

(Translated from Arabic)

Permanent Mission of the Kingdom of Saudi Arabia to the United Nations, Geneva

Response of the Kingdom of Saudi Arabia concerning the cases of Ali bin Hamza Al Omari, Awad bin Mohammed Al Qarni, Hasan bin Farhan Al Malki and Salman bin Fahad Al Odah

1. Concerning the request to provide any additional information and any comments on the allegations:

I. Ali bin Hamza Al Omari was arrested for committing several offences punishable under the laws applicable in the Kingdom. He was interrogated and charged with those offences. His case file was referred to the court, and he is being tried in accordance with the applicable laws. The claims that he was subjected to torture while in detention and convicted on the basis of confessions extracted under torture are untrue and are inconsistent with the safeguards provided for under Saudi regulations applicable to detainees and prisoners, who enjoy all the rights guaranteed to them by law, including visits, telephone calls and access to a lawyer and to medical care.

II. Awad bin Mohammed Al Qarni was arrested for committing several offences punishable under the laws applicable in the Kingdom. He was interrogated and charged with those offences. His case file was referred to the court, and he is being tried in accordance with the applicable laws.

III. Hasan bin Farhan Al Malki was arrested for committing several offences punishable under the laws applicable in the Kingdom. He was interrogated and charged with those offences. His case file was referred to the court, and he is being tried in accordance with the applicable laws.

IV. Salman bin Fahad Al Odah was arrested for committing several offences punishable under the laws applicable in the Kingdom. He was interrogated and charged with those offences. His case file was referred to the court, and he is being tried in accordance with the applicable laws. The allegations that he was placed in solitary confinement with limited access to his family and lawyer and denied medication are incorrect. He is treated in accordance with the applicable regulations, which set forth the necessary safeguards and guarantee his rights. He receives medical care, and a medical examination was conducted upon his arrival at the prison. He receives comprehensive health care as well as visits and telephone calls and access to his lawyer.

2. With regard to the request to provide detailed information on the factual and legal grounds for the arrest and detention of these four individuals and how these measures are compatible with international norms and standards, as stated, *inter alia*, in the Universal Declaration of Human Rights, and to clarify whether they were promptly brought before a judge and/or were afforded the opportunity to challenge the lawfulness of their arrest and detention/deprivation of liberty:

They were arrested on the basis of arrest warrants issued by the competent authority pursuant to article 5 of the Terrorist Crimes and their Financing Act (2013), which stipulates that: "The Public Prosecution Service may detain a person suspected of committing an offence defined in this act for a period or consecutive periods totalling a maximum of six months. In cases where a lengthier period of detention is required, the matter shall be referred to the competent criminal court to decide on the extension." In addition, article 2 of the Act stipulates that "the offences of terrorism and its financing are deemed to be serious offences entailing detention". The individuals were charged with the offences outlined in the answer to question 1. The measures taken against them are consistent with the human rights obligations of the Kingdom. 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.” 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 referred their case files to the competent court, and the accused were summoned to appear before the court in accordance with article 15 of the Code, which states that: “The Bureau of Investigation and Public Prosecution – the Public Prosecution – is empowered, pursuant to its Statute, to institute and conduct criminal prosecutions before the competent courts”. Article 3 (b) and (c) of the Statute of the Public Prosecution states that the Public Prosecution Service must, in accordance with its Statute and its implementing regulations, decide whether to institute proceedings or close the case, and must conduct prosecutions before judicial bodies. The right to challenge the legality of detention is guaranteed to the individuals under article 115 of the Code of Criminal Procedure, which stipulates that: “Upon the arrest of the accused, the original text of the arrest warrant shall be delivered to the director of the detention centre, who shall sign a copy of the warrant as an acknowledgement of receipt. Pretrial detainees may lodge a complaint against the order to detain them or to extend their detention. The complaint shall be submitted to the head of the investigating body, the head of the branch or the head of the department, as appropriate. A decision shall be taken within five days of the date of submission.” It is well known that the Public Prosecution is part of the judicial branch under the Saudi system. The laws of the Kingdom prohibit the restriction of anyone’s freedom of movement or their detention or imprisonment save under the provisions of the law, pursuant to article 36 of the Basic Law of Governance, which affirms that all citizens and residents on the Kingdom’s territory shall enjoy security.

3. With regard to the request to explain whether the trials of these four individuals are being conducted in a manner that is consistent with international fair trial and due process standards:

The individuals in question were arrested by the competent authority for having committed several offences punishable under the laws applicable in the Kingdom. After being interrogated, they were charged with committing these crimes. Their case files were transferred to the court, and their trials are being carried out in accordance with the applicable laws. The accused attended the hearings in the presence of the public prosecutor. The public prosecutor’s charges were read out to them, in accordance with article 160 of the Code of Criminal Procedure, which states that: “At the hearing, the court shall inform the accused of the offence with which he or she is charged, read the indictment and explain it, provide the accused with a copy thereof and call upon him or her to respond.” The accused can either respond or request a deadline to submit their response. Their lawyers and representatives attend the hearings, and representatives of foreign embassies, some media outlets, a number of the accused persons’ relatives, and the Human Rights Commission may attend. The cases of these persons are still under judicial consideration before the court of first instance. They are being tried in accordance with the judicial regulations in the Kingdom, which guarantee the rights of the accused and provide the requisite safeguards throughout the criminal proceedings, beginning with arrest and the investigations and concluding with a trial consistent with international fair trial standards. The Kingdom is committed to fulfilling its international obligations stemming from the human rights treaties to which it has acceded and which are deemed to form part of its domestic legislation. The provisions of these instruments thus have the same legal validity as domestic legislation. Article 11 (1) of the Procedures for Accession to International Conventions, which was promulgated by Council of Ministers Decision No. 287 of 26 July 2010, stipulates that upon accession to the convention to be implemented, the competent authorities shall take the requisite measures to ensure fulfilment of all the obligations it imposes on the Kingdom. The Kingdom’s legislation also guarantees the right of any accused person to a fair and public trial before an independent court by providing many legal safeguards based on the provisions of the Islamic sharia, pursuant to which a Muslim judge is required to adjudicate fairly between people. Many of these principles are enshrined in the Basic Law of Governance, article 26 of which requires the State to protect human rights in accordance with the Islamic sharia. Article 36 requires the State to ensure the security of all its citizens and persons residing in its territory, and no persons’ actions may be restricted, nor may they be detained or imprisoned save in accordance with the provisions of the law in force.

Article 38 underscores the principle that penalties are personal and that acts cannot be criminalized retroactively. It stipulates that: “Penalties are personal and there can be no offence and no penalty save with reference to the provisions of sharia or a statutory provision. Penalties can only be imposed for acts perpetrated after the enactment of a law.” Under article 3 of the Code of Criminal Procedure, no one may be sentenced to a criminal penalty except in respect of an act which is prohibited and punishable under the law or regulations and after being convicted in a trial conducted in accordance with due process of law. The Code makes provision for numerous procedural safeguards which regulate criminal proceedings, guarantee the rights of defendants and ensure that the latter are presumed innocent until found guilty under the terms of a final court judgment handed down in conformity with the legal and statutory requirements set forth in the provisions of the Code and the regulations relevant to the nature of the proceedings. Article 4 of the Code establishes the right of all accused persons to seek the assistance of a representative or a lawyer to defend them during the investigation and trial stages. Article 19 of the Statutes of the Bar Association requires all legal bodies and investigating authorities to make available to lawyers all facilities needed to perform their functions, grant them access to the case file and approve all requests unless there is a legitimate justification for refusal. In addition, article 139 of the Code of Criminal Procedure provides that, if the accused person lacks the financial means to seek the assistance of a lawyer, he or she may ask the court to appoint one to defend him or her at the State’s expense. The judiciary in the Kingdom is an independent authority, as stipulated in article 46 of the Basic Law of Governance (“The judiciary is an independent authority and, in their administration of justice, judges shall be subject to no authority other than the Islamic sharia”) and article 1 of the Statute of the Judiciary (“Judges are independent and, in their administration of justice, are subject to no authority other than the provisions of the Islamic sharia and the regulations in force. No one may interfere in judicial affairs”). Article 160 of the Code of Criminal Procedure provides that, during the hearing, the charges against the accused must be read out and explained, and the accused provided with a copy thereof. Article 107 of the Code establishes that the defendant must be present, without restraints or shackles but kept under the requisite surveillance, during the court hearings. Defendants may not be removed from the courtroom during a hearing unless their behaviour so requires, in which case the proceedings continue in their absence until they can once again be conducted in their presence, at which time the court must acquaint them with the proceedings that took place in their absence. Article 163 of the Code of Criminal Procedure provides that any of the parties has the right to request the court to consider any evidence that has been submitted and to conduct a specific investigation procedure. Under article 64 of the Code of Sharia Procedure, the proceedings must be conducted in public unless the judge decides, at his or her own discretion or at the request of any of the parties, to conduct them in camera in order to preserve public order or protect public morals or family privacy. Article 154 of the Code of Criminal Procedure establishes the same principle. Article 164 of the Code of Sharia Procedure provides that the judgment must be delivered at a public hearing. Article 181 (1) of the Code of Criminal Procedure applies the same principle by requiring the judgment, signed by the bench, to be read out at a public hearing, even if the proceedings were conducted in camera, and the said hearing must be attended by the parties to the proceedings and by all the judges who rendered the judgment. Under article 32 of the Code of Sharia Procedure, the court must hear the statements of non-Arabic-speaking parties, witnesses and other persons involved through an interpreter and, under article 171 of the Code of Criminal Procedure, if the court calls upon an expert to give an opinion on a technical matter relevant to the case, the parties are entitled to receive copies of the expert’s report. The court has an obligation to avail itself of the services of one or more interpreters if any of the parties or witnesses do not understand the Arabic language.

Article 9 of the Code of Criminal Procedure stipulates that criminal judgments are subject to objection in the manner prescribed therein. Under article 192 of the Code, the convicted person has the right to file an appeal, within the statutory time limit, against a judgment rendered by a court of first instance and the court must inform him or her of this right when pronouncing the judgment. Article 193 of the Code stipulates that a copy of the judgment must be delivered to the prisoner or detainee in the prison or detention facility within the prescribed time limit, and the authority holding the prisoner or detainee must bring him or her to the court to lodge his or her objection to the judgment within the time limit prescribed for the filing of objections or of the convicted person’s signed waiver thereof, which must be entered in the case file. If the appeal court upholds the judgment, it

must refer the case to the Supreme Court, in accordance with article 10 of the Code. Under article 198, the convicted person has the right to file an objection in cassation before the Supreme Court against a judgment or decision rendered or upheld by an appellate court if the objection is substantiated on any of the following grounds:

1. The sentence contravenes the provisions of sharia law or laws issued by the Ruler which are not at variance with sharia law.
2. The sentence was issued by a court which was not constituted according to law.
3. The sentence was issued by a court or division which was not competent to do so.
4. The designation or description of the facts was erroneous or inaccurate.

In addition, the Code of Criminal Procedure recognizes the right of any of the parties to request a review of final legal judgments imposing sentences in the circumstances specified in article 204 thereof. These safeguards are consistent with international fair trial and due process standards.

4. With regard to the request to provide information about the conditions of detention of the four individuals, including the material conditions in which they were detained, and continue to be detained, as well as with regard to contacts with other prisoners, their families and lawyers, and how these conditions are consistent with the provisions of the United Nations Standard Minimum Rules for the Treatment of Prisoners (the Mandela Rules):

The persons concerned are treated in accordance with statutory regulations, which provide the necessary safeguards and guarantee their rights. They receive medical care just like other detainees. In fact, all detainees and prisoners undergo a medical examination as soon as they are placed in custody and they all receive health care. They also have the right to regularly receive visits from and communicate with their relatives and with their lawyers and representatives, in accordance with the Kingdom's regulations.

5. With regard to the request to provide information as to whether the allegations, including the complaints made in court by these individuals, that they were tortured in custody were investigated as required under the Convention against Torture; and if no investigation was carried out to explain why, and how, this is consistent with the country's international human rights obligations under the Convention:

The Kingdom's regulations set out the necessary safeguards and measures to prevent detainees or prisoners from being subjected to torture or ill-treatment and other cruel, inhuman or degrading treatment. Article 102 of the Code of Criminal Procedure requires that the interrogation must be conducted in a manner that does not affect the voluntary nature of statements made by the suspect, who must neither be required to take an oath nor subjected to any means of coercion. Under article 2 (8) of Royal Decree No. 43 of 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 such acts is up to 10 years' imprisonment. The Kingdom is committed to the human rights conventions to which it is a party, including the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, which forms part of its domestic law. It should be noted that the court has not yet ruled on the cases of the individuals in question and the allegations presented.

6. With regard to the request to provide information on the existing procedures for persons sentenced to death to seek clemency or a pardon, and provide detailed information on how the individuals in question may access such procedures:

Litigants are entitled to submit a request for a review of final judgments imposing penalties in the circumstances specified in article 204 of the Code of Criminal Procedure.

7. With regard to the request to provide information on how legislation and other provisions in force to regulate the legitimate exercise of the rights to freedom of expression and freedom of religion and belief are compatible with international human rights standards:

The laws of the Kingdom guarantee freedom of opinion and expression for everyone unless public order or social values are transgressed or members of society are offended. Article 8 of the Press and Publications Act guarantees the right to express one's opinion through various means of publication, within the scope of legal and regulatory provisions. Article 24 of the Act stipulates that local newspapers are not subject to censorship, except in exceptional circumstances approved by the Prime Minister. This restriction has a statutory basis nationally. Thus, article 39 of the Basic Law of Governance obliges all media to use the language of decency, abide by State laws, contribute to the education of the nation and promote unity. Anything that would lead to sedition or division or undermine the security of the State is forbidden. This is consistent with international standards, most significantly article 29 (2) of the Universal Declaration of Human Rights, which states: "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 public welfare".

With respect to freedom of religion and belief, all citizens of the Kingdom are Muslims, who enjoy all of their rights on an equal footing. They have the same rights and duties, and they practise their religious rituals and beliefs freely and without discrimination as part of a single and harmonious national fabric. They have equal rights in all fields such as education, health, employment and litigation. The Kingdom's legislation and regulations do not contain provisions – or even references – that discriminate against anyone. Discrimination is actually criminalized and punishable under article 8 of the Basic Law of Governance, which stipulates that: "Governance in the Kingdom of Saudi Arabia shall be based on justice, consultation and equality in accordance with the Islamic sharia." Article 11 stipulates that: "Saudi society shall be based on its members' adherence to the bond of Allah, their cooperation in righteousness and piety, their maintenance of solidarity and their avoidance of disparity." Article 12 stipulates that: "Promotion of national unity is a duty and the State shall prevent whatever leads to disunity, sedition and division." Article 26 stipulates that: "The State shall protect human rights in accordance with the Islamic sharia." The Kingdom is committed to the human rights treaties that it has ratified, including the Convention on the Elimination of All Forms of Racial Discrimination.

8. With regard to the request for information on how the Government's counter-terrorism efforts comply with the United Nations Security Council resolutions enumerated, in particular with international human rights law:

The Kingdom has spared no effort in combating terrorism and extremism and criminalizing such acts, which are subject to deterrent penalties. The security forces have successfully prevented numerous acts of terrorist violence and thwarted many heinous terrorist plans, while demonstrating due regard for human rights. The alertness of citizens and residents who have played their part in the fight against terrorism by reporting suspicious behaviour is applauded.

The King Abdulaziz Centre for National Dialogue, which plays an important role in spreading moderation and promoting tolerance and coexistence, has launched numerous projects designed to achieve its goals. These include the Tibyan Project on combating extremism, which seeks to spread the values of moderation, tolerance and repudiation of all forms of extremism. The Ideological War Centre was established with a mandate to address the roots of extremism and terrorism and secure a true understanding of Islam. The Centre's terrorism prevention and deradicalization programmes have enabled young people around the world to fortify themselves against the blandishments of terrorism. The goals of the Centre include formulating a deep-rooted understanding of the problem of extremism by studying its underlying causes, understanding the tools and methods used by extremist groups, identifying the social groups targeted by terrorist groups and cooperating effectively with national and global organizations. At the regional and international levels, the Global Centre for Combating Extremist Ideology ("Itidal"), inaugurated on 21 May 2017 by the Custodian of the Two Holy Mosques, King Salman bin Abdulaziz, is one component of the institutional framework for fighting terrorism. Working in collaboration with related international organizations and States, the Centre monitors and analyses extremist ideology in order to confront it and protect against it. The Kingdom is committed to adhering to the provisions and rules of international human rights law.