

312/2005 - INTERIGHTS & the Egyptian Initiative for Personal Rights / Egypt¹

Rapporteur:

38th Ordinary Session: Commissioner Yaser Sid Ahmed El-Hassan

39^h Ordinary Session: Commissioner Yaser Sid Ahmed El-Hassan

Summary of the facts:

1. The complaint is filed by the International Centre for Human Rights (INTERIGHTS)², and the Egyptian Initiative for Personal Rights pursuant to Article 55 and 56 of the African Charter on Human and Peoples' Rights ("the African Charter").
2. The authors allege that the victim under the present communication is a religious training Egyptian graduate of Al-Azhar University in Cairo, Egypt, who continuously sought to challenge the legality of his arrest after being arrested from his home on 18th of May 2003 with out being given no reason but due to presumably his unpublished religious researches refuting the oftenly held opinions of the 'duty of Muslims to kill converts from Islam to other religions' and 'prohibition on Muslim women marrying non-Muslim men' which was distributed widely. Despite several appeals of the applicant. Despite his several appeals and official complaints and the repeated release orders of the Emergency Court, the victim still continues to be in prison. They further alleged that applicant has been made subject to assaults and harassments consequent to his arrest, and his complaints to get protection and investigation proved to be futile.
3. The authors submit that the applicant's rights have been violated under Articles 2, 5, 6, 7(1)(d), 8 and 9(2) of the Charter as he was discriminated against in his enjoyment of Charter rights on the basis of his religious beliefs; inhumanely detained and denied the protection and respect of the right to dignity; arbitrarily arrested and detained and denied effective judicial remedy; and when arbitrarily restricted to exercise his freedom to express his religious thoughts.
4. It is further alleged that the violations of the applicants rights have been made possible by the respondent states's State of Emergency which the African Commission has had, on a number of occasions, the opportunity of to consider and emphasis that the Charter does not permit states to derogate from their

¹ Egypt ratified the African Charter on the 20th of March 1984.

² International Centre for Human Rights (INTERIGHTS) is a Non-government Organization which was granted Observer Status with the African Commission during the 18th Ordinary Session in October 1990.

responsibilities during states of emergency, and that this is “an expression of the principle that the restriction of human rights is not a solution to national difficulties”.

5. The authors averred that each time the Emergency Court has ordered the applicant’s release the Minister for Interior, Mr.Habib El-Adli has issued a new administrative detention decree under Article 3 of the Emergency Law which allows the President, or the Minister for the Interior to order, orally or in writing, the arrest and detention of those who “pose a threat to public security”.

6. The authors also alleged that the applicant has appealed his detention several times before the State Security Emergency Court, the only and final judicial body designated for that purpose under the Emergency Law, and the same court has passed seven orders for his release but none of them have been implemented. In addition the authors alleged that the applicant has submitted five complaints to the State Security Prosecutor’s Office and ten complaints to the National Council of Human Rights but no response has been received.

The Complaint

7. The authors of this Communication contend that applicant’s arbitrary arrest and detention, his subsequent treatment under detention, the failure of the Government of Egypt to provide the former with adequate and effective judicial remedy, and the manner in which the 24-year long State of Emergency has been applied in practice violates Articles 2, 5, 6, 7(1)(d), 8 and 9(2) of the Charter.

The Procedure

8. The present communication was received by the Secretariat of the African Commission on the 22nd of November 2005.

9. The Secretariat of the Commission acknowledged receipt of the Communication to the contact persons of the INTERIGHTS and the Egyptian Initiative for Personal under letter ACHPR/LPROT/COMM/ 312/2005/RK of 29 November 2005, and informed the same that the Communication will be the Commission’s agenda for consideration at seizure stage at the 38th Ordinary Session of the Commission which is being held from 21st November 2005 to 5th December 2005 in Banjul, The Gambia.

10. During its 38th Ordinary Session, the African Commission considered the communication and decided to be seized thereof.

11. On 19 December 2005, the Secretariat informed the parties of this decision, transmitted a copy of the complaint to the Respondent State and requested both parties to send in their arguments on admissibility.

12. On 16 February 2006, the complainant forwarded its arguments on admissibility of the case.

13. On 29 March 2006, the Secretariat acknowledged receipt of the arguments and forwarded them to the Respondent State whose rejoinder was requested within 3 months.

14. By letter dated 19 May 2006, the Complainant informed the African Commission that the alleged victim, Mr. Methwalli Ibrahim Methwalli was released and was requesting that the complaint be withdrawn.

15. During its 39th Ordinary Session that took place from 11 to 25 May 2006 in Banjul, The Gambia, the African Commission considered the complaint and heard the parties. On that occasion, the Complainant reiterated his wish to withdraw the complaint.

Consequently, the African Commission decides to strike out this communication.