

DECISION No. 37/1996 (NIGERIA)

Communication addressed to the Nigerian Government on  
11 July 1996.

Concerning: Annimmo Bassey, George Onah and Rebecca Onyabi Ikpe,  
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 to 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. With a view to taking a decision the Working Group considers if the cases in question fall into one or more of the following three categories:

- I. Cases in which the deprivation of freedom is arbitrary, as it manifestly cannot be linked to any legal basis (such as continued detention beyond the execution of the sentence or despite an amnesty act, etc.); or
- II. Cases of deprivation of freedom when the facts giving rise to the prosecution or conviction concern the exercise of the rights and freedoms protected by articles 7, 13, 14, 18, 19, 20 and 21 of the Universal Declaration of Human Rights and articles 12, 18, 19, 21, 22, 25, 26 and 27 of the International Covenant on Civil and Political Rights (for States parties); or
- III. Cases in which non-observance of all or part of the international provisions relating to the right to a fair trial is such that it confers on the deprivation of freedom, of whatever kind, an arbitrary character.

4. In the light of the allegations made, the Working Group would have welcomed the cooperation of the Nigerian Government. 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 although it was given the opportunity to do so.

5. The communication submitted by the source, a summary of which was forwarded to the Government, concerned the following persons:

(a) Annimmo Bassey, aged 37, poet, environmental activist, Secretary-General of the Association of Nigerian Authors, Chairman of the Environmental Rights Action, Chairman of the Southern Zone of the Civil Liberties Organization and leading member of the newly formed Oilwatch International Network which supports communities situated in areas where the oil industry operates, was reportedly arrested on 5 June 1996, as he was leaving Nigeria to Ghana, where he had planned to attend an environmental conference organized by Friends of the Earth. Apparently the purpose of Bassey's detention was to prevent him from speaking at the conference. He was reportedly being detained pursuant to Decree No. 2 of 1984 which allows for indefinite detention without charge. Bassey was reportedly being held at the headquarters of the Federal Investigations and Intelligence Bureau in Ikoyi, Lagos;

(b) George Onah, a journalist who is the defence correspondent for an independent newspaper, the Vanguard, was reportedly arrested on 10 May 1996, in connection with an article he wrote concerning the reshuffling of military personnel. It has been reported that he was held for a few hours and subsequently released, but that he was re-arrested five days later. The source alleged that he was being detained incommunicado and was being pressured to reveal his sources;

(c) Rebecca Onyabi Ikpe, civil servant, sister-in-law of colonel Bello-Fadile, whose date of detention has not been reported was presently being held in Zaria prison, in Kaduna State. It has been reported that colonel Bello-Fadile was charged with treason and that he was also in detention. The source alleged that Ikpe was charged with being an accessory after the fact, in connection with treason, for having passed to others the text of the defence submission of colonel Bello-Fadile. It has also been alleged that Ikpe was tried by a secret military tribunal and was sentenced on 14 July 1995, to life imprisonment. On 1 October 1995, that sentence was reportedly commuted to 15 years of imprisonment.

6. It appears from the facts as described above that the persons concerned are being detained merely for having exercised their right to freedom of opinion and expression; and that in the case of Rebecca Onyabi Ikpe, her conviction was pronounced after a trial by a secret military tribunal, where defendants have neither the right to be informed in detail of the charges brought against them, nor the right to be defended by a counsel of their own choice, nor the right to dispose of sufficient time to prepare their defence, nor the right to appeal against their conviction and sentence. As regards the cases of Annimmo Bassey and George Onah, the Working Group has taken note of the fact that Decree No. 2 of 1984 on State Security was resorted to, and of the fact that this Decree allowed for the incommunicado detention for an unlimited period of time, without charge or trial.

7. It follows from the above that the detention of the above-mentioned persons is arbitrary since, on the one hand, it is in violation of all or part of the international provisions relating to the right to a fair trial of such gravity that it confers on this detention an arbitrary character (article 10

of the Universal Declaration of Human Rights and article 14 of the International Covenant on Civil and Political Rights, and category III of the principles applicable in the consideration of the cases submitted to the Working Group); and, on the other hand, since this detention was imposed in violation of these persons' right to freedom of opinion and expression (article 19 of the Universal Declaration of Human Rights and article 19 of the International Covenant on Civil and Political Rights, and category II of the principles applicable in the consideration of the cases submitted to the Working Group).

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

The detention of Annimmo Bassey, George Onah and Rebecca Onyabi Ikpe is declared to be arbitrary being in contravention of articles 10 and 19 of the Universal Declaration of Human Rights and articles 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.

9. Consequent upon the decision of the Working Group declaring the detention of Annimmo Bassey, George Onah and Rebecca Onyabi Ikpe to be arbitrary, the Working Group requests the Nigerian Government 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 3 December 1996.