

UGANDA / JUDGMENT

Egyptian Organisation For Human Rights v Egypt (Communication 201 of 1997) [2000] ACHPR 16 (11 May 2000)

[2000] ACHPR 16

COURT

African Commission on Human and Peoples Rights

CASE / FILE NUMBER

Communication 201 of 1997

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AFRICAN COMMISSION ON HUMAN AND PEOPLES' RIGHTS Twenty-Seventh Ordinary Session 27 April - 11 May 2000

EGYPTIAN ORGANISATION FOR HUMAN RIGHTS

v.

EGYPT

DECISION

BEFORE: CHAIRMAN: Professor E. V. O. Dankwa VICE CHAIRPERSON: Mrs. Julienne Ondziel-Gnelenga COMMISSIONERS: Professor Isaac Nguema, Dr. Hatem Ben Salem, Mr. Kamel Rezag-Bara, Dr. Nyameko Barney Pityana, Mr. Andrew Ranganayi Chigovera, Mrs. Vera Mlangazuwa Chirwa, Mrs. Jainaba Johm

Citation: Egyptian Org. for Human Rights v. Egypt, Comm. 201/97, 13th ACHPR AAR Annex V (1999-2000)

Publications: IHRDA, Compilation of Decisions on Communications of the African Commission

> On Human and Peoples' Rights Extracted from the Commission's Activity Reports 1994-2001, at 88 (2002); Documents of the African Commission on Human and Peoples' Rights, Vol. 2, at 182 (Malcolm D. Evans & Rachel Murray eds., 2009); (2000) AHRLR 90 (ACHPR 2000)

RAPPORTEUR

22nd Session: Commissioner Nyameko Pityana

23rd Session: Commissioner Nyameko Pityana

24th Session: Commissioner Nyameko Pityana

25th Session: Commissioner Nyameko Pityana

26th Session: Commissioner Nyameko Pityana

27th Session: Commissioner Nyameko Pityana

SUMMARY OF FACTS

1. On June 17, 1997, a State Security Investigation force arrested eight people for peacefully opposing the implementation of Law 96 of 1992, which regulates the relation between landowners and tenants of agricultural land. The individuals arrested were Hamdien Sabbahi, a journalist; Mohamed Abdu, a veterinarian; Mohamed Soliman Fayad and Harudi Heikal, lawyers; Mahmoud Soliman Abu-Rayya, Mahmoud Al-Sayid Abu-Rayya and Sabe Hamid Ibrahim, farmers; and Al-Tokhi Ahmed Al-Tokhi, who was taken hostage pending the surrender of his brother to the authorities.
2. Mahmoud Soliman Abu-Rayya, Mahmoud Al-Sayid Abu-Rayya and Sabe Hamid Ibrahim were arrested for hanging black banners on their houses in protest of Law 96. Mohamed Abdu, Mohamed Soliman Fayad and Harudi Heikal were arrested shortly after participating in a rally held in Banha to protest Law 96.
3. Hamdien Sabbahi was apparently arrested for promoting a signature petition meant to be sent to the President in protest of Law 96.
4. When the SSI force arrested Hamdien Sabbahi, they broke into his office, searched it, and confiscated some documents. The arrest and search were carried out without a warrant or the presence of a public prosecution representative, which contradicts state law.
5. Hamdien Sabbahi, Mohamed Abdu, Mohamed Soliman Fayad and Harudi Heikal have all been charged with violations of Article 86 (bis) and 86 (bis) (A) of the Penal Code introduced as part of an anti-terrorist law. Specifically, these individuals were charged with;
 - A. Promoting orally ideas that oppose the basic foundations of the present regime and inciting hatred and contempt against it; encouraging the breakdown of the Constitutional principles; opposing the implementation of laws and promoting resistance against the authorities (including terrorist activities), and
 - B. Possession of printed materials and publications that encourage the aforementioned ideas.
- 6. It is not clear that Mahmoud Soliman Abu-Rayya, Mahmoud Al-Sayid Abu-Rayya and Sabe Hamid Ibrahim have been charged with any crime yet.

7. Following the imprisonment of Hamdien Sabbahi, Mohamed Abdu, Mohamed Soliman Fayad and Harudi Heikal, a prison officer ordered them into a cell, stripped off their clothes and made them stand with their faces against the wall and ordered soldiers to beat them. They were beaten until they suffered temporary paralysis. Their personal belongings and medicines were confiscated, their heads were shaved, and they were forced to wear prison uniforms.

COMPLAINT

8. The author alleges violation by the government of the Arab Republic of Egypt of Articles 2, 3, 4, 5, 6, 7, 9, and 11 of the Charter.

PROCEDURE

- 9. Communication 201/97, sent by the Egyptian Organisation for Human Rights was received at the Secretariat on June 22, 1997.
- 10. An addendum to the communication regarding measures taken by the Public Prosecutor's office was received at the Secretariat on June 26, 1997.
- 11. At the 22nd ordinary session, the Commission decided to be seized of the communication and postponed taking a decision on admissibility to the 23rd session.
- 12. At subsequent sessions, the Commission reviewed the issue of exhaustion of local remedies by the complainant. To this end, parties were requested to submit all the information at their disposal to the Secretariat.
- 13. At the 27th session, the Commission took a decision on the admissibility of the communication.

LAW ADMISSIBILITY

14. Article 56(5) of the Charter provides:

"Communications...shall be considered if they: ... are sent after exhausting local remedies, if any, unless it is obvious that this procedure is unduly prolonged."

15. The Commission observed that on the surface of the communication, the complainant did not exhaust domestic remedies. It noted further that despite repeated demands, parties have not responded to its requests for additional information on the issue of exhaustion of local remedies and that the complaint had been pending for a long time. In the absence of such information, the Commission declared the case closed because conditions for admissibility have not been satisfied.

FOR THE ABOVE REASONS, THE COMMISSION declares the communication inadmissible.

Done in Algiers, Algeria on 11 May 2000.

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