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OFFICE OF THE UNITED NATIONS
HIGH COMMISSIONER FOR HUMAN RIGHTS

SPECIAL PROCEDURES OF THE
HUMAN RIGHTS COUNCIL

Mandates of the Chair-Rapporteur of the Working Group on Arbitrary Detention; the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression; the Special Rapporteur on the situation of human rights defenders; and the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment.

REFERENCE: UA G/SO 218/2 G/SO 214 (67-17) G/SO 214 (107-9) G/SO 214 (53-24)
SAU 1/2014

3 February 2014

Excellency,

We have the honour to address you in our capacity as Chair-Rapporteur of the Working Group on Arbitrary Detention; Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression; Special Rapporteur on the situation of human rights defenders; and Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment pursuant to Human Rights Council resolutions 24/7, 16/4, 16/5, and 16/23.

In this connection, we would like to draw the attention of your Excellency's Government to information we have received concerning the arrest and detention of Mr. Fawzan Mohsen Awad Al Harbi, the Deputy President of the Saudi Civil and Political Rights Association (ACPRA). The ACPRA is a non-governmental organization founded in 2009, which documents cases of arbitrary detention, torture and ill-treatment in the Kingdom of Saudi Arabia and has in the past filed complaints against the Ministry of Interior concerning such cases on behalf of the detainees and their families.

The ACPRA was the subject of a communication sent by the Chair-Rapporteur of the Working Group on Arbitrary Detention, the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, the Special Rapporteur on the rights to freedom of peaceful assembly and of association, and the Special Rapporteur on the situation of human rights defenders, on 27 March 2013. Furthermore, the harassment of Mr. Al Harbi was the subject of a joint urgent appeal sent on 12 September 2013 by a number of Special Procedures mandate holders, including the Chair-Rapporteur of the Working Group on Arbitrary Detention, the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, and the

Special Rapporteur on the situation of human rights defenders. We regret that no replies have been received to either communication.

According to the information received:

Mr. Fawzan Mohsen Awad Al Harbi (فوزان محسن عوض الحربي) is a Saudi national (national identification number: [REDACTED]) and resides at [REDACTED] neighborhood, [REDACTED]. As a prominent member of the ACPRA and human rights activist, Mr. Al Harbi has contributed to submissions of cases of arbitrary detention, torture and ill-treatment by the Saudi authorities to the United Nations human rights mechanisms.

Mr. Al Harbi has been under investigation since 11 May 2013 at the Bureau of Investigation and Prosecution. He was summoned to appear before the Special Criminal Court of Riyadh on 4 December 2013 and charged with offences including "inciting disobedience to the ruler by calling for demonstrations", "signing documents that incite public opinion against the authorities", "describing the Saudi Arabian state as a 'police state'", "accusing the judiciary of being incapable of delivering justice", "co-founding an unlicensed organization" and "ignoring judicial decisions ordering its dissolution". During the hearing, Mr. Al Harbi openly recognized his membership of the ACPRA and reiterated his call for greater respect for internationally recognized civil and political rights by the Saudi authorities.

At the second hearing on 26 December 2013, Judge Omar Ben Ali Al Sahn of the Special Criminal Court reportedly ordered the arrest of Mr. Al Harbi. While Mr. Al Harbi's lawyer raised a question about the legal basis of the order, the judge allegedly did not provide any response. During the third hearing on 9 January 2014, the judge reportedly refused to answer the lawyer's question again, stating that he will provide the legal basis for the arrest in the final judgment. Mr. Al Harbi has been detained in Al Malaz prison in Riyadh since 26 December 2013. The conditions of his detention are reportedly harsh: he is forced to sleep in the hallway leading to the prison's mosque due to overcrowding of the prison cells and only has an old and dirty blanket given to him by another prisoner to keep himself warm.

We are expressing serious concerns at the allegations that Mr. Al Harbi has been held for almost a month without being informed of the legal basis of his detention and the determination of charges against him by the judicial authorities; and that Mr. Al Harbi's current detention may be a consequence of his peaceful and legitimate human rights activities and his cooperation with the United Nations human rights mechanisms.

Without expressing at this stage an opinion on the facts of the case and on whether the detention of Mr. Al Harbi is arbitrary or not, we would like to appeal to your Excellency's Government to take all necessary measures to guarantee his rights not to be deprived arbitrarily of his liberty and to fair proceedings before an independent and impartial tribunal, in accordance with articles 9 and 10 of the Universal Declaration of Human Rights.

We would like to appeal to your Excellency's Government to take all necessary steps to secure the right to freedom of opinion and expression in accordance with fundamental principles as set forth in article 19 of the Universal Declaration of Human Rights which provides that "[e]veryone has the right to freedom of opinion and expression; this right includes freedom to hold opinions without interference and to seek, receive and impart information and ideas through any media and regardless of frontiers."

With regards to the concerns that Mr. Al Harbi might have been targeted due to his peaceful and legitimate human rights activities, we would like to refer your Excellency's Government to the fundamental principles set forth in the Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms, and in particular articles 1 and 2 which state that "everyone has the right individually or in association with others, to promote and to strive for the protection and realization of human rights and fundamental freedoms at the national and international levels" and that "each State has a prime responsibility and duty to protect, promote and implement all human rights and fundamental freedoms, inter alia, by adopting such steps as may be necessary to create all conditions necessary in the social, economic, political and other fields, as well as the legal guarantees required to ensure that all persons under its jurisdiction, individually and in association with others, are able to enjoy all those rights and freedoms in practice".

Furthermore, we would like to bring to the attention of your Excellency's Government the following provisions of the Declaration:

- article 6 point a) which provides that everyone has the right, individually and in association with others to know, seek, obtain, receive and hold information about all human rights and fundamental freedoms, including having access to information as to how those rights and freedoms are given effect in domestic legislative, judicial or administrative systems; and

- article 6 points b) and c) which provide that everyone has the right, individually and in association with others as provided for in human rights and other applicable international instruments, freely to publish, impart or disseminate to others views, information and knowledge on all human rights and fundamental freedoms; and to study, discuss, form and hold opinions on the observance, both in law and in practice, of all

human rights and fundamental freedoms and, through these and other appropriate means, to draw public attention to those matters.

We also wish to recall the provisions of resolution 12/2 of the Human Rights Council (A/HRC/RES/12/2), which, inter alia, “condemns all acts of intimidation or reprisal by Governments and non-State actors against individuals and groups who seek to cooperate or have cooperated with the United Nations, its representatives and mechanisms in the field of human rights (OP 2) and “calls upon all States to ensure adequate protection from intimidation or reprisals for individuals and groups who seek to cooperate or have cooperated with the United Nations, its representatives and mechanisms in the field of human rights (...)” (OP 3).

In view of the urgency of the matter, we would appreciate a response on the initial steps taken by your Excellency’s Government to safeguard the rights of Mr. Al Harbi in compliance with the above international instrument.

Moreover, as it is our responsibility under the mandates provided to us by the Human Rights Council to seek to clarify all cases brought to our attention, we would be grateful for your observations on the following matters, when relevant to the case under consideration:

1. Are the facts alleged in the summary of the case accurate?
2. Please provide information concerning the legal grounds for the arrest and detention of Mr. Al Harbi and how such measures are compatible with international human rights norms and standards.
3. Please provide the details, and where available the results, of any investigation, judicial or other inquiries carried out in relation to this case. If no inquiries have taken place, or if they have been inconclusive, please explain why.
4. Please indicate what measures have been taken to ensure that all human rights defenders in the Kingdom of Saudi Arabia can operate in an enabling environment and can carry out their legitimate activities without fear of harassment, stigmatization or criminalization of any kind.

We undertake to ensure that your Excellency’s Government’s response will be available in the report we will submit to the Human Rights Council for its consideration.

While waiting for your response, we urge your Excellency's Government to take all necessary measures to guarantee that the rights and freedoms of Mr. Al Harbi are respected and, in the event that your investigations support or suggest the above allegations to be correct, the accountability of any person responsible of the alleged

violations should be ensured. We also request that your Excellency's Government adopt effective measures to prevent the recurrence of these acts.

Please accept, Excellency, the assurances of our highest consideration.

Mads Andenas
Chair-Rapporteur of the Working Group on Arbitrary Detention

Frank La Rue
Special Rapporteur on the promotion and protection of the right to freedom of
opinion and expression

Margaret Sekaggya
Special Rapporteur on the situation of human rights defenders

Juan E. Méndez
Special Rapporteur on torture and other cruel, inhuman or degrading treatment or
punishment