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African Commission on Human & Peoples' Rights | Commission Africaine des Droits de l'Homme & des Peuples

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Communication 658/17

Shereen Said Hamd Bakhet

V

Arab Republic of Egypt

Adopted by the
African Commission on Human and Peoples' Rights
during the 63rd-Ordinary Session, from 24 October to 13 November 2018
Banjul, The Gambia

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Commissioner Soyata Maiga
Chairperson of the African Commission
on Human and Peoples' Rights

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Dr. Mary Maboreke
Secretary to the African Commission on
Human and Peoples' Rights

Decision of the African Commission on Human and Peoples' Rights on Strike out Communication 658/17 – Shereen Said Hamd Bakhet v. Arab Republic of Egypt

Summary of the Complaint:

1. The Secretariat of the African Commission on Human and Peoples' Rights (the Secretariat), received a complaint on 13 March 2017 from the Organisation of European Alliance (AED), Aman Organisation, Mr Hany Salah El Fakharany, and one other individual who sought anonymity (the Complainants), on behalf of Shereen Said Hamd Bakhet (the Victim).
2. The Complaint is submitted against the Arab Republic of Egypt (Respondent State), State Party to the African Charter on Human and Peoples' Rights (the African Charter).[1]
3. The Complainants submit that the Victim is married and has four (4) children. The Complainants add that the Victim has bold opinions which the military *"coup"* forces oppose.
4. The Complainants allege that police dressed in civilian clothes raided the Victim's home in Baraka el-Sabaa, Menoufia governorate, at 2:00 am on 19 October 2016, searched the house, stole money and jewellery, and arrested the Victim. The Complainants further allege that the Victim asked the intruders to show her their identifications and whether they had permission from the public prosecutor, at which point "they almost beat her in front of her children".
5. The Complainants aver that the Victim and her family were not informed of the reasons for the arrest, nor was her family informed of the place of her detention.
6. The Complainants submit that following the arrest of the Victim, security forces took her to the State Security Investigations Service (SSIS) in Shebin El Koum, Menoufia governorate where she was handcuffed and interrogated for several hours in the absence of a lawyer.
7. The Complainants submit that during the interrogation, security forces were trying to force the Victim to confess to charges they fabricated against her, and they threated to arrest her son Baraa who was 9 years old at the time and her brother Mohammed who was 16 years old, when she refused to confess. The Complainants add that the Victim was sexually harassed and that she was threatened with rape.
8. The Complainants allege that the Victim was eventually forced to confess to the fabricated charges, and that she was also forced to make a statement indicating that she had sexual relations with many men. The Complainants aver that

[1] Egypt ratified the African Charter on Human and Peoples' Rights (the African Charter) on 20 March 1984.

following her interrogation, the Victim was kept in a dirty toilet which was so foul that she could not find a place to sit causing her severe stress and fatigue.

9. The Complainants submit that the Victim was taken to the SSIS in Cairo, and was again interrogated in a similar manner and forced to confess for a second time which was recorded on audio and video. The Complainants state that the she underwent psychological and physical torture. They add that she was taken back to Shebin El Koum in the middle of the night.
10. The Complainants allege that the Victim was interrogated further when she reached Shebin El Koum at 3:00 am on 20 October 2016, where she again confessed to the fabricated charges.
11. The Complainants submit that the Victim was brought before the Supreme State Security Prosecution in Cairo at 12:00 pm on 20 October 2016 without a lawyer present. They add that the Victim was not allowed to defend herself and was not informed of the content of the public prosecutions minutes from the investigations, but "she was only allowed to sign the minutes".
12. The Complainants aver that it was decided that the Victim be detained for four (4) days, and that she was therefore taken back to Shebin El Koum where she was held in *incommunicado* detention in "a dark cell full of insects". The Complainants state that the Victim was presented to the State Security Prosecution in Cairo on 23 October 2016, again in the absence of a lawyer and without information on the investigation, where the Prosecution decided to detain her for 15 more days pending investigation.
13. The Complainants allege that the Victim was then taken to the Shebin El Koum police station and not the SSIS in Shebin El Koum. They add that "the Victim was imprisoned with a group of criminals who were stealing her food and personal belongings."
14. The Complainant further allege that lawyers found out the whereabouts of the Victim only on 14 November 2016, after which they became aware of the ordeal she faced. They add that despite the intervention of the lawyers, the public prosecutor failed to investigate the abuses of the Victim.
15. The Complainants submit that "the Public Prosecution has been complicit with the security forces since the military coup in Egypt, it has not paid any attention to the torture or threat to the victim, and has continued to direct the fabricated accusations against her." The Complainants state that the Victim is accused in Case No. 761 of 2016 before the Supreme State Security for reporting false news about the internal situation in the country "to stir up public opinion at home and abroad", belonging to an outlawed group, and "working with satellite channels to the detriment of the regime's ruling".
16. The Complainants aver that the Victim is imprisoned in "al-Qanater prison, suffers from kidney failure, has liver disease, low blood pressure, and the

prison administration refuses to treat her." They add that the water in the prison is not suitable for drinking. The Complainants state that the Victim's detention was renewed several times. They state that the Victim is unable to look after her 4 children.

Articles alleged to have been violated:

17. The Complainants allege violation of Articles 1, 2, 3, 4, 5, 6, 7, 8 and 19 of the African Charter.

Procedure:

18. The Secretariat received the Complaint on 13 March 2017, and acknowledged receipt of the same on 3 April 2017.
19. By letter dated 27 April 2017, the Secretariat requested for clarifications on the Complaint in accordance with Rule 93 (4) of the Rules of Procedure of the Commission.
20. On 3 May 2017, the Complainants transmitted the requested clarification on the Complaint, which the Secretariat acknowledged receipt of on 2 June 2017.
21. The Commission was seized of the Communication and granted Provisional Measures during its 22nd Extra-Ordinary Session, held from 29 July to 7 August 2017.
22. By letter and Note Verbale dated 28 August 2017 the seizure decision was transmitted to the Parties and the Complainant was requested to forward its submissions on admissibility within two months.
23. By Note Verbale dated 22 November 2017 the Respondent State transmitted its submissions on the admissibility to the Commission, although the Complainant had not yet submitted on admissibility.
24. By letter and Note Verbale of 07 June 2018 the Parties were informed that the Complainant had been granted an extension of thirty (30) days within which to submit on admissibility.
25. By letter and Note Verbale of 31 August 2018 the Parties were informed that the extension granted to the Complainant had expired and that it is no longer possible for the Complainant to submit on admissibility.

Analysis of the Commission to strike out

26. Rule 105(1) of the Commission's Rules of Procedure establishes that when the Commission has decided to be seized of a Communication, it shall request the Complainant to present arguments on Admissibility within two (2) months.
27. Rule 113 provides that when a deadline is fixed for a particular sub mission, either party may apply to the Commission for extension of the period

stipulated. The Commission may grant an extension of time for a period not longer than one (1) month.

28. In this case, the Complainant was requested to present evidence and arguments on the admissibility of the Communication within two (2) months from the date of notification of the seizure decision, which period had expired on 28 October 2017. However, the Complainant did not present any evidence and arguments within the stipulated time.
29. Given that more than six (6) months had passed without correspondence from the Commission, on 07 July 2018 the Complainant was granted a further period of 30 calendar days from the date of notification to submit evidence and arguments on the admissibility of the above-mentioned Communication.
30. More than three (3) months have lapsed since the expiry of the last extended period and no evidence and arguments have been submitted by the Complainant.
31. In light of the above, the Commission therefore finds that the Complainant has shown no interest in prosecuting this Communication.
32. The Commission takes note of its jurisprudence, including Communication 594/15: Mohammed Ramadan Mahmoud Fayad Allah v. the Arab Republic of Egypt, Communication 612/16: Ahmed Mohammed Ali Subaie v. the Arab Republic of Egypt, Communication 412/12: Journal Echos du Nord v. Gabon and Communication 387/10: Kofi Yamagnane v. The Republic of Togo, which were similarly struck out for want of diligent prosecution.

Decision of the Commission

33. In view of the above, the Commission decides to strike out the Communication for lack of diligent prosecution.

Done at the 63rd Ordinary Session of the Commission held in Banjul, The Gambia from 24 October to 13 November 2018