

Opinion No. 31/2008 (Saudi Arabia)**Communication addressed to the Government on 11 June 2008****Concerning Mr. Abdel Rahman Marwan Ahmad Samara****The State is not a party to the International Covenant on Civil and Political Rights.**

1. (Same text as paragraph 1 of Opinion No. 17/2008.)
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. 17/2008.)
4. According to the source, Mr. Abdel Rahman Marwan Ahmad SAMARA (hereafter Mr. Abdel Samara), a Palestinian citizen born in 1984 and resident in Riyadh with a regular resident permit, married to Soundous Houssam Eddine Lofti and father of a girl, was arrested on 17 July 2007 at his shop in Riyadh by agents of the Intelligence Services. No arrest warrant was shown to him, nor was he informed of the reasons and legal basis for his arrest. Without a search warrant, his house was searched late in the night and the familiar computer confiscated.
5. Mr. Abdel Samara was detained in secret in police facilities for the first month after his arrest, and transferred first to Alichia prison, where he was held for approximately five months, and then transferred to Al Hayr prison. Finally, he was transferred to his current place of detention at Asir prison.
6. Mr. Abdel Samara's relatives have made several appeals, initially concerning his whereabouts, and then to the reasons for his arrest. After many months they have obtained the right to visit him in prison twice a month.
7. Mr. Abdel Samara remains in detention without having been formally charged with an offence; without having received any information on the proceedings initiated against him or about the legal basis of his detention; without access to a lawyer, in spite of his repeated requests to the penitentiary authorities in this sense, and without having been presented before a judge. Consequently, he has not had the possibility to challenge the legality of his detention before a judicial authority.
8. The source considers that the detention of Mr. Abdel Samara is arbitrary and contrary to the Universal Declaration of Human Rights and to the Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment, adopted by General Assembly resolution 43/173 of 9 December 1988. It is also contrary to Saudi Arabia domestic law, particularly articles 2 and 4 of Royal Decree No. M.39 of 16 October 2001 which regulates the criminal procedure and establishes the guarantees of all persons subjected to arrest and detention.

⁴ Human Rights Council resolution 7/7 of 27 March 2008.

9. The Government reported that there is no detainee known as Abdel Rahman Marwan Ahmad Samara, although there is a detainee known as Abdel Rahman Marwan Ahmad Abdel Hamid, a Jordanian citizen, who was arrested on 18 July 2007 after being named by another detainee. An investigation showed that he had travelled to Afghanistan where he received weapons training before returning to the Kingdom. He will be referred to the judicial authority to determine the legal action to be taken against him.

10. The source, in its observations to the Government's response, reported that Mr. Abdel Samara and Mr. Adel Hamid are the same person. Mr. Abdel Samara, although of Palestinian origin, is holder of a Jordanian passport and of a residence permit in Saudi Arabia No. 201 487 4966. The source further stated that Mr. Abdel Samara has been kept in incommunicado detention, without any possibility to contact a defence lawyer or any other person. On 1 June 2008, he was transferred to Asir prison.

11. The source confirmed that Mr. Abdel Samara effectively carried out a visit to Afghanistan in 2000, when he was 16 years old, staying some months in that country. Upon his return to the Kingdom, he was interrogated about his trip, but no measure was adopted against him. No reprehensible fact was imputed to him. According to the source, the Government's reply does not respond to the allegations concerning the arbitrary character of Mr. Abdel Samara's deprivation of liberty.

12. The Working Group notes that the Government cannot ignore the identity of the person detained. It further notes that the source has provided the precise identification number relative to Mr. Abdel Samara's regular residence permit. Furthermore, the source has confirmed that, effectively, Mr. Abdel Samara undertook a trip to Afghanistan. Therefore, the Working Group can consider that the person acknowledged as detained since 18 July 2007 is indeed the same person to which the communication refers.

13. The Working Group notes that the Government, in its response, has not refuted the following allegations put forward by the source:

- (a) Mr. Abdel Samara was arrested and detained without a warrant since July 2007;
- (b) His house was searched without a search warrant and his personal computer was confiscated;
- (c) He was not given notice of any reasons for his apprehension;
- (d) He was detained in incommunicado detention;
- (e) He has not been brought before a judge, nor was he given the opportunity to challenge the legality of his detention;
- (f) He has not been given the possibility to get the assistance of a defence lawyer.

14. If the Government, after 16 months of keeping this person in detention, is not able to clearly determine whether there would be judicial proceedings against Mr. Abdel Samara, then the Working Group considers that the Government, by this one and only fact, acknowledges the allegations formulated by the source.

15. Consequently, the Working Group must consider that Mr. Abdel Samara has been kept in incommunicado detention without access to a defence lawyer; without contact with the outside world; without a judicial order authorizing his detention; without possibility to challenge the lawfulness of his detention; without having been presented before a judge; without concrete charges and without the perspective of a fair trial.

16. In the light of the foregoing the Working Group expresses the following Opinion:

The detention of Mr. Abdel Rahman Marwan Ahmad Samara (Mr. Abdel Rahman Marwan Ahman Abdel Hamid) is arbitrary, being in contravention of articles 9 and 10 of the Universal Declaration of Human Rights, and falls within categories I and III of the categories applicable to the consideration of the cases submitted to the Working Group.

17. Consequent upon the Opinion rendered, the Working Group requests the Government to take the necessary steps to remedy the situation of the above-mentioned person in order to bring it into conformity with the provisions and principles enshrined in the Universal Declaration of Human Rights.

18. The Working Group further invites the Government to consider the possibility to become a party to the International Covenant on Civil and Political Rights.

Adopted on 20 November 2008