



Civil Liberties Organization v. Nigeria

Civil Liberties Org. v. Nig., Afr. Comm[™]n Human & Peoples[™] Rights, Comm. No. 151/96 (1999).

Country: Nigeria

Region: Africa

Year: 1999

Court: African Commission on Human and Peoples[™] Rights

Facts

The Civil Liberties Organisation filed this action with the African Commission on Human and Peoples[™] Rights (African Commission) on behalf of thirteen civilians who were convicted of accessory to treason under a special military tribunal in March of 1995 for plotting to overthrow the Federal Military Government of Nigeria (Government) by force. At the proceedings, which were conducted in secret, each defendant received a life sentence, and one defendant received six months imprisonment for serving as an accessory after the fact. Since the arrests, the military had held each individual in dark cells where the military provided insufficient food and refused to allow the detainees to access medical care or medicine. They also had no access to family members or legal counsel. Therefore, in addition to alleging violations of civil liberties protected under Articles 7 (right to have his cause heard) and 26 (State[™]s duty to guarantee independence of courts and protection of rights) of the African Charter for Human and Peoples[™] Rights (Charter), the complainant alleged that the conditions of the detention constituted inhuman and degrading treatment in violation of Article 5 of the Charter. The Commission determined that local remedies were all "non-existent, ineffective or illegal" largely because special decrees of the Government did not permit the defendants to appeal their cases to the ordinary courts or to retain counsel of their choosing. The commission subsequently declared the complaint admissible in during its 20th Session held in October 1996, and it chose to send an official mission to Nigeria to investigate the situation from March 7-14, 1997. In response to the allegations of civil liberty violations, the Government claimed it did not have enough resources to administer the judiciary properly. The Government, however, did not contest the allegations concerning treatment of the detainees or the fact that the conditions, including the refusal to provide medical care and medicine to the detainees, constituted inhuman and degrading treatment under the Charter.

Decision and Reasoning

The Commission concluded that the Government[™]s refusal to provide medical care or medicine to the detainees, as well as holding them in dark cells without access to a lawyer, constituted inhuman and degrading treatment under Article 5 of the Charter. The Government[™]s refusal to provide the detainees access to family members may also have caused psychological trauma that would violate Article 5. In addition, the Government violated Articles 7(1)(a) (right to appeal for legal protection), 7(1)(c) (right to defence), 7(1)(d) (right to be tried within a reasonable time by an impartial court or tribunal) and 26 (State[™]s duty to guarantee independence of courts and protection of rights) insofar as special tribunals removed entire areas of law from the jurisdiction of ordinary courts and the defendants did not have the opportunity to choose their own counsel. The detainees should therefore receive a civil re-trial with full access to lawyers of their choice, and the Government should improve their conditions of detention.

Decision Excerpts

"[25] Finally, the complaint alleges that the conditions of detention of the convicted persons constitute inhuman and degrading treatment, in violation of Article 5. The government has not made any specific response to any of the accusations in the communication, and has not provided any information to contradict the allegations of inhuman and degrading treatment." Page 4.

"[26] While being held in a military detention camp is not necessarily inhuman, there is the obvious danger that normal safeguards on the treatment of prisoners will be lacking. Being deprived of access to one's lawyer, even after trial and conviction, is a violation of Article 7(1)(c)." Page 4.

"[27] Being deprived of the right to see one's family is a psychological trauma difficult to justify, and may

constitute inhuman treatment. Deprivation of light, insufficient food and lack of access to medicine or medical care also constitute violations of Article 5." Page 4.

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