OPINION No. 4/2007 (SAUDI ARABIA)

Communications addressed to the Government on 29 September 2006 and 30 November 2006.

Concerning Mr. Faiiz AbdelmouhSEN Al Qaid and Mr. Khaled Mohamed Al Rashed

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

1. The Working Group on Arbitrary Detention was established by resolution 1991/42 of the Commission on Human Rights. The mandate of the Working Group was clarified by resolution 1997/50 and extended by resolution 2003/31. The Human Rights Council assumed the mandate in its decision 1/102 of 30 June 2006. Acting in accordance with its methods of work, the Working Group forwarded to the Government the above-mentioned communications.

2. The Working Group regards deprivation of liberty as arbitrary in the following cases:

   I. When it manifestly cannot be justified on any legal basis (such as continued detention after the sentence has been served or despite an applicable amnesty act) (Category I);

   II. When the deprivation of liberty is the result of a judgement or sentence for the exercise of the rights and freedoms proclaimed in articles 7, 13, 14, 18, 19, 20 and 21 of the Universal Declaration of Human Rights and also, in respect of States parties, by articles 12, 18, 19, 21, 22, 25, 26 and 27 of the International Covenant on Civil and Political Rights (Category II);
III. When the complete or partial non-observance of the relevant international standards set forth in the Universal Declaration of Human Rights and in the relevant international instruments accepted by the States concerned relating to the right to a fair trial is of such gravity as to confer on the deprivation of liberty, of whatever kind, an arbitrary character (Category III).

3. In the light of the allegations made, the Working Group would have welcomed the cooperation of the Government. In the absence of any information from the Government, the Working Group believes that it is in a position to render an opinion on the facts and circumstances of the cases, especially since the facts and allegations contained in the communication have not been challenged by the Government.

4. Mr. Khaled b. Mohamed Al Rashed, a citizen of the Kingdom of Saudi Arabia born on 18 March 1962 with identity card No 10610423236 issued at Dammam is a teacher at Fad Ben muffeh Al Sabiyi School in Thaqba Al Dammam Province and is known as a member of the so called Movement of Reformers.

(a) According to the information received, Mr. Khaled b. Mohamed Al Rashed was arrested on 19 March 2006 at Makkah Al-Mukkaramah by members of the Intelligence Services, while he was in a religious peregrination (Omra) together with his wife. He had recently made some statements expressing his opposition to some governmental policies. No arrest warrant was shown to him and not reasons were given for his apprehension.

(b) It was said that Mr. Al Rashed was placed in incommunicado detention and subjected to ill-treatment both during his arrest and detention. Some days after his arrest, Mr. Al Rashed was transferred to Al Hayz Prison near to Riyadh, where he is being currently held. His health has reportedly suffered a serious deterioration.
5. Mr. Faiz Abdelmohsen Al Qaid, a citizen of the Kingdom of Saudi Arabia, 22 years old, is a student at the Faculty of Administrative Sciences at the University of FON Siards in Riyad.

(a) According to the information received, Mr. Faiz Abdelmohsen Al Qaid was arrested on 12 October 2005, at 5:30 p.m. in Riyadh, by agents of the Intelligence Services, without any warrant or charges laid against him.

(b) It was said that the Intelligence Services impute Mr. Al Qaid having got in contact with the Arab Commission for Human Rights and sent them, via the Internet, information pertaining to the detention of Mr. Majeed Hamdani b. Rashed Al Qaid as well as about the state of prisons in Riyadh.

6. Mr. Khalid b. Mohamed Al Rashed and Mr. Faiz Abdelmohsen Al Qaid have neither been formally charged with any offence, not been informed of the duration of their custodial order. They have not been brought before a judicial officer, nor been allowed to appoint a lawyer to act on his behalf, nor otherwise been provided the possibility to challenge the legality of their detention.

7. As the allegations of the source have not been disputed, the Working Group can only conclude that the detention of the above-mentioned two persons does not have any legal basis. This circumstance in itself already renders their detention utterly contrary to the applicable international norms and constitutes an extremely grave violation of the right of these persons to their liberty.

8. The above-mentioned two persons have not been informed of the charges against them; have been denied access to a defence lawyer, and have not been brought before a judge in the, respectively, 14 and 19 months since their arrest.

9. Additionally, according to the information provided by the source, which has remained unchallenged by the Government, the unlawful detention of Mr. Al Rashed
is motivated solely by his membership at the so-called Movement of Reformers while Mr. Al Qaid is detained solely for his activities as a human rights defender.

10. As a consequence, and in the absence of any argument to the contrary submitted by the Government, the Working Group can only conclude that these persons have been detained solely because of their political activities and because their legitimate exercise of their rights to freedom of opinion and expression.

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

The detention of Mr. Al Rashed and of Mr. Al Qaid is in contravention of articles 9 and 19 of the Universal Declaration of Human Rights and falls within categories I and II of the categories applicable to the consideration of the cases submitted to the Working Group.

12. Consequent upon this Opinion, the Working Group requests the Government to take the necessary steps to remedy the situation of these persons in order to bring it into conformity with the provisions and principles enshrined in the Universal Declaration of Human Rights.

13. The Working Group further recommends to the Government to consider the possibility of becoming a Party to the International Covenant on Civil and Political Rights.

Adopted on 8 May 2007