

Mandates of the Working Group on Arbitrary Detention; the Working Group on the issue of discrimination against women in law and in practice; 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

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Excellency,

We have the honour to address you in our capacity as Chair-Rapporteur of the Working Group on Arbitrary Detention; Chairperson-Rapporteur of the Working Group on the issue of discrimination against women in law and in practice; Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression; and Special Rapporteur on the situation of human rights defenders pursuant to Human Rights Council resolutions 24/7, 23/7, 25/2, and 25/18.

In this connection, we would like to bring to the attention of your Excellency's Government information we have received regarding **the alleged arrest and detention of two female human rights activists, Ms. Loujain al-Hathloul and Ms. Maysaa al-Amoudi, in apparent defiance of a ban on women driving in the Kingdom of Saudi Arabia**, as well as concerns related to the persistence of policies which directly or indirectly discriminate against women in Saudi Arabia and which are rooted in prejudicial, customary or other practices based on stereotyped roles for women and men.

According to information received:

Two Saudi female human rights activists, Ms. Loujain al-Hathloul and Ms. Maysaa al-Amoudi, were arrested and detained for driving their cars into Saudi Arabia on 30 November 2014 and 1 December 2014 respectively.

One of the women, Ms. al-Hathloul, was arrested at the al-Batha border crossing after allegedly attempting to drive into Saudi Arabia from the United Arab Emirates on 30 November 2014. Ms. al-Hathloul subsequently posted on social media that she had been forced to wait in her car overnight, that authorities had confiscated her passport and that she was cold and hungry. When Ms. al-Amoudi, a Saudi journalist based in the United Arab Emirates, attempted to bring some basic supplies to Ms. al-Hathloul on 1 December 2014, she too was arrested at the

border on that day, even though she reportedly told the authorities that she did not intend to drive inside Saudi Arabia.

It is alleged that both Ms. al-Hathloul and Ms. al-Amoudi were ordered by the authorities to drive their cars into Saudi territory on the understanding that they would have to make u-turns and return to the United Arab Emirates. However, as soon as they crossed the border into Saudi Arabia, they reportedly found the authorities, including prison guards, waiting to arrest them.

Both women, who hold valid driving licenses from the United Arab Emirates, have reportedly been detained by Saudi officials on the Saudi side of the al-Batha border crossing. They were then transferred to the Bureau of Interrogation and Prosecution in the Eastern Province city of Hufuf for questioning. On 7 December 2014, the two Saudi female human rights activists were detained for a further 25 days.

The authorities are holding Ms. al-Hathloul at a juvenile centre for girls and Ms. al-Amoudi is held in the al-Ahsa Central Prison. The detention of Ms. al-Hathloul is reported to be among the longest of any female driver in the Kingdom of Saudi Arabia in recent times. Both women were allegedly arrested as part of attempts by the authorities to hamper the legitimate work of human rights defenders and suppress their right to freedom of opinion and expression. On 25 December 2014, Ms. Al-Hathloul and Ms. al-Amoudi were referred to a court established to try terrorism charges, allegedly for comments they made on social media.

Saudi Arabia is the only country in the world which does not allow women to drive. The prohibition on female driving in Saudi Arabia became official state policy in 1990, when the country's most senior religious authority declared a fatwa, or religious edict, against women driving, stating that driving would expose women to "temptation" and lead to "social chaos."

The discriminatory male guardianship system remains intact in Saudi Arabia despite Government pledges to abolish it. Under this system, Government policies and practices reportedly forbid women from obtaining a passport, marrying, travelling, or accessing higher education without the approval of a male guardian, usually a husband, father, brother, or son. Authorities have also failed to prevent some employers from requiring male guardians to approve the hiring of adult female relatives or some hospitals from requiring the approval of a male guardian for certain medical procedures for women.

Efforts to abolish the ban on women drivers in Saudi Arabia have gathered pace recently. Many women have demonstrated their support for the "October 26 campaign" for women's right to drive and reportedly posted images of themselves driving on social media. It is alleged that, in response, the Interior Ministry said that it would "strictly implement" measures against anyone undermining "the social cohesion." Both Ms. al-Hathloul and Ms. al-Amoudi have vocally supported an end to the driving ban in Saudi Arabia and, since 2013, Ms. al-

Hathloul has posted several videos of herself on social media calling for women's rights reforms and encouraging women to drive in defiance of the ban.

We would like to take this opportunity to express our grave concern regarding the arrest and detention of Ms. al-Hathloul and Ms. al-Amoudi, two women human rights defenders, for reportedly driving in the Kingdom of Saudi Arabia and call on your Excellency's Government to release them immediately. Their arrest and detention seems to be a form of harassment related to their ongoing advocacy efforts to lift the ban on women driving in Saudi Arabia, a ban which discriminates against Saudi women and which is rooted in prejudicial, customary or other practices based on stereotyped roles for women and men. Imprisonment of women for driving a car is evidence of a *de jure* discrimination. This *de jure* restriction seriously curtails women's equality in their enjoyment of a wide range of other rights, including the rights to work, choice of occupation, and cultural and leisure activities, freedom of movement, and freedom of opinion and expression.

In this regard, we would like to refer to articles 2 (f), 5 (a), 11 and article 12 of the Convention on the Elimination of All Forms of Discrimination against Women ('CEDAW'), ratified by Saudi Arabia on 7 September 2000 as well as articles 1, 2 13, 19, 20, 23 and 24 of the Universal Declaration of Human Rights ('UDHR').

Without expressing an opinion on whether or not the detention of Ms. al-Hathloul and Ms. al-Amoudi is arbitrary, the above allegations also appear to be in contravention of the right not to be deprived arbitrarily of one's liberty as set forth in article 9 of the UDHR. We are also concerned that the current concept of male guardianship in Saudi Arabia violates Saudi Arabia's obligations under articles 11 and 12 CEDAW. We are further concerned that reservations to critical articles in CEDAW and Saudi Arabia's general reservation to the treaty cast serious doubt on its overall commitment to advancing women's human rights.

Furthermore, these allegations appear to contravene the prime responsibility and duty of the State to protect, promote and implement all human rights and fundamental freedoms 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, in particular articles 1 and 2.

We also wish to recall paragraph 15 of the 2008 Concluding Observations (CEDAW/C/SAU/CO/2) of the CEDAW Committee, where the Committee expressed its concern to Saudi Arabia that "the *de facto* ban of women from driving, [is] a limitation of their freedom of movement" and "contribute[s] to the maintenance of ... stereotypes" that discriminate against women.

Furthermore, in connection with the above allegations, we would like to recall paragraph 30 of the 2013 interim report of the Special Rapporteur on freedom of religion and belief to the General Assembly (A/68/290), where he emphasizes that "... as a human right, freedom of religion and belief can never serve as a justification for the violation of women and girl's rights."

We take this opportunity to encourage your Excellency's Government to ratify both the International Covenant on Economic, Social and Cultural Rights and the International Covenant on Civil and Political Rights. We also encourage your Excellency's Government to withdraw its reservations to CEDAW which stipulates, *inter alia*, that “in case of contradiction between any term of the Convention and the norms of Islamic law, the Kingdom is not under obligation to observe the contradictory terms of the Convention” and to ratify the Optional Protocol to CEDAW.

The full texts of the human rights instruments and standards recalled above are available on www.ohchr.org or can be provided upon request.

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 the above-mentioned person(s) in compliance with international instruments.

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:

1. Please provide any additional information and any comment you may have on the above mentioned allegations.
2. Please provide information on the legal grounds for the arrest and detention of Ms al-Hathloul and Ms. al-Amoudi and explain how these measures comply with international human rights standards.
3. Please provide information on any measures taken by the authorities to implement the 2008 Concluding Observations of the Committee on the Elimination of Discrimination against Women (CEDAW/C/SAU/CO/2), in particular, the recommendations set out in paragraph 16 of these Observations.

While awaiting a reply, we urge that all necessary interim measures be taken to halt the alleged violations and prevent their re-occurrence and in the event that the investigations support or suggest the allegations to be correct, to ensure the accountability of any person responsible of the alleged violations.

Your Excellency's Government's response will be made available in a report to be presented to the Human Rights Council for its consideration.

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

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Chair-Rapporteur of the Working Group on Arbitrary Detention

Frances Raday
Chairperson-Rapporteur of the Working Group on the issue of
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David Kaye
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