

## **Opinion No. 20/2009 (Papua New Guinea)**

### **Communication addressed to the Government on 19 May 2009**

**Concerning: Messrs. David Ketava; Peter Meteo; Peter Ripo; Kavini Varo; Jimmy Saki and Stephen Lakore**

#### **The State is a Party to the International Covenant on Civil and Political Rights.**

1. (Same text as paragraph 1 of Opinion N° 18/2009)
2. The Working Group regrets that the Government has not replied within the 90-days deadline and despite two reminders.
3. (Same text as paragraph 3 of Opinion N° 18/2009)
4. In the light of the allegations made, the Working Group would have welcomed the cooperation of the Government. Notwithstanding that the Government has failed to offer its version of the facts and explanation on the circumstances of the case, the Working Group believes that it is in a position to render an Opinion.
5. The case summarized below was reported to the Working Group as set out below.
6. Mr. David Ketava, a 24-year-old citizen of Papua New Guinea, was arrested without a warrant on 6 November 2003 by police officers at the Gerehu market, Port Moresby, and detained on the same day.
7. Mr. Peter Meteo, 23 years of age, a citizen of Papua New Guinea, was arrested on 6 November 2003 by police agents who showed an arrest warrant. He was detained on 8 November 2003.
8. Mr. Peter Ripo, aged 31, also a citizen of Papua New Guinea, dock worker by profession, was arrested on 28 November 2003 without a warrant by police forces in a church at Tete settlement in Gerehu.
9. Mr. Kavini Varo, a 22-year-old citizen of Papua New Guinea was arrested in Gerehu by police officers producing an arrest warrant issued by the police.
10. Mr. Jimmy Saki, aged 22, a citizen of Papua New Guinea was arrested without a warrant by police officers at Gerehu market and detained on 6 November 2003.
11. It was reported that all the above-mentioned five persons are co-defendants. As of the beginning of January 2009, they have been in pretrial detention at Bomana prison for more than five years.
12. In April 2007, all these five persons were found not guilty of murder by the Waieani National Court and have been detained on remand by the same court ever since. They are now awaiting trial on the remaining charges of armed robbery, breaking and entering, arson and rape. A trial date has not yet been set. All five are being represented by a lawyer.
13. Mr. Stephen Lakore, a citizen of Papua New Guinea, was arrested without a warrant by the police on 8 January 2004 in Lariau village, Ihu district, Gulf province and detained on the same day. At first he was held in Kerema prison before being transferred to Bomana prison. He has been charged with murder but no date has yet been set or his trial. The last time he attended court was in 2006. Mr. Lakore is represented by a public solicitor who does not respond to his requests to apply for bail.
14. The source considers the detention of the above mentioned persons as arbitrary as all have spent time in prolonged detention.

15. Having examined the information received and in the absence of a reply from the Government, the Working Group considers that a number of lapses in due process have occurred in the detention of the six persons mentioned above.

16. Mr. David Ketava, Mr. Peter Ripo, Mr. Jimmy Saki and Mr. Stephen Lakore were arrested without a warrant, which is contrary to the international human rights obligation of Papua New Guinea and is also in variance of its domestic laws.

17. In April 2007, at trial, the first five co-defendants were absolved of the charge of murder; yet they were held in detention without an opportunity for being released on bail or other pre trial release conditions.

18. The right to a fair trial also includes the right not to be detained for unduly long periods. A delay of more than six years in pretrial period constitutes an unnecessary period of detention when release on bail might have been offered while the trial was being set up, even in view of the seriousness of the charges put forward against all six pretrial detainees. This follows from the right to be untried without undue delay (art. 14, para. 3 (c), of the International Covenant on Civil and Political Rights) as well as the right to be presumed innocent until proven guilty according to law (art. 14, para. 2, of the International Covenant on Civil and Political Rights).

19. In light of the foregoing, the Working Group renders the following Opinion:

The deprivation of liberty of Messrs. David Ketava, Peter Meteo, Peter Ripo, Kavini Varo, Jimmy Saki and Stephen Lakore is arbitrary, being in violation of articles 9 and 10 of the Universal Declaration of Human Rights and articles 9 and 14 of the International Covenant on Civil and Political Rights, and falls under category III of the categories applicable to the consideration of cases submitted to the Working Group.

20. Consequent upon the Opinion rendered, the Working Group requests the Government to take the necessary steps to remedy the situation of these persons and to bring it into conformity with the standards and principles set forth in the Universal Declaration of Human Rights and the International Covenant on Civil and Political Rights. This would include, inter alia, an opportunity for release on bail pending trial or other forms of conditions of pre trial release as well as expediting the trial in keeping with the right to a fair trial that includes a speedy trial.

Adopted on 20 November 2009