

DECISION No. 6/1996 (NIGERIA)

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

Concerning: General Olusegun Obasanjo, former Head of State
of Nigeria and 19 other persons, as well as Dr. Beko Kutu,
Dr. Tunji Abayomi and Chima Ubani, 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) General Olusegun Obasanjo (former Head of State); Captain U.S. Suleiman; Captain A.A. Ogunsunyi; Captain M.A. Ibrahim; Lieutenant-Colonel Peter Ijaola; Second Lieutenant Richard Emonvhe; State Security Office Julius Abajo; Kunle Ajibade, Journalist of *The News* magazine; C.P. Izuorgu; Alhaji Sanusi Mato; and Felix Ndamaigida. (All the above have been reportedly sentenced to life imprisonment.) Colonel D. Usman; Staff Sergeant Patrick Usikpeko; Shehu Sani, vice-chairman of Campaign for Democracy; Christine Anyanwu, Editor-in-Chief of *The Sunday Magazine*; Ben Charles Obi, editor of *Classique* magazine; and Queenett Allogoa, female companion of Colonel Gwadabe. (All the above have reportedly been sentenced to prison terms ranging from 2-25 years). Lieutenant-Colonel I. Shaibu; Colonel Emanuel Ndubueze; and Akinloye Akinyemi. (The three above-mentioned have reportedly also been convicted, but their sentence was not known to the source.) The above-named defendants, in addition to 40 unidentified detainees, were reported to have been convicted by the Special Military Tribunal, on charges ranging from treason to the publishing of articles deemed critical of the Government. Their trials by the Special Military Tribunal

have allegedly been riddled with unfair practices. The Military Tribunal, which was reportedly composed of military officers exclusively, allegedly failed to meet the standards of independence and impartiality guaranteed in the provisions of various international legal instruments. The source claimed that the rights connected with a fair trial were denied to the detainees. They were allegedly denied the right to counsel of their choice; they were not allowed to address the court in regard to their defence; they were denied the opportunity to call witnesses on their behalf; they were denied access to the details concerning the charges against them, and were tried in a closed court room. The Tribunal in question was reported to have the power to impose death sentences, order public executions and issue life prison terms. It was alleged by the source that the Military Tribunal has supplanted the civilian judicial process in trials involving human rights and pro-democracy activities. The source alleged further that the right to appeal has also been suppressed by the Military Tribunal.

(b) Dr. Beko Kutu, the Chairman of the Campaign for Democracy; Dr. Tunji Abayomi, the Chairman of Human Rights Africa and Chima Ubani, the Head of the Civil Liberties Organization's Human Rights Education Program were arrested without warrants and were being held incommunicado.

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 in the case of General Obasanjo and the other 19 persons mentioned in paragraph 5 (a) above, several articles of the Universal Declaration of Human Rights and the International Covenant on Civil and Political Rights, to which the Federal Republic of Nigeria is a party, relating to the right to fair trial have been violated, and that these violations are of such gravity as to confer to the deprivation of freedom an arbitrary character. Not only have these persons been produced before a military tribunal which, according to the source, failed to meet the standards of independence and impartiality, they were also denied their rights to counsel of their choice, to address the court in their defence, to call witnesses on their behalf and to have access to the details concerning the charges against them. Furthermore, they were reportedly tried in a closed court room and the right to appeal was suppressed by the Military Tribunal.

7. As regards the cases of Dr. Beko Kutu, Dr. Tunji Abayomi and Chima Ubani, their arrest without warrant and the fact that they are being held incommunicado appears to equally confer on their deprivation of freedom an arbitrary character.

8. Finally, according to the source, the above-mentioned persons were apparently convicted of charges ranging from treason to the publishing of articles critical of the Government, while by doing so they merely exercised their right to freedom of opinion and expression in the framework of their activities as defenders of democracy and human rights.

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

The detention of General Olusegun Obasanjo and 19 other persons, as well as Dr. Beko Kutu, Dr. Tunji Abayomi and Chima Ubani, is declared to be arbitrary being in contravention of articles 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 the Federal Republic of 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.

10. 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 23 May 1996.