

OPINION No. 11/2008 (Saudi Arabia)

Communications addressed to the Government on 7 December 2006 and 29 May 2007.

Concerning Mr. Amer Saïd b. Muhammad Al-Thaqfan Al-Qahtani.

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 provided it with information concerning the allegations of the source.
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 replies provided by the Government to the source and received its respective comments. The Working Group believes that it is in a position to render an opinion on the facts and circumstances of the cases, in the context of the allegations made and the responses of the Government thereto, as well as the observations by the source.
5. According to the source, Mr. Amer b. Saïd b. Mohamed al Qahtani, 37-years-old, school teacher, addressed at Hai Dar El Beïda, Riyadh, with Identity Card N° 1055 954 2161, issued on 3 March 1988 at Al Nufus, was arrested on 2 April 1998 at Riyadh by members of the General Intelligence Services headquarters in Riyadh, where he was interrogated during several days and allegedly tortured. Later, he was transferred to Al Mahabit Al Aama, a detention centre of the General Intelligence Services located at Al Hayr Prison in Riyadh, where he was kept in incommunicado detention during several months. Visits by his close relatives were not authorized.
6. According to the information received, Mr. Al Qahtani has been kept in solitary confinement during more than eight and a half years without charge or trial. He was not given the opportunity to contact a defence lawyer or to be heard by a judicial authority. During this long period he has not been presented before a judge or charged. The source further alleges that Mr. Al Qahtani has had no recourse to contest the lawfulness of detention.
7. In its reply to the allegations, the Government of Saudi Arabia indicates that no person of this name is currently detained in the Kingdom; however, that the person forming the subject of this case of alleged arbitrary deprivation of liberty is possibly Mr. Amer Saïd Muhammad Al-Thaqfan Al-Qahtani. The latter has been detained since 24 March 1998 at a General Intelligence Services prison where he is serving a 10-year sentence, imposed on that date, for acting as leader and figurehead of a group of people following the "Takfir" fundamentalist ideology which he has been instrumental in propagating in society.
8. The Government adds that his guilt and his persistence in his tendencies were proven and he showed no intention of desisting therefrom. The Government further informed that the term of his sentence was to end on 5 December 2007 and that, in view of the danger that he poses to security, his influence on people around him and

his continued advocacy of the “Takfiri” ideology, it has been deemed advisable for him to remain in prison until he has served his full sentence.

9. The source, having taken note of this information, reiterates the identity of the concerned person and confirms his full name given by the Government. It also clarifies that Mr. Al-Qahtani was first arrested on 24 March 1998, released and re-arrested on 2 April 1998. The source further notes that the Government does not contest that Mr. Al- Qahtani has been imprisoned for 10 years because of his ideology, that is to say his opinions, which he has no desire to change. The source notes that the Government fails to explain the authority or jurisdiction, and the imputed facts pursuant to which Mr. Al- Qahtani has been convicted. The source further argues that Mr. Al Qahtani’s conviction must have followed an expedited summary trial since he was sentenced already on the day of his arrest. It further notes that the Government does not attribute to Mr. Al-Qahtani any act of violence. Finally, the source notes that all other allegations of violations of applicable international human rights norms have not been disputed by the Government.

10. During its forty-eighth session held in May 2007, the Working Group decided to request from the Government of Saudi Arabia a copy of the final judgement against Mr. Al- Qahtani and any other pertinent information. It also asked the Government to verify the identity of the person concerned. Following two reminders the Government replied on 10 April 2008 by stating that Mr. Al-Qahtani was sentenced under the terms of court judgement No. 4/22/S/KH of 3/12/1419 AH (21 March 1999), which was reviewed on cassation, on the following charges:

(a) Accusing the State of having renounced its Islamic principles by signing the Charter of the United Nations. He was found to be in possession of documents proving his extremist ideology in this regard.

(b) Inciting young persons to question and disavow their national allegiance, combat unbelievers and ostracize all those who associate with the latter.

(c) Encouraging young persons to rent a farmhouse for the purposes of physical training to oppose reprehensible behaviour.

(d) Travelling within the Kingdom and abroad on forged documents in flagrant violation of the regulations in force.

(e) Travelling to Kuwait, Qatar and the Philippines on a passport in the name of Salih Al-Duraibi, and twice to Yemen on a forged passport in the name of his brother Turki for the ostensible purpose of travelling to Eritrea and the Sudan to engage in “Jihad” there and meeting with other dubious characters following the same ideology.

(f) He is considered to be the ring leader, motivator and ideological mentor of a group of similarly-minded young persons, since they all mentioned his name in their confessions.

Finally, the Government 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.

11. In its comments to the second response of the Government the source notes that the Government has advanced new grounds for the condemnation of

Mr. Al-Qahtani. However, the initial reasons given are related to the expression of opinions and that none of them amount to the infraction of penal laws. The source further states that the reasons initially invoked are particularly vague and are advanced by the Government in numerous other cases to justify the arrest and detention of persons opposed, in a peaceful manner, to the ideology of Government.

12. In the light of the foregoing, the Working Group notes that the Government of Saudi Arabia, in its two replies, has not provided clarifying information despite explicit requests transmitted on 7 December 2006 and 29 May 2007. The Working Group requested the Government to provide clarifying information as to the facts, the applicable legislation, the concerned person's proof of identity, a copy of the decision of the sentencing of Mr. Al Qahtani, and any other pertinent information.

13. In its second reply, the Government made no reference to these matters and merely confirmed its initial observations. The submissions of the Government may be construed as not contesting the allegations made by the source as to the lack of a warrant or legal provisions justifying the arrest of Mr. Al-Qahtani, as to his incommunicado detention for several months, as well as to the failure of affording him the right to challenge the legality of his detention before a judicial body. The Government also failed to respond to the assertion of the source that Mr. Al Qahtani did not enjoy his right to a fair trial, in particular his right to conduct his defence properly in full knowledge of the charges brought against him, and that he did not benefit from the assistance of a lawyer. It did not put forward any indication, either, as to which court sentenced Mr. Al-Qahtani and whether the judgement referred to by the Government in its observations, but not provided in full text, was handed down by a competent and independent body.

14. The Working Group regrets, that neither the Government nor the source in their submissions received after the initially envisaged date of the release of Mr. Al-Qahtani after having served his prison term in full – i.e., according to the Government in its first reply, 5 December 2007 – provided any indication whether he was indeed set free on that day. Given that the Government corrected its initial information that Mr. Al-Qahtani was sentenced on 24 March 1998, and stated in its second submission that he was rather convicted about a year later to 10 years of imprisonment on 21 March 1999, and in the absence of any indication to the contrary, the Working Group adopts this opinion on the basis of the assumption that Mr. Al-Qahtani remains in detention at the time of its adoption.

15. For all these reasons, the Working Group the Working Group renders the following Opinion:

The deprivation of liberty of Mr. Amer Saïd b. Muhammad Al-Thaqfan Al-Qahtani is arbitrary, being in contravention of articles 9, 10, and 11 of the Universal Declaration of Human Rights, and falls within category III of the categories applicable to the consideration of the cases submitted to the Working Group.

16. The Working Group, having rendered this Opinion, requests the Government to take the necessary steps to rectify the situation of Mr. Al-Qahtani, in order to bring it into conformity with the norms and principles set forth in the Universal Declaration of Human Rights, and to consider to take the necessary measures to accede to the International Covenant on Civil and Political Rights.

Adopted on 9 May 2008.