

**NATIONS UNIES**  
**HAUT COMMISSARIAT DES NATIONS UNIES**  
**AUX DROITS DE L'HOMME**

**PROCEDURES SPECIALES DU**  
**CONSEIL DES DROITS DE L'HOMME**

**UNITED NATIONS**  
**OFFICE OF THE UNITED NATIONS**  
**HIGH COMMISSIONER FOR HUMAN RIGHTS**

**SPECIAL PROCEDURES OF THE**  
**HUMAN RIGHTS COUNCIL**

**Mandates 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; the Special Rapporteur on the independence of judges and lawyers; 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 (3-3-16) G/SO 214 (53-24)  
SAU 6/2012

1 March 2012

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; Special Rapporteur on the independence of judges and lawyers; and Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment pursuant to General Assembly resolution 60/251 and to Human Rights Council resolutions 15/18, 16/4, 16/5, 17/2, 16/23.

In this connection, we would like to bring to your Excellency's Government's attention information we have received concerning the alleged 30-year prison sentence handed down to Dr. **Saud Mokhtar Al-Hashimi**, the 25-year prison sentence handed down to Mr. **Walid Ali Ahmad Lamri**, and the 15-year prison sentence handed down to Mr. **Sulaiman Ibrahim Saleh Al-Rashoudi** on 22 November 2011. We would also like to bring to your Excellency's Government's attention information received about the trial and alleged acquittal of Dr. **Said Bin Zair** after more than four years in detention; the alleged failure to provisionally release Dr. **Mubarak Bin Zair** despite a judicial decision to that effect; and the alleged 20-month long incommunicado detention and imminent trial of Mr. **Mokhlif Al Shammari**.

Dr. Saud Mokhtar Al-Hashimi is a medical doctor, Professor of Medicine at King Abdulaziz University and a member of a number of civil society organizations advocating for reforms and increased respect for civil and political rights in Saudi Arabia. Mr. Sulaiman Ibrahim Saleh Al-Rashoudi is a lawyer who regularly represents people who have been detained in connection with alleged violations of their right to freedom of expression and opinion. Dr. Said Bin Zair is an academic who has reportedly spent 13 of the previous 16 years in detention in connection with his public denunciations of human rights abuses committed in Saudi Arabia and his calls for political and judicial reform. Mr. Bin Zair's son, Dr. Mubarak Bin Said Bin Zair, is a professor at Al Immam

Mohammad Bin Saud University and continuously campaigned for the release of his father, Dr. Said Bin Zair. Mr. Mokhlif Al Shammari works towards improving relations between the Sunni and Shia communities in Saudi Arabia. Mr. Walid Ali Ahmad Lamri is a student who has collected information on cases of alleged arbitrary detention in Saudi Arabia.

Dr. Saud Mokhtar Al-Hashimi and Mr. Sulaiman Ibrahim Saleh Al-Rashoudi were both the subject of Opinion No. 27/2007, in which the Working Group on Arbitrary Detention declared arbitrary their continued deprivation of liberty, being in contravention of articles 9, 19 and 20 of the Universal Declaration of Human Rights (UDHR) and falling under categories I and II of the categories applicable to the consideration of the cases submitted to the Working Group.

Mr. Walid Ali Ahmad Lamri was the subject of a previous communication sent to your Excellency's Government on 2 May 2007 by the Chair-Rapporteur of the Working Group on Arbitrary Detention, the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, and the then Special Representative of the Secretary-General on the situation of human rights defenders. We regret that to date no reply has been transmitted by your Excellency's Government to the latter communication.

Dr. Said Bin Zair was the subject of Opinion No. 36/2008, in which the Working Group on Arbitrary Detention declared arbitrary his continued deprivation of liberty, being in contravention of articles 9, 10 and 19 of the Universal Declaration of Human Rights and falling under categories I, II, and III of the categories applicable to the consideration of the cases submitted to the Working Group.

According to the information received:

On 22 November 2011, Dr. Saud Mokhtar Al-Hashimi, Mr. Sulaiman Ibrahim Saleh Al-Rashoudi and Mr. Walid Ali Ahmad Lamri were sentenced to prison terms ranging from 15 to 30 years by the Special Criminal Tribunal (SCT) in Riyadh. All three were reportedly convicted on the charge of breaking allegiance with the king, as well as other charges including money laundering. On 22 January 2012, all three men are reported to have submitted appeals to the Court of Appeal in Riyadh.

Dr. Saud Mokhtar Al-Hashimi was reportedly sentenced to 30 years' imprisonment, 30 years' travel ban following his release and a fine of 2 million Saudi Arabian riyals. Dr. Al-Hashimi was allegedly arrested on 2 February 2007 and, while in detention, it is reported that he was tortured and forced to sign documents without first being allowed to read them. Reportedly, Dr. Al-Hashimi is currently being detained in Dhahban Prison. In December 2011 he was alleged to have been stripped of his clothes and placed in an extremely cold room for four days until he signed a statement confessing to allegations against him and stating that he did not want a lawyer during his court sessions. It is reported that when he was brought before a judge on 1 January 2012 and explained that he was forced to sign the declaration, the judge did not respond and did not take any action to address the allegations. Dr. Al-Hashimi's lawyer filed an appeal and was orally

informed about its acceptance. We are also informed that Dr. Al-Hashimi's detention conditions have changed within the last two weeks following appearances on television of his relatives, who expressed criticism towards the authorities. Dr. Al-Hashimi is now reportedly detained in solitary confinement and was allegedly beaten.

Mr. Walid Ali Ahmad Lamri was reportedly sentenced to 25 years' imprisonment and a travel ban of 25 years following his release. Reports indicate that Mr. Lamri was arrested on 27 February 2007. It is alleged that Mr. Lamri had not once been presented before a judge before his sentencing on 22 November 2011 and that he had not benefited from legal counsel in over four years of pre-trial detention. Reportedly, Mr. Lamri is currently being detained in Dhahban Prison.

Mr. Lamri has now allegedly been permitted to hire a lawyer to represent him. However, his lawyer, who is also representing Dr. Al-Hashimi, has reportedly been denied access to his clients. Furthermore, it is reported that the lawyer has been prevented from attending most of the court hearings involving his clients due to being banned from the courthouse.

A 15-year prison sentence was reportedly handed down to Mr. Sulaiman Ibrahim Saleh Al-Rashoudi, to be followed by a 15-year travel ban. As well as the charges mentioned above, Mr. Al-Rashoudi was allegedly convicted of possessing banned articles by Professor Madawi Al-Rasheed. Mr. Al-Rashoudi was arrested on 2 February 2007, and it is alleged that he was subjected to torture and ill-treatment while in detention before being released on bail for medical reasons on 23 June 2011. It is reported that Mr. Al-Rashoudi has been granted bail pending his appeal.

Dr. Said Bin Zair was arrested on 6 June 2007. He is reported to have been brought before the SCT on several occasions. Sources indicate that Dr. Bin Zair was held incommunicado in Al Hair Prison, close to Riyadh, and, as such, was being denied access to both his family and legal counsel. On 19 February 2012, it is reported that the SCT acquitted Dr. Said Bin Zair due to lack of sufficient evidence and ordered his release. Dr. Bin Zair was finally released on 24 February 2012.

Dr. Mubarak Bin Said Bin Zair was arrested on 20 March 2011 by the police officers (*Mabahith*) while driving on Al Malek Fahed Street on his way to the Ministry of Interior where a sit-in protest against arbitrary detention in Saudi Arabia was taking place. He was brought before the SCT on 21 December 2011. During that hearing, of which his family was allegedly informed only three and a half hours beforehand, Dr. Mubarak Bin Said Bin Zair was informed of the charges against him. He is reportedly accused of alleged disobedience towards the authority and of demonstrating without authorization. We are informed that in a subsequent hearing of his case on 14 February 2012, the SCT ordered Dr. Mubarak Bin Said Bin Zair's provisional release. This order has reportedly not yet been enforced by the Ministry of Interior and the *Mabahith*. Reportedly, the order has to be approved by a decision of the commission of the Office of Coordination.

Mr. Mokhlif Al Shammari is reported to have been arrested on 15 June 2010 and charged with “disturbing the peace” on 8 July 2010. Reports indicate that his file has been passed to the SCT. He was reportedly held in incommunicado detention in Dammam Prison for 20 months before being released on bail on 22 February 2012. Information received indicates that he has been subjected to ill-treatment, notably by being suspended from the walls by his arms with his feet barely touching the floor for an hour each day. One incident has been reported where he was allegedly beaten unconscious after an incident in which guards apparently insulted him and to which he responded; when he woke up, the prison guards were reportedly making him drink a cleaning product.

It is also alleged that, when the formal charges were brought, the defendants’ lawyers were not informed of the charges which their clients were facing. Family members have reportedly been prevented from attending several of the hearings, and court officials have refused to process complaints made by defence lawyers about errors in the legal proceedings. Information received also indicates that during one hearing the defendants were kept handcuffed and blindfolded for the duration of the session.

Concern is expressed that the prison sentences handed down to Messrs. Saud Mokhtar Al-Hashimi, Sulaiman Ibrahim Saleh Al-Rashoudi and Walid Ali Ahmad Lamri and the failure to provisionally release Dr. Mubarak Bin Said Bin Zair may be directly related to their legitimate human rights work. Grave concern is expressed regarding the physical and psychological integrity of all of the subjects of this communication in light of the lengthy nature of the sentences reportedly handed down, the allegations of ill-treatment while in detention, and the reports of prolonged incommunicado detention. Concern is further expressed about the violation of the defendants’ procedural safeguards in relation to the criminal proceedings against them.

The Working Group on Arbitrary Detention has already declared arbitrary the detention of Messrs. Saud Mokhtar Al-Hashimi and Sulaiman Ibrahim Saleh Al-Rashoudi. In light of the new information received, we are gravely concerned about the failure of the Saudi authorities to comply with the recommendations expressed in the Working Group’s Opinion No. 27/2007. These persons were charged and brought to trial after years spent in arbitrary detention. They were kept without access to a lawyer or their families and were not given adequate conditions to prepare for their trial. Their detention is directly linked to their exercise of the rights and freedoms under the UDHR. The Working Group reiterates its holdings in Opinion No. 27/2007 and urges your Excellency’s Government to take the necessary steps to remedy the situation of these persons in order to bring it into conformity with the norms and standards enshrined in the UDHR.

Furthermore, without prejudging the character of detention of Messrs. Walid Ali Ahmad Lamri and Dr. Mubarak Bin Said Bin Zair, we would like to appeal to your Excellency’s Government to take all necessary measures to guarantee their right not to be deprived arbitrarily of their liberty and to fair proceedings before an independent and impartial tribunal, in accordance with articles 9 and 10 of the UDHR.

We should also like to appeal to your Excellency's Government to seek clarification of the circumstances regarding the cases of the persons named above. We would like to stress that each Government has the obligation to protect the right to physical and mental integrity of all persons. This right is set forth inter alia in the UDHR and the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT).

In this context, we would like to draw the attention of your Excellency's Government to paragraph 1 of Human Rights Council Resolution 16/23 which "Condemns all forms of torture and other cruel, inhuman or degrading treatment or punishment, including through intimidation, which are and shall remain prohibited at any time and in any place whatsoever and can thus never be justified, and calls upon all States to implement fully the absolute and non-derogable prohibition of torture and other cruel, inhuman or degrading treatment or punishment."

We would also like to draw the attention of your Excellency's Government to paragraph 8b of Human Rights Council Resolution 16/23, which reminds States that "Prolonged incommunicado detention or detention in secret places can facilitate the perpetration of torture and other cruel, inhuman or degrading treatment or punishment and can in itself constitute a form of such treatment, and urges all States to respect the safeguards concerning the liberty, security and the dignity of the person and to ensure that secret places of detention and interrogation are abolished."

We would further like to draw your Excellency's Government attention to article 12 of the CAT, which requires the competent authorities to undertake a prompt and impartial investigation wherever there are reasonable grounds to believe that torture has been committed, and article 7 of the CAT, which requires State parties to prosecute suspected perpetrators of torture. We would also like to draw your Government's attention to paragraph 6b of Human Rights Council Resolution 8/8, which urges States "To take persistent, determined and effective measures to have all allegations of torture or other cruel, inhuman or degrading treatment or punishment promptly and impartially examined by the competent national authority, to hold those who encourage, order, tolerate or perpetrate acts of torture responsible, to have them brought to justice and severely punished, including the officials in charge of the place of detention where the prohibited act is found to have been committed, and to take note in this respect of the Principles on the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (the Istanbul Principles) as a useful tool in efforts to combat torture;".

While we believe that the aforementioned human rights defenders should not be prosecuted should the allegations described in the above summary be accurate, we however deplore the alleged violation of their procedural safeguards. All defendants should receive a fair trial in accordance with article 10 of the UDHR.

We are concerned that the defendants were brought to the SCT, a special criminal jurisdiction. In this respect, we wish to recall that "Everyone shall have the right to be tried by ordinary courts or tribunals using established legal procedures. Tribunals that do not use the duly established procedures of the legal process shall not be created to displace the jurisdiction belonging to the ordinary courts or judicial tribunals" in

accordance with principle 5 of the United Nations Basic Principles on the Independence of the Judiciary (General Assembly resolutions 40/32 of 29 November 1985 and 40/146 of 13 December 1985).

A fundamental element of the right to a fair trial is the right to legal assistance and representation. Concerning the allegations that Mr. Lamri was denied access to a lawyer during his four-year pre-trial detention, that Messrs. Lamri and Al-Hashimi only had restricted access to their defence lawyer, and that Dr. Zair was not given access to a lawyer, we wish to stress that “All persons are entitled to call upon the assistance of a lawyer of their choice to protect and establish their rights and to defend them in all stages of criminal proceedings.” in accordance with principle 1 of the United Nations Basic Principles on the Role of Lawyers (adopted by the Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders, Havana, Cuba, 27 August to 7 September 1990). Furthermore, pursuant to principle 8, “All arrested, detained or imprisoned persons shall be provided with adequate opportunities, time and facilities to be visited by and to communicate and consult with a lawyer, without delay, interception or censorship and in full confidentiality. Such consultations may be within sight, but not within the hearing, of law enforcement officials.”

Effective access to a lawyer also requires authorities to abstain from interfering with their work or imposing undue restrictions on them. Regarding the allegation that lawyers were not formally informed of the charged against their clients, we wish to underline that “It is the duty of the competent authorities to ensure lawyers access to appropriate information, files and documents in their possession or control in sufficient time to enable lawyers to provide effective legal assistance to their clients. Such access should be provided at the earliest appropriate time” in accordance with principle 21. This is crucial to allow lawyers to prepare their clients’ defence.

With regard to the information indicating that the defence lawyer of Messrs. Lamri and Al-Hashimi was denied access to his clients and was banned from court hearings, we refer to principle 16 of the aforementioned instrument which stipulates that “Governments shall ensure that lawyers (a) are able to perform all of their professional functions without intimidation, hindrance, harassment or improper interference; (b) are able to travel and to consult with their clients freely ...”; and (c) shall not suffer, or be threatened with, prosecution or administrative, economic or other sanctions for any action taken in accordance with recognized professional duties, standards and ethics.

Concerning the allegation that the judge did not take any action to inquire about or address the allegations that Mr. Al-Hashimi was forced to sign a confession, and that court officials refused to process complaints made by defence lawyers, we wish to draw the attention of your Excellency’s Government to the Basic Principles on the Independence of the Judiciary. Principle 2 requires the judiciary to decide matters before them impartially, on the basis of facts and in accordance with the law, without any restrictions, or improper influences. Furthermore, the principle of the independence of the judiciary entitles and requires the judiciary to ensure that judicial proceedings are conducted fairly and that the rights of the parties are respected (principle 6). Further rules are enshrined in the Bangalore Principles on Judicial Conduct (adopted in The Hague on 26 November 2002). In accordance with principle 2.2 of the latter instrument, “A judge shall ensure that his or her conduct, both in and out of court, maintains and enhances the

confidence of the public, the legal profession and litigants in the impartiality of the judge and of the judiciary.” Likewise, “A judge shall not, in the performance of judicial duties, by words or conduct, manifest bias or prejudice towards any person or group on irrelevant grounds” (principle 5.2).

With regard to the information received indicating that during one hearing the defendants were kept handcuffed and blindfolded for the duration of the session, we wish to stress that accused persons should be treated with dignity in accordance with article 1 of the UDHR. We further refer to para. 6.6 of the Bangalore Principles which stipulates that “A judge shall maintain order and decorum in all proceedings before the court and be patient, dignified and courteous in relation to litigants, jurors, witnesses, lawyers and others with whom the judge deals in an official capacity.”

We would further 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 UDHR 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.”

In this connection, 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.

- 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.

- article 9, para. 1 which establishes that in the exercise of human rights and fundamental freedoms, including the promotion and protection of human rights as referred to in the present Declaration, everyone has the right, individually and in association with others, to benefit from an effective remedy and to be protected in the event of the violation of those rights.

- article 9, para. 3, point c) which provides that everyone has the right, individually and in association with others to offer and provide professionally qualified legal assistance or other relevant advice and assistance in defending human rights and fundamental freedoms.

- article 12, paras 2 and 3 of the Declaration which provide that the State shall take all necessary measures to ensure the protection by the competent authorities of everyone, individually and in association with others, against any violence, threats, retaliation, de facto or de jure adverse discrimination, pressure or any other arbitrary action as a consequence of his or her legitimate exercise of the rights referred to in the Declaration. In this connection, everyone is entitled, individually and in association with others, to be protected effectively under national law in reacting against or opposing, through peaceful means, activities and acts, including those by omission, attributable to States that result in violations of human rights and fundamental freedoms, as well as acts of violence perpetrated by groups or individuals that affect the enjoyment of human rights and fundamental freedoms.

In light of these allegations, we urge your Excellency's Government to take all necessary measures to guarantee that the rights and freedoms of the above mentioned persons 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.

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 persons in compliance with the above international instruments.

Moreover, 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. Since we are expected to report on these cases to the Human Rights Council, we would be grateful for your cooperation and your observations on the following matters, when relevant to the case under consideration:

1. Are the facts alleged in the above summary of the case accurate?
2. Has a complaint been lodged by or on behalf of the alleged victims?
3. Please provide the details, and where available the results, of any investigation, and 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 provide information concerning access of human rights monitors and independent civil society representatives to Dhabhan, Dammam and Al Hair Prisons and to all places of detention in Saudi Arabia.

5. Please indicate how your Excellency's Government ensures that all detainees have access to their family, legal counsel, and medical personnel.

6. Please provide the full details of the legal basis for the charges that have been brought against the subjects of this urgent appeal, the grounds on which jurisdiction has been granted to the SCT in respect of these cases, and the subsequent sentences handed down to Messrs. Saud Mokhtar Al-Hashimi, Sulaiman Ibrahim Saleh Al-Rashoudi and Walid Ali Ahmad Lamri. Kindly indicate to what extent they comply with the aforementioned international standards.

7. Please explain why Dr. Mubarak Bin Said Bin Zair has not been provisionally released despite the SCT order to that end dated 14 February 2012.

We undertake to ensure that your Excellency's Government's response to each of these questions is accurately reflected in the report we will submit to the Human Rights Council for its consideration.

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

El Hadji Malick Sow  
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