

OPINION No. 3/2007 (EGYPT)

Communication: addressed to the Government on 5 December 2006.

Concerning: Ahmed Ali Mohamed Moutawala and 44 other persons.

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

1. (Same text as paragraph 1 of Opinion No. 32/2006.)
2. (Same text as paragraph 3 of Opinion No. 32/2006.)
3. The Working Group regrets the lack of cooperation of the Government despite repeated invitation to provide information on these cases. Yet, the Working Group believes that it is in a position to render an opinion on the facts and circumstances of the case.
4. The source reports that the following 45 persons were arrested between 1990 and 1994 by agents of the State Security Intelligence (SSI). They were held incommunicado during periods from one to three months, periods during which they were allegedly tortured. The officials did not show any arrest warrant or other relevant decision by a public authority, nor did they orally inform them about the reasons for arrest. They continue to be kept in detention.
5. Ahmed Ali Mohamed Moutawala, aged 39, artist, resident in Kufr Al Mansoura, Al Mania, arrested on 21 August 1990, detained in Al Fayoum Prison.
6. Issam Abdelhamid Diab, 38 years old, student at Cairo University, resident in Cairo, arrested on 29 September 1990, detained in Limane Abou Zaabel Prison.
7. Walid Ahmed Mohamed Salama, aged 40, resident in Bulaq Al Dakrou, Gizeh, arrested on 2 March 1991, detained in Abou Zaabel High Security Prison.
8. Salama Abdelfodil Ahmed, born on 7 February 1971, student, resident in Shubra-El-Khema Industrial City, Al Qalubia, arrested on 15 May 1991, detained in Abou Zaabel High Security Prison.
9. Ahmed Fakhri Farag, born on 6 December 1965, accountant, resident in Boulaq Al Dakrou, Gizeh, Cairo, arrested on 17 May 1991, detained in Abou Zaabel High Security Prison.
10. Suleiman Al Abd Abubekr, 40 years old, student at Cairo University, resident in Imbaba, Gizeh, arrested on 29 September 1991, detained in Abou Zaabel High Security Prison.
11. Tah Khalifa Tah, aged 38, student at Cairo University, resident in Cairo, arrested on 1 February 1992, detained in Abou Zaabel High Security Prison.
12. Taha Mansour Mohamed Hilmi, 44 years old, independent worker, resident in Chebra Misr, Cairo, arrested on 25 June 1992, detained in Abou Zaabel High Security Prison.

13. Saleh Ibrahim Ali Abdelghaffar, aged 41, carpenter, resident in Seif Eddine, Al Zarqa, Damiette, arrested on 26 July 1992, detained in Abou Zaabel High Security Prison.
14. Esseyad Fathi Al Chahri, 41 years old, student, resident in Cairo, arrested on 28 November 1992, detained in Abou Zaabel High Security Prison.
15. Chaabane Slimane Saad, aged 45, employed, resident in Qariat Massara, Dirout, Assiout, arrested on 7 November 1992, detained in Abou Zaabel High Security Prison.
16. Alaa Eddine Abderrahim Mohamed Hanfa, 36 years old, student, resident in Tahta, Sohag, arrested on 30 October 1992, detained at Istiqbal Turah.
17. Aymen Mohamed Abdelmadjid Amer, aged 38, student at the Faculty of Sciences, Cairo University, arrested on 17 August 1992, detained in Abou Zaabel High Security Prison.
18. Abdou Mohamed Al Dassouqi Al Dadjene, 49 years old, restaurant owner, resident in Chatt Houria, Damiette, arrested on 1 January 1992, detained in Abou Zaabel High Security Prison.
19. Abdel Moneim Djamel Eddine Abdel Moneim Mounib, aged 43, journalist, resident in Abou Obeida Al Djarrah Avenue, Al Haram Fayçal, Gizeh, arrested on 11 November 1992, detained in Abou Zaabel High Security Prison.
20. Abdelfettah Kamel Mohamed Chehata, 56 years old, State officer, resident in Kafr Al Fouqaha, Toukh, Al Qalubia, arrested on 17 March 1992, detained in Abou Zaabel High Security Prison.
21. Ahmed Fardj Hussein Mohamed, aged 40, independent worker, resident in Dirout, Assiout, arrested on 23 November 1992, detained in El Oued Al Jadid Prison.
22. Samir Mahmoud Hacène Khamis, 50 years old, civil servant, resident at Abdelfettah Azeb Tura Avenue No. 7, Bulaq, Al Gizeh, arrested on 10 November 1993, detained in Abou Zaabel High Security Prison.
23. Ahmed Ali Mohamed Abdurrahim, aged 40, student, resident in Al Qussia, Assiout, arrested on 12 October 1993, detained in El Oued Al Jadid Prison.
24. Samida Barakat Samida, 40 years old, student, resident in Cairo, arrested on 13 September 1993, detained in Abou Zaabel High Security Prison.
25. Salah Abdulaziz Al Aydi, aged 48, accountant, resident in Mit Nama, Chabra Al Khaima, Al Qalubia, arrested on 30 November 1993, detained in Oued Al Natroune High Security Prison.
26. Samir Mohamed Abdel Moneim, 38 years old, artist, resident in Nadj Al Aarj, Al Brahma, Qafr Kanaa, arrested on 22 December 1993, detained in Oued Al Djadid Prison.
27. Asseyed Mohamed Draz, aged 47, independent worker, resident in Kafr Al Shaikh, arrested on 5 March 1993, detained in Abou Zaabel High Security Prison;

28. Oussama Farouk Aouis Ramadan, 40 years old, student, resident in Cairo, arrested on 9 October 1993, detained in Abou Zaabel High Security Prison;
29. Maslahi Hamdi Hidjazi, aged 34, resident in Hadaiq Al Quba, Cairo, arrested on 20 March 1993, detained at Abou Zaabel High Security Prison;
30. Mamdouh Mohamed Fakhri Al Semmane, 34 years old, student, resident in Qana, arrested on 27 February 1993, detained in Oued Al Djadid Prison;
31. Khaled Ahmed Hussein Abdel Ouareth, aged 37, student, resident in Qana, arrested on 5 February 1993, detained in Istiqbal Turah Prison;
32. Khaled Abdesadek Mustapha Al Hamaki, born on 1 October 1966, engineer, resident at Al Jamaa Avenue No. 56, Al Saada, Chebra Al Khalma, Al Qalubia, arrested on 7 October 1993, detained in Abou Zaabel High Security Prison;
33. Iffat Ibrahim Salah Hamoudine, aged 47, engineer, resident in Atlas Industrial Neighbourhood, Zone J, Apartment No. 6, Halouane, Cairo, arrested on 7 March 1993, detained in Abou Zaabel High Security Prison;
34. Hamdi Amine Ismail Abdullah, 37 years old, student, addressed at Cairo, arrested on 16 February 1993, detained at Al Fayoum Prison;
35. Tarek Naim Ryad, aged 39, student, addressed at Beni Souif Veterinary Centre, arrested on 14 October 1993, currently detained in the detention centre of the Security Services in Beni Souif;
36. Ismail Fathi Esseyed Al Chahri, 38 years old, student, addressed in Cairo, arrested on 15 January 1993, detained in Abou Zaabel High Security Prison;
37. Saleh Abdelmalek Ali Ibrahim, aged 47, schoolteacher, resident in Arb Abou Karim, Dirout, Assiout, arrested on 6 August 1994, detained in Wadi Al Jadid Prison;
38. Mohamed Mouawad Abdurahmane Mouawad, 38 years old, student at the Faculty of Medicine, resident in Al Taouail, Sakalta, Sohag, arrested on 15 June 1994, detained in Istiqbal Turah High Security Prison;
39. Sabra Salama Moussa, aged 45, resident in Bijam, Chabra Al Khaima, Al Qalubla, herboriste, arrested on 1 February 1994, detained in Damenhour Prison;
40. Mohamed Lofti Abdulaziz Abdurahim, born on 8 August 1977, student, resident in Dirout, Assiout, arrested on 1 January 1994, detained in Oued Al Jadid Prison;
41. Mohamed Abderrahim Al Charqaoui, born on 4 June 1950, electronic engineer, resident at Bourassa Avenue No. 5, Al Taoufqiya, Cairo, arrested on 28 July 1994, detained in Istiqbal Tura High Security Prison;
42. Khaled Khelf Abd Almoutajalla, 41 years old, student, addressed at Qariat Tassa, Sahel Selim, Assiout, arrested on 20 May 1994, detained in Oued Al Jadid Prison;

43. Khelf Djaber Hamada Djaber, born on 5 July 1971, student, addressed at Farchout Qana, arrested on 11 May 1994, detained in Oued Al Jadid Prison;
44. Misser Azb Abdelghani Athmane, aged 36, lawyer, resident in Nadj Hamada, Qana, arrested on 14 August 1994, detained in Al Fayoum Prison;
45. Hichem Azb Abdelghani, 35 years old, student, resident in Meloua, Al mania, arrested on 18 October 1994, detained in Al Fayoum Prison;
46. Baha'Eddine Khalf Ali Abderrahim, aged 37, student, resident in Al Djabbar, Tama, Sohag, arrested on 15 April 1994, detained in Oued Al Jadid Prison;
47. Attef Mohamed Ahmed Abdellah, 37 years old, student, resident in Al Aqqal Al Bahri, Assiout, arrested on 19 March 1994, detained in Oued Al Jadid Prison;
48. Abd El Mouneim Abderrazak Abd El Moula, aged 41, student, resident in Beni Souif, arrested on 1 November 1994, detained in Abou Zaabel High Security Prison;
49. Abdelatif Ali Abd Al Amar, 36 years old, student, resident in Beni Harb, Tahta, Sohag, arrested on 19 March 1994, detained in Oued Al Jadid Prison.
50. At the end of their incommunicado detention, these persons were informed that they would be imprisoned by virtue of an administrative order issued by the Minister of the interior. No detention term was fixed. These administrative orders were issued following the regulations on the state of emergency, which has been in force without interruption since 6 October 1981. The emergency rule was extended on 30 April 2006 for another three years.
51. According to the source, the Emergency Law, Law No. 162 of 1958, allows arbitrary arrest and indefinite detention without trial. The source considers that it creates an atmosphere of impunity, which may give place to cases of torture and ill-treatment.
52. The source adds that some of these persons were nonetheless able to challenge their detention before a judicial authority, mainly before the Exceptional State Security Courts or military courts, which, in most cases, ordered their release. However, the administrative authority did not comply with these judicial decisions and issued new administrative detention orders using the powers conferred on them by the state of emergency.
53. The source alleges that in spite of the fact that Egypt is a State party to the International Covenant on Civil and Political Rights, it has never followed fully their provisions by reason of the state of emergency governed by article 4 of the Covenant.
54. According to the source, these persons are being kept in detention without charges or trial exclusively under administrative detention powers. They have never been tried or convicted of a crime. Some of them are suspected members or supporters of banned Islamist groups but have never participated in violent acts, otherwise they would have been brought before military or exceptional courts and would have been charged and tried.

55. The source adds that the conditions in the prisons and detention centres in which these persons are being kept amount to cruel, inhuman or degrading treatment. Many of these persons are suffering from illnesses because of the lack of hygiene and medical care, overcrowding and poor food quality.
56. The source concludes that the detention of these persons is arbitrary because it is devoid of any legal basis. The authorities have so far failed to provide any decision justifying their arrest and continued detention during more than 12 years.
57. It also argues that their detention results from their political opinions and the consequent exercise of their rights to freedom of expression, guaranteed by article 19 of the Universal Declaration of Human Rights and of the International Covenant on Civil and Political Rights.
58. In conclusion, the source considers that the detention of these 45 persons is contrary to several articles of the International Covenant on Civil and Political Rights.
59. The Working Group notes at the outset that, despite the lack of cooperation from the Government, it possesses sufficient factual elements to take a position on the merits of the allegation. It is undisputed that the 45 individuals carefully identified by name, age and date of detention, were arrested between 1990 and 1994 and are still in detention. That is to say that they have been detained for between 13 and 17 years. Most of them were unable to challenge the lawfulness of their detention. Some of them could obtain a judicial decision ordering their release, but no one was in fact set free.
60. It is the position of the Working Group that not even a state of emergency may justify such long terms of detention without charges which completely circumvents the guarantees of a fair trial. Moreover, by failing to allow the detainees to apply to a judge or, in those cases where the detainees could seek review of their detention, by disregarding the judicial orders for release, the Government has nullified the control of the Judiciary over the lawfulness of their detention. Therefore, the Working Group, in the absence of any response from the Government, considers that the deprivation of liberty of the above-mentioned persons is arbitrary under category III of the categories applicable to the consideration of cases submitted to the Working Group.
61. The Working Group further notes that the source's allegation that the 46 detainees have been deprived of their liberty for having expressed their political opinions which are contrary to the Government has not been contradicted. The Working Group therefore finds that the deprivation of liberty results from the exercise of their right to freedom of expression, guaranteed by article 19 of the International Covenant on Civil and Political Rights, and is accordingly arbitrary also under category II of the categories applicable to the consideration of cases submitted to the Working Group.
62. In the light of the foregoing the Working Group renders the following opinion:
- The deprivation of liberty of Ahmed Ali Mohamed Moutawala and the other above named 44 persons is arbitrary, being in contravention of article 9 of the International Covenant on Civil and Political Rights and falls under categories II and III of the categories applicable to the consideration of cases submitted to the Working Group.

63. Consequent upon the opinion rendered, the Working Group requests the Government to remedy the situation and to bring it into conformity with the provisions of the International Covenant on Civil and Political Rights. The Working Group believes that in view of the long period of time already spent in detention, the adequate remedy would be the immediate release of these persons.

Adopted on 8 May 2007.