

DECISION No. 3/1992 (LIBYAN ARAB JAMAHIRIYA)

Communication addressed to the Government of the Libyan Arab Jamahiriya on 14 October 1991.

Concerning: Al-Ajili Muhammad Abdul Rahman al-Azhari, Ali Muhammad al-Akrami, Ali Muhammad al-Qajiji, Salih Omar al-Qasbi, Muhammad al-Sadiq al-Tarhouni, Ahmad Abd al-Qadir al-Thulthi, Yusuf Hassan al-Huwayl, Najm al-Din Muhammad al-Naquzi and Sheikh Yusuf Muhammad Hussein on the one hand and the Libyan Arab Jamahiriya on the other.

1. The Working Group on Arbitrary Detention, in accordance with the methods of work adopted by it (see 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 concern that to date no information has been forwarded by the Government concerned in respect of the cases in question. With the expiration of more than ninety (90) days from the transmittal of the letter by the Working Group, it is left with no option but to proceed to render its decision in respect of each of the cases of alleged arbitrary detention brought to its knowledge.

3. (Same as in Decision No. 1/1992.)

4. In the light of the allegations made, the Working Group would have welcomed the cooperation of the Government of the Libyan Arab Jamahiriya. In the absence of any information 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, especially since the facts and allegations contained in the communication have not been challenged by the Government.

5. In the communication transmitted to the Government the following allegations were made:

(a) Al-'Ajili Muhammad Abdul Rahman al-Azhari, Ali Muhammad al-Akrami, Ali Muhammad al-Qajiji, Salih Omar al-Qasbi and Muhammad al-Sadiq al-Tarhouni were arrested in April 1973 and charged with membership in an illegal organization, the Islamic Liberation Party, under articles 1, 2 and 3 of Law 71 of 1972, and with carrying out activities hostile to the authorities as set forth in articles 2 and 3 of the Revolutionary Command Council decision of 11 December 1969. The five faced lengthy legal proceedings, including in camera trial before the People's Court, which sentenced them in February 1977 to between 5 and 15 years' imprisonment. Reportedly, the People's Court had special powers to follow its own procedures without abiding by the Criminal Procedure Code or Penal Code. It is alleged that the procedures of the People's Court fall short of international standards. The defendants had no right to appeal to a higher court, but judgements of the People's Court were subject to review by the Revolutionary Command Council which increased all sentences to life imprisonment. All five prisoners are believed to be held in Abu Salim Prison in Tripoli;

(b) Ahmad 'Abd al-Qadir al-Thulthi, born in 1955 in Benghazi, employee of the African Airlines Company with duty station at London Heathrow Airport, was arrested in April 1986 when he went back to Libya on a visit. Yusuf Hassan al-Huwayl, born in 1957, and Najm al-Din Muhammad al-Naquzi, born in 1956 or 1957, former employee of al-Bariqa Oil Company, were arrested in similar circumstances within a few months of each other. All three are reported to be still detained at Abu Salim Prison in Tripoli. They were denied family visits until March 1988. Apparently, Ahmad 'Abd al-Qadir al-Thulthi was again denied family visits from the beginning of 1989 until June 1991. The exact charges against them are not known to the source, but they are said to include membership of an illegal organization, sabotage and possession of weapons. They were brought before a Revolutionary Court in February 1987 which is not known to have followed any publicly known laws. The trial was apparently postponed and resumed a number of times but has not concluded;

(c) Sheikh Yusuf Muhammad Hussein, an Imam of al-Sharquiya Mosque at al-Fatih University, was arrested on 10 January 1989 in the residence halls of al-Fatih University in Tripoli by three plain-clothes security men in a car. Before he was driven away, he was apparently questioned about his religious beliefs. The exact reasons for his arrest are not known, but it is suggested that it may be because of his Islamic religious views or his connection with the Ogaden National Liberation Front (ONLF). His whereabouts are not known. It is alleged that Sheikh Yusuf Muhammad Hussein is only one of 392 political prisoners who were detained between January 1980 and April 1990, most of them because they were suspected of being active political opponents of the authorities or supporters of the opposition, particularly religious groups.

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

The detention of Al-Ajili Muhammad Abdul Rahman al-Azhari, Ali Muhammad al-Akrami, Ali Muhammad al-Qajiji, Salih Omar al-Qasbi, Muhammad al-Sadiq al-Tarhouni, Ahmad Abd al-Qadir al-Thulthi, Yusuf Hassan al-Huwayl, Najm al-Din Muhammad al-Naquzi and Sheikh Yusuf Muhammad Hussein is declared to be arbitrary, being in contravention of articles 9, 10, and 11 of the Universal Declaration of Human Rights and articles 9 and 14 of the International Covenant on Civil and Political Rights to which the Libyan Arab Jamahiriya is a party, and falling within category III of the principles applicable in the consideration of the cases submitted to the Working Group. As regards Al-Ajili Muhammad Abdul Rahman al-Azhari, Ali Muhammad al-Akrami, Ali Muhammad al-Qajiji, Salih Omar al-Qasbi and Muhammad al-Sadiq al-Tarhouni, the Working Group considers that their detention is also in contravention of articles 19 and 20 of the Universal Declaration of Human Rights and articles 19 and 21 of the International Covenant on Civil and Political Rights, and falling within category II of the principles applicable in the consideration of the cases submitted to the Working Group.

7. Consequent upon its decision declaring the detention of Al-Ajili Muhammad Abdul Rahman al-Azhari, Ali Muhammad al-Akrami, Ali Muhammad al-Qajiji, Salih Omar al-Qasbi, Muhammad al-Sadiq al-Tarhouni, Ahmad Abd al-Qadir al-Thulthi, Yusuf Hassan al-Huwayl, Najm al-Din Muhammad al-Naquzi and Sheikh Yusuf Muhammad Hussein to be arbitrary, the Working Group requests the

Government of the Libyan Arab Jamahiriya 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.