DECISION NO. 8/1993 (DOMINICAN REPUBLIC)

<u>Communication</u> addressed to the Government of the Dominican Republic on 6 November 1992.

<u>Concerning</u>: Teudo Mordán Gerónimo, on the one hand, and the Dominican Republic, on the other.

1.   The Working Group on Arbitrary Detention, in accordance with the methods of work adopted by it, 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 of the Dominican Republic in respect of the case in question. With the expiry of more than ninety (90) days since the transmittal of its letter, the Working Group is left with no option but to proceed to render its decision in respect of the case of alleged arbitrary detention brought to its knowledge.

3.   (Same text as paragraph 3 of Decision No. 43/1992).

4.   In the light of the allegations made, the Working Group would have welcomed the cooperation of the Government of the Dominican Republic. 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.   The Working Group considers that:

     (a) It has been alleged that Teudo Mordán Gerónimo was detained on 24 June 1991 by the National Police and is now in La Victoria National Penitentiary, charged with being a guerrilla and inciting peasants to overthrow the Government;

     (b) It is contended that an application was filed for a writ of habeas corpus and, on 28 November 1991, the Criminal Chamber of the Santo Domingo Court of Appeal ordered his release, a ruling that was confirmed by the Supreme Court of Justice on 8 May 1992; in addition, in June 1992, the Attorney-General instructed the Chief of the National Police to release the person concerned;

     (c) It is added that Teudo Mordán Gerónimo is still being detained by the National Police, without charge;

(d)   These facts have not been refuted by the Government, despite the fact that the period for a response has elapsed;

(e)   In accordance with the principles applicable in the consideration of cases, attention is arbitrary when "it manifestly cannot be linked to any legal basis", for example, "continued detention beyond the execution of the sentence or despite an amnesty act";

(f)   In the opinion of the Working Group, this is the case with Teudo Mordán Gerónimo, for not only is there no order to place him in custody, but the Supreme Court of Justice has ordered his release, something the National Police has failed to do, without any legal grounds;

(g)   Accordingly, it is to be inferred that the detention is arbitrary, being in contravention of the human rights enunciated in articles 9 and 10 of the Universal Declaration of Human Rights and article 9 of the International Covenant on Civil and Political Rights, to which the Dominican Republic is a party.

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

> The detention of Teudo Mordán Gerónimo is declared to be arbitrary, being in contravention of articles 9 and 10 of the Universal Declaration of Human Rights and article 9 of the International Covenant on Civil and Political Rights, and falls within category I of the principles applicable in the consideration of the cases submitted to the Working Group.

7.   Consequent on the decision declaring the detention of the person concerned to be arbitrary, the Working Group requests the Government of the Dominican Republic to take the necessary steps to remedy the situation in order to bring it into conformity with the provisions and principles incorporated in the Universal Declaration of Human Rights and in the International Covenant on Civil and Political Rights.

Adopted on 29 April 1993