

**Opinion No. 23/2008 (Syrian Arab Republic)****Communication addressed to the Government on 4 February 2008****Concerning Mr. Nezar Rastanawi****The State is a party to the International Covenant on Civil and Political Rights.**

1. (Same text as paragraph 1 of Opinion No. 17/2008.)
2. In light of the allegations made, the Working Group regrets that the Government of the Syrian Arab Republic has not provided it with a response.
3. (Same text as paragraph 3 of Opinion No. 17/2008.)
4. The case summarized below was reported to the Working Group as follows: Mr. Nezar Rastanawi is a citizen of the Syrian Arab Republic of 46 years of age, usually residing in Hama-Murek. He is a civil engineer and a founding member of the Arab Organization for Human Rights-Syria (AOHR-S).
5. Mr. Rastanawi was arrested on 18 April 2005 while returning to his home in the village of Mowrek in the Province of Hama and held incommunicado and without charge at an unknown location for more than two weeks before the Military Security informed his family that he was in their custody. In July 2005, Mr. Nezar Rastanawi was transferred to Sednaya Prison on the outskirts of Damascus, and was then referred to Supreme State Security Court (SSSC). He continued to be held incommunicado until August 2005, when he was permitted monthly visits from his wife. However, up until November 2005 the charges against him were unknown and he was denied access to lawyers. The Military Security refused Mr. Rastanawi's application to appoint a panel of defence lawyers for his first expected trial before SSSC on 24 November 2005. During this period Mr. Rastanawi was allegedly ill-treated.
6. On 19 November 2006, Mr. Nezar Rastanawi was sentenced to four years' imprisonment by the Damascus Supreme State Security Court (SSSC) for "spreading false

news” and “insulting the President of the Republic”. The charges and sentencing appeared to be based on his work in promoting human rights. Mr. Nezar Rastanawi continues to be held at Sednaya Prison and receives visits from his wife.

7. The source alleges that the arrest and imprisonment of Mr. Nezar Rastanawi is solely connected to his peaceful and legitimate human rights work. Consequently, his detention is arbitrary because it is a reprisal for Nezar Rastanawi’s exercising his right to freedom of opinion and expression, guaranteed in article 19 of the Universal Declaration of Human Rights and in article 19 of the International Covenant on Civil and Political Rights, to which the Syrian Arab Republic is a Party.

8. The source further argues that the proceedings against Mr. Rastanawi before the SSSC failed to meet international standards of fair trial, because he was arrested without a judicial warrant of arrest or other document justifying his detention; he was denied access to his lawyer; he was not notified about the charges against him; was deprived of any possibility to adequately prepare his defense, and could not appeal his sentence. Furthermore, judges from the SCCC enjoy a too wide discretion when sentencing the accused.

9. The Working Group notes that Mr. Nezar Rastanawi was already the subject matter of Opinion No. 35/2006 (Syrian Arab Republic) (A/HRC/7/4/Add.1, p. 9), adopted by the Working Group on 16 November 2006, in which it decided to file the case in accordance with paragraph 17 (a) of its methods of work. The Working Group had received information about the release of Mr. Rastanawi, which was not contradicted by the source at that time.

10. The Working Group believes that it is in a position to render a new Opinion on the facts and circumstances of the case, in the light of the allegations made, notwithstanding that the Government has failed to offer its version of the facts and to give explanations on the circumstances of the case.

11. As stated in paragraph 8 above, the present case is not entirely new to the Working Group as it was seized of it approximately two years ago. The Working Group is of the view that the earlier communication of the Syrian Arab Republic indicates that the Government concedes that Mr. Rastanawi was indeed arrested and detained at that time. The Government did not provide grounds for the detention of this person. The information concerning Mr. Rastanawi’s release was challenged by the source through a later communication to which the Government has not responded.

12. The Working Group notes that it does not appear any legal basis justifying Mr. Rastanawi’s deprivation of his liberty. According to the source, he is a well respected professional and human rights activist exercising his right to freedom of expression and assembly. His continued detention without a fair trial before an independent tribunal as well as his conditions of detention, violate international human rights standards on the subject.

13. Consequently, the Working Group renders the following Opinion:

The detention of Mr. Rastanawi is arbitrary, falling under categories I, II and III of the categories applied by the Working Group.

14. The Working Group requests the Government of the Syrian Arab Republic to take the necessary steps to remedy his situation and to bring it in conformity with the standards and principles set forth in the Universal Declaration of Human Rights and the International Covenant on Civil and Political Rights.

15. The Working Group would also like to bring to the attention of the Government of the Syrian Arab Republic the fact that it has on previous occasions considered cases involving allegations of arbitrary deprivation of liberty and unfair trials before the SSSC

(see, for instance, Opinions Nos. 8/2007 (A/HRC/7/4/Add.1, p. 74); 21/2006; 16/2006; 15/2006 (A/HRC/4/40/Add.1, pp. 74, 76, and 90); 10/2005; 7/2005; 4/2005; 1/2005; E/CN.4/2006/7/Add.1, pp. 20, 22, 30, and 39); 6/2004 (E/CN.4/2005/6/Add.1, p. 39), a special court which is trying those accused of offences against State security. A number of cases sent for the Working Group's consideration have some unfortunate similarities relating to the terms and conditions of arrest and detention; access to a fair trial including lawyers as well as vagueness and lack of specific evidence-based charges brought against detainees. Defendants before the SSSC are often accused and convicted of vague, widely-interpreted and unsubstantiated security offences.

16. The Working Group has received several allegations concerning proceedings before the SSSC: Defendants are not present during the preliminary phase of the trial, during which the prosecutor presents evidence; confessions are admissible as evidence even when they are alleged to have been extracted under torture; allegations of torture are not investigated by the court; trials usually remained closed to the public as well as to the defendants' relatives; defendants have restricted access to lawyers; judges have wide discretion in sentencing and convicted prisoners cannot appeal their sentences.

17. Created in 1968 under the 46-year-old state of emergency, the SSSC does not observe international nor even constitutional provisions safeguarding defendants' rights. Defendants have no legal redress for arrest or detention. Proceedings before the SSSC fail to meet international standards for fair trial.

18. If agreed, the Working Group would be honored to assist the Government in studying the relevant laws regulating the SSSC and, in general, the laws governing deprivation of liberty. The Working Group offers its cooperation in contributing to bring these laws in line with the standards and principles set out in the international human rights instruments.

Adopted on 12 September 2008