

Opinion No. 36/2008 (Saudi Arabia)

Communication addressed to the Government on 12 June 2008

Concerning Dr. Said b. Mubarek b. Zair

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, Dr. Said b Mubarek b. Zair (hereafter Dr. b. Zair), aged 58, a professor of information sciences at the University of Riyadh, and a well-known personality for his open position in favour of institutional reforms in the country and for his support to the so-called Reform Movement, was arrested on 6 June 2007 in Riyadh by agents of the intelligence services.
5. Dr. b. Zair was being held in Al Alichia prison and then transferred to an unknown location where he is kept in secret detention. His family has not been informed about his current whereabouts.
6. It was further reported that Dr. b. Zair was arrested and detained several times before, without conviction or legal proceedings. He experienced particularly difficult conditions while kept in detention during more than 10 years. During that period, he never had access to a lawyer or family visits. Dr. b. Zair was detained from 5 March 1995 to 24 March 2003, and arrested again on 20 April 2004 for having given an interview to the satellite television channel Al Jazeera. On 19 September 2004, he was sentenced to five

years' imprisonment following a judicial process which allegedly did not respect the minimum guarantees for a fair trial. He was not allowed to have a defence lawyer and was not permitted to consult the judicial files containing the charges against him. On 8 April 2005, he was released following a decree of royal amnesty promulgated on that date (see Opinion No. 22/2005 (Saudi Arabia) adopted on 29 August 2005 (E/CN.4/2006/7/Add.1, p. 74). These successive detentions have reportedly affected seriously his health.

7. The source considers that Dr. b. Zair is being kept in detention solely for having expressed his political views and ideas. He is being maintained in secret detention, without having been charged with a concrete offence and without access to a defense lawyer or to his relatives. Dr. b. Zair has not been brought before a judge. His detention is not only contrary to articles 9, 10 and 19 of the Universal Declaration on Human Rights but also to articles 2 and 4 of Royal Decree No. M.39 concerning the rights of detainees.

8. In its response, the Government indicates that the person in question is currently detained on the basis of information which came to light during an investigation and which gave reason to believe that:

(a) He supported and was involved in acts of terrorism committed in the Kingdom;

(b) He withheld important information on some of the perpetrators of the attempted bombing of petroleum installations;

(c) He contributed a sum of money to fund the bombing of the petroleum refinery at Abqaiq;

(d) He helped persons to participate in the fighting taking place in disturbed areas;

(e) He expressed his view that there was an obligation to fight in Iraq.

9. Since his arrests, Dr. b. Zair has been treated in accordance with the judicial regulations in force in Saudi Arabia. He is receiving the requisite social and health care and was allowed to leave the prison for a period of three days to receive condolences following the death of his son in a traffic accident. His family have also been permitted to visit him in the prison.

10. In its response, the Government does not provide enough information on key factual elements related to the case; on the attributed participation in those facts of Dr. b. Zair and on the accusations and charges brought against him.

11. In its comment to the information provided by the Government, the source highlighted that Dr. b. Zair continues to be kept in secret detention; that he has never had access to a lawyer or to any person from the outside world and that he is been unable to challenge the lawfulness of his detention. The source adds that in the occasion mentioned by the Government, where Dr. b. Zair met with his family (authorized to attend the burial of his son who died in an accident) Dr. b. Zair informed to his family that he had been subjected to acts of torture and ill-treatment. Dr. b. Zair further explained that the security services reproached him for his political attitude and for his public statements against the United States of America's policy in the region and in particular in Iraq.

12. The source ratifies that Dr. b. Zair is being kept in secret detention for political reasons. His relatives are very worried because they do not have any news from him and the authorities refuse to communicate information on his fate or place of detention. Before his arrest, Dr. b. Zair suffered already of chronic illnesses, caused for his long years in prison.

13. The source stresses that Dr. b. Zair has always maintained public positions against terrorism and is well-known in the Arab world for his statements against any form of

violence in political activity. Nevertheless, it is clear that he has condemned on Al Jazeera the United States policy in the Arab region and the human rights violations in Iraq.

14. The Working Group notes that, in its response, the Government does not explain:
 - (a) Which are the acts of terrorism for which Dr. b. Zair is charged or accused;
 - (b) What are the dates and places where those acts have occurred or would have occurred;
 - (c) Whether those acts have or would have caused injuries or deaths; and
 - (d) How did Dr. b. Zair help persons to commit terrorist acts; to who he had eventually helped, and whether those acts were in reality actually committed?
15. Furthermore, the Government does not provide information on:
 - (a) The authorities who ordered the detention;
 - (b) Whether Dr. b. Zair was taken before any judicial authority, and if so, when, where and before whom;
 - (c) Whether any judge intervened during his detention, and, if so, if he was a civil or a military judge;
 - (d) Whether Dr. b. Zair has had access to a defense lawyer; and
 - (e) Whether Dr. b. Zair is subjected to an imprisonment sentence and if so, who issued that sentence and what is its duration.
16. The Government does not clarify whether Dr. b. Zair is under secret detention and it does not provide information on the place of his detention.
17. The Working Group notes that Dr. b. Zair had been previously detained on at least two occasions for similar accusations: The first for eight years, between 5 March 1995 and 24 March 2003, and the second from 20 April 2004 to 8 April 2005 for giving an interview to Al Jazeera satellite television channel. Although this second detention was brought to the Working Group's attention, the Group decided, in conformity with paragraph 17 (a) of its methods of work, to file the case as Dr. b. Zair had been released (Opinion No. 22/2005).
18. The Working Group considers that Dr. b. Zair's current detention is arbitrary as it lacks any legal basis, to the extent that the Government has not provided any information in this regard. Therefore, his detention falls within Category I of the categories applicable to the consideration of the cases submitted to the Working Group.
19. Dr. b. Zair has not been charged or accused of any specific criminal act, in particular of a terrorist nature. Nevertheless, he is accused of having expressing the opinion that there was an obligation to fight in Iraq. It results that Dr. b. Zair is suffering a situation of arbitrary deprivation of liberty due to his political opinions, which is contrary to the exercise of his legitimate right to freedom of opinion and expression, as established in article 19 of the Universal Declaration of Human Rights. Therefore, the Working Group finds that his detention also falls within Category II of the categories applicable to the consideration of the case submitted to the Working Group.
20. Finally, the facts that Dr. Said Zair: (a) has not been brought before a judge; (b) has not had a fair trial before an impartial and independent tribunal; (c) has been unable to challenge the lawfulness of his detention; (d) has not had a defence lawyer; and (e) has been kept in incommunicado detention for more than one year and five months, falls within Category III of the categories applicable to the consideration of the cases submitted to the Working Group.
21. In the light of the foregoing the Working Group expresses the following Opinion:

The detention of Dr. Said b. Mubarek b. Zair is in contravention of articles 9, 10 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.

22. Consequent upon this Opinion, the Working Group requests the Government to take the necessary steps to remedy the situation of this person in order to bring it into conformity with the provisions and principles enshrined in the Universal Declaration of Human Rights.
23. The Working Group encourages the Government to consider the possibility to accede to the International Covenant on Civil and Political Rights.

Adopted on 21 November 2008