

**Mandates of 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**

REFERENCE:  
UA SAU 8/2016

13 December 2016

Excellency,

We have the honour to address you in our capacity as Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression; Special Rapporteur on the rights to freedom of peaceful assembly and of association; and Special Rapporteur on the situation of human rights defenders, pursuant to Human Rights Council resolutions 25/2, 24/5, and 25/18.

In this connection, we would like to bring to the attention of your Excellency's Government information we have received concerning the alleged **arbitrary investigations and prosecutions of three human rights defenders, Mr. Mohammad Abdullah Al Otaibi, Mr. Abdullah Moudhi Saad Al Atawi and Mr. Issa Al-Hamid, for activities aimed at defending and promoting human rights through the exercise of their right to freedom of association and freedom of expression, as well as through the cooperation with international organizations.** On the same occasion, we would like to raise concerns about a reported pattern of the use of the Specialized Criminal Court to repress the activities of human rights defenders in the country.

The Special Procedures have sent numerous communications related to allegations of harassment and intimidation of human rights defenders and political activists in the country. Communication SAU 6/2013 was sent to your Excellency's Government on 1 July 2013 (reference A/HRC/25/74), in which concerns were raised about the arbitrary investigation of four human rights defenders after they formed a new association called "Union for Human Rights." Two of these individuals, Mr. Al Otaibi and Mr. Al Atawi, are mentioned in the present communication. Concern was expressed that this investigation was linked to their fundamental rights to freedom of association, as well as that the denial of their attempt to register the organization was related to their legitimate and peaceful work in defense of human rights. Regrettably, no response has been received. Communication SAU 4/2016 was also sent on 1 July 2016 (reference A/HRC/33/32) to express concern regarding the arrest, detention and severe sentences imposed on members of the Saudi Civil and Political Rights Association (ACPRA), including Mr. Al-Hamid, one of the individuals referenced in this communication. We thank your Excellency's Government for your response received on 24 November 2016 which is still being translated.

According to the new information received:

### *Situation of Mr. Al Otaibi and Mr. Al Atawi*

On 20 October 2016, Mr. Al Otaibi and Mr. Al Atawi learned that a case against them was before the Specialized Criminal Court, which usually tries cases of terrorism. During the first hearing, on 30 October 2016, the two individuals were not assisted by legal counsel. At that hearing, the Public Prosecutor of Riyadh lodged various charges against the two human rights defenders, including for illegally founding an association, participating in the publication of documents and reports which harm the reputation, unity and stability of Saudi Arabia, failing to dissolve the association and falsely accusing the State. The charges also involved partnership with international human rights organizations against Saudi Arabia through accusations of repression, torture and other human rights violations. The only law mentioned in the charge sheet is article 6 of the Saudi Cybercrime law. While the charge sheet alleges that Mr. Al Otaibi continued his activism after agreeing to halt all activities, it only refers to activities that supposedly took place prior to this presumed pledge.

The judge granted Mr. Al Otaibi and Mr. Al Atawi two months to respond to the charges and set the second hearing for 26 December 2016. Together with their legal counsel they are in the process of preparing responses to the charges. Previous cases with similar charges against human rights defenders have resulted in prison sentences lasting between five and fifteen years.

### *Situation of Mr. Al-Hamid*

In 2013, ACPRA was banned by the authorities and all 11 members faced trial. Among other charges, Mr. Al-Hamid was charged with incitement to demonstrate, harming the credibility of religious authorities, participating in an unlawful association, communicating with international organizations and harming the reputation of the State, as well as contempt of a state constituent body.

After nearly two years of hearings, Mr. Al-Hamid was sentenced on 24 April 2016 by the Specialized Criminal Court to nine years in prison, followed by a nine-year travel ban. On 1 December 2016, Mr. Al-Hamid's sentence was increased to 11 years in prison, which is to be followed by an 11-year travel ban and a fine of 100,000 Saudi Riyals (26,605 USD). The human rights defender was charged with various crimes, including, using and sharing information which might prejudice public policy and communicating with international organizations "in order to harm the image of the State". Mr. Al-Hamid remains free on bail, but is in danger of being arrested at any moment.

### *The Specialized Criminal Court*

It is alleged that the Specialized Criminal Court is increasingly being utilized to prosecute the actions of human rights defenders and civil society actors for their peaceful and legitimate activities. It is reported that, proceedings before this Court often do not respect due process as hearings are held in prison cells, judgments are not publicized, and defendants are not permitted to access the prosecution's file in order to prepare their defense. Additionally, the judges have wide discretion to determine what actions qualify as "terrorist acts". In practice, activities including signing petitions and participating in peaceful demonstrations have been categorized as terrorist acts.

Serious concerns are expressed at the new investigations against these human rights defenders, which appear to be directly linked to their human rights work and exercise of their fundamental rights to freedom of peaceful assembly, association, and expression.

We further express serious concern at the charges brought against the above-mentioned human rights defenders for communicating with international organizations, which appear to also constitute acts of reprisal for cooperating with the United Nations, its representatives and mechanisms in the field of human rights.

We also express serious concern at the prosecution of these human rights defenders in the Specialized Criminal Court, which was established to try cases of terrorism. In that context, we express concern at the allegations of serious due process violations in this court. We reiterate our concerns at the criminalization of the right to freedom of expression through the use of criminal charges that are incompatible with international human rights standards.

While we do not wish to prejudge the accuracy of these allegations, we wish to call on your Excellency's Government to refer your Excellency's Government to the international principles and norms applicable to the present case.

We would like to refer to article 19 and 20 of the Universal Declaration of Human Rights (UDHR), which enshrine the freedom of expression as well as the freedoms of peaceful assembly and association.

While we do not wish to express an opinion on whether or not the detention of the aforementioned individuals would be arbitrary, they appear to be in contravention of the right not to be deprived arbitrarily of their liberty, as laid out in article 9 of the UDHR, as well as the right to fair and public proceedings before an independent and impartial tribunal, as set forth in article 10 of the UDHR.

With regards to the alleged charges being linked to the human rights work of the above-mentioned individuals, we wish 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, also known as the UN Declaration on Human Rights Defenders, in particular Articles 1, 2, 5, 6 and 12.

We also wish to refer to Human Rights Council resolutions 12/2 and 24/24 which, *inter alia*, condemn 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 and calls upon all States to ensure adequate protection from intimidation or reprisals for cooperation with the United Nations, its representatives and mechanisms in the field of human rights.

Finally, the 2016 report of the Secretary-General on cooperation with the United Nations, its representatives and mechanisms in the field of human rights (A/HRC/33/19) reiterates the Secretary-General's firm position that all such acts, no matter how seemingly subtle or explicit, are without exception unacceptable and must be halted immediately and unconditionally, effective remedies provided and preventive measures adopted and implemented to prevent reoccurrence (para. 49).

The full texts of the human rights instruments and standards recalled above are available on [www.ohchr.org](http://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 concerning the legal grounds for the arrest and prosecutions of Mr. Al Otaibi, Mr. Al Atawi and Mr. Al-Hamid, and how these grounds are compatible with international norms and standards as stated, *inter alia*, in the UDHR.
3. Please provide specific details on the laws under which Mr. Al Otaibi, Mr. Al Atawi and Mr. Al-Hamid are charged.
4. Please provide information on how the charges against Mr. Al Otaibi, Mr. Al Atawi and Mr. Al-Hamid fall under the jurisdiction of the Specialized Criminal Court. In particular, please provide information about the evidence suggesting that their actions amount to "terrorist acts".

5. Please provide information on measures taken to bring criminal provisions into line with international human rights standards.

6. Please indicate what measures have been taken to ensure that the legitimate rights to associate, to meet and assembly peacefully, to free expression are respected and that the physical and psychological integrity of those exercising these rights is guaranteed.

7. Please indicate what measures have been taken to ensure that human rights defenders in Saudi Arabia are able to carry out their legitimate work in a safe and enabling environment without fear of threats or acts of intimidation and harassment of any sort, and are able to cooperate freely with the United Nations without fear of reprisals.

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.

David Kaye  
Special Rapporteur on the promotion and protection of the right to freedom of opinion  
and expression

Maina Kiai  
Special Rapporteur on the rights to freedom of peaceful assembly and of association

Michel Forst  
Special Rapporteur on the situation of human rights defenders