

DECISION No. 2/1996 (NIGERIA)

Communication addressed to the Government of Nigeria on  
3 October 1995.

Concerning: Karanwi Meschack, Mitee Batom and Loolo Lekue, on the  
one hand, and the Federal Republic of Nigeria, on the other.

1. The Working Group on Arbitrary Detention, in accordance with the revised 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 para. 3 of Decision No. 35/1995.)

4. In the light of the allegations made, the Working Group would have welcomed the cooperation of the Government of Nigeria. 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. The communication, a summary of which has been transmitted to the Government, concerns the following persons:

(a) Karanwi Meschack, aged 39, lecturer at the University of Port Harcourt and an official of the Movement for the Survival of the Ogoni People (MOSOP);

(b) Mitee Batom, aged 36, estate management expert and member of MOSOP;

(c) Loolo Lekue, aged 53, self-employed, member of MOSOP.

The above-named individuals were reportedly arrested on 4 August 1995 in Port Harcourt Rivers State, following their appearance before the Commonwealth Human Rights Committee that toured Nigeria in July 1995. The warrantless arrests were alleged to have been carried out by the Nigeria Police Mobile Force, Rivers State Command, under the order of the Commissioner of Police, Rivers State Command. The forces holding the defendants in detention at a Special Military Camp, AFAM, near Port Harcourt, were said to be those of the State Intelligence and Investigations Bureau (SIIB). The source reported that the detainees were not formally charged and that their arrests constituted

part of a scheme on the part of the military authorities to muzzle MOSOP and to force the Ogoni to abandon their legitimate campaign for social justice and respect for the rights of the minority Ogoni people. Decree No. 2 of 1984 as amended by Decree No. 11 of 1994 (State Security/Detention of Persons Decree), was reported to be the relevant legislation which authorized the security forces to detain for three months without trial, individuals whom they consider to pose a security threat. The source also claimed that the initial three months period could be extended by the military Head of State, and that the right to apply for habeas corpus has been abrogated by Decree No. 14 of 1994.

6. It appears from the above allegations which, it may be recalled, were not refuted by the Government despite the opportunity given to it to do so, that the detention of the above-mentioned persons is solely motivated by their appearance before the Commonwealth Human Rights Committee during its visit to Nigeria in July 1995, in order to peacefully defend the rights of the Ogoni minority in that country. Decree No. 2 of 1984 as amended by Decree No. 11 of 1994 which authorized their arrest without warrant and their detention for three months without charge or trial for the sole reason of constituting a threat to the State security, is in itself incompatible with international human rights instruments, including the International Covenant on Civil and Political Rights to which Nigeria is a party. This is all the more so since the abrogation, by Decree No. 14 of 1994, of the possibility to apply for habeas corpus. The Working Group therefore considers that the detention of Karanwi Meschack, Mitee Batom and Loolo Lekue constitutes a violation of articles 8, 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, guaranteeing the right to fair trial, and that the violation is of such gravity that it confers on the deprivation of freedom an arbitrary character.

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

(a) The detention of Karanwi Meschack, Mitee Batom and Loolo Lekue is declared to be arbitrary being in contravention of articles 8, 9, 10, 11 and 19 of the Universal Declaration of Human Rights, and articles 9, 14 and 19 of the International Covenant on Civil and Political Rights to which Nigeria is a party and falling within categories II and III of the principles applicable in the consideration of the cases submitted to the Working Group.

(b) To transmit the present decision to the Secretary-General, in conformity with Commission on Human Rights resolution 1996/70 entitled "Cooperation with representatives of United Nations human rights bodies".

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 Nigeria 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 22 May 1996.