

Mandates of the Chair-Rapporteur of the Working Group on Arbitrary Detention; the Special Rapporteur on the independence of judges and lawyers; the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression; the Special Rapporteur on freedom of religion or belief; 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 (56-23) G/SO 214 (107-9) G/SO 214 (3-3-16) G/SO 214 (53-24)
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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; Special Rapporteur on the independence of judges and lawyers; Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression; Special Rapporteur on freedom of religion or belief; 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 General Assembly resolution 60/251 and to Human Rights Council resolutions 15/18, 8/6, 16/4, 14/11, 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 of **Mr. Fadhel Al Manasif**, which took place in the context of increased restrictions being placed on the right to freedom of expression following amendments to the Press and Publications Law.

Mr. Al Manasif is a well-known human rights defender and member of various local human rights unofficial organizations in the Kingdom of Saudi Arabia. He is also affiliated with many regional human rights organizations, including the Arab Institute for Human Rights, an NGO which works to raise awareness of civil, political, economic, social and cultural rights, by disseminating information and promoting human rights education through seminars, workshops, and carrying out research.

Over the past two years, Mr. Al Manasif has been involved in documenting human rights violations and disseminating the information gathered to the UN and international NGOs, as well as publishing it on social networking sites. In particular, Mr. Al Manasif has been instrumental in documenting violations against Shi'a Saudis, as well as the situation of human rights defenders and political prisoners. Since February 2011, Mr. Al Manasif has observed and documented arrests carried out by security forces in the context of peaceful protests. On 14 April 2011, Mr. Al Manasif documented a peaceful candlelit march held by local women in Qatif, Eastern Province.

In the days prior to his arrest, Mr. Al Manasif was chosen by his colleagues to participate in negotiations with the Saudi authorities in order to discuss the demonstrations. On 8 March 2011, Mr. Al Manasif participated in a meeting with the Emir of Al Manteka Al Sharkieh, Mr. Mohamed Ben Fehed Ben Abdulaziz, and, on 26 April 2011, he met with the Governor of Qatif province, Mr. Abdellah Al Othman.

According to the information received:

On 30 April 2011, a number of officers of the Ministry of Interior's Criminal Investigation Department reportedly arrived at the family home of Mr. Al Manasif, who was not present at the time. The officers allegedly confiscated Mr. Al Manasif's father's identity documents, and instructed him to inform his son that he must present himself to the Criminal Investigation Department in Al Awamieh the next day.

On the morning of 1 May 2011, Mr. Al Manasif presented himself at the Criminal Investigation Department in Al Awamieh, Eastern Province. According to the information received, Mr Al Manasif was immediately arrested and detained, and transferred to the Criminal Investigation Department at Al Kutaief police station. It is alleged that Mr. Al Manasif was accused of inviting international media to demonstrations, as well as participating in, and gathering information about, demonstrations.

On 2 May 2011, it is alleged that Mr. Al Manasif was transferred to Al Thakbah police station, Al Manteka Al Sharkieh, where it is reported that he is being held in incommunicado detention. It is alleged that, to date, Mr. Al Manasif has not been permitted access to a lawyer and has not been allowed to contact his family.

It is alleged that two days before Mr. Al Manasif was arrested, he was actively involved in the dissemination of information to international organizations regarding amendments made to the Press and Publications Law.

On 29 April 2011, King Abdullah bin Abd al-'Aziz issued a decree amending the 2000 Press and Publications Law, placing further restrictions on the right to freedom of speech in Saudi Arabia. The amendments made to the aforementioned law, allegedly prohibit publishing anything that "contradicts rulings of the Islamic Shari'a Law or regulations in force". It is also prohibited to publish anything that "calls for disturbing the country's security, or its public order, or services foreign interests that contradict national interests, [...] causes sectarianism or that spreads divisions between citizens, [...] and damages public affairs in the country". It is further alleged that the amendments made to the aforementioned law prohibit violating the "reputation, dignity, or the slander or libel" of the chief mufti, members of the Council of Senior Religious Scholars, or any other government official or government instruction. Publishing proceedings from any investigation or court trial without obtaining official consent is also prohibited. In January 2011, a decree was issued which stated that all provisions of the Press and Publications Law were also applicable to online publications.

In this context, it is reported that in the days following the amendments to the aforementioned law, up to 20 peaceful protestors were arrested.

It is finally alleged that in March 2011, the Interior Ministry, led by Prince Nayef bin Abd al-'Aziz, along with the Council of Senior Religious Scholars, the highest

law-interpreting body, reiterated a ban on all protests and demonstrations throughout Saudi Arabia.

Concern is expressed about the arrest and incommunicado detention of Mr. Al Manasif. Further concern is expressed that the situation of Mr. Al Manasif may be related to his work in the defence of human rights, in particular, his involvement in the documentation and dissemination of human rights violations, as well as his engagement with UN mechanisms and other international human rights organizations. Moreover, concern is expressed regarding the amendments made to the Press and Publications Law which may impede the right to freedom of expression and opinion.

Without expressing at this stage an opinion on the facts of the case and on whether the detention of Mr. Fadhel Al Manasif is arbitrary or not, we would like to appeal to your Excellency's Government to take all necessary measures to guarantee his right 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 (UDHR).

We also wish to draw your Excellency's attention to the right to physical and mental integrity of Mr. Fadhel Al Manasif.

With respect to the allegations according to which Mr. Al Manasif has been held in incommunicado detention, we would like to draw the attention of your Excellency's Government to paragraph 7c of Human Rights Council Resolution 8/8, which "reminds all States that prolonged incommunicado detention or detention in secret places may 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 dignity of the person."

In relation to the concern indicating that Mr. Al Manasif has not been allowed to contact his family, we would like to draw your Excellency's Government's attention to principle 19 of the Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment adopted by the General Assembly on 9 December 1988 which states that, "A detained or imprisoned person shall have the right to be visited by and to correspond with, in particular, members of his family and shall be given adequate opportunity to communicate with the outside world [...]." We would also like to draw your Excellency's Government's attention to rule 37 of the Standard Minimum Rules for the Treatment of Prisoners adopted on 30 August 1955 by the First United Nations Congress on the Prevention of Crime and the Treatment of Offenders, which provides that "Prisoners shall be allowed under necessary supervision to communicate with their family and reputable friends at regular intervals, both by correspondence and by receiving visits."

With regard to the allegation that Mr. Fadhel Al Manasif has not been permitted access to a lawyer, we wish to draw the attention of your Excellency's Government to the the 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, and in particular to principles 5 and 7:

- principle 5 according to which “Governments shall ensure that all persons are immediately informed by the competent authority of their right to be assisted by a lawyer of their own choice upon arrest or detention or when charged with a criminal offence.”; and
- principle 7 which states that “Governments shall further ensure that all persons arrested or detained, with or without criminal charge, shall have prompt access to a lawyer, and in any case not later than forty-eight hours from the time of arrest or detention.”

We would also 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.”

Furthermore, we would like to appeal to your Excellency’s Government to ensure the protection and the right to freedom of religion or belief in accordance with article 18 of the UDHR. The General Assembly, in its resolution 65/211, emphasizes that “freedom of religion or belief and freedom of expression are interdependent, interrelated and mutually reinforcing”. In this context, we are concerned that the amendments to the 2000 Press and Publications Law, issued on 29 April 2011, are overly broad, since they allegedly prohibit publishing anything that “contradicts rulings of the Islamic Shari’a Law or regulations in force” or that “services foreign interests that contradict national interests, [...] causes sectarianism or that spreads divisions between citizens”. We would like to emphasize that abstract or subjective notions – such as the State, national symbols, national identity, cultures, schools of thought, religions, ideologies or political doctrines – should not be protected as such. Otherwise, the rigorous protection of religions as such may create an atmosphere of intolerance and can give rise to fear and may even provoke the chances of a backlash (A/HRC/2/3, para. 42). We would like to reiterate that international human rights law protects individuals and groups of people, but not abstract notions or institutions that are subject to scrutiny, comment, criticism or ridicule (A/HRC/14/23, para. 84 and A/HRC/2/3, paras. 27, 36 and 38).

Regarding the allegations received indicating that the situation of Mr. Fadhel Al Manasif is connected to his work in defence of human rights and fundamental freedoms, without in any way implying any determination on the facts of the case, 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, 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; and

- 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.

Moreover, in relation to the allegations indicating that the arrest of Mr. Fadhel Al Manasif could also be connected to his active engagement with the Human Rights Special Procedures of the United Nations, 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 on 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).

We urge your Excellency’s Government to take all necessary measures to guarantee that the rights and freedoms of Mr. Fadhel Al Manasif 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 Mr. Fadhel Al Manasif 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. Please provide details regarding the legal basis for the arrest and the detention of Mr. Al Manasif. In this context, please clarify the charges, if any that have been brought against Mr. Al Manasif.
3. Please clarify whether the arrest and detention of Mr. Al Manasif meets international legal standards. In this respect, please provide details about whether Mr. Al Manasif has been provided access to a lawyer. If not, please clarify why this is so.
4. 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.
5. Please provide information on the measures taken to ensure the safety as well as physical and mental integrity of Mr. Al Manasif.
6. Please provide details on why the Press and Publications Law was amended. In this respect, please clarify whether the amendments, in particular those imposing restrictions on the right to freedom of expression, are in line with international legal standards.

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.

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