

OPINION No. 8/2002 (SAUDI ARABIA)

Communication addressed to the Government on 18 December 2001

Concerning: Said Al Zu'air

The State is not a party to the International Covenant on Civil and Political Rights

1. The Working Group on Arbitrary Detention was established by resolution 1991/42 of the Commission on Human Rights. The mandate of the Working Group was clarified and extended by Commission resolution 1997/50, and reconfirmed by resolution 2000/36. Acting in accordance with its methods of work, the Working Group forwarded to the Government the above-mentioned communication.

2. Although the Working Group was provided with the Government's reply well beyond the set deadline, it wishes to express its appreciation to the Government for its cooperation. In conformity with rule 15 of its revised methods of work, the Working Group brought the reply of the Government to the attention of the source, which made comments thereon.

3. The Working Group regards deprivation of liberty as arbitrary in the following cases:

- (i) When it manifestly cannot be justified on any legal basis (such as continued detention after the sentence has been served or despite an applicable amnesty act) (category I);
- (ii) When the deprivation of liberty is the result of a judgement or sentence for the exercise of the rights and freedoms proclaimed in articles 7, 13, 14, 18, 19, 20 and 21 of the Universal Declaration of Human Rights and also, in respect of States parties, in articles 12, 18, 19, 21, 22, 25, 26 and 27 of the International Covenant on Civil and Political Rights (category II);
- (iii) When the complete or partial non-observance of the international standards relating to a fair trial set forth in the Universal Declaration of Human Rights and in the relevant international instruments accepted by the States concerned is of such gravity as to confer on the deprivation of liberty, of whatever kind, an arbitrary character (category III).

4. In the light of the allegations made by the source and the Government, the Working Group believes that it is in a position to render an opinion on the facts and circumstances of the case.

5. According to the source, Mr. Al Zu'air, aged 44 and a national of the Kingdom of Saudi Arabia, is a former head of the Information Department at the Imam Muhammad Bin Saud Islamic University in Riyadh. He is said to be outspoken on public affairs. On 5 March 1995 he was arrested at his home in Riyadh by agents of the General Intelligence Service (*Al-Mabahith Al-Amma*) on orders of the Minister of the Interior, without an arrest warrant or charges being

brought against him. The Saudi authorities allegedly accused him of meeting with other academics, including the late Grand Mufti of Saudi Arabia, Sheikh Abdel Aziz Bin Baz, and speaking out about the Kingdom's public affairs, especially corruption.

6. The Government gave the following account of Mr. Al Zu'air's arrest: "Mr. Al Zu'air was arrested on a charge of fomenting sedition and instigating acts incompatible with the laws in force in the Kingdom of Saudi Arabia, which would cause problems and disturbances and jeopardize public safety and security. After questioning, he was immediately charged with exploiting his academic position at the Imam Muhammad Bin Saud Islamic University to instigate rebellion and advocate extremism and sedition, all of which are punishable acts under the laws of the Kingdom of Saudi Arabia. He is currently facing trial."

7. The Working Group is well aware of the dangers of advocating such extremism, aimed at undermining the integrity of the State. Accordingly, the arrest and trial of the accused were necessary to protect society from a destructive ideology and his detention cannot be regarded as arbitrary since he was questioned and formally charged and is awaiting a court ruling.

8. The only allegation of the source which is not denied by the Government is that Mr. Al Zu'air has now been held in detention for more than seven years. To assess the remaining allegations of the source and the Government, which are almost completely contradictory, the Working Group would like to emphasize that the Government has not challenged the following allegations of the source, namely that Mr. Al Zu'air was not served with an arrest warrant at the time, that he was not informed of the reasons for his detention and of the charges against him, that the authorities did not afford him the assistance of a lawyer or allowed him to appoint his own lawyer, and that he was not formally charged with any criminal offence nor was he brought before a judge to face charges. For its part, the Government has not substantiated its allegation with regard to the lawfulness of the detention and has failed to provide the Working Group with the text of the criminal law serving as the basis of the procedure conducted against Mr. Al Zu'air, or with any judicial decision ordering his arrest. No explanation has been offered by the Government for the unusually long delay in instituting criminal proceedings against him, nor has the Government explained why his detention for such a long period of time was deemed indispensable by the judicial authorities.

9. The Working Group is of the opinion that the Government's argument concerning the dangerous nature of acts advocating extremism does not by itself justify the long detention of Mr. Al Zu'air.

10. In the light of the foregoing, the Working Group renders the following opinion:

The deprivation of liberty of Said Al Zu'air, ordered by the executive and not reviewed nor sanctioned by the judiciary, as well as his detention for more than seven years without the benefit of a trial at which his guilt or innocence could have been established, are contrary to international norms relating to a fair trial spelled out in articles 9, 10 and 11 of the Universal Declaration of Human Rights. This breach of international norms is of such gravity as to confer an arbitrary character on his deprivation of liberty, which falls within category III of the principles applicable to the consideration of cases submitted to the Working Group.

11. Consequently, the Working Group requests the Government:

(a) To take the necessary steps to remedy the situation by bringing it into conformity with the standards and principles set forth in the Universal Declaration of Human Rights; the Working Group believes that in this particular case the release and compensation of Mr. Al Zu'air for the lengthy arbitrary detention would constitute an appropriate remedy;

(b) To take adequate initiatives with a view to becoming a State party to the International Covenant on Civil and Political Rights.

Adopted on 11 September 2002