

OPINION No. 26/2006 (ISLAMIC REPUBLIC OF IRAN)

Communication: addressed to the Government on 18 October 2005.

Concerning: Abdolfattah Soltani.

The State is a party to the International Covenant on Civil and Political Rights.

1. (Same text as paragraph 1 of Opinion No. 38/2005.)
2. The Working Group conveys its appreciation to the Government of the Islamic Republic of Iran for having forwarded the requested information.
3. (Same text as paragraph 3 of Opinion No. 38/2005.)

4. In the light of the allegations made, the Working Group welcomes the cooperation of the Government. The Working Group believes that it is in a position to render an Opinion on the facts and circumstances of the cases, in the context of the allegations made and the response of the Government thereto.

5. The source reports that Mr. Abdolfattah Soltani is a citizen of the Islamic Republic of Iran resident in Tehran. He is a lawyer, a member of the Bar Association's board of directors, and a co-founder of the Centre to Defend Human Rights, a non-governmental organization that has not been granted official permission to operate. Prior to his arrest, Mr. Soltani was on the legal team defending Mr. Akbar Ganji and the legal team representing Ms. Zahra Kazemi, the Iranian-Canadian journalist who died in custody in Evin prison in Tehran in July 2003.

6. It was reported that on 27 July 2005, the Chief Prosecutor issued a warrant for the arrest of Mr. Soltani. When the authorities went to his house to arrest him, he was not at home. His house was searched, and documents and computer files seized. Upon hearing that an arrest warrant had been issued against him, he began a sit-in protest at the building of the Tehran Bar Association. He was arrested there on 30 July 2005.

7. The source reports that Mr. Soltani is detained at Evin prison. From the date of his arrest until mid-September 2005, he was held in solitary confinement. His wife was allowed to visit him on 5 September 2005, but the visit took place in the presence of a prison guard. Mr. Soltani has also been barred from making phone calls. As of 29 September 2005, Mr. Soltani's lawyers had not been allowed to meet with him. Interrogation sessions were carried out in prison without the presence of defence counsel.

8. Mr. Soltani's case is reportedly pending before Branch 4 of the Tehran Revolutionary Court. It is not known whether he has been charged, but it appears that he is accused of "releasing secret and classified national intelligence information to unqualified people and those connected to foreign embassies". These charges arise out of his activity as defence lawyer for several persons accused of espionage in connection with the Islamic Republic of Iran's nuclear programme.

9. The source alleges that the detention of Abdolfattah Soltani is arbitrary. It argues that Mr. Soltani has been detained virtually incommunicado since his arrest and has specifically been denied the right of access to his lawyers. As a result, his right to prepare his defence and to a fair hearing on the charges raised against him is and will be violated.

10. The source further submits that the charges against Mr. Soltani are in retribution for his involvement as lawyer in the cases of Mr. Ganji and Ms. Kazemi. It specifically asserts that on the last day of the appeal proceedings brought in the case of Ms. Kazemi, Mr. Soltani had suggested in open court that the State should be held responsible for her death, and that Mr. Soltani's arrest and detention are in retribution for that statement. The source sees confirmation of these allegations in the fact that Ms. Shirin Ebadi, who is also a co-counsel in the cases of Mr. Ganji and Ms. Kazemi was publicly accused, on 30 July 2005, of "having suspicious ties to foreigners" by the Tehran Deputy Public Prosecutor.

11. The Government, in its response, states that Mr. Soltani has been charged with the disseminating classified intelligence and thus attempting to [affect] State security, and he has been offered bail by the court and he is free on bail at the moment.
12. According to information further received by the Working Group, Mr. Soltani has been convicted on 2 June 2006 of disclosing classified information, divulgence of State secrets, relations with two foreign diplomats, interviews with journalists related to State secrets subjects and propaganda against the country regime, and has been sentenced to five years in prison and privation of his civil and political rights. He is appealing this sentence and waiting for the second instance judgement, and has been released on bail.
13. In conformity with paragraph 17 (a) of its methods of work, the Working Group considers that this is one of the cases in which it reserves the faculty to render an Opinion, notwithstanding the release of the person concerned. The Working Group is taking into account the relevance of the case and the fact that Mr. Abdolfattah Soltani has been sentenced to five years' imprisonment, he is actually in liberty on bail pending appellation.
14. The Working Group notes that in its reply, the Government did not contest that Mr. Soltani was, from his arrest on 30 July 2005 until his release on bail in March 2006, detained virtually incommunicado, and that he has been denied the right of access to his lawyers. The Working Group also observes that Mr. Soltani has been detained and convicted on the charges of disclosing classified information and divulgence of State secrets to diplomats and journalists. The Government did not give any indication of the nature of the alleged classified intelligence or State secret that a lawyer and human rights activist could hold and is under an obligation to not disclose.
15. In the absence of any convincing argument, the Working Group concludes that the detention of Mr. Soltani is motivated exclusively by his human rights and/or political activities, activities constituting the peaceful exercise of the right to freedom of expression as guaranteed by article 19 of the International Covenant on Civil and Political Rights to which the Islamic Republic of Iran is party.
16. The Working Group also notes that Mr. Soltani was tried and sentenced by a revolutionary court. In its report (E/CN.4/2004/3/Add.2) on its visit to the Islamic Republic of Iran, the Working Group questioned the legitimacy of the Revolutionary Courts and expressed concern over their non-compliance with the fair-trial standards as enshrined in article 14 of the International Covenant on Civil and Political Rights to which the Islamic Republic of Iran is party and stressed that the jurisprudence of these courts is extremely restrictive of freedom of opinion and expression.
17. Based on the above, the Working Group is of the opinion that:

The detention of Mr. Abdolfattah Soltani from 30 July 2005 until 6 March 2006 is arbitrary and contravenes articles 9, 14 and 19 of the International Covenant on Civil and Political Rights and falls within categories II and III of its methods of work.

18. Consequently, the Working Group requests the Government to take all the necessary measures to remedy the situation of Mr. Soltani and bring it into conformity with the principles set forth in the Universal Declaration of Human Rights and the International Covenant on Civil and Political Rights.

Adopted on 1 September 2006.