

**OPINION No. 11/2005 (MYANMAR)**

**Communication addressed to the Government of Myanmar on 12 October 2004.**

**Concerning U Tin Oo.**

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

1. (Same text as paragraph 1 of opinion No. 20/2004.)
2. The Working Group regrets that the Government did not provide it with the requested information, despite repeated invitations to do so. The Working Group believes that it is in a position to render an opinion on the facts and circumstances of the case.
3. (Same text as paragraph 3 of opinion No. 20/2004.)
4. According to the information received, U Tin Oo, a citizen of Myanmar born on 3 March 1927, Vice-President of the National League for Democracy (NLD), was arrested by police and military forces on 30 May 2003 at around 7 p.m. in Kyi village near the Dipeyin (Tabayin) township, Sagaing Division, when an NLD convoy was attacked by Government-affiliated thugs during a speaking tour of northern Myanmar. Scores were killed and hundreds were wounded during the attack. U Tin Oo received blows to the head.

5. U Tin Oo was taken to Kale (Kalay) prison, Sagaing Division, and detained there. He was later transferred to Mandalay-Ohpho Prison. The detention of U Tin Oo was ordered by the State Peace and Development Council. No arrest warrant or detention order was issued against U Tin Oo, nor any charges raised against him. The detention might be based on the 1975 State Protection Law.

6. On 14 February 2004, U Tin Oo was shifted from Kale Prison to house arrest. However, he is still not allowed to see anyone. His home in Yangon is being guarded by armed security personnel and his phone has been cut off.

7. The source alleges that no charges have been raised against U Tin Oo and no trial is envisaged; his detention is not subjected to judicial review; he is held in incommunicado detention and denied access to a lawyer;

8. The Government, which had the possibility of answering these allegations, did not contest them.

9. The Working Group finds that U Tin Oo could not take advantage of the fundamental guarantees of due process, being in administrative detention. No arrest warrant was issued and no charges have been brought against him; he has not been allowed an independent public judicial process, with access to defence counsel.

10. As to the situation of his house arrest, the Working Group has already stated in its deliberation No. 1 that house arrest may be compared to deprivation of liberty provided that it is carried out in closed premises which the person is not allowed to leave, which, as the Government has not denied, is the case here.

11. The Government was also unable to provide information as to the facts that gave rise to U Tin Oo's arrest during a speaking tour for NLD. The Working Group considers his deprivation of liberty to be for the mere exercise of his political rights and the exercise of the rights of freedom of movement, peaceful demonstration and freedom of expression, all protected under the Universal Declaration of Human Rights.

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

The deprivation of liberty of U Tin Oo is arbitrary, being in contravention of articles 9, 10, 19, 20 and 21 of the Universal Declaration of Human Rights, and falls within categories II and III of the categories applicable to the consideration of the cases submitted to the Working Group.

13. Consequent upon the opinion rendered, the Working Group requests the Government to take the necessary steps to remedy the situation and bring it into conformity with the standards and principles set forth in the Universal Declaration of Human Rights.

Adopted on 26 May 2005