

OPINION No. 6/2008 (Saudi Arabia)

Communication addressed to the Government on 26 June 2007.

Concerning Mr. Abdul Rahman b. Abdelaziz al Sudays.

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

1. (Same text as paragraph 1 of Opinion No. 14/2007.)
2. The Working Group conveys its appreciation to the Government for having forwarded the requested information.
3. (Same text as paragraph 3 of Opinion No. 15/2007.)
4. In the light of the allegations made the Working Group welcomes the cooperation of the Government. The Working Group transmitted the reply provided by the Government to the source. 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 as well as the observations by the source.
5. According to the source, Mr. Abdul Rahman b. Abdelaziz al Sudays, (hereinafter Mr. Al Sudays), aged 47, married, Professor at Umm Al-Qura University at Mecca, was arrested on 16 May 2003 at his home in Jeddah by agents of the Security Services who neither informed him of the reasons for his arrest, nor produced an arrest warrant. His home was searched without a search warrant. Mr. Al Sudays was taken to a detention centre in Jeddah depending on the Ministry of the Interior, where he was allegedly tortured.
6. His family was not informed of Mr. Al Sudays's place of detention until several weeks after his arrest. It was not authorized to visit him or to appoint a defence lawyer on his behalf.
7. The source points out that more than four years after his arrest, Mr. Al Sudays does not know whether there has been any course of action taken in his case, or whether he has been formally charged with any offence and, if so, with which.

8. According to the source, Mr. Al Sudays does not have access to a procedure to challenge the legality of his detention before a judicial authority. Notwithstanding his repeated requests to that effect, he has not been granted access to legal counsel.

9. The source alleges that since his arrest on 16 May 2003, Mr. Al Sudays has been detained without any legal basis. Article 2 of Royal Decree No. M.39 on the conduct of criminal proceedings provides that all detention must take place pursuant to legal norms and that the competent authority must establish the duration of detention. In Mr. Al Sudays's case, from the moment of his arrest until present, no legal procedure has been followed and no legal basis for his detention is discernible.

10. Article 2 of Royal Decree No.° M.39 also establishes that an arrested person shall not be subjected to any bodily or moral harm. No one shall be subjected to any form of torture or degrading treatment. Its article 4 establishes that any accused person shall have the right to seek the assistance of a lawyer or a representative to defend him during the investigation and trial stages.

11. The source further argues that Mr. Al Sudays has been completely deprived of the right to challenge the legality of his detention. Should Mr. Al Sudays have been accused of a criminal offence, during the more than four years since his arrest, he has not been informed of the charges against him. The authorities do not appear intending him to grant a "fair and public hearing by an independent and impartial tribunal, in the determination [...] of any criminal charge against him" as required by article 10 of the Universal Declaration of Human Rights.

12. In its reply, the Government states that Mr. Al Sudays was arrested in the region of Mecca, together with members of his cell, in connection with a security case in that region. He was permitted to appoint a lawyer and to receive visits from his family.

13. The Government notes that following a fair and independent trial, Mr. Al Sudays was convicted of the charges brought against him and was sentenced to a term of ten years' imprisonment from the date of his arrest. He was also convicted on a charge of possessing weapons, in respect of which he was sentenced to the maximum penalty provided for in the Firearms Regulations, namely 30 years of imprisonment. His total sentence therefore amounted to 40 years of imprisonment. The Government considered it noteworthy that he is enjoying all his legally guaranteed rights. Finally, it wishes to reaffirm its willingness to cooperate with the Working Group by providing requisite information on such cases, while, at the same time, trusting that the Working Group understands the high priority that the Government must currently accord to the campaign against terrorism.

14. In its observations to the reply of Government, the source confirms that Mr. Al Sudays received two separate and consecutive sentences of 10 and 30 years of imprisonment, respectively, following an expedited trial behind closed doors in the office of the judge. It reaffirms that Mr. Al Sudays did not have access to a lawyer during the whole proceedings, and that he could not even properly prepare his defence on his own, since he has never been provided with the opportunity to learn about the charges against him or to access his criminal files.

15. The source further notes that the Government does not contest the following: (a) that Mr. Al Sudays was arrested without warrant by agents of the Security Services, was not given the reasons for his arrest, and that his home was searched

without a warrant; (b) that he was secretly detained at a detention centre of the Security Services, where he was subjected to ill-treatment during several weeks; (c) that he remained in detention for more than two years without charge, without access to judicial proceedings, and without having been brought before a judicial authority to be formally charged; and (d) that no legal procedure was put at his disposal in order to enable him to challenge the legality of his detention.

16. The source also points out that the Government does not indicate in its response when Mr. Al Sudays was presented to a judge for the first time. It argues that Mr. Al Sudays was sentenced to two separate terms of imprisonment on the basis of the same facts, in violation of the principle of *ne bis in idem*.

17. The Working Group welcomes the cooperation of the Government. However, it believes that the silence of the Government concerning the source's assertions regarding Mr. Al Sudays's long term detention of more than four years by the Security Services, without warrant, and his secret detention without charge, cannot be just and plausible. In this regard, equitable justice implies that there is authentic proof of accusation and legal argumentation for conviction, whereas the response of the Government does not show this judicial logic well.

18. Despite having been invited to do so, considering the allegations of the source, the Government merely cited broad terrorism-related charges against Mr. Al Sudays without specifying exactly the crime for which he was sentenced to 10 years of imprisonment. This omission confers credibility on the consistent assertion of the source that Mr. Al Sudays has not had the opportunity to learn about the charges brought against him, and further that he was not given the possibility to appoint a lawyer to act in his defence or at least to study his criminal files. It would thus appear that Mr. Al Sudays was not able to defend himself properly against charges, which remain vague, albeit serious since they carry long prison terms.

19. Moreover, in variance of the detailed allegations by the source that Mr. Al Sudays has suffered from further procedural irregularities, such as being arrested without warrant or reasons given; subsequent incommunicado detention for several weeks, and without being provided a chance to challenge the legality of his detention before a judicial authority within a period of time as required by international human rights law, the Government merely maintains that Mr. Al Sudays trial was fair and independent and that he enjoyed all legally guaranteed rights. The Working Group has not benefited from a more detailed account by the Government of how the trial was conducted; it has especially not been dealt with whether Mr. Al Sudays was tried in camera rather than in open court, as submitted by the source.

20. The Working Group concludes that all these contraventions of the right to fair trial as guaranteed by article 10 of the Universal Declaration of Human Rights (and also of national laws of Saudi Arabia) are of such gravity as to confer upon the continued detention of Mr. Al Sudays an arbitrary character.

21. The Working Group recalls that the fight against terrorist threats cannot justify undermining due process rights afforded to all accused and corresponding international human rights obligations of the State concerned.

22. In the light of the foregoing, the Working Group renders the following Opinion:

The deprivation of liberty of Mr. Abdul Rahman b. Abdelaziz al Sudays is arbitrary, being in contravention of articles 9 and 10 of the Universal Declaration of Human Rights and falling into category III of the categories applicable to the cases submitted for consideration of the Working Group.

23. Consequent upon the Opinion rendered, the Working Group requests the Government to take the necessary steps to remedy the situation of Mr. Abdul Rahman b. Abdelaziz al Sudays, in order to bring it in line with the standards and principles set forth in the Universal Declaration of Human Rights. The Working Group invites the Government to consider becoming a State party to the International Covenant on Civil and Political Rights, as soon as is practicable.

Adopted on 8 May 2008