

OPINION No. 11/1999 (INDONESIA)

Communication addressed to the Government on 12 June 1998

Concerning Carel Tahiya, Neuhustan Parinussa, Louis Werinussa, John Rea, Poltja Anakota and Dominggus Pattiwaelapia

The State is not a party to the International Covenant on Civil and Political Rights

1. The Working Group on Arbitrary Detention was established by resolution 1991/42 of the Commission on Human Rights. The mandate of the Working Group was clarified and extended by resolution 1997/50. Acting in accordance with its methods of work, the Working Group forwarded to the Government the above-mentioned communication.
2. The Working Group regrets that the Government has not replied within the 90-day deadline.
3. The Working Group regards deprivation of liberty as arbitrary in the following cases:
  - (i) When it manifestly cannot be justified on any legal basis (such as continued detention after the sentence has been served or despite an applicable amnesty act) (category I);
  - (ii) When the deprivation of liberty is the result of a judgement or sentence for the exercise of the rights and freedoms proclaimed in articles 7, 13, 14, 18, 19, 20 and 21 of the Universal Declaration of Human Rights and also, in respect of States parties, by articles 12, 18, 19, 21, 22, 25, 26 and 27 of the International Covenant on Civil and Political Rights (category II);
  - (iii) When the complete or partial non-observance of the relevant international standards set forth in the Universal Declaration of Human Rights and in the relevant international instruments accepted by the States concerned relating to the right to a fair trial is of such gravity as to confer on the deprivation of liberty, of whatever kind, an arbitrary character (category III).
4. In the light of the allegations made, the Working Group would have welcomed the cooperation of the Government. In the absence of any information from the Government, the Working Group believes that it is in a position to render an opinion 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. According to the source, six Indonesian citizens, Carel Tahiya, Neuhustan Parinussa, Louis Werinussa, John Rea, Poltja Anakota and Dominggus Pattiwaelapia, are active members of the organization Badan Pertahana Perjuangan Kemerdekaan Republik Maluku Selatan, an independence movement which has been operating in the South Moluccas since 1950. While it is not specified on what exact date the above-named individuals were arrested, it transpires from the materials submitted by the source that one of the above-named, Louis Werinussa, a police

officer, was arrested on 13 June 1988 in Ambon. He is said to face prosecution at Mahmilu, Tantui, Ambon, and to be detained in isolation at Pom Abri 8/3 Trikora Korem, 174 Pattimura, Batu Gajah Ambon. The other individuals also appear to have been under detention for considerable periods of time, allegedly purely on account of their struggle for South Moluccan self-determination. According to the source, all of the above are subject to daily interrogations, which includes ill-treatment and abuse.

6. It is alleged that in the above case, several provisions of the international legal instruments relied on by the Working Group in its activities have not been respected.

7. Given that the Government had an opportunity to comment on the allegations but did not do so, the Working Group proceeded to render its opinion based on the information supplied by the source. The Working Group believes that the facts as alleged enable it to render an opinion.

8. Carel Tahiya, Neuhustan Parinussa, Louis Werinussa, John Rea, Poltja Anakota and Dominggus Pattiwaelapia have all been detained for long periods, one of them since 13 June 1988, without any charges. The cause of their detention is clearly on account of their belief in South Moluccan self-determination. Allegations of daily interrogations, ill-treatment and abuse have not been denied. Though the source is not forthcoming as to the details of their incarceration, the Working Group would have expected the Government to clarify the facts, as they are within the knowledge of the detaining authorities. Accordingly, the Working Group believes that each of the above individuals has been detained on account of his beliefs and opinions and in violation of article 19 of the Universal Declaration of Human Rights.

9. In the light of the foregoing, the Working Group renders the following opinion:

The deprivation of liberty of Carel Tahiya, Neuhustan Parinussa, Louis Werinussa, John Rea, Poltja Anakota and Dominggus Pattiwaelapia is arbitrary, as it is contrary to article 19 of the Universal Declaration of Human Rights, and falls within category II of the categories applicable to the consideration of the cases submitted to the Working Group.

10. Accordingly, the Working Group requests the Government to take the necessary steps to remedy the situation, and bring it in conformity with the standards and principles set forth in the Universal Declaration of Human Rights and to take the adequate initiatives with a view to becoming a State party to the International Covenant on Civil and Political Rights.

Adopted on 20 May 1999