

OPINION No. 35/2005 (SAUDI ARABIA)

**Communications addressed to the Government on 6 August 2004,
18 November 2004, 15 February 2005.**

**Concerning Mr. Mazen Salah ben Mohamed Al Husayn Al Tamimi;
Mr. Khalid Ahmed Al-Eleq; Mr. Majeed Hamdane b. Rashed Al-Qaid.**

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

1. (Same text as paragraph 1 of opinion No. 20/2004.)
2. The Working Group regrets that the Government has not submitted substantive information on the allegations transmitted concerning the above-mentioned persons.

3. (Same text as paragraph 3 of opinion No. 20/2004.)

4. In the light of the allegations made, the Working Group welcomes the cooperation of the Government, but regrets that it did not provide the Group with the information it sought. The Working Group believes that it is in a position to render an opinion on the facts and circumstances of the case, in the context of the allegations made and the response of the Government thereto.

5. The cases summarized hereafter have been reported to the Working Group on Arbitrary Detention as follows.

6. Mr. Mazen Salah ben Mohamed Al Husayn Al Tamimi, a Saudi national, born on 27 April 1974, married and father of four children aged from 1 to 7, human rights defender, member of the Al Karama Association for Defending Human Rights, suffering from a physical disability, currently detained in Dammam in a detention centre of the Ministry of the Interior, was arrested on 31 May 2004 at his home in Khobar by agents of the General Intelligence Service who failed to provide a proper arrest warrant. No reasons were given to justify his arrest. His wife and children were also arrested but were later released.

7. Mr. Al Tamimi is being kept in incommunicado detention. He has not been given an opportunity to be heard by a judicial authority. He has not been brought before a judge nor charged. Mr. Al Tamimi has been constantly interrogated by members of the General Intelligence Service regarding his membership in the Al Karama Association for Defending Human Rights, a non-governmental human rights organization, and about a recent trip to Doha where he met with the Chairperson of the Association. During his interrogation, Mr. Al Tamimi was allegedly ill-treated. No consideration was given to his physical disability.

8. The source further reports that Mr. Al Tamimi has not been allowed to contact or to appoint a defence lawyer. He has had no judicial recourse to contest the lawfulness of his detention.

9. Mr. Khalid Ahmed Al-Eleq, a citizen of Saudi Arabia born on 25 December 1974, is a Shia religious cleric usually resident in Tarut, Turkia, Eastern Province, Saudi Arabia. It was reported that on 29 September 2004, Mr. Al-Eleq returned to Saudi Arabia from a period of religious study at Islamic seminaries in Qom, Islamic Republic of Iran. Upon his arrival at King Fahd International Airport, Dammam, on a flight from Tehran, he was arrested by officials of the General Directorate of Investigation (Mabahith), a branch of the Saudi Ministry of the Interior. The officials did not show an arrest warrant or other relevant decision by a public authority, nor did they orally inform Mr. Al-Eleq of the reasons for his arrest. Mr. Al-Eleq is currently detained at the Mabahith headquarters in Dammam. No information on the reasons for the arrest or charges against him have been released to date. The family has been allowed to visit him twice.

10. The detention of Mr. Al-Eleq according to the source is aimed at preventing him from exercising his freedom of religion in the future. In particular, the detention is motivated by the Saudi authorities' alleged determination to repress the teaching and learning of Shia religious studies, as also demonstrated by the ban on the establishment of Shia learning centres. In this

respect, the source alleges that it is not the first time that a Saudi citizen who is a Shia Muslim has been detained without charges for long periods after returning from religious studies in Iran. This practice allegedly persists despite the lifting of the ban on travelling to Iran in 2001.

11. Mr. Majeed Hamdane b. Rashed Al-Qaid, a Saudi Arabian citizen, born in 1967 in Sekkaka, Al Jouf, married and father of six children, a graduate in Education Sciences from Ibn Saoud University in Riyadh, employee at the Ministry of Education, was arrested on 7 June 2003 at 1 p.m. at his office at the Ministry by agents of the Saudi intelligence services. No arrest warrant was shown to him nor have charges been brought against him. He was conducted, handcuffed, to his home where his wife and children were present. His home was violently searched and his personal computer and related material were seized. He was held in incommunicado detention at an unknown place for four months.

12. It was further reported that his relatives were not authorized to visit him until 26 October 2003, when they could see signs of bruises on his face and other signs of ill-treatment and torture on his body. Mr. Al-Qaid has not been authorized to appoint a defence lawyer, nor given an opportunity to be heard by a judicial authority. He has not been able to challenge the lawfulness of his detention. The source believes that Mr. Al-Qaid was arrested because of his criticism and political views opposing the Government.

13. According to the source, these persons were arrested and are being held in detention for their activities as human rights defenders and for the peaceful exercise of their rights to peaceful assembly, association, freedom of opinion and expression and freedom of religion. The source adds that the detention of these persons is arbitrary because it is devoid of any legal basis. The authorities have so far failed to provide any decision justifying arrest and detention. The detention of these persons is also contrary to articles 2, 4, 35 and 64 of Royal Decree No. M.39 of 16 October 2001, as a proper warrant was not produced at the time of their arrest and the detainees were not brought before a judicial authority to establish the lawfulness and length of their detention.

14. On 18 August 2005, the Government reported that the cases of the above-mentioned persons are being investigated by the competent authorities in the Kingdom which, being eager to cooperate with the Working Group, will provide all pertinent information as soon as the validity of the allegations transmitted by the Working Group has been examined.

15. On the basis of the foregoing, the source raises several complaints, the most relevant to the Working Group's mandate being those concerning the arrest and detention of Mr. Al-Qaid, since 7 June 2003, of Mr. Al Tamimi since 31 May 2004 and of Mr. Al-Eleq since 29 September 2004, in the absence of a judicial order, without information regarding the charges, without being brought before a judge and denying them the assistance of a lawyer. Although the Government requested and was granted additional time to submit its reply upon the expiry of the original 90-day deadline, it limited itself to stating that the above-mentioned persons are the subject of an investigation. As the allegations of the source have not been disputed, the Working Group can only conclude that the detention of those persons does not have any legal basis. This circumstance in itself already renders their detention utterly contrary to the applicable international norms and constitutes an extremely grave violation of the right to liberty.

16. Additionally, according to the information provided by the source, which has remained unchallenged by the Government, the unlawful detention of Mr. Al Tamimi is motivated solely by his being a member of an association defending human rights and by his activities as a human rights defender, while Mr. Al-Eleq is a Shia cleric detained for his religious activities and to prevent him from teaching his religion.

17. As a consequence, and in the absence of any argument to the contrary by the Government, the Working Group can only conclude that these persons are detained because of their convictions, of the expression of their opinion, and of the legitimate exercise of the rights to freedom of expression, to assemble, and of association in the case of Mr. Al Tamimi, and of the legitimate exercise of religious freedom in the case of Mr. Al-Eleq.

18. In the light of the foregoing the Working Group expresses the following opinion:

The detention of Mr. Mazen Salah ben Mohamed Al Husayn Al Tamimi is in contravention of article 9, 19 and 20 of the Universal Declaration of Human Rights and falls within categories I and II of the categories applicable to the consideration of the cases submitted to the Working Group.

The detention of Mr. Majeed Hamdane b. Rashed Al-Qaid is in contravention of articles 9 and 18 of the Universal Declaration of Human Rights and falls within categories I and II of the categories applicable to the consideration of the cases submitted to the Working Group.

The detention of Mr. Khalid Ahmed Al-Eleq is in contravention of article 9 of the Universal Declaration of Human Rights and falls within category I of the categories applicable to the consideration of the cases submitted to the Working Group.

19. Consequent upon this opinion, the Working Group requests the Government to take the necessary steps to remedy the situation in order to bring it into conformity with the provisions and principles enshrined in the Universal Declaration of Human Rights.

20. The Working Group recommends that the Government consider signing and ratifying the International Covenant on Civil and Political Rights.

Adopted on 2 September 2005