

Mandates of 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 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 promotion and protection of human rights and fundamental freedoms while countering terrorism; 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 3/2021

16 February 2021

Excellency,

We have the honour to address you in our capacities as Working Group on Arbitrary Detention; 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 promotion and protection of human rights and fundamental freedoms while countering terrorism; 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 42/22, 43/4, 41/12, 43/16, 40/16, 43/20 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, detention and sentencing of human rights defenders and others on charges related to terrorism and national security concerns**.

Mr. **Salman al-Awdah** is an Islamic scholar and influential religious figure in Saudi Arabia, known for his advocacy for greater respect for human rights within the framework of Shari'a law. He was arrested on 9 September 2017 under article 5 of the Terrorist Crimes and their Financing Act (2013). He has been charged with 37 offenses and prosecutors have sought the death penalty in his case. Since his arrest, Mr. Al-Awdah has been the subject of three communications by Special Procedures mandate holders (SAU 16/2019, SAU 14/2018 and SAU 12/2017), with the most recent of these communications sent on 29 November 2019. A response to this communication was received on 26 February 2020.

Mr. **Mohammad Abdullah al-Otaibi** is a human rights defender in Saudi Arabia, who is well-known for his advocacy for the protection of human rights and fundamental freedoms in the country, including freedom from arbitrary detention.

Mr. **Abdulla Madhi al-Attawi** is a human rights defender known for his work defending freedom of opinion, freedom of expression and the right to peaceful assembly.

In April 2013, Mr. Al-Otaibi and Mr. Al-Attawi co-founded the Union for Human Rights, an organisation dedicated to the promotion of the Universal Declaration of Human Rights and other international human rights instruments in Saudi Arabia. In the same month, an investigation was opened by the General Prosecution's office against several of the organisation's co-founders, and their request to formally register the organisation was refused. Concerns as to these events were

raised by several Special Procedures mandate holders through a communication sent on 1 July 2013 (SAU 6/2013), to which no response was received. A further communication concerning Mr. Al-Otaibi and Mr. Al-Attawi was sent by Special Procedures mandate holders on 13 December 2016 (SAU 8/2016), after the opening of a case against the human rights defenders at the Specialized Criminal Court of Saudi Arabia. A response to this communication was received on 13 February 2017, wherein it was confirmed that the human rights defenders were charged under the Anti-Cybercrime Act, the Basic Law of Governance and the Private Associations and Foundations Act, offenses deemed prejudicial to national security. In 2018, Mr. Al-Otaibi's detention was found to be arbitrary in an opinion adopted by the Working Group on Arbitrary Detention (opinion No. 68/2018).

Mr. **Mohammed al-Qahtani** is a human rights defender, writer and co-founder of the Association for Civil and Political Rights in Saudi Arabia (ACPRA). On 9 March 2013, he was sentenced to ten years in prison *inter alia* for having provided false information to outside sources, including the United Nations human rights mechanisms, followed by a travel ban of equal length on a number of national security offenses. In 2015, Mr. Al-Qahtani's detention was found to be arbitrary in an opinion adopted by the Working Group on Arbitrary Detention (opinion No. 38/2015). In May 2017, following his country visit to Saudi Arabia, the former Special Rapporteur on the promotion and protection of human rights while countering terrorism included Mr. Al-Qahtani on a list of cases requiring urgent review by your Excellency's Government. Those included on the list were all individuals serving sentences on national security offenses deemed by the former Special Rapporteur to be based on the peaceful exercise of their right to freedom of expression. Mr. Al-Qahtani's case was subsequently raised by several Special Procedures mandate holders through a communication sent on 22 December 2017 (SAU 12/2017). A response to this communication was received on 22 March 2018, however, we regret that no information directly pertaining to Mr. Al-Qahtani's case was included therein. Since 2012, Mr. Al-Qahtani's case has been included in several reports of the Secretary-General on intimidation and cooperation with the United Nation (A/HRC/21/18, paras. 35–37; A/HRC/24/29, para. 42; and A/HRC/42/30, para. 74 and Annex II, para. 92; and A/HRC/45/36, Annex II para. 114)

Mr. **Salah al-Haidar** is a journalist, writer and dual USA and Saudi Arabian citizen who has been outspoken on social media in support of human rights defenders in Saudi Arabia. He is the son of Ms. Aziza Al-Yousef, a woman human rights defender. Mr. Al-Haidar was arrested on 4 April 2019, and concerns as to this arrest were included by several Special Procedures mandate holders in a communication sent on 15 July 2019 (SAU 9/2019), relating to a wave of arrests against intellectuals, writers and human rights defenders in Saudi Arabia. A response to this communication was received on 12 September 2019, wherein it was confirmed Mr. Al-Haidar had been charged under the Terrorist Crimes and their Financing Act and the Repression of Cybercrime Act.

Ms. **Loujain al-Hathloul** is a woman human rights defender known for her work promoting women's rights in Saudi Arabia, including through campaigns to allow women to drive and claim freedom of movement. She was arrested at her home in Riyadh on 15 May 2018, shortly after returning from participating in a review session of Saudi Arabia at the CEDAW Committee. Ms. Al-Hathloul has been the subject of three previous communications by Special Procedures mandate holders (SAU 8/2020, SAU 7/2018 and SAU 15/2014). In 2020, Ms. Al-Hathloul's detention

was found to be arbitrary in an opinion adopted by the Working Group on Arbitrary Detention (opinion No. 33/2020). She was also allegedly subjected to torture while in prison. A response to the most recent of these communications was received on 7 August 2020. The case of Ms. Al-Hathoul was included in the 2019 and 2020 reports of the Secretary-General on intimidation and reprisals for cooperation with the United Nations (A/HRC/45/36, Annex II paras. 110.111; A/HRC/42/30, para.77, Annex I paras. 91-93).¹

Ms. **Mayaa al-Zahrani** is a woman human rights defender who has vocally opposed the arrest and detention of other women human rights defenders in Saudi Arabia. She was arrested on 9 June 2018 at her home in Khobar. The woman human rights defender's case was also included in communication SAU 8/2020. Prior to this, her case was raised by Special Procedures mandate holders in communication SAU 11/2018, to which responses were received on 29 October 2018 and 29 January 2019.

On 17 December 2020, Special Procedures also sent a communication about prolonged and possibly arbitrary detentions, judicial harassment and persecution, and other alleged violations committed against civil society under the guise of national security or terrorism concerns (SAU 12/2020). No reply to this communications has been received to date.

According to the information received:

Concerning Salman al-Awdah

A sentencing hearing in the trial of Mr. Al-Awdah was first scheduled for 27 November 2019 at the Specialized Criminal Court of Saudi Arabia (SCC). This hearing was postponed to 30 January 2020, a date which was also subsequently pushed back, with the hearing eventually taking place on 18 October 2020, almost one year after the initially scheduled date. The hearing lasted only a few minutes, during which time no procedural advancements were made prior to a new postponement of the sentencing being ordered. Mr. Al-Awdah's lawyer was present during the hearing.

On 18 November 2020, a further hearing in Mr. Al-Awdah's case took place before the SCC. Following this hearing, it was reported that Mr. Al-Awdah appeared weak and emaciated, and that he presented difficulties with his hearing and sight.

Mr. Al-Awdah has been held at Al-Haer Prison since October 2019. From mid-May 2020 to September 2020, he was held incommunicado, with all visits and phone calls from his lawyer and family denied.

Concerning Mohammad Abdullah al-Otaibi and Abdulla Madhi al-Attawi

¹ [A/HRC/45/36, A/HRC/42/30](#)

On 28 May 2017, Mr. Al-Otaibi was arrested in Riyadh by officers of the General Directorate of Investigation after having been deported to Saudi from Qatar as he attempted to travel to Norway to seek refugee status. He was placed in detention at Dammam Prison, where he was held incommunicado for approximately two weeks until he was permitted to call his relatives on 12 June 2017.

On 12 July 2017, Mr. Al-Otaibi was brought before a court for the first time since his detention, appearing before the SCC. From the time of his arrest until this date he had allegedly been denied access to a lawyer and held in solitary confinement.

On 25 January 2018, following a series of postponements in the case, the SCC sentenced Mr. Al-Otaibi and Mr. Al-Attawi to 14 years and 7 years imprisonment respectively in connection with multiple charges related to their establishment of the Union for Human Rights, with Mr. Al-Otaibi found guilty of additional charges relating to his use of social media.

In 2019, the SCC upheld the original verdicts concerning the two human rights defenders on appeal.

On 1 December 2020, a further year was added to Mr. Al-Otaibi's sentence. Six months of this sentence were based on his having travelled to Qatar in 2017, with the remaining period issued in relation to posts he had made on social media at that time.

On 11 January 2021, Mr. Al-Otaibi, who suffers from high blood pressure, began a hunger strike in protest against the alleged refusal of prison authorities to provide him access to appropriate medication to manage his condition and to transfer him to a prison closer to his family.

Concerning Mohammed al-Qahtani

Following his conviction on 9 March 2013, Mr. Al-Qahtani was detained at Al-Malaz Prison in Riyadh, before later being transferred to Al-Ha'ir Prison south of the city.

On 18 December 2020, Mr. Al-Qahtani began a hunger strike to protest restrictions on calls to his family and books sent to him being withheld by the prison authorities.

On 30 December 2020, the human rights defender ended his hunger strike when prison authorities agreed to allow him to contact his family, who he was able to speak to on the same date.

Concerning Salah al-Haidar

On 4 April 2019, Mr. Al-Haidar was arrested at his mother's home in Riyadh by officers from the General Directorate of Investigation. He was detained incommunicado for approximately one month, before being allowed to contact his mother by phone in the first week of May 2019, when he informed her he was being held at Al-Ha'ir Prison.

Following his arrest, Mr. Al-Haidar was held in solitary confinement for approximately three months. During this time, he was allegedly subjected to ill-treatment, including being denied access to medical treatment necessary for a serious infection and related pain.

In August 2020, the charges against Mr. Al-Haidar were first made available to his family, who were also informed that he would face trial before the SCC. The charges against the human rights defender relate to his support for Saudi Arabian citizens, including human rights defenders, lawyers and writers, on social media between 2009 and 2014. Mr. Al-Haidar has been permitted to speak with his lawyer over the phone.

The first hearings in the case took place at the SCC on 31 September 2020 and 21 December 2020.

Concerning Loujain al-Hathloul and Mayaa al-Zahrani

On 28 December 2020, Ms. Al-Hathloul and Ms. Al-Zahrani were sentenced to 5 years and 8 months in prison by the SCC, with two years and ten months of their sentence suspended and the ruling accompanied by a 3-year probation period and a 5-year travel ban.

Ms. Al-Hathloul was sentenced for “seeking to change the Saudi political system”, “harming national security”, “calling for an end to male guardianship”, “attempting to apply for a U.N. job”, “communicating with international rights groups and Saudi activists”, and “speaking to foreign diplomats and with international media about women’s rights in the kingdom”. Ms. Al-Zahrani was sentenced for similar charges relating to her peaceful human rights work.

On 10 February 2021, Ms. Al-Hathloul was released from prison. Due to the suspended sentence and travel ban issued against Ms. Al-Hathloul, she may be returned to prison if she has been perceived to have engaged in any criminal activity.

Without wishing to prejudge the accuracy of the information received, we wish to express grave concern as to the alleged arbitrary arrests, extensive periods of pre-trial detention and harsh sentencing of the above-mentioned individuals and human rights defenders. Our concerns in this regard extend to the further evidencing of an apparent trend, already extensively documented in previous communications by Special Procedures mandate holders to your Excellency's Government, of the use of national security and counter-terrorism legislation to punish individuals for exercising their human rights and fundamental freedoms. We reiterate our deep concern about the use of national security and counter-terrorism laws as justifications to restrict the right to freedom of expression and to silence dissenting civil society voices. We express further concern for the allegations of mistreatment of some of the above-

mentioned individuals while deprived of their liberty.

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 additional information and/or comment(s) you may have on the above-mentioned allegations.
2. Concerning Mr. Al-Awdad, please provide information as to the reasons for the repeated postponements in his trial, along with information concerning measures taken to protect his right to the enjoyment of the highest attainable standard of physical and mental health while detained. Please also provide information as to the allegation that Mr. Al-Awdad was held incommunicado between mid-May 2020 and September 2020.
3. Concerning Messrs. Al-Otaibi and Al-Attawi, please provide information as to the legal and factual basis for the conviction and sentencing of the human rights defenders, including the grounds for the additional sentence handed down to Mr. Al-Otaibi on 1 December 2020. Please also provide information as to measures taken to ensure Mr. Al-Otaibi's access to medication necessary to manage his high blood pressure while in prison.
4. Concerning Mr. Al-Qahtani, please provide information as to any restrictions that have been placed on the human rights defender's contact with family members while serving his sentence, as well as on access to any items sent to him in prison.
5. Concerning Mr. Al-Haidar, please provide information as to the charges against him and their legal and factual basis. Please also provide information as to the allegations that Mr. Al-Haidar was held incommunicado for approximately one month following his arrest and subsequently held in solitary confinement for approximately three months, during which time he was allegedly denied access to necessary medical care.
6. Concerning Ms. Al-Hathloul and Ms. Al-Zahrani, please provide information as to the precise charges upon which they have been convicted, how these fell under the jurisdiction of the Specialized Criminal Court and how their trial conformed with Saudi Arabia's international human rights obligations.
7. Please provide the details, and where available the results, of any investigation in relation to the allegations of torture or other cruel, inhuman or degrading treatment to which Ms. Al-Hathloul was

subjected while in prison.

8. Please provide information as to the access of the above individuals to legal assistance of their own choosing, how the confidentiality of their contact with their legal counsel was ensured, and how their right to adequate time and facilities to prepare for their defence was implemented.

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.

We would like to inform your Excellency's Government that after having transmitted an allegation letter to the Government, the Working Group on Arbitrary Detention may transmit the cases through its regular procedure in order to render an opinion on whether the deprivation of liberty was arbitrary or not. Such letters in no way prejudice any opinion the Working Group may render. The Government is required to respond separately to the allegation letter and the regular procedure.

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

Elina Steinerte

Vice-Chair of the Working Group on Arbitrary Detention

Irene Khan

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

Mary Lawlor

Special Rapporteur on the situation of human rights defenders

Fionnuala Ní Aoláin

Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism

Nils Melzer

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

Elizabeth Broderick

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

Annex

Reference to international human rights law

In connection with the above alleged facts and concerns, we would like to highlight your Excellency's Government of its obligation to respect and protect the rights guaranteed under the Universal Declaration of Human Rights (UDHR), in particular, articles 3, 5, 9, 10, 19 and 20, which guarantee to all persons the right to life, liberty and security of person, that no one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment, that no one shall be subjected to arbitrary arrest or detention, that all those with criminal charges against them are entitled to a fair and public hearing by an independent and impartial tribunal, that everyone has the right to hold opinions without interference, and the right to freedom of expression, including the right to impart information and ideas through any media and regardless of frontiers and that everyone has the right to freedom of association. We further emphasize that the rights contained in article 19 and 20 in relation to freedom of expression apply online as well as offline.

We also wish to respectfully remind your Excellency's Government of the applicable international human rights standards outlined by the Arab Charter on Human Rights (ACHR), specifically to articles 8, 13, 14, 20, 24 and 30, which provide that no one shall be subjected to physical or psychological torture or to cruel, degrading, humiliating or inhuman treatment, safeguard the rights to a fair trial, to liberty and security of person and freedom from arbitrary arrest or detention, to be treated with humanity and with respect for the inherent dignity of the person when deprived of their liberty, to freedom of association and to freedom of opinion and expression.

In this context, we would further like to draw the attention of your Excellency's Government to the Human Rights Council resolution 12/16, calling 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. Furthermore, we would like to refer to Human Rights Council resolution 24/5 in which the Council "remind[ed] States of their obligation to respect and fully protect the rights of all individuals to assemble peacefully and associate freely, online as well as offline, including in the context of elections and including persons espousing *minority or dissenting views or beliefs*, human rights defenders, trade unionists and others, including migrants, seeking to exercise or to promote these rights, and to take all necessary measures to ensure that any restrictions of the free exercise of the rights to freedom of peaceful assembly and of association are in accordance with their obligations under international human rights law" (OP2, emphasis added).

Finally, 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 and 2 which state that everyone has the right to promote and strive for the protection and realization of human rights and fundamental freedoms at the national and international levels, and that each State has a prime responsibility and duty to protect, promote and implement all human rights and fundamental freedoms, as well as to articles 5(b), 6(b) and (c) and 12, paragraphs 2 and 3. In this regard, we also

wish to refer to Human Rights Council resolution 22/6, which urges States to ensure that measures to combat terrorism and preserve national security are in compliance with their obligations under international law and do not hinder the work and safety of individuals and groups engaged in promoting and defending human rights.