

Pastors Facing Death Penalty for 'Spying' Finally Set Free

Two South Sudanese pastors on trial in Sudan for "spying," among other things, have been freed by the Judge of Khartoum North Central Court, Ahmed Ghaboush. Had they been found guilty of this, they could have faced the death penalty.

Yat Michael had taken his child to Khartoum for medical treatment when he was arrested on Dec. 14, 2014, after being asked to preach at a local church during his stay. Peter Yen was arrested in January 2015 when he went to enquire about Michael's whereabouts. The two men were then reported as missing until Sudanese authorities revealed that they were being held in prison for "crimes against the state".

Guilty on Some Accounts, but Freed Due to Time Served

The DPA German news agency reported that the judge found Yat Michael guilty of a "breach of the peace" (Article 69) and Peter Yen (also known as David Reith) guilty of "managing a criminal or terrorist organization" (Article 65). But he ordered both be released, as they had already served the sentences for these offences through their eight-month stay in prison.

Experts said there were fears that they would have been convicted of the more serious charges; it was felt the judge was under pressure to balance local expectations on him to uphold the principles of the Sharia-governed state, with adherence to international human rights standards.

The families told Radio Tamazuj, an online independent news service broadcast in Sudan and South Sudan, that they were "delighted."

The last time the men were in court was July 23, when their

legal team submitted their written closing arguments.

Observers from a number of foreign embassies were present that day. An official from the Sudanese Ministry of Justice told one of the pastors' lawyers that the extent of outside interest had led the government to take a very close interest in the case.

Thabith Al Zubir, one of the lawyers defending the pastors, asked the judge on July 23 to drop the case because the defense had refuted all the accusations leveled against the two men, and because there was no clear evidence against them.

Arrested 'Illegally'

The defense lawyers had also argued that their clients were arrested illegally by the National Intelligence and Security Service (NISS).

They said Pastor Yat Michael did not violate Sudan's law when he preached in Khartoum Bahri Evangelical Church on Dec. 14, because he was just carrying out his duty as a pastor. "To urge believers to be zealous for their church is not an insult against God," one lawyer said, referring to NISS arresting Yat Michael after his sermon in the church in the Bahri area, just north of the Sudanese capital.

"Justice requires that you don't judge simply because you [suspect], without any concrete evidence," the lawyer said.

In addition, the lawyers raised concern over the fact that Yat Michael and Peter Yen were being tried illegally for insulting religion.

They also said that the pastors were illegally detained for a long period of time without trial: "This is illegal and against the bill of rights in Sudan's constitution."

Lawyer Al Zubir had called on the court to respect Sudan's constitution above the powers of the National Intelligence and

Security Service to arrest and detain any person for a long period of time without trial.

The lawyers concluded that the court should accept their defence, and drop the charges for lack of evidence: "These charges are built on sand," they concluded.

"The charges included: complicity in committing crimes with other bodies (Article 21), spying for outsiders (Article 53), and collecting and leaking information to the detriment of Sudanese national security (Article 55).

The charge of undermining the constitutional system (Article 50) has been "dropped," reported Radio Tamazuj after the July 23 hearing.

Other charges included promoting hatred among sects (Article 64); breach of public peace (Article 69); and offenses relating to insulting religious beliefs (Article 125). Article 53 carries the death penalty or life imprisonment.

Defense Witnesses Testify Evidence Against the Men Could Have Been 'Planted'

At a previous hearing on July 14, the pastors had stated that some of the "incriminating" documents allegedly found on their computers were not theirs. These included internal church reports, maps showing the population and topography of Khartoum, Christian literature and a study guide on Sudan's National Intelligence and Security Service (NISS).

The pastors acknowledged having the internal church report, though both said they had never seen the study guide on NISS until it was presented in court. They said they had no knowledge of how it got on the computer.

The defense team called two witnesses.

One, ex-army general and 2010 presidential candidate Abdul

Aziz Khalid, testified that the maps presented by the prosecution were available to civilians and not classified; therefore the espionage charge against the pastors was without basis.

The other witness was an IT expert, who testified how easy it would have been for others to plant documents on the men's computers without their knowledge.

The pastors had again been denied access to their legal team ahead of the July 14 hearing, despite an earlier direction that they be allowed 15 minutes with their lawyers.

(At the previous hearing on July 2, the judge had permitted the defense team only 15 minutes with the pastors in order to prepare their case).

The pastors have also had little access to their families, who were only permitted to visit them in the high-security Kober Prison after they had been held for six months.

Defence Lawyer Himself Arrested Day Before He Was Due in Court, With Church Pastor

On July 1, Mohaned Mustafa—one of the lawyers representing Michael and Yen, together with the Evangelical Bahri Church pastor Hafez—was briefly detained when challenging a government employee who was overseeing the destruction of parts of the Bahri evangelical church complex.

The employee was attempting to destroy a part of the complex that was not within the government order for destruction. It is still not known when the case against the two lawyers will be brought to court.

This is not the first time the Sudanese government has attempted to clamp down on the Evangelical Church of Khartoum.

On Dec. 2, 2014, the church was raided by handfuls of police

officers, who arrived in six patrol cars. They beat a number of peaceful sit-in demonstrators with pipes and water sticks and arrested 38 eight members of the church.

After the raid, 20 of the people arrested were sentenced to a fine of 250 Sudanese pounds (roughly \$40) after being convicted without legal representation under Articles 65 (criminal and terrorist organisations) and 69 (disturbance of public peace) of the 1991 Sudanese Penal Code.

The charges were dropped against the remaining 18 individuals.

The sit-in demonstrations were prompted by a corruption scandal, including the sale of church land to investors.

In 2010, the Evangelical Church of Khartoum in Bahri elected a Community Council to control the administration, assets, and investments of the church. The Community Council was plagued by accusations of corruption. The church attempted to resolve the conflict with the church's General Assembly electing a new Community Council. But the previous Council refused to recognize the new Council and hand over institutional documents.

The government of Sudan intervened on April 28, 2014, and re-appointed several members of the old Community Council.

Despite not having an official mandate to sell church properties or engage in investment on behalf of the church, these members sold a substantial amount of property.

Yat Michael was arrested after preaching at this church two weeks after the police raid and partial demolition of the church.

During his sermon, he condemned the controversial sale of the church land and property, and the treatment of Christians in Sudan.

The arrest, incarceration and extended trial of Michael and

Yen illustrates the pressure Christians face in the Muslim-dominated region.