

Dear Head of the Prisons Authority,

Complaint against the Warden of Al Mazraa Prison at Tora:

Submitted by Mr. Mohamed Azab Ahmed, attorney of suspect Malek Mustafa Adly El Guendy under general power of attorney no. (4346/A/2013/Lawyers Syndicate Notary Office) and power of attorney no. (1872/A/2015/Lawyers Syndicate Notary Office) to complain about the aforementioned suspect's remand in custody in Al Mazraa Prison at Tora pending further investigations carried out by the Public Prosecution in case no. (4016/2016/Administrative/Shubra Al Khaima II).

Reason:

On 6 May 2016, Malek Mustafa Adly El Guendy has been placed in remand in Al Mazraa Prison at Tora pending the aforementioned case. Since his first day at Tora, Adly has been in solitary confinement even though he did not commit any crime that requires a punishment with such psychologically and physically harmful effect on him. My client does not know the legal reasons that made the prison authority take such procedures against him, not to mention that he was not heard in an official investigation regarding the imposition of such penalty on him. Moreover, his defense team was not able to have access to the reasons why Mr. Adly was held in solitary confinement.

Furthermore, Mr. Adly has not been allowed to this moment to exercise at least for the two-hour period of exercise breaks allowed for all prisoners, especially that he has not committed any contravention that requires punishment by denying his right to exercise. Therefore, Mr. Adly remains inside his cell all the time, except when he has renewal session every fifteen days when he has to be moved from prison to court. Permanent lack of exposure to sunlight has affected his health severely, especially that he suffers from hypertension and dorsalgia.

Mr. Adly's detention room is not well-furnished especially that it lacks a hospital bed, a mattress, a chair and a small table. His family's requests to prepare his detention room on their own expenses were denied. My client has also been denied entry to the mosque to practise his personal rights of worship, and he has also been denied the preaching lessons allowed to prisoners according to their religious groups.

The prison administration also denied allowing Mr. Adly to reach the allowed newspapers, magazines and books to read in the spare time. They also refused to allow him to buy them on his own expense and refused his receiving them by his visiting family members. My client's family members have not been allowed to give him any of the aforementioned printed material in any of several visits.

According to the aforementioned, the procedures hereinbefore taken against my client, Malek Mustafa Adly" violate the constitution, the prison law and the prison regulations as follows:

I) Violation of the constitution:

Article (55):

Every person who is either arrested, detained, or his freedom is restricted shall be treated in a manner that maintains his dignity. He/she may not be tortured, intimidated, coerced, or physically or morally harmed; and may not be seized or detained except in places designated for that purpose, which shall be adequate on human and health levels. The State shall cater for the needs of people with disability.

Violating any of the aforementioned is a crime punished by Law.

An accused has the right to remain silent. Every statement proved to be made by a detainee under any of the foregoing actions, or threat thereof, shall be disregarded and not be relied upon.

Article (84):

Everyone has the right to exercise sports. The State institutions and civil society shall endeavor to discover and sponsor the talented athletes and take the necessary measures to encourage the exercise of sports.

The Law shall regulate the affairs of sports and non-governmental sporting agencies in accordance with international standards and shall regulate the manner of settling sporting disputes.

Article (92):

Inalienable rights and freedoms of citizens may not be suspended or reduced.

No law regulating the exercise of rights and freedoms may restrict such rights and freedoms in a manner prejudicing the substance and the essence thereof.

II) Violation of law no. (396/1956):

Article (14):

Those who are remanded in custody shall be detained in places separate from other prisoners and they shall be allowed an accommodation in a furnished room for a price that is set by the Minister's Assistant for Prisons, and that price shall be at least fifteen pounds per day within reason regarding what the places and provision inside a prison would allow, all according to the procedures and rule stated in the prisons regulations.

Article (30):

Every prison shall have a prisoners' library that contains religious, scientific and moral books that encourage prisoners to benefit therefrom in their spare times. The prisoners may bring, on their own expenses, books, newspapers and magazines according to what is stated in the prison regulations.

Article (44):

A prison warden may impose the following penalties:

- Notice,
- deprivation of some prerogatives established for the prisoner's category,
- delay of moving a prisoner for a higher rank for a period that shall not exceed three months if he is serving a life sentence or hard prison and for a period that shall not exceed a month if he is sentenced to prison or detention with hard labor, and
- solitary confinement that shall not exceed fifteen days.

These penalties shall be imposed after the prisoner has confessed the claimed charges, been through hearing trial(s), and has had his defense rights. Only then shall the warden's order to impose the penalty be taken into force.

The other penalties shall be imposed by the Minister's Assistant for Prisons as requested by the prison warden after a report that includes the prisoner's statements, his defense rights and the testimonies of witnesses has been filed.

III) Violation of the Minister of Interior's decree no. (79/1961) regarding the prison regulations:

Article (15):

Those who are sentenced and remanded in custody shall request to receive on their own expenses as much as they want of the permitted books, newspapers and magazines to read in the spare time.

The prison administration shall check whatever the prisoners request to receive of books, newspapers or magazines and shall not give them to the prisoners before making sure they contain nothing that goes against the regime, arouses feelings or senses or breach security and religion, and only then can the administration stamp them with the prison seal. If they contain material that is prohibited to publish, the competent authorities and the prison authority shall be notified.

Article (83):

The furniture allowed to those remanded in custody and permitted to accommodation in a furnished room shall be as follows:

A hospital bed, a mattress, a pillow, 2 bed sheet, a wool blanket for summer and two for winter, a fiber carpet, a wooden chair, an iron hanger, a painted iron washbowl, a painted iron teapot and a soap tray in case there is no sink and tap water supply in the room.

A small table, a mirror, a pot and a plate for drinking water, a hairbrush, a comb, a fork, a spoon, bricks, a bowl, and a small metal plate.

IV) Wording of article no. (85 bis “c”) amended by the Minister of Interior’s decree no. (3320/2014) regarding the amendment of some of the articles on the prison regulations particularly about what the wording included, as:

Each category of those prisoned with sentences who are not with hard labor, those who are remanded in custody and those who are under medical examination is allowed separately to exercise in the periods when the prison is open to sport queues for an hour in the morning and for an hour in the evening. Prisoners are not allowed to go out for sports on Fridays and vacations except when the vacation exceeds one day, as only then shall they be allowed the exercise for the second and/or following day(s) thereof in the morning only for half an hour, under the condition that enough guards are present.

Since not taking the necessary action to stop the violations committed against my client is a way of obstructing justice and the rule of law and puts those responsible for such violations under penalties prescribed in articles no. (116 bis “a”), (116 bis “b”) and (123) of the Egyptian Penal Code, we hereby file you this complaint to start an investigation into these incidents and to allow Mr. Adly to enjoy all his rights recognized by the constitution and the law, on top of which are:

- 1) His right to exercise,
- 2) his right to read books, newspapers and magazines the reading of which is allowed inside prison,
- 3) ending his solitary confinement to which he is subject on no legal basis,
- 4) allowing him to pray in the mosque, and meet his preacher, and
- 5) allowing him and his family members to furnish on their own expenses his detention room in a suitable humane way.

Warmest regards,

Mohamed Azab

Attorney