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Geneva, 5 April 2019

The Permanent Mission of the Kingdom of Saudi Arabia to the United Nations Office and other international Organizations at Geneva presents its compliments to the office of the High Commissioner for Human Rights (Special Procedures), with reference to the Note Verbal UA SAU 1/2019, dated 8 February 2019, regarding the joint urgent appeal from special procedures.

The Permanent Mission has the honour to transmit herewith the reply of the Government of the Kingdom of Saudi Arabia.

The Permanent mission of Kingdom of Saudi Arabia to the United Nations Office and other international Organizations at Geneva avails itself of this opportunity to renew to the office of the High Commissioner for Human Rights the assurances of its highest consideration.

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GENEVA



(Translated from Arabic)

**Permanent Mission of the Kingdom of Saudi Arabia
to the United Nations Office at Geneva**

Reply of the Government of the Kingdom of Saudi Arabia

1. Request for additional information on the allegations referred to in the communication

The authors of the communication state that they have not received a reply to the previous communications regarding Ms. [REDACTED] and Ms. [REDACTED] sent by the special procedures mandate holders in June 2018.

The Government has, however, replied to the communications about the two women in question, in order to clarify the facts of their cases.

The authors of the communication claim that the arrest and detention of the women appears to be a form of retaliation for their having legitimately exercised their freedom of expression. The authors also claim that the arrest is part of the widespread repression of human rights defenders, especially those working to protect women's rights in the Kingdom.

These accusations are based on information from unreliable sources and are not supported by evidence. The women were arrested for having committed offences punishable under the law, as will be explained below. They were not arrested for having legitimately exercised their freedom of expression. In fact, Saudi law protects freedom of opinion and expression for all persons, provided that it does not have a negative impact on public order, society, individuals or stability. These limitations are based on constitutional provisions at the national level; article 39 of the Basic Law of Governance stipulates that all means of expression should use decent language, comply with national legislation, contribute towards educating the nation and support national unity. Any form of expression that is conducive to sedition and division or that undermines the security of the State is prohibited. These limitations comply with the relevant international standards, in particular article 29 (2) of the Universal Declaration of Human Rights, which stipulates: "In the exercise of his rights and freedoms, everyone shall be subject only to such limitations as are determined by law solely for the purpose of securing due recognition and respect for the rights and freedoms of others and of meeting the just requirements of morality, public order and the general welfare". Only persons who have committed an offence under Saudi law may be arrested.

No one is ever detained for exercising their rights or freedoms. All citizens and residents enjoy their rights and exercise their freedoms in accordance with the legislation in force in the Kingdom. No group, regardless of its designation, is accorded precedence with regard to the exercise of those rights and freedoms. Any person whose rights are violated may lodge a complaint in accordance with the available legal remedies. The State institutions have a legal obligation to ensure that all individuals are treated fairly, regardless of their religion, race, gender or nationality. If any such institution or its representative denies a person his or her rights, that person is entitled to seek redress.

Under Saudi law, detention, imprisonment and restriction of individual freedom of movement are prohibited except where permitted by law, in accordance with article 36 of the Basic Law of Governance, which stipulates that all citizens of Saudi Arabia and all persons residing in its territory shall be guaranteed security.

2. Request for information on the factual and legal grounds for the arrest and detention of each of the six women human rights defenders and on the steps taken by the Government to ensure that Saudi Arabia complies with its international human rights obligations

The women were arrested under warrants issued following the receipt of orders for their arrest given by the competent authorities. Their arrest complied with article 2 of the Counter-



Terrorism and Financing of Terrorism Act, which stipulates that: "The offences defined in the Act are deemed to be serious offences warranting arrest." They were arrested on the grounds that they had committed a number of offences, including offences that undermined national security and cybercrimes criminalized under article 6 of the Repression of Cybercrime Act, which provides that: "Anyone who commits any of the following offences shall be liable to imprisonment for a term of up to 5 years and/or a fine of up to 3 million riyals: (1) The production of material prejudicial to public order, religious values, public morals or the sacrosanct nature of private life and the preparation, transmission or storage of such material on or through the Internet or a computer". Article 9 of the Act stipulates that: "Anyone who instigates or assists others or conspires with them to commit any of the offences defined in this Act shall be liable to the following penalties: if the offence was committed as a result of such instigation, assistance or conspiracy, the person shall be liable to the maximum penalty prescribed for that offence; if the offence was not committed, the person shall be liable to half the maximum penalty prescribed for the principal offence." The measures taken against the women also comply with the international human rights obligations of Saudi Arabia.

3. Request for information about the address of the locations used for interrogation, including whether such locations are legally designated detention centres

All detained persons are interrogated at the headquarters of the investigating authority, in accordance with article 102 of the Code of Criminal Procedure. Article 2 of the Code stipulates that: "No person may be arrested, searched, detained or imprisoned save where provided for by the law. A person may be detained or imprisoned only in a location designated for such purposes and for the period prescribed by the competent authority."

4. Request for information on the steps taken to end the incommunicado detention of the six women human rights defenders following their arrest, including the number of days they were held in incommunicado detention

The women are being detained in the prison of the General Directorate of Investigation (Al-Mabahith) in Riyadh, with the exception of Ms. [REDACTED] who is being detained in the prison of the in the Jeddah Governorate of Makkah Province. Both of these prisons are authorized, known detention centres. There are no secret detention centres in the Kingdom. Article 2 of the Code of Criminal Procedure stipulates that no person may be arrested, searched, detained or imprisoned except where provided for by the law. In addition, persons are detained or imprisoned only in locations designated for such purposes and for the period prescribed by the competent authority, in accordance with article 37, which stipulates that: "A person may be detained or imprisoned only in a location designated for such purposes and for the period prescribed by the competent authority. In order for the administration of a prison or detention centre to admit a person to the facility, an order specifying the reasons for and period of detention, duly signed by the competent authority, must be provided. The inmate must not remain in custody following the expiry of the period specified in the order." All prisons and detention centres in the Kingdom are subject to judicial, administrative, health and social inspections, in accordance with article 5 of the Imprisonment and Detention Act. Pursuant to article 3 of its charter, the Public Prosecution Service has the authority to inspect prisons, detention centres and any other location in which criminal sentences are applied, listen to prisoners' and detainees' complaints, verify the legitimacy of their imprisonment or detention, check whether any persons are being held beyond the expiry of the specified term, take the necessary measures to ensure that persons imprisoned or detained without reason are released, and take the action required by law with respect to the persons responsible for the unlawful imprisonment or detention. Article 40 of the Code of Criminal Procedure stipulates that: "Anyone knowing of a person being imprisoned or detained unlawfully, or in a place not intended for imprisonment or detention, must notify the Public Investigation and Prosecution Department (Public Prosecution Service). The competent official from the Service must go immediately to the place where the prisoner or detainee is located, conduct an investigation and order the person's release if he or she is being unlawfully imprisoned or detained. The official shall write a report to that effect for submission to the competent authority so that it may take the action required by law with respect to those responsible for the situation." Under article 5 (6) of its charter, the Human Rights Commission may organize visits to prisons and detention centres at any time without

the permission of the competent authorities. Under articles 5 and 11, the Commission is authorized to receive complaints relating to human rights and to investigate possible violations. It also refers complaints to the authorities for the appropriate statutory measures to be applied and monitors the action taken.

The National Society for Human Rights (a civil society organization) also organizes visits to prisons and detention centres, interviews prisoners and detainees, receives complaints and monitors possible violations, which it follows up with the relevant authorities.

In addition to the offices of the Public Prosecution Service situated inside prisons, offices have been allocated to the Human Rights Commission and the National Society for Human Rights in several prisons in order to facilitate the exercise of their oversight mandate, which includes receiving complaints from prisoners and detainees, ascertaining their veracity and addressing them promptly and directly.

5. Request for information on the steps taken to end the use of solitary confinement against the six women

The women are not being held in solitary confinement. They are benefiting from all legal rights and guarantees during their detention, including visits, communications and regular medical attention.

6. Request for information on measures taken to ensure that all the six women will have access to a lawyer at the earliest

The women's right to legal counsel from the start of their detention is guaranteed under Saudi law. They are entitled to appoint a lawyer or defence representative in accordance with article 21 of the Counter-Terrorism and Financing of Terrorism Act, which stipulates that: "Without prejudice to the right of the accused to obtain a lawyer or defence representative, the Public Prosecution Service may, during the investigation, restrict this right where it is in the interest of the investigation." Nonetheless, the women have not made such a request.

7. Request for information as to the reason why the six women continue to be detained, seven months after their arrest, without being charged or, if they have been charged, why they have not been informed of the charges against them

Accused persons are always informed of the reasons for their arrest or detention at the moment it takes place, in accordance with article 36 (1) of the Code of Criminal Procedure, which stipulates that: "Persons who are detained shall be treated in a manner conducive to the preservation of their dignity and shall not be harmed physically or mentally. They shall be informed of the reasons for their detention and shall have the right to contact anyone whom they wish to notify of their detention." The women have not been detained for longer than the period provided for by article 19 of the Counter-Terrorism and Financing of Terrorism Act, which stipulates that: "The Public Prosecution Service has the authority to issue an order for the detention of any person accused of committing an offence under this Act for a period or successive periods not exceeding 30 days individually or 12 months in total. Where a longer period of detention is required, the matter shall be referred to the competent court to decide whether to extend the detention." If, once the investigation is finished, the investigating authority believes there to be sufficient evidence, charges are filed against the accused, in accordance with article 126 of the Code of Criminal Procedure, which stipulates that: "If the Public Investigation and Prosecution Department (Public Prosecution Service) is of the opinion, once the investigation has been concluded, that there is sufficient evidence against the accused, the case shall be referred to the competent court and the accused shall be summoned to appear before it." The Public Prosecution Service refers the case file to the competent court and the accused is summoned to appear before the court in accordance with article 15 of the Code, which stipulates that: "The Public Investigation and Prosecution Department (Public Prosecution Service) shall, pursuant to its charter, institute and pursue criminal proceedings before the competent court." Under articles 3 (b) and (c) of its charter, the Public Investigation and Prosecution Department (Public Prosecution Service) is authorized to institute proceedings, close cases and conduct prosecutions before judicial bodies, in accordance with the law and all implementing regulations.

Investigations in respect of the six women have been conducted and concluded. The legality of their confessions has been confirmed by the court and charges have been filed against them. Their case files have been referred to the competent court.

Ms. [REDACTED], Ms. [REDACTED], Ms. [REDACTED] and Ms. [REDACTED] requested that the court grant them each a defence representative to defend them during their cases. Their request was granted. They also requested that they be released temporarily and, at the next session of the court, the judge ordered the temporary release of Ms. [REDACTED] and Ms. [REDACTED], in accordance with article 123 of the Code of Criminal Procedure, which stipulates that: "Where accused persons are referred to court, the court may decide whether to release them temporarily if they are in detention or place them in detention if they are at liberty." The courts are continuing to examine the women's cases.

8. Request for information regarding the allegations that the six women have been subjected to torture, ill-treatment, gender-based violence, including sexual harassment, during their imprisonment, and whether measures have been taken by the Government to investigate these allegations, and, if no investigation into the allegations has been conducted, an explanation why

The Public Prosecution Service has investigated these allegations and found no evidence to support them. Saudi law provides for all necessary guarantees and measures to ensure that detainees and prisoners are never subjected to torture, ill-treatment or other cruel, inhuman or degrading treatment. Article 2 of the Code of Criminal Procedure provides that no person may be arrested, searched, detained or imprisoned except where provided for by the law, and that a person may be detained or imprisoned only in a location designated for such purposes and for the period prescribed by the competent authority. Article 36 of the Code requires that arrested persons be treated in a manner that preserves their dignity and that they should not be subjected to physical or mental harm. They must be informed of the reasons for their detention and they are entitled to notify a person of their choice of their arrest. Article 102 of the Code requires the interrogation of accused persons to be conducted in a manner that does not influence their will to make statements. They must not be required to take an oath or be subjected to coercive measures. They may not be interrogated outside the premises of the investigating authority unless the investigator deems such action to be necessary.

Article 28 of the Imprisonment and Detention Act prohibits all forms of assault against prisoners or detainees and stipulates that disciplinary measures must be taken against military or civilian personnel who commit such assault, without prejudice to any criminal penalties to which they might be liable. Pursuant to article 2 (8) of Royal Decree No. 43 of A.H. 1377 (A.D. 1958), it is prohibited for public officials to inflict ill-treatment or use coercion such as torture, cruelty, confiscation of property or denial of personal liberties, including exemplary punishment, imposition of fines, imprisonment, exile, mandatory residence in a certain place and illegal entry into private dwellings. The penalty for these offences is imprisonment for up to 10 years.

In their investigative functions, criminal investigation officers are subject to oversight by members of the Public Prosecution Service, in accordance with article 25 of the Code of Criminal Procedure.

All prisons and detention centres in the Kingdom are subject to judicial, administrative, health and social inspections, in accordance with article 5 of the Imprisonment and Detention Act. Pursuant to article 3 of its charter, the Public Prosecution Service has the authority to inspect prisons, detention centres and any other location in which criminal sentences are applied, listen to prisoners' and detainees' complaints, verify the legitimacy of their imprisonment or detention, check whether any persons are being held beyond the expiry of the specified term, take the necessary measures to ensure that persons imprisoned or detained without reason are released, and take the action required by law with respect to the persons responsible for the unlawful imprisonment or detention. Article 40 of the Code of Criminal Procedure stipulates that anyone knowing of a person being imprisoned or detained unlawfully, or in a place not intended for imprisonment or detention, must notify the Public Prosecution Service. The competent representative of the Public Prosecution Service must go immediately to the place where the prisoner or detainee is located, conduct an investigation and order the person's release if he or she is being unlawfully imprisoned or

detained. The representative shall write a report to that effect for submission to the competent authority so that it may take the action required by law with respect to those responsible for the situation.

To support the oversight mechanisms in place to guarantee protection for the rights of prisoners and detainees, under articles 5 (6) and (7) of its charter the Human Rights Commission may organize visits to prisons and detention centres at any time without the permission of the competent authorities, receive complaints relating to human rights violations, investigate their veracity and take the legal action required. The National Society for Human Rights (a civil society organization) also organizes visits to prisons and detention centres. Offices of the Human Rights Commission and the National Society for Human Rights have been opened in prisons managed by the Public Prosecution Service so that those organizations can monitor the conditions of detention and receive complaints in situ.

National legislation requires all State bodies to guarantee justice, regardless of a person's religion, race, gender or nationality. In accordance with the applicable legal procedures, a number of mechanisms exist to guarantee effective human rights safeguards in the event that any such body or its representative violates a person's rights. Those mechanisms include:

- The judiciary
- Competent government departments and committees
- Governmental and non-governmental human rights institutions

The Royal Council and the Council of the Crown Prince are also legally recognized redress mechanisms. Article 43 of the Basic Law of Governance stipulates that: "The Royal Council and the Council of the Crown Prince shall be open to all citizens and to anyone with a complaint or a grievance. All persons shall have the right to contact the public authorities regarding matters affecting them." Provincial administrative governors play an active role in promoting and protecting human rights and in challenging violations. Article 7 (c) of the Provinces Act promulgated by Royal Decree No. A/92 of 27 Sha`ban A.H. 1412 (2 March A.D. 1992) states that provincial governors are responsible for guaranteeing the rights and freedoms of individuals and must refrain from taking any action that would violate those rights and freedoms, save within the limits prescribed by Islamic sharia and the law.

The Kingdom is committed to the human rights treaties to which it is party, including the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, which is deemed to constitute part of national legislation.

9. Request for information on measures taken to ensure the safety of the six women and respect for their physical and psychological integrity

All prisoners and detainees, including the six women, enjoy all rights and guarantees provided to them by law, including the right to physical and psychological integrity and the necessary health and social care. All detainees and prisoners undergo a medical examination upon arrival in prison, and periodically thereafter, in accordance with article 5 of the Medical Services Regulations. Medical care is available for all prisoners and detainees, in accordance with articles 12 and 22 of the Imprisonment and Detention Act and its implementing regulations. The six women, like all other detainees, receive appropriate food and meals. All prisons and detention centres in the Kingdom are subject to judicial, administrative, health and social inspections, in accordance with article 5 of the Imprisonment and Detention Act, which stipulates that: "All prisons and detention centres in the Kingdom are subject to judicial, administrative, health and social inspections, in accordance with the implementing regulations." Article 2 of the Code of Criminal Procedure provides that: "No person may be arrested, searched, detained or imprisoned save where provided for by the law. A person may be detained or imprisoned only in a location designated for such purposes and for the period prescribed by the competent authority. It is prohibited to subject an arrested person to any form of physical or mental harm or to torture or degrading treatment." Article 36 (1) of the Code stipulates that: "Arrested persons must be treated in a manner that preserves their dignity and they must not be subjected to physical or mental harm. They must be informed of the reasons for their detention and they are entitled to notify a person of their choice of their arrest." Article 102 of the Code provides that: "The interrogation of accused persons must be conducted in a manner that does not influence their will to make statements. They

must not be required to take an oath or be subjected to coercive measures. They may not be interrogated outside the premises of the investigating authority unless the investigator deems such action to be necessary.”

Prisons in the Kingdom are operated in accordance with statutory and sharia-based norms that are consistent with international human rights standards and that safeguard the rights and family-related interests of prisoners. Oversight and inspection bodies have been created pursuant to article 5 of the Imprisonment and Detention Act to monitor the application of the law inside prisons and ensure that no violations are committed. These bodies include the judiciary, the Public Prosecution Service, the Human Rights Commission and the National Society for Human Rights. Pursuant to article 3 of its charter, the Public Prosecution Service has the authority to inspect prisons, detention centres and any other location in which criminal sentences are applied, listen to prisoners’ and detainees’ complaints, verify the legitimacy of their imprisonment or detention, check whether any persons are being held beyond the expiry of the specified term, take the necessary measures to ensure that persons imprisoned or detained without reason are released, and take the action required by law with respect to the persons responsible for the unlawful imprisonment or detention. Under article 39 of the Code of Criminal Procedure, prisoners and detainees have the right to submit, at any time, a written or verbal complaint to the warden of the prison or detention centre and request that it be conveyed to a member of the Public Prosecution Service. The warden must accept the complaint and forward it at once, after recording it in a special register. The prisoner or detainee must receive acknowledgement of receipt. Pursuant to article 119, attorneys may visit their clients. Furthermore, in accordance with article 40, the Public Prosecution Service must facilitate the delivery of complaints by allowing them to be submitted in a number of ways, including via its website and social media accounts, as well as by telephone, in writing or in person.

10. Request for information about how the alleged presence of the former Royal Adviser during the ill-treatments and torture is compatible with article 2 of Royal Decree No. 43, including information about whether any inquiry or investigation has been initiated in that regard

As stated in response to request No. 8, the Public Prosecution Service investigated the allegations of torture at the time and failed to find any supporting evidence.

11. Request for clarification as to whether any measures have been taken to ensure that human rights defenders in Saudi Arabia, especially those defending the rights of women, are able to carry out their legitimate work in a safe and enabling environment without fear of judicial harassment or violence of any kind

All citizens and residents enjoy their rights and exercise their freedoms in accordance with the legislation in force in the Kingdom. No group, regardless of its designation, is accorded precedence with regard to the exercise of those rights and freedoms. Any person whose rights are violated may lodge a complaint in accordance with the available legal remedies. The State institutions have a legal obligation to ensure that all individuals are treated fairly, regardless of their religion, race, gender or nationality. If any such institution or its representative denies a person his or her rights, that person is entitled to seek redress.

Under Saudi law, detention, imprisonment and restriction of individual freedom of movement are prohibited except where permitted by law, in accordance with article 36 of the Basic Law of Governance, which stipulates that all citizens of Saudi Arabia and all persons residing in its territory shall be guaranteed security.
