

Mandates of the Special Rapporteur on the situation of human rights defenders; 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 right of everyone to the enjoyment of the highest attainable standard of physical and mental health; the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment; and the Working Group on discrimination against women and girls

REFERENCE:
AL SAU 8/2020

2 June 2020

Excellency,

We have the honour to address you in our capacities as Special Rapporteur on the situation of human rights defenders; 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 right of everyone to the enjoyment of the highest attainable standard of physical and mental health; Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment; and Working Group on discrimination against women and girls, pursuant to Human Rights Council resolutions 34/5, 35/15, 34/18, 41/12, 42/16, 34/19, and 41/6.

In this connection, we would like to bring to the attention of your Excellency's Government information we have received regarding the continued detention of five women human rights defenders and the death in prison of human rights defender Mr. Abdullah Hamid Al-Hamid.

Ms. Loujain Al-Hathloul is a woman human rights defender who was involved in Saudi women driving campaign in the four years prior to its decriminalisation in September 2017.

Ms. Nouf Abdulaziz is a woman human rights defender, journalist and television producer. Before her arrest, she contributed to a feminist blog in Saudi Arabia and was a vocal supporter of reforming the constitution in the country. She was active on social media advocating for the release of imprisoned human rights defenders.

Ms. Mayaa al-Zahrani is a woman human rights defender that was detained after she voiced her opposition to the arrest of Ms. Nouf Abdulaziz on social media.

Ms. Samar Badawi is a woman human rights defender who has been advocating for women's rights since 2010 when she filed a lawsuit against the Government, which challenged the system of male guardianship in the country.

Ms. Nassima al-Sadah is a woman human rights defender and journalist who wrote for an online newspaper in Saudi Arabia. She was a vocal advocate of women's

right to drive and for increased political rights for women. She was involved in a number of non-governmental organisations before her arrest.

Ms. Abdulaziz, Ms. al-Zahrani, Ms. Badawi and Ms. al-Sadah were previously subject of communication SAU 11/2018. Ms. Badawi was also the subject of communications SAU 1/2016 and SAU 16/2014. Ms. Al-Hathloul has been the subject of communications SAU 7/2018 and SAU 15/2014. Both Ms. Badawi and Ms. Hathloul were mentioned in the communication SAU 1/2019. We thank your Excellency's Government for the responses received to most of these communications, we regret not having received a response to SAU 7/2018.

In communications written since 2018, we raised concerns that dozens of women human rights defenders had been arbitrarily detained after they commented in domestic and foreign media about the decree authorising women to obtain driving licenses. The communications raised concerns about serious human rights violations to which the women had been subjected in detention, an allegation that has been denied by your Excellency's Government in its reply to Special Procedures communications.

Mr. Abdullah Hamid Al-Hamid was a human rights defender and co-founder of the Saudi Civil and Political Rights Association (ACPRA). Previously he had been a poet and professor of contemporary literature at Al Imam Muhammad bin Saudi University in the city of Riyadh. He was dismissed from his profession as a result of his vocal human rights activism. Through ACPRA, Mr. Al-Hamid reported on human rights violations to domestic and international mechanisms such as the United Nations, as well as advocating for democratic and judicial reform in Saudi Arabia. He received the Right to Livelihood Award in 2018. He was 69 years old when he passed away in detention on 23 April 2020.

Mr. Abdullah Hamid Al-Hamid was previously named in six communications sent to your Excellency's Government, on 22 December 2017 (SAU 12/2017), 1 July 2016 (SAU 4/2016), 3 October 2014 (SAU 11/2014), 12 September 2013 (SAU 8/2013), 27 March 2013 (SAU 5/2013) and 12 July 2012 (SAU 9/2012). We thank your Excellency's Government for their response to SAU 12/2017, SAU 4/2016 and SAU 9/2012.

These communications raised concerns that Mr. Abdullah al-Hamid was subjected to severe prison conditions and regularly sent to solitary confinement while serving an 11-year sentence on national security charges relating to his human rights work with ACPRA. He had served seven of those eleven years at the time of his death.

In 2015, the Working Group on Arbitrary Detention found the deprivation of liberty of Mr. Al-Hamid to be arbitrary (Opinion No. 38/2015) and called for his release that year. This call was renewed in 2016.

In 2013, the UN Secretary-General raised the case of Abdullah Al-Hamid in his annual report on intimidation and reprisals for cooperation with UN bodies and mechanisms in the field of human rights (A/HRC/24/29 para. 32)

According to the new information received:

COVID-19 measures in prisons

Since the onset of the COVID-19 pandemic, some limited measures have been taken to mitigate the health consequences of the virus in prisons. On 26 March 2020, the Government of Saudi Arabia announced that it had released 250 foreign detainees charged with non-violent immigration offences. On 7 April 2020, King Salman bin Abdulaziz ordered the release of all those imprisoned on debt-related offences in private law cases and suspended the implementation of final rulings in pending cases on the subject. The released of further categories of detainees has not been publicly announced and the total number of detainees granted early or temporary release has not yet been made public.

Women human rights defenders

On 13 March 2019, the trial of Ms. Loujain al-Hathloul, Ms. Mayaa al-Zahrani, Ms. Nouf Abdulaziz and seven other women human rights defenders took place at Riyadh Criminal Court. The trial was originally due to take place at the Riyadh Specialised Criminal Court, which usually hears cases involving terrorist offences. The location was changed to Riyadh Criminal Court eight hours before the trial for unspecified reasons. Ms. Abdulaziz did not appear before the court for reasons that are unknown. The defenders were accused of breaching article 6 of the Anti-Cybercrime Law which punishes the production and transmission of material deemed to impinge on public order, religious values, public morals and private life with up to five years in prison. The authorities justified these charges based on allegations that the defenders “communicated with people and entities hostile to the King”, “cooperated with journalists and media institutions hostile to the King”, “provided financial support to foreign adversaries” and “recruited persons for information detrimental to the security of the Kingdom”. The women were not allowed to speak during the hearing.

On 27 March 2019, the second trial took place. No journalists or international observers were permitted to enter the court room. The defenders were allowed to sit next to their relatives and answer to the charges in the presence of a court appointed lawyer. The women mentioned they had suffered torture and other serious human rights violations in detention.

On 3 April 2019, the third hearing in the trial of Ms. Loujain al-Hathloul, Mayaa al-Zahrani, Nouf Abdulaziz and the other women human rights defenders took place. During the trial the Public Prosecutor responded to the women’s testimonies and denied their allegations of human rights violations while in detention.

Between March and May 2019, the seven other women human rights defenders arrested in the wake of the driving campaign were released.

On 27 June 2019, Mses. Samar Badawi and Nassima al-Sadah's first hearing took place. Their second and most recent hearing took place on 19 February 2020. They are also charged under article 6 of the Anti-Cybercrime Law, including for undermining public order, religious values, public morals and private life by communicating with foreign journalists and organisations when they worked with women's rights groups in the Kingdom.

Since January 2020, Mses. al-Hathloul and al-Sadah have reportedly been forced to spend periods under solitary confinement.

Mses. al-Hathloul and al-Zahrani's trial was originally due to take place on 11 March 2020 but was postponed by a week. No justification was given for the postponement.

On 18 March 2020, the hearings of Mses. Loujain al-Hathloul, Mayaa al-Zahrani, Samar Badawi, Nassima al-Sadah and Nouf Abdulaziz were indefinitely postponed after the courts were closed out of health considerations of the COVID-19 pandemic. None of them have been considered for early release in light of the COVID-19 pandemic.

Mr. Abdullah Hamid al-Hamid

In January 2020, after years of being affected by multiple cardiac conditions, Mr. al-Hamid was transferred to King Saud Medical City in Riyadh. Due to his deteriorating health, doctors advised him that he would urgently need to undergo an operation for a heart catheterization. Despite the doctors' advice, the prison administration allegedly brought him back to prison and informed him that his operation would be delayed until the end of May or early June 2020. His request to remain in hospital until his operation was reportedly denied and he did not receive regular medical attention when he was returned to prison.

Mr. Al-Hamid was not considered for early release in light of the COVID-19 pandemic and phone calls to his family were heavily restricted since the spread of the virus.

On 9 April 2020, Mr. Al-Hamid suffered a stroke in his cell and entered into a coma. He was transferred from Al Ha'ir prison to the intensive care unit of King Saud Medical City where he remained in critical condition for over two weeks. On 23 April 2020, Mr. al-Hamid passed away.

Without prejudging the accuracy of these allegations, we are deeply concerned by the lack of medical care from prison authorities which has denied Mr. Abdullah al-Hamid's right to life. We are deeply concerned by allegations that, instead of allowing

Mr. al-Hamid to stay in hospital to, inter alia, undergo the urgent surgery ordered by the doctor, his operation was delayed and he was forced to remain in prison without access to appropriate medical treatment and care. We find this particularly concerning in light of the Working Group on Arbitrary Detention's 2015 and 2016 decisions that Mr. al-Hamid was arbitrarily arrested for peacefully exercising his rights to fundamental freedoms and would not have posed a danger to society awaiting treatment in a medical facility. In this regard, we express our utmost concern that the delay to Mr. al-Hamid's treatment may have arbitrarily deprived him of his right to life.

We are furthermore concerned by the heavy sentences handed down to human rights defenders in Saudi Arabia for carrying out their legitimate activities peacefully exercising their fundamental freedoms and for promoting women's rights and gender equality. Particular concern is expressed at the prolonged detention of Ms. Loujain al-Hathloul, Mayaa al-Zahrani, Samar Badawi, Nassima al-Sadah and Nouf Abdulaziz for raising awareness about the women's driving campaign. In his report to the 40th Session of the Human Rights Council, the then Special Rapporteur on the situation of human rights defenders highlighted how on top of the vulnerabilities that all human rights defenders face, women human rights defenders face risks and obstacles that are gendered, shaped by norms about who women are or how they ought to be. He recommended that states address barriers to the participation of women defenders in public life and strengthen their participation in human rights activities.

Our concern for the prolonged and indefinite detention of these women human rights defenders forms part of a broader concern for all those who are still detained without sufficient legal basis during the COVID-19 pandemic. While we welcome measures taken to limit the spread of the virus for the protection of public health, we are concerned that these measures may not be extensive enough to safeguard prison populations. We express our deep concern that the measures taken may be too limited in order to effectively mitigate the spread of the COVID-19 virus in prison and, coupled with poor prison conditions, could endanger the lives of all detainees in Saudi Arabia, including those that are in detention for having exercised their legitimate rights and freedoms. In light of the UN High Commissioner's call on 23 March 2020, we urge your Excellency's Government to implement non-custodial measures to reduce prison populations in accordance with the United Nations Standard Minimum Rules for Non-custodial Measures (The Tokyo Rules). We urge your Excellency's Government to consider releasing all those detained without sufficient legal basis, including human rights defenders detained for their peaceful activities, in order to safeguard the physical and mental integrity of all detainees in the Kingdom.

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. Please provide any information and any comment you may have on the above-mentioned allegations.
2. Please provide information on the conditions in which Ms. al-Hathloul, Mayaa al-Zahrani, Nouf Abdulaziz, Badawi and al-Sadah continue to be held and the measures taken to ensure their physical and mental integrity, including access to appropriate health care, notably in view of the spread of COVID-19. Please indicate whether any of them are being considered for early release in light of the COVID-19 pandemic.
3. Please indicate what measures were taken to ensure Mr. al-Hamid's access to appropriate treatment and care while in prison in view of his delicate health condition.
4. Please indicate the reasons for the delay in the surgery that Mr. al-Hamid's was to undergo as per medical advice. Please also explain why he was not permitted to remain at a medical facility for appropriate treatment and care pending his operation. Please explain how this is consistent with your obligations under international human rights law.
5. Please provide information about any investigation conducted into the allegations of denial of medical care by prison authorities which resulted in the death of Mr. al-Hamid.
6. Please provide information on steps taken to prevent the spread of COVID-19 in prisons and ensure that prisoners enjoy the same standards of health care that are available in the rest of Saudi Arabia, with access to necessary health care services free of charge without discrimination on the grounds of their legal status.
7. Please indicate what specific legal and administrative measures have been taken to ensure that human rights defenders, including women human rights defenders, in Saudi Arabia, are able to carry out their legitimate work, including through the exercise of their right to freedom of opinion and expression and their rights to freedom of association, in a safe and enabling environment without fear of threats or acts of intimidation and harassment of any kind, including gendered intimidations, against either themselves or their families.

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 re-occurrence and in the event that the investigations support or suggest the allegations to be correct, to ensure the accountability of any person(s) responsible for the alleged violations.

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

Mary Lawlor
Special Rapporteur on the situation of human rights defenders

Agnes Callamard
Special Rapporteur on extrajudicial, summary or arbitrary executions

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

Clement Nyaletsossi Voule
Special Rapporteur on the rights to freedom of peaceful assembly and of association

Dainius Puras
Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health

Nils Melzer
Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment

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.

We would like to refer Your Excellency's Government to Article 3 of the Universal Declaration of Human Rights (UDHR) which states that "Everyone has the right to life, liberty and security of person". We would also like to refer to article 25(1) which states that "[e]veryone has the right to a standard of living adequate for the health" as well as medical care and security in the event of sickness or old age. We remind your Excellency's Government that these standards are true also for prisoners.

We also recall that States have a duty to protect the health of prisoners and detainees, in accordance with the UN Standard Minimum Rules for the Treatment of Prisoners, also known as the Mandela Rules. In particular, Rule 24 which states "[t]he provision of health care for prisoners is a State responsibility. Prisoners should enjoy the same standards of health care that are available in the community, and should have access to necessary health-care services free of charge without discrimination on the grounds of their legal status". Rule 26(2) establishes that clinical decisions may only be taken by the responsible health-care professionals and may not be overruled or ignored by non-medical prison staff, and Rule 27(1) states that prisoners who require specialized treatment or surgery shall be transferred to specialized institutions or to civil hospitals.

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.

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". We would also like to bring to your Excellency's Government's attention to 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.

In addition, we would like to refer your Excellency's Government to the following articles of the UDHR: article 5, which ensures that no one be subjected to torture, article 9 which declares that no one be arbitrarily detained, and article 10 which guarantees equality before a fair and public hearing. 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.

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.

We would also like to bring to the attention of 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 and 2 of the Declaration which state that everyone has the right to promote and to strive for the protection and realization of human rights and fundamental freedoms. Each State also has a prime responsibility and duty to protect, promote and implement all human rights and fundamental freedoms.

We also recall article 5(b) which states that everyone has the right, individually and in association with others, to form, join and participate in non-governmental organizations, associations or groups; and 6(c) which guarantees the right 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.