

## **Opinion No. 37/2008 (Saudi Arabia)**

**Communication addressed to the Government on 19 June 2008**

**Concerning Mr. Matrouk b. Hais b. Khalif Al-Faleh**

**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 regrets that the Government has not provided the requested information on the case despite the opportunity it was given to comment within the 90-day time limit, and reiterated requests.
3. (Same text as paragraph 1 of Opinion No. 17/2008.)
4. The case concerns Dr. Matrouk b. Hais b. Khalif Al-Faleh (hereafter, Dr. Al-Faleh), born in Sekaka on 17 May 1953; former Professor of International Relations at the King Sa'ud University of Saudi Arabia in Riyadh and Head of the Political Science Department; currently detained in Al Alhayer Prison near Riyadh. He is particularly known for having written a widely published study calling for political reforms in the Kingdom and an article in the London newspaper *Al Qods Al Arabi*. He temporarily lost his position at the university in 2003 for having written those papers. Dr. Al-Faleh is a member of the Arab Committee for Human Rights.
5. The case was reported to the Working Group as follows: Dr. Al-Faleh was arrested on 16 March 2004 at his offices in Riyadh by agents of the Saudi Arabia's General Intelligence Service who failed to provide a proper arrest warrant. No reasons were given to justify his arrest.
6. Dr. Al-Faleh was not given an opportunity to be heard by a judicial authority. He was not immediately presented before a judge nor charged. Later, he was requested to withdraw his signature on an open letter addressed in January 2003 to the Crown Prince Abdallah Ben Abdelaziz and to sign pledges to liaise with the authorities before carrying out any public activity. The letter, which was signed by 104 Saudi intellectuals, petitioned the Government on several political issues, including the necessity of adopting comprehensive institutional reforms in order to establish a constitutional monarchy, to strengthen relations between the leadership and the community and to guarantee the unity and the stability of the Kingdom. It observed that the lack of freedom of expression and assembly fosters the growth of intolerance and extremism. Dr. Al-Faleh refused to withdraw his signature on the open letter.
7. Dr. Al-Faleh was later charged with the following criminal offences: propagation of discord and dissonance; incitement and encouragement against the State; rebellion against authority; doubts about the independence and equity of the judiciary; holding political

meetings and commission of crimes against the national unity. According to the source, all these charges are of a political nature.

8. The source reports that the treatment given to the co-signatories of the open letter has been quite different in each case, and thus discriminatory: some co-signatories never were questioned for their signatures; others were arrested and later released after retiring their signatures; others, like Dr. Al-Faleh, were arrested and formally charged and others are being kept arbitrarily in detention without having been presented before a judge, without charges and without clear expectations to be tried soon. A number of those arrested were released on the condition that they pledge not to sign petitions or comment publicly on political issues.

9. The source further reports that Dr. Al-Faleh had no judicial recourse to contest the lawfulness of his detention. There is no evidence that he took actions that violate laws of the Kingdom or that threaten public order. The source further alleges that the detention of this person is also in violation of Saudi Arabia domestic law, particularly of article 36 of the Saudi Basic Law, which guarantees that no citizen may be detained without due process of law and articles 2 and 4 of Royal Decree N° M. 39 of 16 October 2001, by neglecting to provide a proper detention warrant at the time of his arrest and by failing to present the detainee before a judicial authority to establish the lawfulness and the length of his detention. Dr. Al-Faleh was sentenced to five years' imprisonment and released after 17 months in detention by virtue of a Royal pardon.

10. Dr. Al-Faleh was re-arrested on 19 May 2008 at his office at the King Sa'ud University by a group of approximately 15 policemen in uniform and armed civilians. He was shackled and driven away from his office. According to the source, this re-arrest was due to the power of attorney that he was handed with from Dr. Abdallah Al Hamed, who was serving a six months sentence at Buraidah General Prison. Dr. Al-Faleh has issued a report about the poor conditions of Dr Al Hamed.

11. Since his re-arrest, Dr. Al-Faleh has not been allowed to see a judge, nor a lawyer. He is being held in incommunicado detention. Dr. Al Faleh has no access to medical treatment, in spite of being diabetic and suffering high blood pressure.

12. In the absence of any reply from the Government, the Working Group considers that it should issue an Opinion according to all the information put at its disposal. Accordingly, Dr. Al-Faleh was arrested and re-arrested and is being held in incommunicado detention for the peaceful exercise of his rights to peaceful assembly, association and freedom of opinion and expression guaranteed under articles 19, 20 and 21 of the Universal Declaration of Human Rights, as well as for his humanitarian activities on behalf of Dr. Al Hamed.

13. The signature by Dr. Al Faleh of the letter to the Crown Prince was in exercise of his right to peaceful freedom of opinion and expression. It was also an effort to take part in the government of his country by petitioning their authorities. His detention is related to his efforts to petition his Government, and show a violation of the Universal Declaration of Human Rights under its article 21, paragraph 1. The letter was a peaceful expression of political aspirations by the signatories within the legal bounds of international standards.

14. No evidence has been presented that Dr. Al Faleh did anything but express his opinions in a peaceful manner. Dr. Al-Faleh is a known intellectual and human rights defender. The Working Group had already adopted an Opinion on his favour (Opinion 25/2004 (Saudi Arabia) before his re-arrest.

15. There is no evidence that Dr. Al-Fadeh took actions which violate Saudi Arabia domestic laws or that threaten public order. He was arrested by agents of the General Intelligence Service, and re-arrested by uniformed policemen and armed civilians who did not provide proper arrest warrants.

16. In conformity with the above, and in the absence of any information provided by the Government, the Working Group concludes that the detention of Dr. Al-Faleh is arbitrary and falls under Category I of the categories applied by the Working Group, as no legal basis is invoked to justify his detention.

17. The detention of Dr. Al-Faleh also falls under Category II, as the only possible explanation for his arrest is that it is understood to be due to Dr. Al-Faleh's exercise of his right to freedom of expression through the publication of articles in London newspapers, the signature of an open letter to the Crown Prince (a signature which he was requested to retire) and his humanitarian intervention on behalf of Dr. Al Hamed. Dr. Al-Faleh is being kept in detention solely for having peacefully expressed views critical of government policies and for demonstrating his solidarity with an imprisoned colleague.

18. The fact that the General Intelligence Service agents, uniformed policemen and armed civilians who arrested and re-arrested Dr. Al-Faleh did not present arrest warrants; that he was not informed of the reasons for his arrests; the fact that he is being held in incommunicado detention and that he was not brought before a judge in the briefest of delays; and that he was not given the opportunity to challenge his deprivation of liberty; are all circumstances of such gravity that grant the deprivation of liberty an arbitrary character, according to Category III of the categories applied by the Working Group.

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

The deprivation of liberty of Dr. Matrouk b. Hais b. Khalif Al-Faleh is arbitrary as it contravenes the provisions in articles 9, 10, 11 and 19 of the Universal Declaration of Human Rights and falls within categories I, II, and III of the categories applicable to the consideration of the cases submitted to the Working Group.

20. Consequent upon this Opinion, the Working Group requests the Government to take the necessary steps to remedy the situation of Dr. Al-Faleh, in order to bring it into conformity with the provisions set forth in the Universal Declaration of Human Rights. The Working Group believes that, taking into account all the circumstances of the case and the prolonged period of deprivation of liberty, the adequate remedy would be his immediate release and the granting of some form of reparation.

21. The Working Group also invites the Government to consider the possibility to accede, as soon as practicable, to the International Covenant on Civil and Political Rights.

Adopted on 21 November 2008