

Mandates of the Working Group on Arbitrary Detention; the Working Group on Enforced or Involuntary Disappearances; the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression; the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health; the Special Rapporteur on the situation of human rights defenders; the Special Rapporteur on violence against women, its causes and consequences; and the Working Group on discrimination against women and girls

REFERENCE:
AL SAU 4/2020

6 April 2020

Excellency,

We have the honour to address you in our capacity as Working Group on Arbitrary Detention; Working Group on Enforced or Involuntary Disappearances; Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression; Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health; Special Rapporteur on the situation of human rights defenders; Special Rapporteur on violence against women, its causes and consequences; and Working Group on discrimination against women and girls, pursuant to Human Rights Council resolutions 42/22, 36/6, 34/18, 42/16, 34/5, 41/17 and 41/6.

In this connection, we would like to bring to the attention of your Excellency's Government information we have received concerning the alleged arbitrary arrest and detention in Saudi Arabia since 1 March 2019 of **Princess Basmah bint Saud bin Abdulaziz Al-Saud** and her daughter **Suhoud Al Sharif**, who are Saudi citizens.

According to the information received:

Princess Basmah is a businesswoman and public voice for political and social reform in Saudi Arabia who started writing for Saudi media in 2006. She relocated to London in 2010, after her divorce, where she became a media figure, before moving back to Saudi Arabia in 2015.

On 1 March 2019, Princess Basmah and her daughter Suhoud Al Sharif were reportedly arrested in Jeddah as they were preparing to travel to Switzerland for medical treatment for Princess Basmah as per the advice of two Saudi physicians.

Princess Basmah who suffers from heart problems, as a member of the royal family, had sought permission from the Royal Court to depart Saudi Arabia on medical grounds; and hired a firm to make all the necessary permissions for her departure. She was supposed to fly out in an air ambulance with her daughter Suhoud Al Sharif on 28 February 2019 but no permission for departure was given.

During the next two days, their subsequent attempts to depart proved unsuccessful.

On 1 March 2019, a group of eight men in plain clothes allegedly appeared in Princess Basmah's house in Jeddah. They were waiting inside her house while she was returning with her daughter from the airport where they had tried to sort out their departure. They covered the surveillance cameras after discovering that they were being recorded. As Princess Basmah and her daughter arrived in the house, they reportedly introduced themselves as agents of the Saudi King and told her that she would be escorted to a private meeting with the King. Instead, she was taken with her daughter, Suhoud Al Sharif, to Ha'ir prison in Riyadh. Princess Basmah and her daughter were not shown any arrest warrant or any other decision by a public authority. Their fate and whereabouts remained unknown until early April 2019 when contact was first made with relatives.

No reason for the arrest was given by the group of men that carried out the arrest. Princess Basmah and some relatives inquired with several authorities about the reasons for their arrest and detention, to no avail. According to the information we received, despite news reports about their detention, Saudi authorities refused to answer queries from the press and their family. Deutsche Welle and ABC in Spain contacted the Saudi Foreign Ministry as well as the respective Saudi embassies in Berlin and Madrid; no response was given either. When asked, prison officers said that they did not know the reason for the Princess and her daughter's detention.

According to information available to us, there are no criminal charges pending against Princess Basmah nor her daughter. In July 2019, she was reportedly presented a document stating that she had no criminal charges pending against her. She was not allowed to keep this document after she signed it, nor to get any copy of it. Princess Basmah has sent requests to the royal family, making references to this document allegedly exonerating her of any wrongdoings or possible charges. However, she has not received any answer.

As per the information received, Princess Basmah and her daughter have not been brought before any tribunal, and no trial or any form of proceedings have been announced. Moreover, they have allegedly not been granted access to a lawyer.

Their detention may be due to Princess Basmah's record as an outspoken critic of alleged human rights abuses in the Kingdom of Saudi Arabia and to a dispute between her and the royal family over the inheritance of her father, the late King Saud bin Abdulaziz. Princess Basmah has reportedly long advocated for constitutional reform and human rights in Saudi Arabia and other countries in the region, highlighting corruption, humanitarian issues, and wealth inequality. She

promoted constitutional reforms in Saudi Arabia that would curb the powers of the religious police and see women's rights enshrined in law. She has spoken out in interviews in the past with several global media outlets, expressing her own political positions, criticizing some decisions taken by the Government of Saudi Arabia, such as its participation in the Yemen war, highlighting restrictions on fundamental freedoms in Saudi Arabia, the mistreatment of Saudi women, and the denial of several other basic human rights.

Princess Basmah was deemed to be supportive of a former crown prince, who was detained in 2017 and is reportedly now under house arrest. While the former crown prince officially stepped down out of his own accord, he was also reportedly detained and deprived of medical care until he agreed to sign his resignation.

Since their arrest, the princess and her daughter have allegedly been kept under heavy guard in Ha'ir prison, section B9 / Room 108.

The princess's health is allegedly rapidly deteriorating and she requires regular medical attention. She has been denied appropriate treatment for various conditions for which she was previously receiving medical attention abroad. Since 19 March 2020, she has allegedly experienced difficulties in communicating with her family, due to her physical weakness. As her health is already feeble, it is feared that she might be particularly at risk in view of the current Covid-19 pandemic.

Although Princess Basmah is reportedly allowed to be in contact with her nuclear family, no one else is allowed to visit her, not even her closest aides for her business. Her communications are allegedly being monitored and she is not able to speak privately.

The prison authorities do not allow documents concerning Princess Basmah's companies, or claims for her estates. Only personal letters have been allowed in and out the prison.

While we do not want to prejudge the accuracy of the information received, we wish to express our serious concern about the allegations of arbitrary arrest and detention of Princess Basmah and her daughter Suhoud Al Sharif. Additional concern is expressed about Princess Basmah's physical integrity in view of the allegations that she is denied access to appropriate and continuous medical treatment.

Without expressing at this stage an opinion on the facts of the case and on whether the detention of the above-mentioned persons is arbitrary or not, 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 Universal Declaration of Human Rights.

We would also like to raise our concerns that, if confirmed, the allegations of short-term enforced disappearance, arbitrary detention, denial of access to medical assistance, as well as unfair trial and restrictions to freedom of expression may contravene several fundamental principles set forth in the Universal Declaration of Human Rights, in particular articles 1, 2, 3, 9, 10, 19 and 25. We thus appeal to your Government to ensure that the rights of Princess Basmah and her daughter Suhoud Al Sharif are respected, that they are not arbitrarily deprived of their liberty, that they are either immediately released if no charge is retained against them, or promptly tried according to fair standards with their conditions of detentions and treatment meeting the minimum required under international standards. These rights are protected in articles 10 and 11 of the Universal Declaration of Human Rights as well as in Rules 24, 25, 27, 30 and 31 of the United Nations Standard Minimum Rules for the Treatment of Prisoners (the Mandela Rules).

Finally, in the current context of a global pandemic, we call on the Government of Saudi Arabia to take urgent action to protect the health and safety of people in detention and to implement the measures recommended by the Subcommittee on Prevention of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment in its Advice of 25 March 2020 to States Parties and National Preventive Mechanisms relating to the Coronavirus Pandemic.¹

Especially, in accordance with the WHO recommendations of 15 March 2020 concerning the response to Covid-19 in prisons and other places of detention, we urge the Government of Saudi Arabia to prioritize the use of non-custodial measures at all stages of criminal proceedings, including during the pre-trial phase, during the trial and sentencing, as well as after sentencing. Priority should be given to non-custodial measures for suspected offenders and prisoners with low-risk profiles and dependents, while paying particular attention to pregnant women and those with dependent children.

In connection with the above alleged facts and concerns, please refer to the **Annex on Reference to international human rights law** attached to this letter which cites international human rights instruments and standards relevant to these allegations.

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<https://www.ohchr.org/Documents/HRBodies/OPCAT/AdviceStatePartiesCoronavirusPandemic2020.pdf>

1. Please provide any additional information and comment you may have on the above-mentioned allegations.
2. Please provide information on the factual and legal basis for the arrest and detention of Princess Basmah and her daughter Suhoud Al Sharif and any measures taken to ensure Saudi Arabia's obligations under international human rights law as stated, inter alia, in the Universal Declaration of Human Rights.
3. Please provide information on investigations conducted into the allegations of enforced disappearance of Princess Basmah and her daughter Suhoud Al Sharif for a period of one month and details on redress and remedies provided to them.
4. Please provide information on the opportunity given to Princess Basmah and her daughter Suhoud Al Sharif to meet with a lawyer and, if not, the reasons for this denial.
5. Please provide information about the state of health of Princess Basmah and her daughter, as well as the measures taken to ensure that their physical and mental integrity are protected while in detention, including measures taken to protect their right to receive appropriate healthcare and especially in view of Princess Basmah's deteriorating state of health.
6. Please provide information about the current conditions of detention of Princess Basmah and her daughter Suhoud Al Sharif, including material conditions in which they continue to be detained, as well as with regard to contact with other prisoners, their family and lawyer, and how these conditions are consistent with the provisions of the UN Standard Minimum Rules for the Treatment of Prisoners ("The Mandela Rules").
7. Please provide detailed information as to the specific measures that have been put in place to ensure that those who defend human rights in Saudi Arabia can carry out their legitimate work in a safe and enabling environment without fear of harassment and intimidation from the authorities, along with specific information as to steps taken to support and promote the work of human rights defenders particularly women human rights defenders in the country.

We would appreciate receiving a response within 60 days. Passed this delay, this communication and any response received from your Excellency's Government will be made public via the communications reporting website. They will also subsequently be made available in the usual report to be presented to the Human Rights Council.

While awaiting a reply, we urge that all necessary interim measures be taken to halt the alleged violations and prevent their recurrence and, in the event that the investigations support or suggest the allegations to be correct, to ensure the accountability of any person responsible for the alleged violations.

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.

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

Luciano Hazan
Chair-Rapporteur of the Working Group on Enforced or Involuntary Disappearances

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

Dainius Puras
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Michel Forst
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Dubravka Šimonovic
Special Rapporteur on violence against women, its causes and consequences

Meskerem Techane
Chair-Rapporteur of the Working Group on discrimination against women and girls

Annex
Reference to international human rights law

In connection with above alleged facts and concerns, we would like to draw the attention of your Excellency's Government to the relevant international norms and standards that are applicable to the issues brought forth by the situation described above.

The principles of equality and non-discrimination are part of the foundations of the rule of law. Under articles 1 and 2 of the Universal Declaration of Human Rights, "[all] human beings are born free and equal in dignity and rights" and "[e]veryone is entitled to all the rights and freedoms set forth in this Declaration, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status".

We would like to refer your Excellency's Government to articles 1, 2, 3, 9, 10, 19 and 25 of the Universal Declaration of Human Rights. In particular, we wish to remind your Excellency's Government that any restrictions to the exercise of these rights must be provided by law and be necessary and proportionate to the aim pursued.

According to article 3 of the Universal Declaration of Human Rights (UDHR), "Everyone has the right to life, liberty and security of person". Article 9 of the UDHR provides that "No one shall be subjected to arbitrary arrest, detention or exile". Article 10 of the UDHR establishes that "Everyone is entitled in full equality to a fair and public hearing by an independent and impartial tribunal, in the determination of his rights and obligations and of any criminal charge against him".

We would like to bring to the attention of your Excellency's Government the Principles defined in the Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment, especially Principle 2, according to which the "[a]rrest, detention or imprisonment shall only be carried out strictly in accordance with the provisions of the law and by competent officials or persons authorized for that purpose, Principle 9, stating that "[t]he authorities which arrest a person, keep him under detention or investigate the case shall exercise only the powers granted to them under the law and the exercise of these powers shall be subject to recourse to a judicial or other authority" and Principle 11.1 highlights the right to be heard promptly by a judicial authority.

We would also like to bring to your Excellency's Government's attention to the Human Rights Council resolution 12/16, which calls on States to recognise the exercise of the right to freedom of opinion and expression as one of the essential foundations of a democratic society. According to article 19 of the UDHR "Everyone 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”.

With regards to the right to health, article 25 (1) of the UDHR states that “Everyone has the right to a standard of living adequate for the health and well-being of himself and of his family, including food, clothing, housing and medical care and necessary social services, and the right to security in the event of unemployment, sickness, disability, widowhood, old age or other lack of livelihood in circumstances beyond his control”. Furthermore, the UN Standard Minimum Rules for the Treatment of Prisoners (the Mandela Rules) establish States’ responsibility to provide healthcare for prisoners. Inter alia, prisoners who require specialized treatment or surgery shall be transferred to specialized institutions or civil hospitals (Rule 27.1) and clinical decisions in prisons may only be taken by the responsible health-care professionals and may not be overruled or ignored by non-medical prison staff (Rule 27.2). Prisoners with special health-care needs shall be paid special attention (Rule 25), and all prisoners should receive continuity of medical treatment and care (Rule 24, (2)). A physician or other qualified health-care professionals shall see, talk with and examine every prisoner as soon as possible following his or her admission and thereafter as necessary. Particular attention shall be paid to identifying health-care needs and taking all necessary measures for treatment (Rule 30 (a)). They shall have daily access to all sick prisoners, all prisoners who complain of physical or mental health issues or injury and any prisoner to whom their attention is specially directed. All medical examinations shall be undertaken in full confidentiality (Rule 31).

We would also like to bring to the attention of your Excellency’s Government the General Comment 36 of the Human Rights Committee which indicates that States are required to take special measures of protection towards persons in situation of vulnerability, whose lives have been placed at particular risk, because of specific threats or pre-existing patterns of violence, including human rights defenders. States have an obligation under international human rights law to create an enabling environment for the exercise of freedom of expression vital to the necessary, legitimate, and peaceful work of human rights defenders.

Furthermore, 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, also known as the UN Declaration on Human Rights Defenders. In particular, we would like to refer to articles 1, 2 and 6(c) of the Declaration which state that everyone has the right to promote and to strive for the protection and realization as well as to study, discuss, form and hold opinions on the observance of human rights and fundamental freedoms. Each State has a prime responsibility and duty to protect, promote and implement all human rights and fundamental freedoms.

General Assembly Resolution 68/181 expressed particular concern about systemic and structural discrimination and violence faced by women human rights defenders. As highlighted by the Working Group on discrimination against women in law and in practice (A/HRC/23/50), stigmatization, harassment and outright attacks have been used to silence and discredit women who are outspoken as leaders, community workers, human rights defenders and politicians. Women defenders are often the target of gender-specific violence, such as verbal abuse based on their sex; they may experience intimidation, attacks and death. Violence against women defenders is sometimes condoned or perpetrated by State actors. In this respect, in addition to protection against torture, ill-treatment, and enforced disappearances, the situation of women human rights defenders requires states to integrate a gender perspective in their efforts to create a favorable environment for the defense of human rights.

We would also like to refer to the United Nations Declaration on the Protection of All Persons from Enforced Disappearances, which sets out the necessary protections with respect to the responsibility of the State; in particular that no State shall practice, permit or tolerate enforced disappearances (Article 2); the right to be held in an officially recognised place of detention in conformity with national law and to be brought before a judicial authority promptly after detention promptly after detention, and the obligation to make available accurate information on the detention of persons and their place of detention to their family, counsel or other persons with a legitimate interest (Article 10). We would also like to highlight that there is no time limit, no matter how short, for an enforced disappearance to occur.

Once in custody, the State is expected to promptly provide accurate information on the detention of such persons and their place or places of detention, including transfers, to their family members, their counsel or to any other persons having a legitimate interest in the information unless a wish to the contrary has been manifested by the persons concerned. The denial of communications with family and friends under reasonable supervision (whether through correspondence or visits) is absolutely prohibited under Rule 58 of the Mandela Rules.