

OPINION No. 2/2007 (MYANMAR)

Communication: addressed to the Government on 10 July 2006.

Concerning: Ms. Aung San Suu Kyi.

The State has not ratified 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 welcomes the cooperation of the Government by providing the requested information on the facts alleged and the applicable law. The reply of the Government was forwarded to the source, which did make comments on it. The Working Group believes that it is in a position to render an opinion on the facts and circumstances of the case.
4. The information submitted to the Working Group is summarized as follows: Ms. Aung San Suu Kyi, a citizen of the Union of Myanmar, General Secretary of the National League for Democracy (NLD) and Nobel Peace Prize laureate, is being held under house arrest in Rangoon. She spent more than 10 of the last 16 years in detention and has been held in her Rangoon residence without contact with the outside world for more than four years. She is denied visitors and has no outside telephone contact.

5. Ms. Suu Kyi was arrested in May 2003 following an assassination attempt during which more than 70 of her supporters were murdered. The attack was reportedly orchestrated by a group associated with the Union Solidarity Development Association (USDA). Although Ms. Suu Kyi survived the attack, her safety continues to be threatened because she is allowed only infrequent visits by her medical doctors.
6. On 24 May 2006, Ms. Suu Kyi received a rare visit from Ibrahim Gambari, Special Envoy of the Secretary-General on the situation in Myanmar and the Special Adviser on the International Compact with Iraq and Other Political Issues, who called for her release. The source submits that the detention order of Ms. Suu Kyi expired with no official announcement that she will be released from house arrest. On 27 May 2006, the authorities extended Ms. Suu Kyi's house arrest for another year.
7. The source contends that Ms. Suu Kyi is being held under article 10 (b) of the 1975 State Protection Act, which permits the authorities to detain anyone considered a threat to State security for up to five years, renewable on an annual basis, without charge or trial.
8. According to the source, there is no opportunity for domestic judicial review of Ms. Suu Kyi's detention. Since her initial term of house arrest begun on 30 May 2003, Ms. Suu Kyi has been denied all access to NLD leaders and the press. She has no access to relatives or lawyers and her communications and visits are permitted at the Government's sole discretion.
9. The source asserts that on 23 May 2006, Major General Khin Yi, who serves as the Nation's Police Chief, told a conference of regional Police that the release of Ms. Suu Kyi would likely have little effect on the country's political stability and that there would not be rallies and riots if Ms. Suu Kyi was released since public support for her has fallen.
10. The source further submits that Ms. Suu Kyi is a known advocate of political change exclusively by peaceful means. No controlling body, acting in good faith, would find or believe that she is a potential danger to the State.
11. The source affirms that there can be no legal justification for Ms. Suu Kyi's detention under the law, because her release would not endanger State sovereignty or public peace and tranquility. Because she is not a threat to the country's political stability, her continued detention is arbitrary.
12. The source concludes that Ms. Suu Kyi is being held because of her political views. It is not a coincidence that she is the Secretary General of the NLD. By singling out Ms. Suu Kyi for arrest and detention on the basis of her thought, conscience, opinion, and expression, as embodied by her work for the NLD.
13. The reply of the Government to the allegations of the source can be reproduced as follows. In 2003, during her trips to various townships in Myanmar, Ms. Suu Kyi carried out activities detrimental to the peace and tranquility of the livelihood of the local community. She delivered speeches to discredit the Government to impair the dignity thereof and also conducted campaigning with the intention of harming the integrity of the Union and solidarity of the

national races. As her conduct constituted a threat to the security of the State and public peace and tranquility, she was retained under section 10 of the Law to safeguard the State against the dangers of those desiring to cause subversive acts.

14. The Government went on by explaining that the Central Body formed under the Law passed restriction orders to restrain Aung San Suu Kyi from 28 November 2003 to 27 November 2004. After expiration of the one-year restraint, the Central Body obtained the prior sanctions from the Council of Ministers to extend the restraint on a yearly basis until now.

15. The Government concludes by pointing out that under the law the authorities are empowered to restrain individuals without trial.

16. When considering the communication, the Working Group stated from the following considerations.

17. This is already the fourth occasion when the Working Group on Arbitrary Detention called to address the deprivation of liberty under the form of house arrest of the same individual, namely Aung San Suu Kyi (see Opinions 8/1992, 2/2002 and 9/2004). The basic facts in the previous opinions and the present communication are either identical or very similar. A leading opposition figure in the Union of Myanmar is repeatedly paralysed in her participation in the political life of her country by the application against her of subsequent house arrest orders. Apart from their possible detrimental health and psychological effects, the measures systematically taken against her are tantamount to deprivation of liberty (see Deliberation 001 of the Working Group referred to the former Opinions), and are aimed to prevent her to exercise her right to freedom of opinion and expression. Moreover, the system of “restraints” hampered Ms. Suu Kyi to enjoy the safeguards of a fair trial against arbitrary detention, because as the Government itself clarified, house arrests are ordered without trial. The unsubstantiated hints of the Government to “activities detrimental to the peace and tranquility” and to Ms. Suu Kyi’s “campaigning with the intention of harming the integrity of the Union” are irrelevant to justify her detention, because not even the Government asserts that Ms. Suu Kyi has ever resorted to violence or incited to hostility or violence.

18. The Working Group notes that the obvious unwillingness of the Government to comply with the Working Group’s Opinions and recommendations to put an end to the house arrest of Ms. Suu Kyi is particularly worrying.

In the light of the foregoing the Working Group renders the following opinion.

The deprivation of liberty of Aung San Suu Kyi is arbitrary being in contravention of articles 9, 10 and 19 of the Universal Declaration of Human Rights and falls under categories II and III of the categories applicable to the consideration of cases submitted to the Working Group.

19. Consequent upon the opinion rendered the Working Group repeatedly requests the Government to remedy the situation and to bring it into conformity with the provisions of the Universal Declaration of Human Rights. The Working Group believes that under the circumstances the adequate remedy would be the immediate release of Aung San Suu Kyi.

Adopted on 8 May 2007.