

Mandates of the Working Group on Arbitrary Detention; the Special Rapporteur on extrajudicial, summary or arbitrary executions; 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; the Special Rapporteur on the situation of human rights defenders; the Special Rapporteur on the independence of judges and lawyers; the Special Rapporteur on freedom of religion or belief; the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism; the Special Rapporteur on violence against women, its causes and consequences; and the Working Group on the issue of discrimination against women in law and in practice

REFERENCE:
UA SAU 11/2018

10 October 2018

Excellency,

We have the honour to address you in our capacity as Working Group on Arbitrary Detention; Special Rapporteur on extrajudicial, summary or arbitrary executions; 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; Special Rapporteur on the situation of human rights defenders; Special Rapporteur on the independence of judges and lawyers; Special Rapporteur on freedom of religion or belief; Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism; Special Rapporteur on violence against women, its causes and consequences; and Working Group on the issue of discrimination against women in law and in practice, pursuant to Human Rights Council resolutions 33/30, 35/15, 34/18, 32/32, 34/5, 35/11, 31/16, 31/3, 32/19 and 32/4.

In this connection, we would like to bring to the attention of your Excellency's Government information we have received concerning alleged arbitrary arrests and detention of the following human rights defenders, **Ms. Israa Al-Ghomgham, Ms. Samar Badawi, Ms. Nassima Al-Sadah, Ms. Nouf Abdulaziz, Ms. Mayya Al-Zahrani, and Ms. Hatoon Al-Fassi.**

In light of the allegations highlighted in the present letter and in UA SAU 7/2018, which was sent by Special Procedures on 14 June 2018, we remain concerned about ongoing human rights violations against human rights defenders in Saudi Arabia, particularly defenders of women's rights. In UA SAU 7/2018, we outlined our concerns about Ms. Eman Al-Nafjan, Ms. Aisha Al-Mana, and Ms. Loujain Al-Hathloul, who had all been active in campaigning for women's right to drive. We regret that no response has been received to this communication and that Ms. Al-Nafjan, Ms. Al-Mana, and Ms. Al-Hathloul remain in detention.

Ms. Israa Al-Ghomgham is a human rights defender, who had repeatedly called for freedom of assembly and association to be respected in Saudi Arabia. She had also advocated for the release of prisoners of conscience and other human rights defenders.

Ms. Samar Badawi is a human rights defender who was particularly active in advocating on behalf of imprisoned human rights defenders and for women's rights, including the right to vote and drive. Ms. Badawi has been the subject of two previous communications sent by Special Procedures mandate holders dated 6 January 2015, case no. SAU 16/2014, and 18 March 2016, case no. SAU 1/2016. We thank your Excellency's Government for the responses dated 15 May 2015 and 25 May 2016, but remain gravely concerned in light of recent developments.

Ms. Nassima Al-Sadah is a human rights defender, who has been particularly active in advocating for women's rights and for the rights of the Shi'a minority. She has campaigned for the right of women to drive and for the end of the male guardianship system.

Ms. Nouf Abdulaziz is a human rights defender and journalist. She had worked as a newspaper editor and a television producer, and had advocated for the release of imprisoned human rights defenders via social media.

Ms. Mayya Al-Zahrani is a human rights defender, who had voiced her opposition to the arrest and detention of other human rights defenders in Saudi Arabia.

Ms. Hatoon Al-Fassi is a human rights defender, who has long advocated for the right of women to participate in the municipal elections and to drive. She is also an associate professor of women's history at King Saud University and a contributor to *al-Riyadh* newspaper.

According to the information received:

Ms. Israa Al-Ghomgham

Since the outbreak of the so-called Arab Spring in 2011, Ms. Al-Ghomgham had taken part in peaceful pro-democracy demonstrations and had documented demonstrations on social media.

She was arbitrarily arrested and detained on 6 December 2015, following a raid on her home by Saudi authorities.

On 15 August 2018, Ms. Al-Ghomgham was brought before Specialised Criminal Court (SCC) in Riyadh for the first court session in the case against her. The SCC was set up to try terrorism-related cases. She was charged with "participating in

the protests in the Qatif region” “incitement to protest,” “chanting slogans hostile to the regime,” “attempting to inflame public opinion,” “filming protests and publishing on social media,” and “providing moral support to rioters”. The information received does not indicate whether a legal basis has been presented for these charges.

The Public Prosecution called for Ms. Al-Ghomgham to be sentenced to the death penalty, based on the Islamic law principle of *ta'zir*, in which the judge has discretion over the punishment.

Ms. Al-Ghomgham had no access to legal representation during the trial. The next hearing is scheduled for the last week in October 2018. She remains in Dammam’s al-Mabahith prison.

Ms. Samar Badawi

On 30 July 2018, Saudi authorities arrested and detained Ms. Badawi in Jeddah and transferred her to an unknown location. She has not been charged and her whereabouts remain unknown. She has not been granted access to her family or her lawyer.

Ms. Nassima Al-Sadah

At the same time as Ms. Badawi’s arrest on 30 July 2018, Ms. Al-Sadah was arrested and also detained in an unknown location. She is also not being allowed access to her family or her lawyer. Ms. Al-Sadah had been subject to a travel ban for an undetermined period prior to her arrest.

Ms. Nouf Abdulaziz

On 6 June 2018, Ms. Abdulaziz was arrested after a raid on her home and taken to an unknown location, where she remains in incommunicado detention.

Ms. Mayya Al-Zahrani

Following Ms. Abdulaziz’s arrest, Ms. Al-Zahrani criticised Ms. Abdulaziz’s arrest on social media. She also published a letter, written by Ms. Abdulaziz prior to her arrest, on her blog.

On 9 June 2018, Ms. Al-Zahrani was arrested at her home in Khobar. She has not been granted access to her lawyer or family and no information has been given about her whereabouts.

Ms. Hatoon al-Fassi

Ms. al-Fassi was under a travel ban for unknown reasons since 19 June 2018.

Ms. al-Fassi was arrested in the lead-up to the lifting of the driving ban on 24 June 2018. She was due to be interviewed by the French media about the lift of the driving ban around the time of her arrest. Since being detained, she has not been granted access to her lawyer or family and no information has been given about her whereabouts.

While we do not wish to prejudge the accuracy of these allegations, we wish to express serious concern at the arrests and continuing detentions, including incommunicado detention, of Ms. Al-Ghomgham, Ms. Badawi, Ms. Al-Sadah, Ms. Abdulaziz, Ms. Al-Zahrani, and Ms. Al-Fassi which appear to be directly connected to their peaceful exercise of fundamental rights and their legitimate work in defense of human rights, particularly women's rights, in Saudi Arabia. We express concern at some Saudi media reports, which suggest that the human rights defenders were involved in obtaining confidential information to harm the interests of the State and in providing support to hostile foreign actors.

We express grave concern at the alleged accusations against Ms. Al-Ghomgham and are particularly alarmed at the Public Prosecutor's call for her to be sentenced to death, especially in light of the fact that she has not been granted access to her legal representation. Ms. Al-Ghomgham is part of Saudi Arabia's Shia minority and we are concerned that this may be an additional reason for imposing the most severe sentence possible on her.

We express very serious concern about what appears to be a pattern of widespread and systematic arrests and detention of persons, including human rights defenders, for peacefully exercising their legitimate human rights to freedom of expression, belief, assembly and association based on counter-terrorism and other national or state security legislation. We would like to stress that counter terrorism legislation should not be used against individuals exercising their rights to freedom of expression and freedom of peaceful association and assembly. These rights are protected under international human rights law and non-violent exercise of these rights is not a criminal offence. Counter terrorism legislation should not be used as an excuse to suppress peaceful dissent, human rights defenders and journalists.

We respectfully remind your Excellency's Government of the relevant provisions of the United Nations Security Council resolutions 1373 (2001), 1456(2003), 1566 (2004), 1624 (2005), 2178 (2014), 2242 (2015), 2341 (2017), 2354 (2017), 2368 (2017), 2370 (2017), 2395 (2017) and 2396 (2017); as well as Human Rights Council resolution 35/34 and General Assembly resolutions 49/60, 51/210, 72/123 and 72/180. All these

resolutions require that States must ensure that any measures taken to combat terrorism and violent extremism, including incitement of and support for terrorist acts, comply with all of their obligations under international law, in particular international human rights law, refugee law, and humanitarian law.

These allegations appear to constitute a violation of articles 3, 8, 9, 10, 11, 13, 18, 19, 20 of the Universal Declaration of Human Rights, which states that everyone has the right to life, liberty and security of person, that everyone has the right to an effective remedy by the competent national tribunals for acts violating their fundamental rights, that no one shall be subject to arbitrary arrest or detention, that everyone charged with a penal offence has the right to be presumed innocent until proven guilty, that everyone has the right to leave any country, including his/her own, that everyone has the right to freedom of religion or belief, freedom of opinion and expression, that everyone has the right to freedom of peaceful assembly and association.

We further refer your Excellency's Government to the principles enunciated by Human Rights Council resolution 24/5, and in particular operative paragraph 2, which reminds States of their obligation to respect and protect the right of all individuals, including human rights defenders, to associate freely, online as well as offline, seeking to promote these rights. States should take all necessary measures to ensure that any restrictions on the free exercise of the right to freedom of association are in accordance with their obligations under human rights law.

We wish to draw the attention of your Excellency's Government to the Basic Principles on the Role of Lawyers, which provide that all persons are entitled to call upon the assistance of a lawyer of their choice to defend them in all stages of criminal proceedings (principle 1) and require States to adopt all appropriate measures to ensure that all persons arrested or detained, with or without criminal charge, have prompt access to a lawyer, and in any case not later than forty-eight hours from the time of arrest or detention (principle 7).

We also draw the attention of your Excellency's Government to the United Nations Basic Principles and Guidelines on remedies and procedures on the right of anyone deprived of their liberty to bring proceedings before a court and note that challenge the lawfulness of detention is frequently denied in circumstances where a detainee has been held incommunicado or in solitary confinement, or has been denied an effective possibility or remedy to challenge his or her detention.

We would like to remind your Excellency's Government that article 5 of the UN Safeguards Protecting the Rights of those facing the Death Penalty provides that capital punishment may only be carried out following a legal process, which gives all possible safeguards to ensure a fair trial, including the right to adequate legal assistance at all stages of the proceedings. Only full respect for stringent due process guarantees

distinguishes capital punishment as possibly permitted under international law from arbitrary execution.

We would also like to refer to General Assembly Resolution 68/181, which urges States to acknowledge publicly the important and legitimate role of women's rights defenders in the promotion and protection of human rights, democracy, the rule of law and development as an essential component of ensuring their protection.

Finally, we wish to draw the attention of your Excellency's Government to the UN Declaration on Human Rights Defenders. In particular, articles 1, 2, 5, 6 and 12, which state that everyone has the right to promote the protection and realization of human rights, that the State has a prime responsibility and duty to protect, promote and implement all human rights, that everyone has the right to meet or assemble peacefully and to know, seek, receive, and impart information about all human rights.

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

As a member of the Human Rights Council, Saudi Arabia has a duty to have an exemplary conduct as it has pledged to commit itself, when it presented its candidature for membership in the Council. We are calling on your Excellency's Government to demonstrate its efforts to "uphold the highest standards in the promotion and protection of human rights".¹ 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 your Excellency's Government's obligations under international human rights law, as well as with the voluntary pledges and commitments of the Government of Saudi Arabia made in March 2016 as a candidate to the Human Rights Council (A/71/72).

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/or any comment(s) you may have on the above-mentioned allegations.
2. Please provide detailed information on the arrest and detention of Ms. Al-Ghomgham, Ms. Badawi, Ms. Al-Sadah, Ms. Abdulaziz, Ms. Al-Zahrani, and Ms. Al-Fassi with regard to Saudi Arabia's international human rights obligations.

¹ General Assembly Resolution A/RES/60/251, paras. 8 and 9.

3. Please indicate the factual and legal basis for denying Ms. Al-Ghomgham, Ms. Badawi, Ms. Al-Sadah, Ms. Abdulaziz, Ms. Al-Zahrani, and Ms. Al-Fassi access to their families and legal counsel.
4. Please indicate the whereabouts of Ms. Badawi, Ms. Al-Sadah, Ms. Abdulaziz, Ms. Al-Zahrani, and Ms. Al-Fassi
5. Kindly indicate what measures have been taken to ensure that Ms. Al-Ghomgham, Ms. Badawi, Ms. Al-Sadah, Ms. Abdulaziz, Ms. Al-Zahrani, and Ms. Al-Fassi receive fair and independent hearings in conformity to international law.
6. Please provide information on why charges related to “participating in the protests in the Qatif region” “incitement to protest,” “chanting slogans hostile to the regime,” “attempting to inflame public opinion,” “filming protests and publishing on social media,” and “providing moral support to rioters” have been levied against Ms. Al-Ghomgham at the Specialized Criminal Court that deals with terrorism related crimes. Please indicate how this complies with United Nations Security Resolution 1373, and a strict understanding of the definition of terrorism as elucidated by international law norms including but not limited to United Nations Security Council Resolution 1566 (2004).
7. Please indicate what measures have been taken to ensure that human rights defenders in Saudi Arabia are able to carry out their peaceful and legitimate work in a safe and enabling environment without fear of threats or acts of intimidation and harassment of any kind.

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.

We intend to publicly express our concerns in the near future as, in our view, the information upon which the press release will be based is sufficiently reliable to indicate a matter warranting immediate attention. We also believe that the wider public should be alerted to the potential implications of the above-mentioned allegations. The press release will indicate that we have been in contact with your Excellency’s Government’s to clarify the issue/s in question.

We would like to inform your Excellency’s Government that after having transmitted an urgent appeal to the Government, the Working Group on Arbitrary Detention may transmit the case through its regular procedure in order to render an

opinion on whether the deprivation of liberty was arbitrary or not. Such urgent appeals in no way prejudice any opinion the Working Group may render. The Government is required to respond separately for the urgent appeal procedure and the regular procedure.

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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