

**Opinion No. 21/2009 (Saudi Arabia)**

**Communication addressed to the Government on 11 May 2009**

**Concerning Mr. Khalid Said Khalid Al-Shammari**

**The State is not a party to the International Covenant on Civil and Political Rights.**

1. (Same text as paragraph 1 of Opinion N° 18/2009)
2. The Working Group notes with appreciation the information received from the Government in respect of the case in question.
3. (Same text as paragraph 3 of Opinion N° 18/2009)

4. 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 response of the Government thereto, as well as the observations by the source.
5. The case summarized below was reported to the Working Group by the source as follows: Mr. Khalid Said Khalid Al-Shammari (hereafter Mr. Al-Shammari), is a stateless person (Bedouin), born on 7 September 1980, residing with his family in Kuwait City, Kuwait.
6. During the month of January 2007, while he was on pilgrimage in Mecca, Mr. Al-Shammari was arrested by agents of an undetermined Saudi Arabian security service, probably the Saudi General Intelligence (Al Mabahit Al Aama). Mr. Al-Shammari had left Kuwait City on 27 December 2006.
7. The exact circumstances of his arrest are not known. Nevertheless, the facts that Mr. Al-Shammari was indeed in Mecca and that he conducted his pilgrimage have been confirmed to the source.
8. Mr. Al-Shammari was technically in a situation of a disappeared person until August 2007, seven months after his detention, when he did phone his relatives and informed them that he had been arrested in January 2007 by intelligence services officers and was since then kept in detention in Jizan prison. His father then stepped up efforts to try to visit him; to learn the reasons for his detention; and to provide his son with a lawyer in order to assist him. He addressed himself to the Saudi Arabia embassy in Kuwait and directly to the Jizan prison administration; however, to no avail.
9. It was not until May 2008 that Mr. Al-Shammari's family was authorized to establish direct contact with him. Mr. Al-Shammari's father was able to visit him at Abha prison to where Mr. Al-Shammari had just been transferred. According to the information received, Mr. Al-Shammari could confirm that he had neither been brought before a judge since his arrest; nor tried; nor otherwise made subject of any legal proceedings.
10. The source argues that Mr. Al-Shammari is being arbitrarily deprived of his liberty. His detention is contrary to both Saudi Arabian domestic laws and relevant international standards set forth in the Universal Declaration of Human Rights.
11. In its reply, the Government confirmed that Mr. Al-Shammari was indeed arrested in Riyadh on 6 or 7 January 2007 on a security-related charge. He was then transferred to the competent sharia court of first instance, which sentenced him to six years of imprisonment. According to the Government, throughout the period of his detention, Mr. Al-Shammari has been treated in accordance with Saudi Arabia's judicial regulations, derived from the sharia, under which human rights and international covenants and conventions in this regard are respected.
12. In its observations on the Government's reply, the source observes that in January 2009, Mr. Al-Shammari, together with a number of other individuals, was brought into a room where several persons were present. He was not given the opportunity to speak or to express himself in relation to the vague accusations against him. The sentence of six years of imprisonment was not announced to Mr. Al-Shammari. In fact, until present he is not even aware that he was participating in a court hearing, also because it was conducted in closed session. In addition, the source points out that Mr. Al-Shammari's conditions of detention since his arrest have been particularly difficult for him, affecting his physical and mental state of health.
13. Finally, the source reports that Mr. Al-Shammari has been transferred to a prison in Damman, where he is being detained to date.

14. The Working Group considers that, given the seriousness of the detailed allegations by the source, the Government replied evasively and summarily, without providing specific information justifying the lawfulness of detention of Mr. Al-Shammar; on the procedures followed and the judgement rendered; all information that it owed to the Working Group.

15. Indeed, if the source submits without having been contradicted by the Government that Mr. Al-Shammari was allowed a visit by his father only about one hour and a half years after his arrest and that during this visit, Mr. Al-Shammari confirmed that he had neither been tried, nor produced before a magistrate, the Government, in its reply, made no apparent effort to enlighten the Working Group on his case.

16. The Government also does not point out to us in what circumstances Al-Shammari was stopped; if it was brought before a magistrate for the delays requested to make its arrest official; if he could benefit from a legal defence; if it was judged by an independent, competent and impartial jurisdiction; if he could formed an appeal against the judicial decision: No detailed information was provided by the Government to the Working Group on these points.

17. The Working Group notes that the Government confirms the arrest and detention of Mr. Al-Shammari and does not deny the allegations from the source. Before and during the trial before the court in Riyadh, he was never allowed access to his criminal case file and was denied a lawyer despite his repeated requests and that of his family.

18. In these conditions, the Working Group considers that Mr. Al-Shammari could not benefit from the norms and guarantees requested for a fair trial and an equitable judgement. Consequently, the Working Group considers that the detention of Mr Al-Shammari is arbitrary and falls under category III of the categories applied by the Working Group to its consideration of cases of detention.

19. Accordingly, the Working Group asks the Government to take measures for the immediate release of Mr Al-Shammari and to envisage to concede him a reparation for the dammage suffered.

20. The Working Group further recommends the State to consider the convenience of becoming a Party to the International Covenant on Civil and Political Rights.

Adopted on 20 November 2009