

Opinion No. 11/2010 (Iraq)

Communication addressed to the Government on 30 September 2009

Concerning: Jalil Gholamzadeh Golmarzi Hossein; Azizollah Gholamizadeh; Homaun Dayhim; Mohammad Ali Tatai; Mohammad Reza Ghasemzadeh; Iraj Ahmadi Jihonabadi; Jamshid Kargarfar; Ebrahim Komarizadeh; Javad Gougerdi; Mehrban Balae; Hamid Ashtari; Mehdi Zare; Mehdi Abdorrahimi; Hossein Sarveazad; Hossein Farsy; Ali Tolammy Moghaddam; Seyyed Hossein Ahmadi Djehon Abadi; Karim Mohammadi; Mir Rahim Ghorayshy Danaloo; Asad Shahbazi; Moshfegh Kongi; Ahmad Tajgardan; Jalil Forghany; . Ebrahim Malaipol; Gholam-Reza Khorrami; Mohsen Shojaee; Omid Ghadermazi; Manouchehr Majidi; Hassan Besharati; Ezat Latifi; Mostafa Sanaie; Habib Ghorab; Rahman Haydari; Mohammad Reza Hoshmand; Abbas Mohammadi; Gholamreza Mohammadzadeh; and Abbas Hussein Fili

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

1. (Same text as paragraph 1 of Opinion No. 18/2009)
2. According to its Methods of Work, the Working Group forwarded a communication to the Government on 30 September 2009. A reminder was also sent. The Government has not requested any extension of the time limit. The Working Group regrets that the Government has not replied within the 90-day deadline.
3. (Same text as paragraph 1 of Opinion No. 18/2009)
4. The case summarized below was reported to the Working Group on Arbitrary Detention as set out in the paragraphs below.
5. The names of the 37 concerned persons were given as follows:

1. **Jalil Gholamzadeh Golmarzi Hossein**, born on 10 July 1964;
2. **Azizollah Gholamizadeh**; born on 18 November 1955;
3. **Homaun Dayhim**, born on 5 May 1956;
4. **Mohammad Ali Tatai**, born on 2 February 1954;
5. **Mohammad Reza Ghasemzadeh**, born on 12 December 1956;
6. **Iraj Ahmadi Jihonabadi**, born on 18 February 1954;
7. **Jamshid Kargarfar**, born on 2 February 1956;
8. **Ebrahim Komarizadeh**, born on 18 December 1959;
9. **Javad Gougerdi**, born on 5 March 1950;
10. **Mehrban Balaei**, born on 10 April 1963;
11. **Hamid Ashtari**, born on 21 March 1962;
12. **Mehdi Zare**, born on 25 March 1967;
13. **Mehdi Abdorrahimi**, born on 10 June 1963;
14. **Hossein Sarveazad**, born on 22 July 1960;
15. **Hossein Farsy**, born on 20 June 1964;
16. **Ali Tolammy Moghaddam**, born on 28 December 1960;
17. **Seyyed Hossein Ahmadi Djehon Abadi**, born on 15 November 1956;
18. **Karim Mohammadi**, born on 1 April 1961;
19. **Mir Rahim Ghorayshy Danaloo**, born on 14 April 1964;
20. **Asad Shahbazi**, born on 9 September 1958;
21. **Moshfegh Kongi**, born on 21 March 1963;
22. **Ahmad Tajgardan**, born on 25 January 1963;
23. **Jalil Forghany**, born on 13 September 1964;
24. **Ebrahim Malaipol**, born on 21 March 1967;
25. **Gholam-Reza Khorrami**, born on 25 November 1955;
26. **Mohsen Shojaee**, born on 15 April 1963;
27. **Omid Ghadermazi**, born on 5 March 1968;
28. **Manouchehr Majidi**, born on 19 February 1977;
29. **Hassan Besharati**, born on 26 May 1962;
30. **Ezat Latifi**, born on 1 September 1981;
31. **Mostafa Sanaie**, born on 27 March 1955;
32. **Habib Ghorab**, born on 24 March 1952;
33. **Rahman Haydari**, born on 1 December 1962;
34. **Mohammad Reza Hoshmand**, born on 7 December 1957;
35. **Abbas Mohammadi**, born on 20 June 1960;
36. **Gholamreza Mohammadzadeh**, born on 27 December 1953; and

37. **Abbas Hussein Fili**, aged 39.

6. According to the information received, on 28 July 2009, 37 residents of Ashraf camp were arrested by the police when they protested against the establishment of a police station in the camp. At least 32 of them were then transferred to the police station of Al-Khalis, in Diyala Province, north of Baghdad, where they were allegedly beaten by the police with wooden truncheons and metal cables on their chests, heads and hands, which resulted in seven persons being seriously injured (broken arms, hands and fingers; fractures of back and head bones).

7. These persons were later taken to the Iraqi army battalion compound just outside Ashraf, where they were put in a cell of 12 square metres.

8. It was reported that, during a transfer, one of the men, Mr. Ebrahim Malaipol, attempted to enter the back of a pickup truck, but was allegedly hit on his head by an officer of the Scorpion Special Force. As a result, he sustained a head injury and was in urgent need of medical treatment. Overall, at least seven persons were found by medical doctors to be in need of hospitalization, but they remain without adequate medical treatment.

9. It was said that Camp Ashraf has hosted some 3,400 members or supporters of the People's Mojahedeen Organization of Iran (PMOI), an Iranian opposition organization whose members have been resident in Iraq for many years. They were formerly under the protection of the Multi-National Forces-Iraq, enjoying the status of "Protected Persons" under the Fourth Geneva Convention. They rejected participation in, or support for terrorism; delivered all military equipment and weapons under their control or responsibility and assumed the engagement of rejecting violence and obeying the laws of Iraq and relevant United Nations dispositions while residing in Iraqi territory. This status was discontinued following the Status of Forces Agreement (SOFA) between the Governments of Iraq and the United States of America.

10. On 28 July 2009, the police entered the camp allegedly making an excessive use of the force. 11 residents were dead and more than 450 were injured during the violent clashes between the police forces and the residents.

11. On 30 September 2009, the above-mentioned 37 persons continued to be held at a police station in the town of Al-Khalis, in spite of a release order issued by the investigative judge of the Criminal Court of Diyala Province. On 24 August 2009, the investigative judge ordered the release of these persons on the grounds that they had no charges to answer.

12. On 16 September 2009, the investigative judge confirmed his previous ruling of 24 August 2009, ordering the release of these 37 people. The public prosecutor, who had appealed the investigative judge's first ruling, stated to have had no objection to their release without charge. However, the local police authorities in the town of Al-Khalis refused to release the detainees.

13. The Working Group notes that Police authorities have not provided any reason or legal justification for the continued detention of these 37 persons.

14. In addition, fears have been expressed concerning the possibility of a possible forcible return of these Iranian nationals to their country in circumstances where they would be at risk of serious human rights violations, including execution.

15. The Working Group also notes that most of these persons are in a poor state of health and have been denied adequate medical treatment. It expresses its concern for their physical and mental integrity.

16. The Working Group considers that the arrest and detention of the above-mentioned 37 persons is arbitrary according to category III of the categories applicable to the consideration of cases, and contrary to the Universal Declaration of Human Rights and the

International Covenant on Civil and Political Rights. These people have been arrested for unknown reasons and continue to be kept in detention despite two express judicial decisions ordering their release.

Adopted on 7 May 2010