

Decision No. 31/1994 (Indonesia)

Communication addressed to the Government of Indonesia on
22 April 1994.

Concerning: Nuka Soleiman, on the one hand, and the Republic of
Indonesia, 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 case in question. With the expiration of more than 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 alleged arbitrary detention brought to its knowledge.
3. (Same text as para. 3 of Decision No. 10/1994.)
4. In the light of the allegations made, the Working Group would have welcomed the cooperation of the Government of Indonesia. 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. Nuka Soleiman is a university student and Chairman of the human rights organisation Yayasan Pijar. He was sentenced to four years in prison by the District Court of Central Jakarta on 24 February 1994 for criticizing President Soeharto and for calling on him to accept responsibility for human rights violations committed under his rule. He was charged under article 134 of the Indonesian Criminal Code, under which insulting the head of State is an offence punishable by up to six years in prison. According to the source, the trial failed to meet international standards of fairness. In particular, the source alleges that the trial was marked by an atmosphere of intimidation due to the presence of military and political security and to the fact that access was strictly controlled. The source also questions the independence of the Court given the fact that the Court agreed to hear testimony of only 1 of 17 witnesses requested for by the defence.
6. Nuka Soleiman in criticizing the Head of State was merely exercising his right to freedom of expression and opinion guaranteed under article 19 of the Universal Declaration and article 19 of the International Covenant on Civil and Political Rights. The charge and prosecution under article 134 of the Indonesian Criminal Code and the consequent imposition of the sentence was therefore unwarranted. The trial of Nuka Soleiman also seems to have been conducted in an atmosphere not conducive to a fair trial. The presence of

military and political security coupled with the fact that access to the Court was strictly controlled makes the entire proceedings suspect. The decision of the Court to allow only 1 of the 17 witnesses requested for by the defence suggests the pre-determined nature of the proceedings.

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

The detention of Nuka Soleiman, is declared to be arbitrary being in contravention of articles 9, 19 and 20 of the Universal Declaration of Human Rights, and articles 9, 14 and 19 of the International Covenant on Civil and Political Rights and falling within categories II and III 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 Nuka Soleiman to be arbitrary, the Working Group requests the Government of Indonesia 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 September 1994.