

DECISION No. 37/1992 (SUDAN)*

Communication addressed to the Government of the Sudan on 14 October 1991.

Concerning: Albino Akol Akol, Stanislaus Apping, Henri Chol Tong, Mirghani Babiker, Awad Salatin Darfur, Omar Ali Serabal, Mohamed Sayegh Hassan Yousif, Gordon Micah Kur, Professor Moses Macar, Professor Richard Hassan Kalam Sakit and Dr. Ahmed Osman Siraj on the one hand and the Republic of the Sudan on the other.

1. The Working Group on Arbitrary Detention, in accordance with the methods of work adopted by it (E/CN.4/1992/20, chapter II), and in order to carry out its task with discretion, objectivity and independence, forwarded to the Government concerned the above-mentioned communication received by it and found to be admissible, in respect of allegations of arbitrary detention reported to have occurred.
2. The Working Group notes with appreciation the information forwarded by the Government concerned in respect of the cases in question within ninety (90) days of the transmittal of the letter by the Working Group.
3. (Same as in Decision No. 1/1992.)

* By note dated 7 December 1992, addressed to the Centre for Human Rights, the Permanent Mission of the Republic of the Sudan to the United Nations Office at Geneva informed the Working Group that "with regard to Decision No. 37/1992, Dr. Ahmed Osman Siraj has been released pursuant to Presidential Decree No. 306/92".

4. In the light of the allegations made, the Working Group welcomes the cooperation of the Government of the Sudan. In the context of the information received from the Government, the Working Group believes that it is in a position to take a decision on the facts and circumstances of the case, in the light of the allegations made and the response of the Government thereto.

5. (a) In respect of Dr. Ahmed Osman Siraj, Head of the Psychology Department at the University of Khartoum and Cultural Secretary of the banned Sudan Medical Association, the Government has not responded to the allegations that Dr. Siraj is still being detained at Kober prison in Khartoum after his sentence to death was commuted to 15 years of prison. The Government has also not responded to the allegation that the trial of Dr. Siraj, culminating in the pronouncement of the death sentence, lasted only a few minutes and that at the time of the trial he was not allowed any legal representation, nor has he since been allowed to appeal to a higher court. In the absence of an appropriate response from the Government, the Working Group considers the allegations made in respect of Dr. Siraj to be correct;

(b) The Working Group also takes note of the fact that Mr. Stanislaus Apping and Henri Chol Tong have been charged by a court ruling and are awaiting sentence, to be carried after approval of sentence. The nature of the charge, however, has not been clarified. The Working Group is also not made aware of the authority which is to approve the sentence and the procedure in respect thereof;

(c) The Working Group has taken note of the fact that Albino Akol Akol, Mirghani Babiker, Awad Salatin Darfur, Omar Ali Serabal, Mohamed Sayegh Hassan Yousif, Gordan Micah Kur, Professor Moses Macar and Professor Richard Hassan Kalam Sakit are no longer in detention.

6. In the light of the above, the Working Group decides:

(a) The detention of Dr. Ahmed Osman Siraj and his continued detention cannot be justified on any legal basis. It is declared to be arbitrary, being in contravention of articles 9, 10, 11, 19 and 20 of the Universal Declaration of Human Rights and articles 9, 14, 19 and 21 of the International Covenant on Civil and Political Rights, to which the Republic of the Sudan is a party, and falling within category II of the principles applicable in the consideration of cases submitted to the Working Group;

(b) To file the cases in respect of Stanislaus Apping and Henri Chol Tong without further action, unless fresh information is brought to the attention of the Working Group;

(c) To file the cases in respect of the detention of Albino Akol Akol, Mirghani Babiker, Awad Salatin Darfur, Omar Ali Serabal, Mohamed Sayegh Hassan Yousif, Gordan Micah Kur, Professor Moses Macar, and Professor Richard Hassan Kalam Sakit in the light of the fact that they are no longer in detention.

7. Consequent upon the decision of the Working Group declaring the detention of Dr. Ahmed Osman Siraj to be arbitrary, the Working Group requests the Republic of the Sudan to take the necessary steps to remedy the situation in

order to bring it into conformity with the norms and principles incorporated in the Universal Declaration of Human Rights and in the International Covenant on Civil and Political Rights.

(See also annex II, Decision No. 37/1992.)

Annex IIDECISION ON CASES OF REPORTEDLY RELEASED DETAINEES
AND LIST OF SUCH PERSONS

In the course of its consideration of some of the cases of alleged arbitrary detention which it transmitted to Governments, the Working Group was informed, either by the Government concerned or by the source of the allegation, and in some cases by both, that the person(s) concerned is (are) no longer in detention.

Paragraph 14 (a) of its methods of work states that the Working Group, in the light of the information examined during its investigation, shall take one of the following decisions:

"(a) If the person has been released, for whatever reason, since the Working Group took up the case, the case is filed; nevertheless, the Working Group reserves the right to decide, on a case-by-case basis, whether or not the deprivation of liberty was arbitrary, notwithstanding the release of the person concerned".

The following list contains the cases of persons who are reportedly no longer in detention and regarding whom the Working Group, after having examined the available information, is of the opinion that no special circumstances warrant the Group to consider the nature of their detention. The Working Group, without prejudging the nature of the detention, therefore decides to file their cases, in the terms of paragraph 14 (a) of its methods of work.

(The names of the persons listed below are preceded by the number of the decision regarding them, by order of its adoption by the Working Group, and the country concerned. The signs (X), (Y) and (Z) following each name indicate whether the information of that person's release was provided by the Government (X), the source (Y), or both (Z).)

Decision No. 37/1992 (SUDAN): Albino Akol Akol (X), Mirghani Babiker (X), Awad Salatin Darfur (X), Omar Ali Serabal (X), Mohamed Sayegh Hassan Yousif (X), Gordan Micah Kur (X), Professor Moses Macar (X), Professor Richard Hassan Kalam Sakit (X). (See also annex I, Decision No. 37/1992.)