

DECISION No. 45/1993 (SUDAN)

Communication addressed to the Government of the Sudan on 29 April 1993.

Concerning: Mohamed Wahaba, Mohamed Bashir al-Faki, Salah Hassan Said, Abdel Hamid Ali Bashis, Abdul Ra'ouf Ali Abu Na'ouf, Omar Ali (1), Farouk Ali Zakaria, Omar Ali (2) and Abdul Rahman Abdulla Salin Tout, 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 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 till 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 of 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 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 Sudan. 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 cases, especially since the facts and allegations contained in the communication have not been challenged by the Government.

5. It was alleged in the communication from the source, a summary of which was transmitted to the Government, that: Mohamed Wahaba, a former civil servant, Mohamed Bashir al-Faki, a teacher, Salah Hassan Said, a manager in private sector, Abdel Hamid Ali Bashis, a politician, Abdul Ra'ouf Ali Abu Na'ouf, a former civil servant, Omar Ali, a teacher, Farouk Ali Zakaria, Omar Ali (not the same as mentioned above) and Mohamed Bashis were reportedly arrested in Burri, Khartoum, between 21 and 27 December 1992, held incommunicado, without charge or trial and were said to be still in detention. A tenth man, Abdul Rahman Abdulla Salin Tout, a businessman, was reportedly arrested on 5 January 1993. All of them were reportedly members of the banned Sudan Communist Party. Their place of detention was unknown, but they were presumed to be held either in the security headquarters in Khartoum or in one of the detention centres run by the security service in Sudan. The detention of these persons, presumably suspected of being part of an underground network of communist activists, was alleged to violate their rights to freedom of expression and freedom of association.

6. It appears from the facts as described above that the detention of the 10 above-mentioned persons is due solely to the fact that they have freely exercised their right to freedom of opinion and expression, a right which is guaranteed by article 19 of the Universal Declaration of Human Rights and by

article 19 of the International Covenant on Civil and Political Rights, and their right to freedom of association, guaranteed by article 20 of the Universal Declaration of Human Rights and by article 22 of the International Covenant on Civil and Political Rights. Furthermore, there is no record that, in doing so, they used violence or in any way threatened national security, public order, or public health or morals, or that they failed to respect the rights, freedoms or reputations of others, as provided for by article 29 (2) of the Universal Declaration of Human Rights and by articles 19 (3), 21 and 22 (2) of the International Covenant on Civil and Political Rights.

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

The detention of Mohamed Wahaba, Mohamed Bashir al-Faki, Salah Hassan Said, Abdel Hamid Ali Bashis, Abdul Ra'ouf Ali Abu Na'ouf, Omar Ali (1), Farouk Ali Zakaria, Omar Ali (2) and Abdul Rahman Abdulla Salin Tout, is declared to be arbitrary being in contravention of articles 9, 19 and 20 of the Universal Declaration of Human Rights and articles 9, 19 and 22 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 the cases submitted to the Working Group.

8. Consequent upon the decision of the Working Group declaring the detention of the above-mentioned persons to be arbitrary, the Working Group requests the Government of the Sudan 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 30 September 1993