

Mandates of the Special Rapporteur on extrajudicial, summary or arbitrary executions; 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 freedom of religion or belief; the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism; and the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment

REFERENCE:
UA SAU 16/2019

29 November 2019

Excellency,

We have the honour to address you in our capacity as Special Rapporteur on extrajudicial, summary or arbitrary executions; Working Group on Arbitrary Detention; 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 promotion and protection of human rights and fundamental freedoms while countering terrorism; and Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, pursuant to Human Rights Council resolutions 35/15, 42/22, 34/18, 40/10, 40/16 and 34/19.

In this connection, we would like to bring to the attention of your Excellency's Government information I have received concerning **the possible unlawful imposition of the death sentence on, and execution of Ali Hamza Al Omari, Awad bin Mohammed Al Qarni, Dr. Hasan Farhan Hasan Al Zaghli Al Khaledi Al Malki and Salman Fahad Al Odah.**

According to the information received:

Case of Ali Hamza Al Omari

Dr. Al Omari is the chairman of Mecca Open University and a founder of the "4Shabab" satellite TV channel, which reportedly promotes religious values and addresses historical, social and political matters. Dr. Al Omari is also a member of the International Union of Muslim Scholars, an organisation which was added to Saudi Arabia's terrorist list on 22 November 2017.

On 9 September 2017, Dr Al Omari was arrested and placed in solitary confinement for 15 months. Only after approximately 5 months from his arrest, he was granted a phone call with his family with no further access to them and no legal representation for a period of 7 months after that call.

During the 15-month solitary confinement period, Dr Al Omari was allegedly subjected to torture, including severe beatings, electric shocks and being burnt with cigarette butts. He was forced to make self-incriminating confessions.

On 4 September 2018, he was sent to trial on the basis of over 30 charges, including joining a ‘terrorist entity’ inside the Kingdom, i.e. the Muslim Brotherhood, which Saudi Arabia alleged works in secrecy with the aim of destabilizing national security; establishing Muslim Brotherhood-affiliated offices targeting youth in Arab countries; establishing a satellite TV channel in two Arab countries to spread the thought of the Muslim Brotherhood.

The trial, held before the Specialised Criminal Court (SCC), began on 5 September 2018.

On 2 April 2019, Dr. Al Omari provided evidence to the court of the alleged torture and inhuman treatment he had been subject to during his detention, showing the wounds and burns on his skin. However, no investigation was ever ordered and the self-incriminating statements obtained under torture were used against him at the trial.

The *public prosecutor* demanded the *death penalty*.

Case of Awad bin Mohammed Al Qarni

Mr. Al Qarni has been a professor at Imam Muhammad bin Saud Islamic University, Abha branch, and at King Khalid University. He reportedly has more than 2.1 million followers on twitter and has been a vocal critic of Saudi Arabia's in 2012, during an alleged wave of arrests and travel bans targeting intellectuals.

On 12 September 2017, Mr. Al Qarni was arrested by the *mabahith*, Saudi Arabia's intelligence agency, acting under the control of the Ministry of Interior.

In early September 2018, one year after his arrest, he was charged with joining and supporting the Muslim Brotherhood, listed in Saudi Arabia as a terrorist organisation, and showing sympathy for that movement; incitement to fight; incitement to offend the leaders of other States; expressing support to detainees deprived of their liberty for security matters and calling for their release while defaming the State; and preparing, sending and storing information that would prejudice the public order. These charges were allegedly brought against Mr. Al Qarni based on the content of his tweets.

The trial, before the SCC, began on 6 September 2018. The *public prosecutor* demanded the *death penalty*.

The sentencing hearing was scheduled to be held on 20 November 2019. It was, however, postponed to a date still to be specified.

Case of Hasan Farhan Hasan Al Zaghli Al Khaledi Al Malki

Dr. Al Malki is an Islamic scholar and public intellectual who is reportedly known for his tolerant and moderate religious views, as well as his rejection of extremism and sectarianism.

On 17 October 2014, Dr. Al Malki was arrested and placed in detention in Malaz Prison, in Riyadh. He was subsequently released and prohibited from travelling abroad.

On 21 July 2017, Dr Al Maliki was sentenced to three months in prison and a fine of 50,000 riyals (13,500 US dollars) as well as the closure of his twitter account.

On 11 September 2017, Dr. Al Malki was reportedly arrested again by the *mabahith* in Abha and was subsequently taken to Aseer prison.

In October 2018, over one year after his arrest, 14 charges were brought against him including not believing in the validity of all the hadiths reported by al-Bukhari; criticising the actions of some of the companions of the Prophet; holding numerous television interviews with foreign newspapers and channels hostile to the Kingdom of Saudi Arabia (such as Al-Jazeera and al-Alam); describing the official Council of Senior Scholars as extremist; writing many books and research papers and publishing them outside the Kingdom, despite knowing that he was prohibited from doing so; preparing, storing, or transmitting anything that would harm public order and religious values; and possessing 348 books that were not authorized by the authorities.

On 1 October 2018, his trial before the SCC began. The *public prosecutor* demanded the *death penalty*.

Case of Salman Fahad Al Odah

Mr. Al Odah is said to be an influential religious figure with more than 14 million followers on twitter and is known for his calls for reforms and for greater respect of human rights within the framework of the Shari'a law.

On 8 September 2017, Mr. Al Odah called publicly for a mediation between the State of Qatar and the Kingdom of Saudi Arabia, within the context of the Gulf diplomatic crisis.

On 9 September 2017, Mr. Al Odah was taken from his residence in Riyadh, without a warrant, by officers of the *mabahith* dressed in plainclothes and wearing

balaclavas and was subsequently forcibly disappeared. They searched his house without a warrant and confiscated electronic devices and books.

For the first months of his detention, Mr Al Odah was kept in solitary confinement with limited access to his family and lawyer.

A communication on this case was issued by several special procedures' mandate-holders on 22 December 2017.¹ In their reply to the communication, the authorities maintained that Mr. Al Odah had been arrested on grounds of national security.

During the detention, Mr. Al Odah was allegedly subject to severe mistreatment. He was prevented from sleeping for several days in a row and had his feet shackled in chains for the first three months. He was often blindfolded and repeatedly interrogated about his tweets, with one interrogation session allegedly lasting more than 24 hours.

While deprived of his liberty, Mr. Al Odah developed high blood pressure but was denied medication until January 2018, when he was hospitalised due to the severe deterioration of his health situation.

Mr. Al Odah was only allowed to call his family in February 2018, at which point they were able to visit him for the first time in Dhahban prison, Jeddah.

On 4 September 2018, one year after his arrest, his trial began before the SCC. This was the first time Mr. Al Odah was brought before a judge and informed of the 37 charges against him, which included affiliation with the Muslim Brotherhood; calling for government reforms and regime change in the Arab region; corrupting the country by repeatedly endeavouring to shake the structure of the nation and bring about civil strife; inflaming society and stirring up unrest; connection to illegal organisations; holding meetings and conferences inside and outside the Kingdom to enact the agenda of a terrorist organization against the nation.

Saudi Arabia's *public prosecutor* is seeking the *death penalty*. The sentencing hearing, scheduled to take place on 27 November 2019, has been postponed to 30 January 2020.

While we do not wish to prejudge the accuracy of the facts alleged, we would like to raise our concerns that the allegations may amount to the violation of the rights to

¹ AL/SAU 12/2017:

<https://spcommreports.ohchr.org/TMResultsBase/DownloadPublicCommunicationFile?gId=23522>

freedom of opinion and expression, freedom of thought, conscience and religion or belief, liberty of person and personal security; the right not to be arbitrarily arrested and detained; the right to be promptly charged and brought before a judge or to be released; the right not to be tortured or otherwise ill-treated; the right not to be forced to testify against oneself; the right to adequate time and assistance to prepare one's defence; and the right to a fair trial before an independent and competent court under Articles 3, 5, 7, 8, 9, 10, 11, 12 18, 19, 20 of the Universal Declaration of Human Rights (UDHR), as well as Articles 5, 6, 13 and 27 of the Arab Charter on Human Rights (ACHR), to which Saudi Arabia is a State Party since 2009.

We are appealing to you to ensure the right to freedom of thought, conscience and religion or belief, which includes the freedom to have or to adopt a religion or belief of one's choice, and freedom, either individually or in community with others and in public or private, to manifest one's religion or belief in worship, observance, practice and teaching. Furthermore, the right to freedom of expression includes the freedom to seek, receive and impart information and ideas of all kinds.

The freedom of opinion and expression as expressed in the UDHR Article 19 forms part of customary international law, binding on the Kingdom of Saudi Arabia. It ensures the right to seek, receive and impart information of all kinds regardless of frontiers. The right to freedom of expression is not absolute and is subject to the generally accepted requirements of legitimate aim, legality and necessity and proportionality. However, general prohibitions of displays of lack of respect for a religion or other belief system, including blasphemy laws, are generally incompatible with the right to freedom of expression, see A/74/486 para 21. Attacks on individuals, including the violation of other rights, because of their exercise of freedom of expression, will constitute a corresponding violation of the right to freedom of expression.

Furthermore, 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

We would also like to bring to the attention of your Excellency's government the Report of the former Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism following his visit to Saudi Arabia (A/HRC/40/52/Add.2). The Special Rapporteur expressed "grave concern about the lack of due process in terrorism cases generally, and particularly in cases involving the

imposition of the death penalty” (paragraph 48). He encouraged the Government of Saudi Arabia to “urgently review all current cases in which prisoners accused and sentenced for crimes of terrorism are facing the death penalty in order to ensure that international minimum standards are met in each case (...) and reminded that full respect for stringent due process guarantees distinguishes capital punishment, as permitted under international law, from a summary or arbitrary execution.” (paragraph 55)

The allegations also seem to indicate a prima facie violation of the absolute and non-derogable prohibition of torture and other cruel, inhuman and degrading treatment or punishment as set forth in Articles 2, 15 and 16 of the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (CAT), which was ratified by Saudi Arabia in 1997.

We wish to stress that, while not legally prohibited, the death penalty may be imposed only following compliance with a strict set of substantive and procedural requirements. In particular, capital punishment may only be carried out for the “most serious crimes”, involving intentional killing. We are concerned that the individuals above have allegedly been charged and may be sentenced to death for offences that do not reach this threshold. The death penalty can never be applied as a sanction against religious conduct and/or non-religious forms of beliefs. Furthermore, States should also ensure that the death penalty is not applied as a result of discriminatory or arbitrary application of the law, including based on grounds of religion or belief.

Similarly, capital punishment may only be imposed pursuant to a final judgment rendered by a competent court after a legal process which gives all possible safeguards to ensure a fair trial, including the right of anyone suspected of or charged with a crime for which capital punishment may be imposed, to adequate legal assistance at all stages of the proceedings. Furthermore, anyone sentenced to death shall have the right to seek pardon or commutation of sentence. Capital punishment shall not be carried out pending any appeal or other recourse procedure or other proceeding relating to pardon or commutation of the sentence.

We wish to reiterate that the imposition and subsequent execution of a death sentence upon the conclusion of a trial in which due process and fair trial standards have not been respected constitutes an arbitrary killing for which the State is responsible.

Lastly, we wish to recall that victims of torture and other ill-treatment must have a right to lodge a complaint about their treatment while held in custody. Any allegation in this regard must be promptly followed by an impartial examination by a body that is independent of the alleged perpetrator. Whenever there are reasonable grounds to believe that an act of torture or ill-treatment has been committed, Article 12 of the CAT imposes an obligation on the State to investigate. The Government must ensure that complainants

are not subject to reprisals and that victims of torture or ill-treatment receive adequate reparation.

In view of the above, we respectfully urge your Excellency's Government to take all steps necessary to ensure that the individuals above are not sentenced to death and are tried in compliance with international standards. We also call upon your Excellency's Government to establish an official moratorium on the death penalty, and to consider its complete abolition

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 detailed information on the factual and legal grounds for the arrest and detention of these four individuals and how these measures are compatible with international norms and standards as stated, inter alia, in the UDHR. Please clarify whether they were promptly brought before a judge and/or were afforded the opportunity to challenge the lawfulness of their arrest and detention/deprivation of liberty;
3. Please explain whether the trials of these four individuals are being conducted in a manner that is consistent with international fair trial and due process standards.
4. Please provide information about the conditions of detention of these four individuals, including the material conditions in which they were detained, and continue to be detained, as well as with regard to contacts with other prisoners, their families and lawyers, and how these conditions are consistent with the provisions of the UN Standard Minimum Rules for the Treatment of Prisoners ("The Mandela Rules");
4. Please provide information as to whether the allegations, including the complaints made in court by these individuals, that they were tortured in

custody were investigated as required under the Convention against Torture; if no investigation was carried out, please explain why, and how this is consistent with Saudi Arabia's international human rights obligations under CAT;

5. Please also provide information on the existing procedures for persons sentenced to death to seek clemency or a pardon, and provide detailed information on how the individuals referred to above may access such procedures.
6. Please provide information on how legislation and other provisions in force to regulate the legitimate exercise of the rights to freedom of expression and freedom of religion and belief are compatible with international human rights standards.
7. Please provide information in details of how your Excellency's Government's counter-terrorism efforts comply with the United Nations Security Council resolutions enumerated above, in particular with international human rights law.

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.

This communication and any response received from your Excellency's Government will be made public via the communications reporting [website](#) within 60 days. They will also subsequently be made available in the usual report to be presented to the Human Rights Council.

Finally, 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 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.

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

Agnes Callamard
Special Rapporteur on extrajudicial, summary or arbitrary executions

Leigh Toomey
Vice-Chair of the Working Group on Arbitrary Detention

David Kaye
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