced him to seven years' imprisonment, revoked his Bahraini citizenship and fined him 200 dinars. The court convicted minor B on the basis of forced confessions made against him by others. Additionally, minor B was not allowed to present evidence on his own behalf, nor was he allowed to challenge the evidence against him. An appeal was scheduled for 25 March 2019. The source alleges that the prison authorities transported the defendant to the court, but made him remain on the bus. Minor B remains in detention at Dry Dock and is awaiting the outcome of his appeal.

Minor C

17. Minor C is a 16-year-old male. According to the information received, Criminal Investigation Directorate officials summoned minor C multiple times in 2018, including on 13 February, 22 May and 1 August, but did not provide the reasons for the summonses. Minor C was summoned as an intimidation tactic, as some of his relatives had been accused and convicted of multiple charges.

18. On 10 September 2018, at approximately 3.30 a.m., officers in civilian clothing and officers from the Special Security Force Command raided minor C's house. Minor C was 15 years of age. After his arrest, minor C called his family and told them that he was at the Criminal Investigation Directorate. The source alleges that, during minor C's first two days at the Directorate, the officers blindfolded and handcuffed him, deprived him of food and water, put shoes in his mouth, forced him to stand and beat him. Twenty-one days after minor C's arrest, the authorities transferred him to Dry Dock. Minor C exhibited signs of torture and suffered considerable weight loss, loss of balance and an abnormally high red blood cell count.

19. In September 2018, the authorities charged minor C with carrying out two attacks on the security forces of Diraz and throwing a fake bomb in Sitra. On 28 October 2018, the authorities released him but maintained the charges and held court hearings, some of which were conducted in absentia.

20. The source reports that on 16 January 2019 minor C was in a car near his home when officers in civilian clothing and riot police linked to the Ministry of the Interior surrounded the car. They raided minor C's home and interrogated a family member. The officers arrested minor C without producing a warrant or providing the reason for the arrest.

They took minor C to the Criminal Investigation Directorate, where he was interrogated for three days and tortured. Minor C spent about 20 days in the Directorate.

21. The source alleges that on 5 February 2019 the authorities brought minor C to the Office of Public Prosecution without informing his lawyer. He was charged with throwing a fake bomb in Al-Daih Town, organizing marches in Diraz in 2018 and participating in an illegal assembly. On 6 February 2019, the authorities transferred minor C to Dry Dock. His family first visited him on 7 February 2019, 23 days after his arrest.

22. On 13 February 2019, a court convicted minor C of the two charges relating to the attacks in Diraz and sentenced him to six months' imprisonment, fined him 200 dinars and seized mobile telephones and a camera. However, the court suspended execution of the verdict pending minor C's other trials. Minor C was not in court to hear the verdict because he was not permitted to attend. The court acquitted minor C of the charge relating to the fake bomb in Sitra. The Government eventually dropped the charge of throwing a fake bomb in Al-Daih Town.

23. On 4 March 2019, the authorities took minor C and others to court for a hearing in the rioting case. After the hearing, everyone returned to Dry Dock while the authorities took minor C to the Criminal Investigation Directorate, without informing his family. On 6 March 2019, one of the co-defendants in the rioting case called minor C's family and told them that the Dry Dock administration had brought a paper for him to sign; the paper contained details concerning a one-year prison term with a stay of execution against him and minor C. The family had not received information about minor C's whereabouts, his sentencing or this potential plea deal.

24. The source reports that on 9 March 2019 minor C called his family and informed them that he was at the Criminal Investigation Directorate. On 11 March 2019, minor C called his family again to tell them that the authorities had transferred him to the section of Dry Dock for convicted prisoners to serve his previous six-month sentence despite the stay of execution granted on 13 February 2019. The transfer had reportedly taken place because minor C's parents had not posted bail. However, his parents had not received any notification that they were required to post bail. Minor C's father went with a lawyer to pay the 200-dinar bail so that minor C could come home. The authorities did not release him, despite his lawyer confirming that there were no other pending charges warranting his detention.

25. On 13 March 2019, a court sentenced minor C to six months' imprisonment on the illegal assembly and rioting charges. On 21 March 2019, without informing Minor C's lawyer, the officials transferred minor C to court, where he learned of three new charges: receiving training on weapons inside and outside Bahrain, participating in riots in Diraz in August 2018 and throwing Molotov cocktails and participating in arson in Bani Jamra in September 2018. Minor C denies all of the charges. He remains in detention at Dry Dock.

Minor D

26. Minor D is a 17-year-old male. In August 2018, officers in plain clothes with civilian cars arrested minor D with one of his friends at A'ali Town without a warrant and without providing the reason for the arrest. Minor D was 16 years of age at the time. On a later date, his other friends were arrested. Several months before minor D's arrest, civilian forces pursued and beat him, and minor D felt that he was under surveillance.

27. The source reports that immediately after minor D's arrest officers took him to Hamad Town police station. One of minor D's friends informed his family about his arrest. Police officers interrogated minor D and threatened to beat him unless he confessed. Out of fear, minor D confessed at the police station and again when he was taken to the Office of Public Prosecution. He was subsequently transferred to Dry Dock.

28. According to the source, minor D was initially charged with participation in an illegal assembly. After going to court, his friends provided confessions against him. Minor D maintains he had nothing to do with those events. Minor D was subsequently charged with burning a garden, joining a terrorist group, participating in an illegal assembly and

rioting. Minor D's parents became aware of the charges when his lawyer attended the first court hearings.

29. The source reports that the court assigned a lawyer to minor D since his family lacks the financial means. However, minor D's family hired a private lawyer because the lawyer assigned by the court did not communicate with the family.

30. On 13 December 2018, minor D was sentenced to three years' imprisonment and fined 100,000 dinars on the charge of participating in an illegal assembly and rioting. On 29 January 2019, minor D's lawyer filed an appeal. On 25 March 2019, the appellate court upheld the conviction. Minor D was sentenced to one year's imprisonment for burning a garden. On 28 January 2019, the verdict was upheld. Finally, minor D was sentenced to three years' imprisonment for joining a terrorist group, a sentence that was upheld on appeal on 25 March 2019.

31. According to the source, minor D was not given the time and resources he needed to prepare for trial since his family obtained a lawyer only several days after his trials had begun. In addition, minor D was not allowed to meet his lawyer outside the courtroom. After minor D was transferred to Dry Dock, he met his family for the first time. He remains in detention at Dry Dock.

Minor E

32. Minor E is a 14-year-old male. At the time of the alleged events, he was a 13-year-old student. On 14 February 2019, armed officers in civilian clothing arrested minor E in the village of Al-Musalla, while a protest was under way nearby. The source alleges that the officers beat him and yelled at him, then arrested him without a warrant and without providing a reason for the arrest. The officers arrested minor E along with his friend, minor F, after they both denied knowing the whereabouts of individuals being pursued by the officers.

33. The source reports that after minor E's arrest his family went to Al-Khamis police station, where they were told that that minor E was not being held there. However, after waiting, they were told that he was waiting to be interrogated. Minor E did not have a lawyer or parent present during the interrogation. He was detained for six hours, after which time he was released on the condition that he return to the police station two days later to be brought before the Office of Public Prosecution. On 16 February 2019, minor E returned and was detained for five days pending investigation. He was transferred to the Juvenile Care Centre in Isa Town.

34. According to the source, minor E did not have a lawyer present during his detention at the police station. However, a lawyer was sent to represent minor F and that lawyer now represents both minors E and F. The officers stated that they would release minor E if he confessed before the Office of Public Prosecution to participating in an illegal assembly. Minor E told the officers that he had been playing in the street when he was arrested. His statement did not contain any incriminating information.

35. On 17 February 2019, minor E's family was permitted to visit him in the Juvenile Care Centre for 15 minutes, following a special request. Minor E was charged with participating in an illegal assembly. On 20 February 2019, the Office of Public Prosecution extended the detention period for another week and then again on 27 February 2019 for four days. On 3 March 2019, minors E and F were released pending trial. A court hearing took place on 17 March 2019.

Minor F

36. Minor F is a 14-year-old male. On 14 February 2019, minors E and F were playing in the street when armed officers in civilian clothing arrested them. The officers were pursuing other people and demanded that the minors inform them of the whereabouts of those people. When the minors said that they did not know the individuals, the officers yelled at them and beat them. Minor F was then 14 years of age.

37. The officers took minor F to Al-Khamis police station, where they held him for six hours without a lawyer. They eventually released him on bail, on condition that he return

two days later to appear before the Office of Public Prosecution. The source claims that the police officers wanted minor F to confess to participating in an illegal assembly before releasing him, but he did not confess.

38. On 16 February 2019, minor F went to the Office of Public Prosecution with a lawyer and presented a statement. The lawyer told minor F's parents that his statement was not incriminating. However, contrary to the lawyer's expectation, the Office detained minor F for five days pending investigation. On 20 February 2019, the Office extended minor F's detention for another week and did so again on 27 February 2019 for another four days. On 3 March 2019, the Office released minor F on condition that he appear at a hearing on 17 March 2019.

Minor G

39. Minor G is an 18-year-old male. At the time of his arrest, he was 15 years of age. On 20 February 2017, at 4 a.m., six masked officers wearing plain clothes raided minor G's family home while he was asleep. They searched the house for weapons and explosives. The source alleges that the officers arrested minor G without presenting a warrant. While in the car on the way to Al-Maaid police station, the officers beat him, tore his clothes and pointed a gun at his head and threatened to kill him. At the station, police officers interrogated him, subjected him to severe beatings, poured extremely hot and cold water on him and threatened to sexually assault him or his family members if he did not confess. The raids on the family home continued for three nights but the officers did not find any evidence relating to the charges. Minor G's father had previously been sentenced to 15 years' imprisonment and denaturalized on political charges.

40. The source reports that minor G was disappeared for six days. On 26 February 2017, his family received a call from Dry Dock requesting that they bring clothes for minor G. During his disappearance, officers had transferred minor G between multiple locations and subjected him to severe forms of torture. Shortly after his arrest, minor G's mental condition deteriorated and he suffered from convulsions and fever. He was transferred to Salmaniya Hospital without his family's knowledge.

41. On 26 February 2017, minor G was brought before a lower criminal court to be tried for rioting and participating in an illegal assembly. He was sentenced to judicial probation for one year. Minor G was denied access to his lawyer and only met him during the trial. However, minor G was not released, as he was held pending trial on three other charges concerning rioting and participating in an illegal assembly.

42. On 26 February 2017, minor G was transferred to Jau Prison for the collection of biometric information. The source alleges that riot police officers hung minor G by his legs, shaved his head and beat and kicked him. Minor G felt that he was going to die, and fainted. He was transferred to Al Qalaa Hospital, where he was given an anticoagulant, and then taken back to Dry Dock. Minor G developed back pain due to the torture. On 16 April 2017, his family filed a complaint with the Ombudsman for the Ministry of the Interior but received no answer.

43. On 21 March 2017, a lower criminal court sentenced minor G to six months' imprisonment in connection with three other cases of rioting and participating in an illegal assembly. On 7 December 2017, the lower criminal court sentenced minor G to another year in prison on charges of rioting and participating in an illegal assembly. On 30 January 2018, that sentence was upheld on appeal.

44. The source reports that, at Dry Dock, minor G exhibited symptoms such as fever, exhaustion, severe back pain and convulsions, as he has iron deficiency and thalassaemia. Minor G asked many times to be transferred to the prison clinic but his requests were denied until his family filed a complaint with the prison administration. When minor G was taken to the clinic, he was given no treatment. Subsequently, minor G fell severely ill and was taken to the clinic, which called his mother, who brought pills and vitamins.

45. Minor G continues to be treated harshly by prison officers because they know his father is also being held, in Jau Prison. Minor G was denied contact with his mother for a long period. His family has repeatedly sought permission for him to have contact with his

father. Late in 2018, minor G and his father went on a hunger strike to protest the fact that they had not been able to contact one another for over a year, despite the authorities promising that they would allow it. Minor G continues to be subjected to humiliation. His family faces invasive searches during family visits.

Minor H

46. Minor H is an 18-year-old male. At the time of his arrest, he was a 16-year-old student. He is from Budaiya, where he resides with his family. At approximately 6 a.m. on 22 July 2017, security forces surrounded the family house. The source alleges that, despite the family's objections, the security forces entered and searched the house. The officers wore civilian clothing and were masked, although one of them had a jacket with the emblem of the Ministry of the Interior. When the search was completed, they demanded that minor H provide his identity card and transported him in an unmarked civilian vehicle. They did not present an arrest warrant or provide any reasons for the arrest.

47. Minor H was taken to the northern police station in Hamad Town, where he was kept until he was transferred to Dry Dock at the end of July 2017. Neither his family nor his legal counsel received official documentation stating a reason for his detention. The source alleges that previously detained individuals were coerced into naming minor H as one of a group who had attacked a police vehicle. Three individuals had already been detained in relation to that allegation and later released, after naming minor H and others as responsible for the attack. One of the released detainees was transferred to hospital for the treatment of injuries due to torture.

48. Since his detention, minor H has been prevented from speaking to his family and has been denied access to legal representation. He is reportedly being held in solitary confinement.

49. On 30 July 2017, minor H was brought before the Office of Public Prosecution, without his lawyer being informed. The Office ordered that minor H be held in custody for 30 days pending investigation, although neither his family nor his lawyer were informed of the investigation. The length of this preventive detention suggests that minor H may have been charged with national security or terrorism-related crimes.

50. On 30 July 2017, minor H called his family and told them that he was being transferred to Dry Dock. This is the only time that he has been allowed to speak with his family since his detention.

51. The source submits that there is compelling evidence of physical abuse amounting to torture. Minor H was tortured into signing a confession. His family has submitted a complaint to the Ombudsman for the Ministry of the Interior, without result.

52. On 2 November 2017, minor H was charged with attacking a police car with a Molotov cocktail and participating in an illegal assembly. On 26 February 2018, he was sentenced to three years' imprisonment. On 24 April 2018, his sentence was upheld on appeal. Minor H's lawyer did not appeal. Minor H remains in detention at Dry Dock.

53. Minor H's family has been subjected to humiliating treatment, including degrading searches, during family visits. On 25 December 2018, during a scheduled visit, one family member was prevented from attending since he was wearing black as he was grieving a relative's death. Another family member objected and was removed. The prison administration then placed minor H in solitary confinement for five days while he was supposed to be sitting exams. He was denied two other family visits.

Minor I

54. Minor I is an 18-year-old male. At the time of his arrest, he was 16 years of age. On 5 October 2017, officers in plain clothes arrested minor I without a warrant while he was on his way to school in Al Aali and took him to the Criminal Investigation Directorate. On 6 October 2017, minor I informed his family that he was at the Directorate but was unable to say more. The source alleges that, while at the Directorate, officers kept minor I in solitary confinement for long periods.

55. Minor I remained in the Criminal Investigation Directorate for over two and a half months. During that period, officers interrogated him without legal counsel being present and tortured him in order to obtain confessions. Minor I signed a confession to all charges. A forensic examination supported the allegations of torture. The confessions extracted through torture were used as evidence against minor I and a verdict was returned against him.

56. Minor I is a defendant in seven other cases. The assignment of different lawyers in each case has made the process longer. Moreover, minor I's lawyers have not been permitted to communicate with him. Minor I has been sentenced to 20 years' imprisonment, deprived of his nationality and fined over 10,000 dinars. The charges consist of participating in political gatherings, rioting and terrorism. During his trial, minor I was unable to contact his lawyer and his family was not permitted to attend.

57. On 4 January 2018, minor I's family filed a complaint with the Ombudsman for the Ministry of the Interior regarding the torture and ill-treatment endured during the interrogations that had been carried out while Minor I was held in the Criminal Investigation Directorate. On 1 March 2018, the case was referred to the Special Investigation Unit. The family has not received a response. Moreover, the judge reportedly ignored the complaint filed with the Ombudsman, as well as the evidence resulting from the forensic examination.

58. While awaiting his appeal, minor I was brought to attend court hearings but was prevented from getting off the bus or entering the courtroom. This resulted in the hearings proceeding in absentia, in rulings upholding findings of the lower court and repeated delays. On 9 October 2018, minor I was sentenced to a further three months' imprisonment and an additional fine of 200 dinars.

59. On 5 June, 29 October and 30 October 2018, minor I's sentences in seven cases were upheld on appeal. The Court of Cassation has not yet scheduled a date concerning minor I's denationalization. A trial is pending against minor I for joining the "Bahraini Hizbullah", in which 169 individuals are being tried. He remains in detention at Dry Dock.

Context

60. All of the nine minors are males who were between 13 and 16 years of age at the time of arrest. All the arrests were made without a warrant and most were accompanied by a warrantless search or raid. At least five of the minors report having been tortured to produce a confession and all report having been prevented from meeting with legal counsel or having otherwise been subjected to an unfair trial.

Analysis

61. The source argues that the nine cases demonstrate a pattern of warrantless arrests, torture and ill-treatment, coerced confessions and unfair trials involving Bahraini minors. They also demonstrate the use of anti-terrorism laws and laws targeting the rights to freedom of expression and peaceful assembly to obtain convictions. The Government has violated its obligations under the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, the International Covenant on Civil and Political Rights and the Convention on the Rights of the Child. The source submits that the detention of the nine minors is arbitrary under categories II and III.

Response from the Government

62. On 10 July 2019, the Working Group transmitted the allegations from the source to the Government under its regular communication procedure, requesting detailed information by 9 September 2019 about the situation of the nine minors. The Government responded on 6 September 2019.

63. Minor A was involved in three incidents in which police patrols were attacked. He was charged with rioting, participating in an illegal assembly and possessing Molotov cocktails. His detention was reviewed by a judge five times in November and December 2018. On 6 January 2019, the court ruled in minor A's presence that he should be detained

at the Juvenile Care Centre, with six-monthly reports to be submitted on his case. The Special Investigation Unit did not receive any complaints regarding minor A. Minor A has no health problems other than a childhood disability relating to his leg. He has had 14 medical appointments. Minor A has been allowed family visits and calls. He is enrolled in the Centre's school. In July 2019, his detention was extended.

64. Minor B was among a group involved in rioting, carrying out acts of vandalism and assaulting police officers in Sitra. He was charged with joining a terrorist group, participating in an illegal assembly, rioting and possessing and acquiring Molotov cocktails. The court sentenced minor B to seven years' imprisonment, revoked his citizenship and fined him 200 dinars. The Special Investigation Unit did not receive any complaints regarding minor B. He had a medical examination in July 2019. In 2019, he had 14 family visits.

65. Minor C was involved in four illegal assemblies in Diraz and Bani Jamra, during which security patrols were attacked. He was charged with rioting, participating in an illegal assembly and possessing Molotov cocktails and given a sentence, which was suspended, of six months' imprisonment and fined 200 dinars. He was later sentenced to a further six months' imprisonment on similar charges. Minor C was also sentenced to three years' imprisonment for rioting, participating in an illegal assembly, possessing Molotov cocktails and committing arson. The case is under appeal. The Special Investigation Unit did not receive any complaints regarding minor C. However, on 30 June 2019 a complaint was made by another inmate that he and minor C had been beaten in Dry Dock. The Unit ordered a forensic examination, which revealed no injuries, but the complaint is under investigation. Minor C received a medical examination on 31 July 2019, which revealed sickle-cell anaemia, for which he received treatment. In 2019, he had nine family visits.

66. Minor D was involved in attacks on law enforcement in Buri in 2018. He was sentenced to three years' imprisonment for setting fire for a terrorist purpose, participating in an illegal assembly, rioting and acquiring flammable materials. Further charges of participating in an illegal assembly and rioting were sentenced in absentia and resulted in a fine of 200 dinars and a stay of execution for three years. Minor D was also charged with funding terrorism, rioting, participating in illegal assemblies, acquiring Molotov cocktails, committing arson and causing destruction for a terrorist purpose, and sentenced to a further three years' imprisonment and fined 100,000 dinars. That judgment was upheld on appeal. Minor D was sentenced to one year in prison for setting a fire in Buri. The Special Investigation Unit did not receive any complaints regarding minor D. Minor D received a medical examination on 31 July 2019, which revealed no serious health issues. In 2019, he had 12 family visits.

67. Minors E and F were charged with participating in an illegal assembly, rioting and participating in an unauthorized march in Al-Musalla. Their detention was renewed on 20 and 27 February 2019 by the juvenile court. Both minors were placed under judicial probation for one year, with six-monthly reports to be submitted on their cases. The Special Investigation Unit did not receive any complaints regarding either minor. Both minors had been detained in the Juvenile Care Centre but were released in March 2019.

68. Minor G participated in unauthorized demonstrations in 2017, during which he attacked law enforcement patrols. He was sentenced to two months' imprisonment for participating in an illegal assembly and to one year's imprisonment for participating in an illegal assembly, rioting and possessing Molotov cocktails. He received further sentences of judicial probation of one year for placing fake explosives in Al-Daih Town in August 2016; one year's imprisonment for participating in an illegal assembly, rioting and possessing Molotov cocktails; two months' imprisonment for burning waste near a mosque; and two months' imprisonment for participating in an illegal assembly in Sanabis. On 29 May 2017, the Special Investigation Unit received a complaint in relation to the beating of minor G by police to obtain a confession. A forensic examination was ordered, but minor G refused to be examined. No injuries were identified and there was no further evidence. Minor G received a medical examination on 31 July 2019, which revealed sickle-cell anaemia, for which he received treatment. He had 19 family visits in 2017, 23 visits in 2018 (including with his father) and 13 visits in 2019. Applicable procedures were followed during visits, including female officers searching female visitors.

69. Minor H set fire to a police vehicle in Bani Jamra in July 2017. He was charged with starting a fire for terrorist purposes, participating in an illegal assembly, rioting and possessing and acquiring Molotov cocktails. He was sentenced, in his presence, to three years' imprisonment and a payment for damages to the vehicle of 1,191 dinars. On 10 September 2017, the Special Investigation Unit received a complaint from minor H's lawyer stating that minor H had been tortured in order to coerce him to make a confession. Minor H refused a forensic examination and there was no further evidence. Minor H received a medical examination on 31 July 2019. He had 19 family visits in 2018 and 13 visits in 2019. Applicable procedures were followed in relation to inspections during those visits.

70. Minor I was involved in incidents in 2016 and 2017 in A'ali Town and Buri. He was sentenced to three years' imprisonment for placing bombs for a terrorist purpose; three years' imprisonment for arresting and detaining a person, using force and kidnapping; and three months' imprisonment (suspended for three years) and a fine of 200 dinars for participating in an illegal assembly and possessing incendiary bottles. Minor I was also sentenced to two years' imprisonment for two separate incidents of placing explosive devices in public places; three years' imprisonment for joining a terrorist group, receiving training on the use of weapons, producing explosive materials and possessing a firearm; one year's imprisonment for placing explosive devices; and one year's imprisonment for causing an explosion. Finally, minor I was sentenced to judicial probation for one year for participating in an illegal assembly. On 1 March 2018, the Special Investigation Unit received a complaint in relation to the alleged beating of minor I by the police to obtain a confession. Forensic examinations were carried out but no injuries were identified and there was no further evidence. Minor I received a medical examination on 31 July 2019. He had 17 family visits in 2018 and 11 visits in 2019.

71. The Government denies all of the source's allegations, noting that the minors were tried before the juvenile courts for committing criminal acts under Bahraini law by an independent judiciary that respected all guarantees during the proceedings. The minors were placed in designated juvenile facilities.

Further comments from the source

72. The Government did not reply to several allegations relating to the lack of access to legal representation and proper trial procedures not being followed. Minors E and F were released on 3 March 2019 pending trial, and were subsequently convicted and sentenced to one year of probation on 14 April 2019.

Discussion

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

74. The Working Group welcomes the release of minors E and F. According to paragraph 17 (a) of its methods of work, the Working Group reserves the right to render an opinion on whether the deprivation of liberty was arbitrary, notwithstanding the release of the person concerned. The two released minors were allegedly subjected to serious human rights violations, including being interrogated without the presence of their parents, a legal guardian or a lawyer. The Working Group considers that it is important to render an opinion on their cases, as well as on the cases of the other minors, who remain in detention.

75. In determining whether the deprivation of liberty of the nine minors is arbitrary, the Working Group turns to the principles established in its jurisprudence to deal with evidentiary issues. If the source has presented a *prima facie* case for breach of the international requirements constituting arbitrary detention, the burden of proof should be understood to rest upon the Government if it wishes to refute the allegations. Mere assertions by the Government that lawful procedures have been followed are not sufficient to rebut the source's allegations (A/HRC/19/57, para. 68).

Category I

76. The source alleges that the nine minors were arrested without a warrant and without being informed of the reasons for their arrest. The Government did not address these

allegations. In the absence of such rebuttal, the Working Group considers that the information provided by the source is credible. The Working Group has found in recent cases concerning Bahrain that an arrest warrant and reasons for the arrest were not provided, which suggests that the failure to comply with arrest procedures is a systemic problem.¹

77. According to article 9 (1) of the International Covenant on Civil and Political Rights, no one shall be deprived of his or her liberty except on such grounds and in accordance with such procedure as are established by law. Article 9 (2) provides that anyone who is arrested shall be informed, at the time of arrest, of the reasons for his or her arrest. In the present case, the minors were arrested without a warrant, in violation of article 9 (1) of the Covenant. In order for a deprivation of liberty to have a legal basis, it is not sufficient for there to be a law authorizing the arrest. The authorities must invoke that legal basis and apply it to the circumstances of the case through an arrest warrant.² The minors were not informed of the reasons for their arrest, in violation of article 9 (2) of the Covenant. An arrest is arbitrary when it is carried out without informing the arrested person of the reasons for the arrest.³ As the Human Rights Committee has stated, when children are arrested, notice of the arrest and the reasons for it should also be provided directly to their parents or legal representatives, a procedure that was not observed in relation to these minors.⁴

78. Furthermore, the source alleges that when some of the minors were arrested, searches of their homes were conducted without a warrant (minors B, G and H). The Government did not address this allegation. It is not clear whether evidence was seized during the searches, nor whether any evidence seized was used in court proceedings against the minors. The Working Group has found detention to be arbitrary when evidence obtained without a search warrant has been used in court proceedings.⁵ The fact that some of the homes of the minors were searched without a warrant adds weight to the conclusion that the authorities did not follow investigative procedures in ensuring that there was a legal basis for the minors' detention.

79. The source claims that there was a failure to promptly notify minor B of the charges. The authorities charged minor B with espionage. However, the interrogators never informed minor B about that charge, nor did they interrogate him about it. Minor B only learned about the charge from his parents, who were themselves informed by his lawyer. This constitutes a violation of the right to prompt notification of the charges under article 9 (2) of the Covenant and article 40 (2) (b) (ii) of the Convention on the Rights of the Child.⁶ It is not enough for minor B's lawyer and family to have been informed of the charges: pursuant to article 40 (2) (b) (ii), the arrested child must be informed "promptly and directly of the charges" and, if appropriate, through his or her parents or legal guardians.

80. In addition, it appears that several of the minors were not brought promptly before a judge. According to the source, minor A was held incommunicado for three days after his arrest.⁷ Minor B was held at Jau Prison for 35 days for interrogation following his arrest. Minor C was held at the Criminal Investigation Directorate for 21 and 20 days respectively after his first and second arrests. Minors E and F had their detention extended by the Office of Public Prosecution for 16 days. Minor G was disappeared for six days. Minor H was arrested on 22 July 2017 and held at a police station until the end of that month. Minor I

¹ Opinions No. 31/2019, No. 79/2018, No. 51/2018, No. 55/2016 and No. 41/2015.

² Opinions No. 46/2019, No. 33/2019, No. 9/2019, No. 46/2018, No. 36/2018, No. 10/2018 and No. 38/2013.

³ Opinions No. 10/2015, para. 34, and No. 46/2019, para. 51.

⁴ Human Rights Committee, general comment No. 35 (2014) on liberty and security of person, para. 28, and opinion No. 73/2018, para. 48.

⁵ Opinions No. 33/2019, No. 31/2019, No. 83/2018, No. 78/2018 and No. 36/2018.

⁶ See also rule 7.1 of the United Nations Standard Minimum Rules for the Administration of Juvenile Justice (the Beijing Rules).

⁷ Holding persons incommunicado violates their right to challenge the lawfulness of detention under article 9 (4) of the International Covenant on Civil and Political Rights. See also opinions No. 46/2017 and No. 45/2017.

remained at the Criminal Investigation Directorate for over two and a half months. The minors were brought before the Office of Public Prosecution, rather than a court, when their detention was extended.⁸

81. The Government states that, following his placement at the Juvenile Care Centre on 13 November 2018, minor A's detention was reviewed by a judge of the juvenile court on 19 November 2018. In addition, minors E and F were detained on 16 February 2019 and their detention was renewed by the juvenile court on 20 February 2019. The Government did not provide further information on the review of each minor's detention.

82. According to article 9 (3) of the Covenant, anyone arrested or detained on a criminal charge shall be brought promptly before a judge or other officer authorized by law to exercise judicial power. The Human Rights Committee has stated that a strict standard of promptness applies to juveniles, who should be brought before a court within 24 hours of arrest.⁹ The Committee on the Rights of the Child has confirmed that a similar requirement exists under article 37 (d) of the Convention on the Rights of the Child, and that every child deprived of his or her liberty should be brought before a competent authority within 24 hours to examine the legality of the deprivation of liberty or its continuation.¹⁰ It is clear that this deadline was not met in relation to the minors in the present case. It is essential for detained children to have prompt and effective access to an independent and child-sensitive process that can determine the legal basis of their detention and to receive appropriate and accessible remedies without delay.¹¹ Without such access, the minors were denied an effective remedy under article 8 of the Universal Declaration of Human Rights and article 2 (3) of the Covenant.

83. Finally, the Working Group considers that there is doubt as to the legal basis for the detention of minors E and F. According to the source, officers arrested the two minors while they were playing in the street because they denied knowledge of the location of other individuals. Despite having been allegedly beaten by the officers, both minors refused to confess that they had been involved in an illegal assembly. The Government claims that they were involved in an unauthorized march and were charged with participating in an illegal assembly, without further explanation of how their conduct satisfied the elements of that charge.

84. The Working Group finds that the Government failed to establish a legal basis for the arrest and detention of the nine minors. Their deprivation of liberty falls within category I.

Category II

85. According to the source, the nine minors were prosecuted under laws that target individuals who exercise their rights to freedom of expression and peaceful assembly.

86. However, the source's submissions focus on the alleged procedural violations of the minors' right to a fair trial. The source did not provide sufficient information to support its argument under category II, including on the location and context in which the minors were exercising their rights when deprived of their liberty, what actions the minors were undertaking at the time and what motivated them to do so. The Government claims that the minors were taking part in illegal gatherings involving the commission of violence and were not exercising their rights.

87. The Working Group finds that the source has not established a *prima facie* case of deprivation of liberty under category II.

⁸ Human Rights Committee, general comment No. 35, para. 32, and opinion No. 14/2015, para. 28.

⁹ Human Rights Committee, general comment No. 35, para. 33, and opinion No. 14/2015, para. 29.

¹⁰ Committee on the Rights of the Child, general comment No. 24 (2019) on children's rights in the child justice system, para. 90.

¹¹ See principle 18 and guideline 18 of the United Nations Basic Principles and Guidelines on Remedies and Procedures on the Right of Anyone Deprived of Their Liberty to Bring Proceedings Before a Court (A/HRC/30/37, annex).

Category III

88. The source alleges that eight of the nine minors were subjected to torture and ill-treatment, in some cases to coerce them into making a confession. Such treatment allegedly included being forced to stand for long periods, being pepper-sprayed and having the face stomped on (minor B); being blindfolded, being deprived of food and water and having shoes put in the mouth (minor C); being threatened with a beating (minor D); being beaten (minors E and F); having a gun pointed at the head, being threatened with sexual assault, being hung by the legs and having extremely hot and cold water poured on the body (minor G); being physically abused (minor H); and being placed in solitary confinement for a long time (minor I).

89. The Government responds to the allegations of torture by noting whether a complaint had been made to the Special Investigation Unit and, if so, whether the subsequent investigations found sufficient evidence to substantiate the complaints. The information provided by the Government does not respond to the source's claims, as the lack of a complaint to the Unit does not demonstrate the absence of torture. Much of the alleged mistreatment would not have left a physical mark,¹² particularly as the medical examinations were conducted a considerable time after the alleged violence. The examinations of the minors fell short of the requirements set out in the Manual on the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (Istanbul Protocol), which requires a description of the abuse and an assessment of the victim's psychological health.¹³

90. The Working Group considers that the source has presented a credible *prima facie* case that eight of the minors were subjected to torture and ill-treatment.¹⁴ This conduct appears to violate the absolute prohibition of torture as a peremptory norm of international law, as well as article 5 of the Universal Declaration of Human Rights, article 7 of the Covenant, article 37 (a) and (c) of the Convention on the Rights of the Child and articles 2 and 16 of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. The use of physical or psychological force on a child is an extremely serious abuse of power, entirely lacking in necessity and proportionality.¹⁵ The alleged torture and ill-treatment of children in the present case must be the subject of a thorough and independent investigation that goes beyond the enquiries mentioned by the Government.

91. Moreover, the source alleges that at least five of the minors (minors B, D, G, H and I) gave confessions as a result of torture or ill-treatment. The confessions were used in at least two cases to convict the minors (minors B¹⁶ and I). The Government acknowledges the allegations that some of the minors were forced to confess, although it concludes that no evidence resulted from the investigations. The Working Group considers that the admission into evidence of a statement allegedly obtained through torture or ill-treatment renders the entire proceedings unfair.¹⁷ The burden is on the Government to prove that the minors' statements were given freely,¹⁸ but it has not done so. The minors did not have access to

¹² Opinion No. 53/2018, para. 76, and the Manual on the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (Istanbul Protocol), para. 161.

¹³ Istanbul Protocol, paras. 83 (b)–(c) and 104.

¹⁴ CAT/C/BHR/CO/2-3, para. 8.

¹⁵ Opinion No. 3/2017, para. 30.

¹⁶ The source alleges that minors B and H were convicted on the basis of a forced confession made by a third party, which cannot be the basis for detention. See opinions No. 45/2019, para. 69, and No. 75/2018, para. 75.

¹⁷ Opinions No. 32/2019, para. 43, No. 52/2018, para. 79 (i), No. 34/2015, para. 28, and No. 43/2012, para. 51.

¹⁸ Human Rights Committee, general comment No. 32 (2007) on the right to equality before the courts and tribunals and to a fair trial, para. 41.

lawyers when the confessions were given. Confessions made in the absence of legal counsel are not admissible as evidence in criminal proceedings.¹⁹

92. As a result, the minors' right to be presumed innocent under article 14 (2) of the Covenant and article 40 (2) (b) (i) of the Convention on the Rights of the Child, as well as their right not to be compelled to confess guilt under article 14 (3) (g) of the Covenant and article 40 (2) (b) (iv) of the Convention on the Rights of the Child were violated. The intentional infliction of pressure to obtain a confession violates articles 2, 13, 15 and 16 of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.²⁰

93. The Working Group refers the present case to the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment.

94. In addition, the source alleges that the nine minors had restricted access to legal representation. The restrictions allegedly included lawyers not being present during interrogations (minors B, E and I); minors being brought before the Office of Public Prosecution without a lawyer (minors C and H); and minors being able to consult with a lawyer only at trial rather than from the outset of their detention (minors A, D and G). The Government did not address these allegations. 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.²¹ In the present case, the minors were not afforded the right to adequate time and facilities for the preparation of their defence and to communicate with counsel of their choosing (art. 14 (3) (b) of the Covenant) or the right to present an effective defence (art. 14 (3) (d) of the Covenant). Also violated were their rights to prompt access to legal assistance (art. 37 (d) of the Convention on the Rights of the Child) and to legal assistance in the preparation of their defence and a fair hearing in the presence of legal assistance (art. 40 (2) (b) (ii)–(iii) of the Convention).

95. The source alleges that the authorities restricted the minors' ability to contact their families, including by preventing them from contacting their families following their arrest (minors A, B, C, D, H and I), not informing their families of their arrest or transfer to other facilities (minors B, C, D, E and G), interrogating them without a parent being present (minors E and F), continuing the trial and sentencing without a parent being present (minors A and I) and conducting intrusive searches during family visits (minors G and H). The Government notes the number of family visits that each minor has had each year but does not address the alleged lack of contact between the minors and their families at earlier stages of detention (e.g. during interrogations). The Government also denies that invasive searches were made during family visits. These restrictions amount to a violation of principles 15, 16 (1) and 19 of the Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment and rules 7.1 and 10.1 of the United Nations Standard Minimum Rules for the Administration of Juvenile Justice (the Beijing Rules). The restrictions also violate the minors' rights to maintain contact with their families (art. 37 (c) of the Convention on the Rights of the Child) and to have their matters determined in the presence of their parents (art. 40 (2) (b) (iii) of the Convention).

96. Finally, the Working Group takes note of the source's other allegations relating to the right to a fair trial that were not addressed by the Government. These include holding a minor in incommunicado detention (minor A),²² not allowing a minor to present evidence or to challenge the evidence (minor B), preventing minors from attending their appeal hearings (minors B and I), holding some court hearings in the absence of the minor (minor

¹⁹ Opinions No. 14/2019, para. 71, No. 1/2014, para. 22, and No. 40/2012, para. 48. See also E/CN.4/2003/68, para. 26 (e), and Committee on the Rights of the Child, general comment No. 24, para. 60.

²⁰ CAT/C/BHR/CO/2-3, para. 16.

²¹ See principle 9 and guideline 8 of the United Nations Basic Principles and Guidelines on Remedies and Procedures on the Right of Anyone Deprived of Their Liberty to Bring Proceedings Before a Court. See also Committee on the Rights of the Child, general comment No. 24, para. 95 (e), and CRC/C/BHR/CO/4-6, para. 44 (b).

²² Committee on the Rights of the Child, general comment No. 24, para. 95 (a).

C), placing minors in solitary confinement (minors H and I),²³ denying family visits as a punishment (minor H)²⁴ and ignoring evidence of torture (minor I). These practices have contributed to the unfair proceedings against the minors, in violation of article 14 (1), (3) (d)–(e) and (5) of the Covenant and article 40 (2) (b) (iii)–(v) of the Convention on the Rights of the Child. The Working Group refers the present case to the Special Rapporteur on the independence of judges and lawyers.

97. The above-mentioned violations of the right to a fair trial are of such gravity as to give the detention of the nine minors an arbitrary character according to category III.

Category V

98. The source alleges that the present case demonstrates a pattern of arbitrary arrest and detention. All of the nine minors in the case are male and were between 13 and 16 years of age at the time of arrest. They all report having been arrested without a warrant, having restrictions imposed on their ability to contact their families and meet with legal counsel and having been subjected to an unfair trial. The allegations include violations of the right to liberty, including incommunicado detention (minor A), enforced disappearance (minor G) and solitary confinement (minors H and I). Moreover, the minors were reportedly subjected to torture and ill-treatment (minors B, C, D, E, F, G, H and I), which in several cases resulted in forced confessions (minors B, D, G, H and I). The sentencing of the young males involved significant periods of imprisonment: of three years (minors C, D and H), of seven years (minor B) and of 20 years (minor I).

99. The Working Group considers that the authorities have targeted young males. The Bahraini authorities denied the minors due process at every stage of the proceedings. Minors E and F, for example, were arrested while playing in the street, which suggests that the authorities considered themselves free to target vulnerable children without a legal basis and in clear abuse of their power. The courts continued in that vein by sentencing the minors contrary to article 37 (b) of the Convention on the Rights of the Child, which requires that a child be detained only as a measure of last resort and for the shortest appropriate period of time. While some of the sentences were suspended or included judicial probation, the Government's response does not demonstrate that the authorities sought alternatives, such as supervision orders, counselling, education and vocational training, to ensure that the minors were dealt with in a manner appropriate to their well-being, in accordance with article 40 (4) of the Convention on the Rights of the Child.²⁵

100. The Working Group has found the arrest and detention of young males to be arbitrary in its jurisprudence concerning Bahrain.²⁶ In May 2017, the Committee against Torture noted its concern about reports of torture of individuals who were minors at the time of arrest and the incarceration of minors.²⁷ Similarly, the Committee on the Rights of the Child 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.²⁸ The present case is part of this broader pattern of targeting children, particularly males.

101. The nine minors were detained on discriminatory grounds, that is on the basis of their gender and age. This violates articles 2 and 7 of the Universal Declaration of Human Rights, articles 2 (1) and 26 of the Covenant and article 2 of the Convention on the Rights of the Child, and is arbitrary under category V.

²³ Ibid., para. 95 (h).

²⁴ Prohibited by rule 43 (3) of the United Nations Standard Minimum Rules for the Treatment of Prisoners (the Nelson Mandela Rules).

²⁵ Rule 18.1 of the Beijing Rules and CRC/C/BHR/CO/4-6, para. 44 (d).

²⁶ Opinions No. 41/2015, No. 27/2014 and No. 25/2014.

²⁷ CAT/C/BHR/CO/2-3, paras. 26–27.

²⁸ CRC/C/BHR/CO/4-6, paras. 26–27.

Final observations

102. The Working Group is concerned about the physical and psychological health of the minors, particularly those who remain in detention. Some of them have health issues that require treatment (minor A has a childhood disability that affects one of his legs and that requires surgery). Some of the minors have been in detention for more than two years (minors G, H and I), while others have been detained for more than one year (minors A, B and D). The Working Group urges the Government to immediately and unconditionally release the minors who remain in detention and to ensure that they receive medical care. The Working Group refers the present case to the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health.

103. The present case is one of more than a dozen cases brought before the Working Group in recent years concerning arbitrary detention in Bahrain.²⁹ Many cases involving Bahrain follow a pattern of arrest that does not comply with international norms and include some of the following elements: detention with limited access to judicial review; denial of access to lawyers; forced confession; incommunicado detention; solitary confinement; trial by courts lacking in independence; torture and ill-treatment; and denial of medical care. 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.³⁰

104. The Working Group would welcome the opportunity to engage constructively with the Government in addressing its concerns surrounding the arbitrary deprivation of liberty. Given that a significant period of time has passed since its most recent visit to Bahrain in October 2001, the Working Group considers that it is an appropriate time to conduct another visit. In August 2017, the Working Group made a request to the Government to visit the country. As Bahrain is currently a member of the Human Rights Council, it would be timely for the Government to invite the Working Group to visit. The Working Group looks forward to a positive response to this request.

Disposition

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

The deprivation of liberty of the nine minors, being in contravention of articles 2, 7, 8, 9, 10 and 11 of the Universal Declaration of Human Rights and articles 2 (1) and (3), 9, 14 and 26 of the International Covenant on Civil and Political Rights, is arbitrary and falls within categories I, III and V.

106. The Working Group requests the Government of Bahrain to take the steps necessary to remedy the situation of the nine minors 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.

107. The Working Group considers that, taking into account all the circumstances of the case, including the risk of harm to the physical and psychological well-being of the minors, the appropriate remedy would be to release those who remain in detention immediately and to accord all of the minors an enforceable right to compensation and other reparations, in accordance with international law.

108. The Working Group urges the Government to ensure a full and independent investigation of the circumstances surrounding the arbitrary deprivation of liberty of the minors and to take appropriate measures against those responsible for the violation of their rights.

²⁹ Opinions No. 31/2019, No. 79/2018, No. 51/2018, No. 13/2018, No. 55/2016, No. 35/2016, No. 41/2015, No. 23/2015, No. 37/2014, No. 34/2014, No. 27/2014, No. 25/2014, No. 22/2014, No. 1/2014, No. 12/2013 and No. 6/2012.

³⁰ Opinion No. 47/2012, para. 22.

109. In accordance with paragraph 33 (a) of its methods of work, the Working Group refers this case to the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, the Special Rapporteur on the independence of judges and lawyers and the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health, for appropriate action.

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

Follow-up procedure

111. 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 minors who were detained at the time of adoption of the present opinion have been released and, if so, on what dates;
- (b) Whether compensation or other reparations have been made to the nine minors;
- (c) Whether investigations have been conducted into the violations of the rights of the nine minors and, if so, the outcome of the investigations;
- (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.

112. 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.

113. 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.

114. 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.³¹

[Adopted on 21 November 2019]

³¹ Human Rights Council resolution 42/22, paras. 3 and 7.

Annex

Summary of allegations concerning the nine minors

		<i>Age at time of arrest/ date of arrest</i>	<i>Arrest warrant and reasons for arrest</i>	<i>Contact with family</i>	<i>Access to lawyer</i>	<i>Torture or ill-treatment</i>	<i>Forced confession</i>	<i>Charges</i>	<i>Sentence</i>
1	Minor A	14 13 Nov. 2018	Father not informed of reasons for summons	Held incommunicado for 3 days.	Minor only met lawyer at two court sessions. Lawyer not present at sentencing.	No	No	Illegal assembly, rioting, and possession of Molotov cocktails	Six months in juvenile centre (with possible further 6 months) for illegal assembly.
2	Minor B	15 13 May 2018	No arrest or search warrant, no reasons given	Limited contact for 15 days following arrest.	Lawyer not present at interrogation and minor not allowed to contact lawyer.	Yes	Yes – by minor and others	Espionage (acquitted), rioting, carrying bombs and Molotov cocktails	Seven years in prison, revocation of citizenship, fine of 200 dinars.
3	Minor C	15 10 Sept. 2018 16 Jan. 2019	Initially arrested during raid No warrant or reasons given for second arrest	Family visits only following transfer to prison. Family not informed of transfer to the Criminal Investigation Directorate.	Minor presented to the Office of Public Prosecution without lawyer. Lawyer not informed of new charges.	Yes	No	Two attacks on the security forces of Diraz, throwing a fake bomb in Sitra (acquitted), throwing a fake bomb in Al-Daih Town (dropped), organising marches, and illegal assembly	Six months in prison, fine of 200 dinars, and seizure of telephones and a camera for attacks in Diraz. Six months in prison for illegal assembly and rioting. Three years in prison for arson.
4	Minor D	16 Aug. 2018	No warrant or reasons given	Friend informed family of arrest. Family visits only following transfer to prison.	Family did not obtain a lawyer until during the trials. Minor not allowed to meet lawyer outside the courtroom.	Yes	Yes	Illegal assembly, burning a garden, joining a terrorist group, and rioting	Three years in prison, fine of 100,000 dinars for illegal assembly and rioting. One year in prison for burning a garden. Three years in prison for joining a terrorist group.

		<i>Age at time of arrest/ date of arrest</i>	<i>Arrest warrant and reasons for arrest</i>	<i>Contact with family</i>	<i>Access to lawyer</i>	<i>Torture or ill-treatment</i>	<i>Forced confession</i>	<i>Charges</i>	<i>Sentence</i>
5	Minor E	13 14 Feb. 2019	No warrant or reasons given	Family went to police station to look for minor, and were not present during interrogation. Limited family visits to juvenile centre.	Lawyer not present at interrogation or during minor's six- hour detention at police station.	Yes	No	Illegal assembly	Judicial probation for one year.
6	Minor F	14 14 Feb. 2019	No warrant or reasons given	Family not present during minor's detention at police station.	Lawyer not present during minor's six- hour detention at police station.	Yes	No	Illegal assembly	Judicial probation for one year.
7	Minor G	15 20 Feb. 2017	No arrest or search warrant	Disappeared for 6 days.	Minor only met with lawyer at trial.	Yes	Yes	Rioting and illegal assembly	Judicial probation for 1 year, 18 months in prison for other cases.
8	Minor H	16 22 July 2017	No warrant or reasons given	Denied access to family and held in solitary confinement.	Denied access to lawyer. Lawyer not informed of minor's presentation to the Office of Public Prosecution.	Yes	Yes – by minor and minor was named by others	Attacking a police car with a Molotov cocktail and illegal assembly	Three years in prison.
9	Minor I	16 5 Oct. 2017	No warrant or reasons given	Held in solitary confinement for long periods. Family unable to attend trial.	Lawyer not present at interrogation. Lawyers not permitted to contact minor. Minor had no contact with lawyer during trial.	Yes	Yes	Several different charges (political gathering, rioting, terrorism), with additional further charges.	Total sentence of 20 years in prison, deprivation of citizenship, and a fine of over 10,000 dinars.