

Mandates of the Special Rapporteur on the situation of human rights defenders; the Working Group on Arbitrary Detention; 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 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 Special Rapporteur on violence against women, its causes and consequences

REFERENCE:
AL SAU 6/2021

20 May 2021

Excellency,

We have the honour to address you in our capacities as Special Rapporteur on the situation of human rights defenders; Working Group on Arbitrary Detention; 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 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 Special Rapporteur on violence against women, its causes and consequences, pursuant to Human Rights Council resolutions 43/16, 42/22, 41/12, 42/16, 40/16, 43/20 and 41/17.

In this connection, we would like to bring to the attention of your Excellency's Government information we have received concerning cases **of alleged arbitrary detention and sentencing of human rights defenders that carry prison sentences of 10 years or more in connection to the promotion and defense of human rights, and related allegations of torture, ill treatment and poor conditions of detention.**

This letter is a follow up to previous communications sent on human rights defenders Mr. Mohammad Abdullah Al-Otaibi, Mr. Abdullah Hamid Al-Hamid, Mr. Mohammed Saleh Al-Bajadi, Dr. Abdulkareem Yousef al-Khoder, Mr. Waleed Abu al-Khair, Mr. Fowzan al-Harbi, Mr. Issa al-Hamid, Mr. Fadhel Al-Manasif, Mr. Raef Badawi, Mr. Issa Al-Nukheifi, Dr. Abdulrahman al-Hamid, Mr. Omar Mohammed Al-Said and women human rights defenders Ms. Nouf Abdulaziz, Ms. Nassima al-Sadah, Ms. Samar Badawi, Ms. Eman Al-Nafjan, Ms. Hatoon Al-Fassi.

It also addresses for the first time allegations concerning human rights defenders Mr. Abdulrahman Al Sadhan, Mr. Mohannad al-Mohaimeed and Mr. Mohammed Al-Rabiah.

We would like to reiterate our concerns and suggestions regarding the Law on Combating Crimes of Terrorism and its Financing, and its application which might negatively affect the enjoyment of human rights and fundamental liberties in the Kingdom of Saudi Arabia (Saudi Arabia). It could perpetuate a worrying trend, already identified by the mandate of the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism, of increasingly impacting on the freedoms of opinion and

expression, the prohibition of arbitrary detention and enforced disappearances, and the right to fair trial and due process guarantees. These concerns were highlighted in OL SAU 12/2020.

According to the information received:

Twelve human rights defenders serving prison sentences of 10 years or more and the case of one human rights defender deceased in prison.

The case of Mohammad Abdullah Al-Otaibi

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

The case of Mr. Al-Otaibi was raised by Special Procedures mandate holders on 16 February 2021 (SAU 3/2021), 13 December 2016 (SAU 8/2016), and 1 July 2013 (SAU 6/2013). We appreciate your Excellency's Government's reply to these communications. 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). In its opinion, the Working Group considered that the deprivation of liberty of Mr. Otaibi, being in contravention of articles 3, 6, 8, 9, 10, 11, 18, 19 and 20 of the Universal Declaration of Human Rights, is therefore arbitrary, falling within categories I, II and III.

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. On 12 July 2017, Mr. Al-Otaibi was brought before a court for the first time since his detention, appearing before the Specialized Criminal Court (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, the SCC sentenced Mr. Al-Otaibi to 14 years imprisonment and 14 years travel ban in connection with multiple charges related to the establishment of the Union for Human Rights and additional charges relating to his use of social media.

On 1 December 2020, the SCC added another year to Mr. Al-Otaibi's sentence for traveling to Qatar before 2017. The Court did not allow international observers to attend the hearing.

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.

In March 2021, the SCC upheld the conviction and increased the prison sentence by two years, which amounts to a total of three extra years from his original conviction for travelling to Qatar in 2017, social media posts and for alleged membership of ACPRA (The Saudi Civil and Political Rights

Association). The ruling will be challenged before the Cassation Court.

The case of Mr. Mohammed Saleh Al- Bajadi

Mr. Mohammed Saleh Al-Bajadi is a human rights defender and one of the co-founders of the now banned ACPRA, a human rights organization that documented human rights violations, filed lawsuits against the Ministry of Interior and reported violations to the UN Human Rights Council and Special Procedures. Mr. Al-Bajadi was the subject of four previous communications from Special Procedures mandate holders dated 14 June 2018 (SAU 7/2018), 22 December 2017 (SAU 12/2017) 1 July 2016 (SAU 4/2018) and 3 October 2014 (SAU 11/2014). We thank your Excellency's Government for the responses to SAU 12/2017 and SAU 4/2016.

Mr. Al-Bajadi was the subject of opinion No. 38/2015 adopted by the Working Group on Arbitrary Detention at its seventy-third session (September 2015). In its opinion, the Working Group established that his detention formed a part of a continued persecution and crackdown on human rights activists in Saudi Arabia. According to the Working Group, his detention is arbitrary and falls under categories II and III.

On 21 March 2011, Mr. al-Bajadi was arrested in Buraydah by uniformed agents and masked men in civilian clothes. His trial began in August 2011. It is alleged that his trial was secret as neither his charges nor his sentence were made public. Further, his legal defense team was denied access to him and informed that their right to represent him is not recognized by the court. His lawyers and family were neither informed about the hearings nor allowed to attend them.

On 10 April 2012, the SCC in Riyadh sentenced him to four years imprisonment followed by a five-year travel ban. The Court found Mr. al-Bajadi guilty of 1) participating in the establishment of an unlicensed organization; 2) harming the image of the state through the media; 3) calling on the families of political detainees to protest and hold sit-ins; 4) contesting the independence of the judiciary and 5) having banned books in his possession. Mr. al-Bajadi and his legal representative were unaware that the Court of Appeal rejected the sentence handed down by the SCC and sent the case back to the same court for re-trial.

His second trial started on 15 August 2013. In this occasion, Mr. al-Bajadi was not informed of this re-trial until prison security guards asked him to go to court to receive a copy of his first sentence. He refused to do so in protest at the unfairness of his trial and the secrecy surrounding it. Later he learned that when he was called to court it was to attend his first hearing in his re-trial.

His re-trial finally took place on 2015, and he was sentenced to 10 years in prison and 50 lashes. It is alleged that neither his charges nor his sentence were made public.

The case of Abdulrahman Al-Sadhan

Mr. Abdulrahman Al-Sadhan is a human rights defender and former assistant to the Head of the Saudi Arabian Red Crescent Society in Riyadh. He also ran two famous satirical Twitter accounts in Saudi Arabia.

On 12 March 2018, security forces, allegedly from the secret police agency of State Security (Mabahith) dressed in civilian clothes arrested Mr. Al-Sadhan at the Red Crescent Society in Riyadh and confiscated his phone before forcing him to go with them to an unknown location. They did not show an arrest warrant nor did they give any reason for the arrest.

During April and May 2018, he did not have access to calls or visits from his lawyer or family, even after several attempts from members from his family to visit. On 1 November 2018, his father filed a complaint with two human rights agencies in Saudi Arabia, the Human Rights Commission and the National Society for Human Rights.

On 12 February 2020, Mr. Al-Sadhan was allegedly allowed to make a brief call his family for the first time. He was denied any further contact with his family until 22 February 2021.

According to the information received, Mr. Al-Sadhan has been suffering ill treatment that could amount to torture while in prison, including solitary confinement, electric shocks, beatings that caused broken bones, flogging, hanging from the feet and suspension in stress-positions, threats of murder and beheading, insults, verbal humiliation.

The trial against the human rights defender finally started on 3 March 2021. The first hearing was allegedly held in secret, and he did not have access to legal representation. During the hearing, he was, for the first time, presented with the charges laid against him, namely: a) “funding terrorism through collecting, possessing, providing, and transferring funds to a terrorist entity”, punishable under article 47 of the Law of Combating Terrorism Crimes and Financing; b) “support and sympathy for a terrorist entity (ISIS) and advocating [for] it”, punishable under article 34 of the Law of Combating Terrorism Crimes and Financing; c) “using a website on the internet and its programs, and electronic devices to commit crimes stipulated in the Law of Combating Terrorism Crimes and Financing”, punishable under article 43 of the Law of Combating Terrorism Crimes and Financing; d) “preparing, storing and sending what would prejudice public order and religious values”, punishable under article 6(1) of the Anti-Cyber Crime Law; and e) “committing acts declared criminal and punishable under article 30 of the Law of Combating Terrorism Crimes and Financing.”

On 11 March 2021, a second hearing took place, which was attended by the complainant’s father as well as a court-appointed lawyer. Allegedly, the latter had only been permitted a 40-minutes meeting with Mr. Al-Sadhan before the hearing. For an hour, his father and lawyer were permitted to examine a list of evidence against Mr. Al-Sadhan, which consisted of 200 pages of tweets from the defendant’s Twitter accounts.

On 17 March 2021 and 22 March 2021, a third and fourth hearing took place, with no previous notice. When Mr. Al-Sadhan’s lawyer arrived to court, the

hearing had allegedly concluded. A fifth hearing took place on 25 March 2021. Allegedly, the prosecutor presented the arguments that Mr. Al-Sadhan had not asked for a lawyer and he went through an express hearing with no legal representation. During such hearings, Mr. Al-Sadhan informed that he was pre-diabetic – a condition he did not suffer from prior to his arrest – due to the poor quality of food he received in prison, the lack of movement and of exercise in solitary confinement and the stress he suffered from. He is also allegedly suffering from high triglycerides and that he is given daily pills to treat it. He allegedly did not suffer this condition prior to his arrest.

On 5 April 2021, the SCC sentenced Mr. Al-Sadhan to 20 years in prison, followed by a travel ban of another 20 years. Both his father and his lawyer were hindered from attending the hearing on time and were only allowed to enter the court room when the decision had already been rendered. The 20-year prison sentence is based on the maximum penalties stipulated in articles 30, 34, 43, and 47 of the Law of Combating Terrorism Crimes and Financing and in the Anti-Cyber Crime Law. The travel ban of 20 years was pronounced according to article 53(1) of Law of Combating Terrorism Crimes and Financing.

He is currently held at Al Ha'ir Prison and has been given 30 days to appeal the decision according to the law.

The case of Mr. Abdullah Hamid Al-Hamid:

Mr. Abdullah Hamid Al-Hamid was a human rights defender and co-founder of 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). 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.

We thank your Excellency's Government for their response to SAU 12/2017, SAU 4/2016 and SAU 9/2012 and take note of your Government disproving the allegations and claims raised concerning his situation.

Mr. Al-Hamid was the subject of opinion No.38/2015 adopted by the Working Group on Arbitrary Detention at its seventy-third session (September 2015). In its opinion, the Working Group established that his detention formed a part of

a continued persecution and crackdown on human rights activists in Saudi Arabia, and that the charges against him were too broad and imprecise, therefore allowing for interpretations that undermine fundamental rights such as the right to freedom of expression, association and assembly. According to the Working Group, his detention was arbitrary, falling under categories II and III. The case of Mr. Abdullah Hamid Al-Hamid was included in the 2020 and 2013 reports of the Secretary-General on cooperation with the UN (A/HRC/45/36, Annex II para. 108; A/HRC/24/29, para. 32) following his sentencing in 2013 for having provided false information to external sources, including UN human rights mechanisms.

His trial started on 11 June 2012 before the Criminal Court in Riyadh where he faced charges including: “breaking allegiance with the ruler”; “forming an unlicensed organization”; “questioning the integrity of officials”, a charge believed to refer to allegations made by Mr. al-Hamid that the judiciary accepts confessions made under duress; “seeking to disrupt security and inciting disorder by calling for demonstrations”; and “disseminating false information to foreign groups”, a charge which relates to expressing opinions on human rights violations in Saudi Arabia to international human rights organizations and media. On 9 March 2013, the Criminal Court in Riyadh sentenced Mr. al-Hamid pursuant to article 6 of the anti-cyber-crime law, to five years in prison. The court also ordered him to serve the remaining six years of a previous sentence from May 2005, which he had earlier been pardoned for. The court also sentenced him to a travel ban of 11 years and ordered the disbanding of ACPRA; the confiscation of its property and the cessation of its social media accounts. Mr. al-Hamid was taken to al-Malaz prison in Riyadh and later moved to the Criminal Department of al-Ha’ir prison in Riyadh. He appealed the decision on 28 May 2013 and in January 2014, the Court of Appeal confirmed the sentence.

The case of Abdulkareem Yousef al-Khoder

Dr. Abdulkareem Yousef al-Khoder is a founding member of ACPRA. He is a former professor at the Faculty of Islamic Jurisprudence at al-Qassim University, where he was reportedly dismissed as a result of his human rights work in October 2011. He was the subject of five previous communications from Special Procedures mandate holders, dated 22 December 2017 (SAU 12/2017), 1 July 2016 (SAU 4/2016), 3 December 2014 (SAU 11/2014), 12 September 2013 (SAU 8/2013) and 12 July 2012 (SAU 8/2012). We welcome your Government's responses to SAU 12/2017, SAU 4/2016 and SAU 9/2012.

Mr. Al-Khoder was the subject of opinion No.38/2015 adopted by the Working Group on Arbitrary Detention at its seventy-third session (September 2015). In its opinion, the Working Group established that his detention formed a part of a continued persecution and crackdown on human rights activists in Saudi Arabia. According to the Working Group, his detention is arbitrary and falls under categories II and III.

In January 2013, Mr. al-Khoder was tried before the Criminal Court in Buraydah. He was charged with a number of offences, including “disobeying the ruler”; “inciting disorder by calling for demonstrations”; “harming the

image of the State by disseminating false information to foreign groups”, and “taking part in founding an unlicensed organization”. On 24 April 2013, Mr. al-Khoder was detained at his fourth trial hearing, when he refused to enter the courtroom after the judge allegedly blocked a group of approximately 10 women from accessing the court to observe his trial. No reasons were given for the detention order against Mr. al-Khoder and the judge reportedly refused to meet with him or his lawyer.

On 24 June 2013, Mr. al-Khoder was found guilty of the above charges and sentenced to eight years in prison and a 10-year travel ban. On 6 January 2014, the Court of Appeal ordered a retrial before the Criminal Court in Buraydah.

His new trial started on 7 May 2014, and on 19 October the Court decided to overturn his sentence, he was reportedly sentenced to ten years in prison, two years more than the original sentence. The sentence cannot be appealed further. Mr. al-Khoder remains detained in Buraydah.

The case of Mr. Waleed Abu al-Khair

Mr. Waleed Abu al-Khair is a human rights lawyer and former head of Monitor of Human Rights in Saudi Arabia, an independent human rights organization founded in 2008. He also worked with ACPRA and supported its causes. The case of Mr. Waleed Abu al-Khair was raised by Special Procedures mandate holders 25 February 2020 (SAU 3/2020), 1 July 2016 (SAU 4/2016), 24 April 2014 (SAU 14/2014) and 3 May 2012 (SAU 7/2012). We acknowledge your Government’s responses to all communications.

Mr. al-Khair was the subject of opinion No.38/2015 adopted by the Working Group on Arbitrary Detention at its seventy-third session (September 2015). In its opinion, the Working Group established that his detention formed a part of a continued persecution and crackdown on human rights activists in Saudi Arabia. According to the Working Group, his detention is arbitrary and falls under categories II and III. He was also the subject of a subsequent opinion (No. 10/2018) which found his detention arbitrary under categories I, II, III and V.

Mr. al-Khair first faced trial in late 2011 after signing a statement criticizing the authorities’ persecution of 16 reformists. On 6 October 2013, Mr. al-Khair was simultaneously brought before the SCC, where he was facing charges almost identical to the ones of which he has already been convicted of. These include “breaking allegiance to and disobeying the ruler”; “setting up an unlicensed organization”, and “participating in establishing another organization” namely, ACPRA.

On 29 October 2013, the Criminal Court in Jeddah sentenced him to three months’ imprisonment, a sentence which was upheld on 6 February 2014 by the Court of Appeal in Mecca. 35. On 15 April 2014, Mr. al-Khair was arrested after appearing at the fifth hearing of his trial before the SCC. He was taken to al-Ha’ir prison in Riyadh, where he was reportedly placed in solitary confinement and ill-treated.

On 22 April 2014, Mr. al-Khair's defence team attended at the court to enquire about the reasons for his detention, at which time they found Mr. al-Khair attending his sixth session. The judge reportedly refused to provide an explanation for his arrest and detention.

The human rights defender was finally sentenced in January 2015 to 15 years imprisonment, a 15 years travel ban and a fine for "disobeying the ruler and seeking to negate his legitimacy; insulting the judiciary and questioning the integrity of judges; setting up an unlicensed organisation; harming the reputation of the state by communicating with international organizations; and preparing, storing and sending information harmful to public order".

Mr. Al-Khair began a hunger strike on 11 December 2019 in protest against being transferred to a high security unit. He was then transferred to a hospital over fears concerning his health. He announced the end of his hunger strike on 6 February 2020 after being transferred back to his previous prison accommodation.

The case of Mr. Fawzan Al-Harbi

Mr. Fawzan al-Harbi was the Deputy President of ACPRA. Mr. al-Harbi was subject of five previous communications sent on 1 July 2016 (SAU 4/2016), 3 October 2014 (SAU 11/2014), 3 February 2014 (SAU 1/2014), 12 September 2013 (SAU 8/2013), 1 July 2013 (SAU 1/2013). We acknowledge your Government's responses to SAU 4/2016, but regret not receiving replies to the other communications.

On 26 December 2013, the Court reportedly ordered the arrest of Mr. Al Harbi without providing any legal ground. The human rights defender was allegedly sentenced on 25 June 2014 to seven years' imprisonment, with six years suspended, a travel ban of seven years, and a ban on participating in social media and socialising with others.

On 19 November 2014, he was re-tried and sentenced to ten years in prison followed by a ten-year travel ban. The charges brought against him allegedly included participating in the establishment of an unlicensed organisation (ACPRA), "inciting disobedience to the ruler by calling for demonstrations", and "accusing the judiciary of being incapable of delivering justice".

Between 6 and 14 March 2021, Mr. Al-Harbi and about 30 other prisoners in al-Ha'ir prison in Riyadh undertook a hunger strike in protest over the poor conditions in prison. This included being held in the same ward as psychiatric detainees, some of whom have been violent towards them, and being denied family contact, as well as access to books and newspapers. They ended the hunger strike shortly after, upon the authorities agreement to meet the prisoners' demands.

The case of Mr. Issa Al-Hamid

Mr. Issa al-Hamid is a founding member of ACPRA. He was subject of three other communications sent by Special Procedures mandate holders on 1 July 2016 (SAU4/2016), 13 December 2016 (SAU 8/2016) and 22 December 2017

(SAU 12/2017). We appreciate your Government's response dated 25 November 2016, 13 February 2017 and 22 March 2018, respectively. In 2019, Mr. Al-Hamid's detention was found to be arbitrary in an opinion adopted by the Working Group on Arbitrary Detention (opinion No. 71/2019). In its opinion, the Working Group considered his deprivation of liberty in contravention of articles 2, 3, 7, 9, 10, 11 (1), 18, 19, 20 (1) and 21 of the Universal Declaration of Human Rights, and therefore arbitrary, falling within categories I, II, III and V. The case of Mr. Al-Hamid was included in the 2020, 2018 and 2017 reports of the Secretary-General on cooperation with the UN (A/HRC/45/36, Annex II, para. 117; A/HRC/39/41, Annex II, paras. 49–50; A/HRC/36/31, para. 49 and Annex I, paras. 68–69) following his sentencing in 2016 for having “communicated with international organizations in order to harm the image of the State”, a charge that according to special procedures mandate holders appeared to constitute an act of reprisal for cooperating with the United Nations, its representatives and mechanisms in the field of human rights.

Mr. Al-Hamid was summoned for interrogation at the Bureau of Investigation and Prosecution in Qasim for the first time on 21 November 2013. He was then called for interrogation a further six times, with the last session taking place on 14 June 2014.

His right to legal counsel was denied on every occasion. In addition, he was subjected to ill-treatment, including by being insulted, threatened with an arrest warrant and placed in a detention cell on several occasions during his interrogation. It is reported that Mr. Al-Hamid's trial began before the Buraydah Criminal Court in June 2014. Mr. Al-Hamid was officially informed of the charges against him for the first time during his second hearing, on 3 July 2014. They included: incitement to demonstrate; harming the credibility of religious authorities; contempt of a State constituent body; insulting the Saudi authorities by describing them as a police State that violates human rights; troubling public opinion by accusing security authorities and high officials of repression, torture, summary execution, enforced disappearance and human rights violations; participating in an unlawful association; contacting foreign organizations and providing false information; refusing to comply with the court decision concerning the dissolution of the ACPRA and persisting in the violation by acting as president of the Association; and preparing, storing and sending information that might prejudice public policy, on the basis of article 6 (1) of the Anticyber Crime Law.

Following the second hearing, Mr. Al-Hamid's case was transferred to the SCC in Riyadh. On 29 May 2016, Mr. Al-Hamid was sentenced to nine years of imprisonment, followed by a nine-year travel ban upon his release. In a decision that cannot be further appealed, on 15 May 2017, Mr. Al-Hamid's sentence was increased to 11 years in prison, an 11-year travel ban upon his release and a fine of 100,000 riyals (about \$26,660).

The case of Fadhel Maki Al-Manasif

Mr. Fadhel Maki Al-Manasif is a well-known human rights defender and member of various local human rights organizations in Saudi Arabia including the Arab Institute for Human Rights. He has documented violations against

Shi'a Saudis, as well as the situation of human rights defenders and political prisoners. Mr. Al-Manasif was the subject of five other communications sent to your Excellency's Government on 22 December 2017 (SAU 12/2017), 8 December 2014 (SAU 14/014), 5 May 2014 (SAU 6/2014), 12 July 2014 (SAU 9/2012) and 12 May 2011 (SAU 5/2011). We acknowledge your Excellency's Government detailed responses to SAU 12/2017, SAU 14/2014 and SAU 9/2012. However, we regret that no response has been provided for SAU 6/2014 and SAU 5/2011.

Mr. Al-Manasif was the subject of opinion No.38/2015 adopted by the Working Group on Arbitrary Detention at its seventy-third session (September 2015). In its opinion, the Working Group established that his detention formed a part of a continued persecution and crackdown on human rights activists in Saudi Arabia. According to the Working Group, his detention is arbitrary and falls under categories II and III.

On 14 April 2011, Mr. Al Manasif documented a peaceful candlelit march held by local women in Qatif, Eastern Province. In the days prior to his arrest, Mr. Al-Manasif participated in negotiations with the Saudi authorities in order to discuss the demonstrations.

On 30 April 2011, a number of officers of the Ministry of Interior's Criminal Investigation Department reportedly arrived at the family home of Mr. Al-Manasif, who was not present at the time. The officers allegedly confiscated Mr. Al-Manasif's father's identity documents, and instructed him to inform his son that he must present himself to the Criminal Investigation Department in Al Awamieh the next day.

On the morning of 1 May 2011, Mr. Al-Manasif presented himself at the Criminal Investigation Department in Al Awamieh, Eastern Province. According to the information received, Mr. Al-Manasif was immediately arrested and detained without explanation of the charges against him. He was released on 11 August 2011 after signing a pledge not to participate in any further protests.

The human rights defender was reportedly re-arrested on 2 October 2011. On 28 February 2012, he reportedly appeared before the Specialised Criminal Court in Riyadh for the start of his trial. On 9 May 2012, his trial was adjourned for reasons unknown.

On 17 April 2014, the SCC in Riyadh reportedly sentenced Mr. Al Manasif to 15 years imprisonment, subsequent travel ban of 15 years, and a fine of 100,000 Saudi Riyals (about 26,700 USD). Mr. Al Manasif's sentence is allegedly the result of his reports on discrimination against the Saudi Arabia's Shi'a Muslim community and for his participation in a peaceful protest in March 2009 calling for political reform and the end of such discrimination. Allegedly, his lawyer was not provided with the charges until after the trial started.

These offences include establishing and participating in the establishment of unlicensed associations, non-compliance with a court orders to dissolve them, misleading public opinion and tarnishing the country's reputation, explicitly

defaming the loyalty and faith of the members of the Council of Senior Scholars, undermining national security, public order, breaching the peace, promoting anarchy, disparaging and insulting the judiciary, casting aspersions publicly on the honesty, impartiality and independence of the judiciary, contesting the independence of the judiciary, storing and disseminating material capable of undermining public order on the Internet, disrespecting the legal profession, providing support for terrorist groups and adopting their ideas, disseminating statements and booklets containing false, uncorroborated and unauthenticated information with a view to damaging the reputation of the Kingdom and its judicial and executive authorities. These offences are laid down in the national legislation of Saudi Arabia, including, the Penal Law for Crimes of Terrorism and its Financing (Royal Decree No. M/16 of 27 December 2013), the Anti-Cyber Crime Law (Royal Decree No. M/17 of 26 March 2007), the Civil Society Associations and Foundations Act (Royal Decree No. M/8 (1 December 2015) and the Basic Law of Governance (Royal Decree No. A/90, 1 March 1992).

On 9 September 2014, upon appeal, the SCC reduced the sentence issued against Mr. Al-Manasif on 17 April 2014 to 14 years' imprisonment and a 14-year travel ban, but maintained the fine of 100,000 Saudi Arabian Riyals.

The Case of Mr. Raef Badawi

Mr. Raef Badawi is a human rights defender and the founder of the website 'Free Saudi Liberals' and has published many articles advocating for human rights. He has been the subject of eight other communications sent my Special Procedures mandate holders on 22 December 2017 (SAU 12/2017), 1 September 2016 (SAU 5/2016), 11 December 2015 (SAU 11/2015), 12 June 105 (SAU 3/2015), 22 January 2015 (SAU 1/2015), 31 October 2014 (SAU 13/2014), 31 January 2004 (SAU 2/2014) and 12 July 2012 (SAU 9/2012). We acknowledge your Excellency's Government's response to SAU 12/2017, SAU 5/2016, SAU 3/2015, SAU 1/2015, SAU 13/2014, SAU 2/2014, SAU 9/2012. Mr. Badawi was subject of opinion No.38/2015 adopted by the Working Group on Arbitrary Detention at its seventy-third session (September 2015). In its opinion, the Working Group established that his detention formed a part of a continued persecution and crackdown on human rights activists in Saudi Arabia and that his detention is arbitrary, falling under categories II and III.

On 17 June 2012, Mr. Badawi was arrested and detained in Jeddah Prison. He was convicted by the Criminal Court of Jeddah under the Repression of Cybercrime Act for 'insulting Islam', allegedly for writing and publishing several articles on his blog, Free Saudi Liberals. His conviction was in accordance with Article 39 of Saudi Arabia's Basic Law of Governance, which reportedly allows for restrictions on the right to freedom of opinion and expression. On 7 May 2014, Mr. Badawi was sentenced to 10 years' imprisonment, 1 million Saudi Riyal fine (approximately US \$266,500), 1000 lashes, a 10-year travel ban after his release and a 10-year ban on appearing in the media. Allegedly, neither Mr. Badawi nor his lawyers were present during the trial.

On 9 January 2015, Mr. Badawi was flogged with 50 lashes, which allegedly he had to receive on a weekly basis, administered with “extreme severity”. As a result of Mr. Badawi’s poor health, the lashes were suspended after the first flogging. The King of Saudi Arabia ordered the Supreme Court to review the case and on 7 June 2015, the sentence was upheld.

On 27 January 2021, Canada’s House of Commons voted unanimously for a motion demanding that Mr. Badawi be granted Canadian citizenship. The motion asks Immigration Minister to use his “discretionary power” to grant citizenship to Badawi “in order to remedy a particular situation and unusual distress”.

As of April 2021, information received states that Mr. Badawi is being investigated again for “inciting public opinion” and “harming the reputation of the Kingdom”.

The case of Mohannad AL-Mohaimeed

Mr. Mohannad al-Mohaimeed is a human rights defender working for migrants’ rights in Saudi Arabia. In April 2014, he was sentenced by the SCC to a 10 years imprisonment as well as a 10-year travel ban.

The case of Issa Al-Nukheifi

Mr. Issa Al-Nukheifi is a human rights defender known for investigating cases of financial corruption, and for supporting civilians affected by the war on the Saudi-Yemeni border in their claims for compensation. He was subject of a communication sent to your Excellency’s Government on 22 December 2017 (SAU 12/2017) and 1 July 2016 (SAU 4/2016) We thank your Excellency’s Government for its reply on 22 March 2018 and 24 November 2016.

The case of Mr. Nukheifi was included in 2020, 2019 and 2018 reports of the Secretary-General on cooperation with the UN (A/HRC/45/36, Annex II para. 115; A/HRC/39/41, para. 65 and Annex I, paras. 95–96, 98; A/HRC/42/30, para. 74 and Annex II, para. 93;) following his six-year sentence of imprisonment, with a six-year travel and social media ban upon release, for cooperation with the visit of the Special Rapporteur on extreme poverty and human rights to Saudi Arabia in January 2017 (SAU 2/2017).

In 2019, Mr. Nukheifi was the subject of opinion No. 71/2019 adopted by the Working Group on Arbitrary Detention. In its opinion, the Working Group considered that his deprivation of liberty is arbitrary under categories I, II, III and V.

On 17 December 2016, Mr. Al Nukheifi received a call from the Criminal Investigation Department (CID), summoning him to Al Nouzha police station in Mecca for questioning. The following day, on 18 December 2016, Mr. Al Nukheifi reported to the police station and was arrested upon arrival. He was questioned by the Bureau of Investigation and Prosecution (BIP) about his activities on social media and contact with international human rights organizations. In particular, the BIP reportedly interrogated him about his

tweets calling for the release of detained members of the ACPRA. He was also interrogated about his new *Twitter* account set up on 10 December 2016, which called for democracy in the Kingdom of Saudi Arabia and the establishment of the “Saudi Popular Parliament”, to be directly elected by the people.

According to the source, Mr. Al-Nukheifi’s trial before the SCC began on 21 August 2017. This was the first time that he was brought before a judge and officially informed of the charges against him. Mr. Al-Nukheifi was charged with seeking to destabilize the social fabric and national cohesion, on the basis of paragraph 8 of Royal Decree No. 16820; communicating with and receiving money from foreign groups considered to be enemies of the State, on the basis of paragraphs 5 and 6 of Royal Decree No. 16820; and adopting a Takfiri approach by accusing the Guardians of Saudi Arabia of being infidels and using a personal cell phone and the Internet to store and transfer information that was allegedly harmful to the public order, on the basis of article 6 (1) of the Anti-Cyber Crime Law. He was also charged under article 1 (3) of the 2017 counterterrorism law and under Royal Decree A/44. On 28 February 2018, the SCC sentenced Mr. Al-Nukheifi to six years of imprisonment, and imposed a six-year travel and social media ban on him upon his release. On 7 April 2018, in a decision that cannot be further appealed, the court of appeal confirmed the sentence.

Five cases of women human rights defenders facing trial or sentenced for their legitimate defense of human rights

The case of Ms. Nouf Abdulaziz

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. Abdulaziz was the subject of two communications by the Special Procedures of the Human Right Council: SAU 11/2018 and AL SAU 8/2020. We appreciate your Excellency’s Government’s reply to both letters.

On 6 June 2018, Abdulaziz was arrested after a raid on her home and taken to an unknown location. On 13 March 2019, the trial of Ms. Abdulaziz took place at Riyadh Criminal Court. The trial was originally due to take place at the SCC, however, 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. She was 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”.

On 27 March 2019, the second trial took place. No journalists or international observers were permitted to enter the court room. Ms. Abdulaziz was allowed to sit next to her relatives and answer to the charges in the presence of a court appointed lawyer.

On 3 April 2019, the third hearing in the trial of Ms. Abdulaziz took place. During the trial, the Public Prosecutor responded to her testimony and denied allegations of human rights violations while in detention.

A trial session was scheduled on 25 November 2020; the outcome of the session remained unknown. On 10 February 2021, Ms. Abdulaziz was conditionally released for unknown reasons. However, charges against her remain and she could face up to 10 years in prison.

The case of Nassima al-Sadah

Ms. Nassima al-Sadah is a human rights defender and journalist who wrote for an online newspaper in Saudi Arabia, and 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, increased political rights for women, and for the end of the male guardianship system. Ms. Al-Sadah is the subject of two communications by Special Procedures mandate holders on 2 June 2020 (SAU 8/2020) and 10 November 2018 (SAU 11/2018). We acknowledge your Government's replies to both letters and the details about the legal charges presented against her and her visits in prison.

On 30 July 2018, Ms. al-Sadah was arrested and detained in an unknown location. She was not allowed access to her family or her lawyer. After almost a year in pre-trial detention, on 27 June 2019, Ms. al-Sadah's first hearing took place. The second hearing took place on 19 February 2020.

On 18 March 2020, the hearing of Ms. al-Sadah was indefinitely postponed after the courts were closed out of health considerations of the COVID-19 pandemic. She was not considered for early release in light of these considerations.

On 25 November 2020, in a trial closed to international observers, the Criminal Court sentenced Ms. Al-Sadah to five years in prison, half of it suspended, followed by a five-year travel ban at the end of her sentence. She was charged under article 6 of the Saudi Anti-Cybercrime Law, including for "undermining public order, religious values, public morals and private life by communicating with foreign journalists and organisations" when she worked with women's rights groups in Saudi Arabia. Both during her detention and investigation,

Ms. Al-Sadah did not have access to a lawyer. Since January 2019, Ms. al-Sadah has reportedly been forced to spend long periods of up to a year in solitary confinement.

Ms. Al-Sadah's sentence was upheld on appeal on 22 March 2021, with her expected release date at the end of June 2021. She is currently held at Al Ha'ir prison, a Mabahith-affiliated prison.

The case of Ms. Samar Badawi

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. Moreover, Ms. Badawi was particularly active in advocating on behalf of imprisoned human rights defenders and women's right to vote and drive.

Ms. Badawi is the subject of five communications by Special Procedures mandate holders on 2 June 2020 (SAU 8/2020), 8 February 2019 (SAU 1/2019) 10 October 2018 (SAU 11/2018), 18 March 2016 (SAU 1/2016) and 6 January 2015 (SAU 16/2014). We thank your Excellency's Government for its replies to all letters. The case of Ms. Badawi was included in the 2020, 2019 and 2015 reports of the Secretary-General (A/HRC/45/36, Annex II, para. 112; A/HRC/42/30, para. 73–74, Annex I, para. 91, and Annex II, para. 95; A/HRC/30/29, para. 36) on allegations of threats and interrogations following her statement at the Human Rights Council in 2014.

On 30 July 2018, Saudi authorities arrested and detained Ms. Badawi in Jeddah and transferred her to an unknown location. After almost a year in pre-trial detention, Ms. Badawi's first hearing took place on 27 June 2019.

After a second hearing on 19 February 2020, she was charged under article 6 of the Repression of Cybercrime Act, which provides that: "Anyone who commits any of the following offences shall be liable to imprisonment for a term of up to 5 years and/or a fine of up to 3 million riyals: (1) The production of material prejudicial to public order, religious values, public morals or the sacrosanct nature of private life and the preparation, transmission or storage of such material on or through the Internet or a computer". Article 9 of the Act stipulates that: "Anyone who instigates or assists others or conspires with them to commit any of the offences defined in this Act shall be liable to the following penalties: if the offence was committed as a result of such instigation, assistance or conspiracy, the person shall be liable to the maximum penalty prescribed for that offence; if the offence was not committed, the person shall be liable to half the maximum penalty prescribed for the principal offence." We note your Excellency's Government's reply stating that she had access to legal advice during her period in detention.

On 18 March 2020, the hearing of Ms. Badawi was indefinitely postponed after the courts were closed out of health considerations of the COVID19 pandemic. She was not considered for early release in light of the COVID-19 pandemic.

A trial session was scheduled on a short notice on 25 November 2020; the outcome of the session remained unknown. She is expected to be released in June 2021.

The case of Eman Al-Nafjan

Ms. Eman Al-Nafjan is an author and blogger for the "Saudi woman's Weblog" and has been a continuous supporter of the "women to drive" movement. Ms. Al-Nafjan was the subject of two communications from

Special Procedures mandate holders on 8 February 2019 (SAU 1/2019) and 16 June 2018 (SAU 7/2018). We thank your Excellency's government for its response to such letters on 5 April 2018 and regret that no reply has been given to SAU 7/2018.

On 15 May 2018, Ms. Al-Nafjan was arrested and detained in Jeddah at an unknown location. Reports indicate that she was subjected to torture, through electric shocks, sexual harassment and ill-treatment. She was arrested on the grounds that she had committed a number of offences, including offences that undermined national security and cybercrimes criminalized under article 6 of the Repression of Cybercrime Act, which provides that: "Anyone who commits any of the following offences shall be liable to imprisonment for a term of up to 5 years and/or a fine of up to 3 million riyals: (1) The production of material prejudicial to public order, religious values, public morals or the sacrosanct nature of private life and the preparation, transmission or storage of such material on or through the Internet or a computer". Article 9 of the Act stipulates that: "Anyone who instigates or assists others or conspires with them to commit any of the offences defined in this Act shall be liable to the following penalties: if the offence was committed as a result of such instigation, assistance or conspiracy, the person shall be liable to the maximum penalty prescribed for that offence; if the offence was not committed, the person shall be liable to half the maximum penalty prescribed for the principal offence." We note your Excellency's Government's reply stating that she had access to legal advice during her period in detention.

She was released on bail on 28 March 2019 pursuant to article 123 of the Code of Criminal Procedure, which stipulates that: "Where accused persons are referred to court, the court may decide whether to release them temporarily if they are in detention or place them in detention if they are at liberty." She is still waiting for trial with charges pending at the time of writing this communication.

The case of Hatoon al-Fassi

Ms. Hatoon Al-Fassi is a woman human rights defender who has long advocated for the rights of women to participate in the municipal elections and to drive. She was also an associate professor of women's history at King Saud University and a contributor to al-Riyadh newspaper. She was subject of another letter sent to your Excellency's Government on 10 October 2018 (SAU 11/2018). We thank your Excellency's Government for its detailed reply on her case on 19 January 2019.

Ms. Al-Fassi was arrested on 21 June 2018 in the lead-up to the lifting of the driving ban and held at the Mabahith [General Directorate of Investigation] prison in Riyadh. She was due to be interviewed by the French media about the lifting of the driving ban around the time of her arrest. She was charged for offences under article (2) of the Anti-Money Laundering Act, by providing material support for groups suspected of committing acts of terrorism, through the illegal collection of funds and receipt of remittances from organizations and groups abroad that engaged in terrorist acts.

The woman human rights defender was released in early May 2019, but is still facing trial.

Three cases of human rights defenders whose time in detention amounts to 8 years or more, including time in pre-trial detention

The case of Mr. Abdulrahman Al- Hamid

Dr. Abdulrahman al-Hamid is Dr. Abdullah al-Hamid's brother, and a founding member of ACPRA. He was the subject of three previous communications by Special Procedures mandate holders on 22 December 2017 (SAU 12/2017), 1 July 2016 (SAU 4/2016) and 3 October 2014 (SAU 11/2014). We appreciate your Governments responses to these communications dated 25 November 2016 and 22 March 2018. We regret that no response was given for SAU 11/2014.

Dr. Abdulrahman al-Hamid was arrested on 17 April 2014 and allegedly held incommunicado for a month being moved to al-Qassim prison.

On 13 October 2015, after one year and six months in pretrial detention, the human rights defender was sentenced to nine years in prison followed by a nine-year travel ban and a fine of £8,800. The charges brought against him include "inciting against public order, spreading chaos by calling for demonstrations, disrespecting the authorities, and participating in and setting up an unlicensed organisation". He is detained at Al-Malaz prison. Mr. al-Hamid had allegedly no access to legal representation during his detention and trial.

The case of Omar Mohammed Al-Said

Omar Mohammed Al-Said is a human rights defender and former member of ACPRA. His case was communicated to your Excellency's Government on a previous communication, SAU 4/2016.

Mr. Omar al-Said was sentenced to two and a half years in prison and a two-and-a-half-year travel ban on 5 November 2015. He was reportedly released on 22 December 2015. He was charged in 2013 for "membership to an illicit organization" and sentenced to four years in prison and 300 lashes. The Court of Appeal asked the judge to increase the sentence. He was released on bail pending appeal on 22 December 2015. On 5 September 2016, the SCC sentenced him to seven years in prison. He was rearrested during the summer of 2018 and is still in prison. He had allegedly no access to legal assistance during his detention and trial.

The case of Mohammed al-Rabiah

Mr. Mohammed al-Rabiah is a human rights defender working for women's rights and the end of male guardianship in Saudi Arabia.

Mr. Al-Rabiah was arrested on 15 May 2018 for his advocacy on women's rights to drive. He was kept in pre-trial detention on Dhahban Prison, in Jeddah, for almost two years. During this time, there are allegations of ill

treatment that could amount to torture, including beatings, electric shocks and being hung upside down. Further, he was reportedly starved during the first year of his detention by being offered empty food trays. Allegedly, he was only able to eat the snacks he was offered during family visits, which were permitted once per month.

On 20 April 2021, the SCC sentenced al-Rabiah to six years in prison under Article 6 of the Anti-Cyber Crime Law and provisions of the Law on Combating Crimes of Terrorism and its Financing. The charges include “seeking to shake the social fabric or national cohesion”, “instigating strife”, “carrying out foreign agendas that disrupt the kingdom’s security and stability”, and “authorising and publishing a book containing suspicious trends” The decision is subject to appeal within 30 days.

While we do not wish to prejudge the accuracy of these allegations, we would like to express our utmost concern at the detention and sentencing of the human rights defenders described above. We remind your Excellency’s Government that the criminalization of the legitimate defence of the human rights of others would be incompatible with international human rights law. We are concerned that the cases of the abovementioned human rights defenders and women human rights defenders reveal what seems to be a pattern of restrictions on space dissent and debate in Saudi Arabia, whereby critical or dissenting opinions are characterised as terrorism.

The 2020 report of the Secretary-General on cooperation with the UN referred to multiple UN actors having identified alleged intimidation and reprisals, including arbitrary detention, ill-treatment, torture, and harassment targeting Saudi civil society representatives cooperating, having cooperated, or seeking to cooperate with the UN. The report included allegations of reprisals concerning ten individuals in detention but additional cases could not be included due to fear of further reprisals. On 19 December 2019, the Assistant Secretary-General for Human Rights addressed patterns of intimidation and reprisals to the Government in writing. In January 2020, the Government responded, reiterating information on the charges imposed on individuals that had been addressed by multiple UN actors (A/HRC/45/36, Annex I, paras. 105-106).

As such, there appears to be a systematic stifling of dissent and targeting of those who exercise their right to freedom of expression and association, as well as those who promote it. We would like to stress the essential work that human rights defenders play for any society as a whole, and in favor of the well-functioning of the rule of law.

We want to express deep concern with regard to allegations of torture and other cruel, inhuman or degrading treatment or punishment and other human rights violations allegedly faced by Mr. Al Sadhan, Ms. Al-Nafjan, Mr. Abdulrahman and Fowzan Al-Harbi. We are also concerned by the allegations that fair trial standards were breached during the trials of these individuals. The criminalization of human rights defenders in reprisal for their legitimate and peaceful efforts to advocate for the rights of others in Saudi Arabia is concerning not only for the detrimental impact on the lives of those individuals and their families, but for the chilling effect it creates on civic space in the country. We are concerned that such an approach is intended to discourage others from exercising their fundamental freedoms, and defending the right of others to do so too. We remind your Excellency’s Government that the denial

of due process of the human rights defenders described above is in contravention of their right not to be arbitrarily detained or deprived of liberty. With regard to the Specialized Criminal Court, we recall that both the Committee against Torture and Other Cruel, Inhuman and Degrading Treatment or Punishment¹ and the Working Group on Arbitrary Detention² have expressed concerns that this Court, which was established in 2008 to try cases of terrorism, is insufficiently independent of the Ministry of the Interior. As a court of exception, the Specialized Criminal Court is not composed of independent judges but of a panel appointed by the Ministry of the Interior.

We wish to underscore that, according to the Universal Declaration of Human Rights (article 29(2)) no restrictions may be placed on the exercise of the rights and freedoms laid down in the Declaration other than those that are determined by law and that strictly intend to guarantee the respect for the rights and freedoms of others and to meet just requirements of morality, public order and the general welfare in a democratic society. The important principle here is that while the freedoms are the norm, the restrictions should be the exception, and that these exceptions can only be justified on precise, reasoned and well-founded grounds. States do not have to agree with the opinions and criticisms expressed by people who hold different convictions or beliefs, but they have a positive obligation to foster and ensure the existence of an enabling environment for civil society, in terms of enjoyment of the rights to freedom of expression, peaceful assembly and association, so that citizens are able to exchange, communicate, information and opinions, and contribute to the building of a just society freely and without fear (A/HRC/20/27, paragraph 63).

The above allegations appear to be in contravention of the right to liberty and personal security, the right not to be subjected to arbitrary arrest, the right to freedom of religion or belief, the right to freedom of opinion and expression, the right to freedom of peaceful assembly and association, and, as set forth in articles 3, 9, 13, 18, 19 and 20 of the Universal Declaration of Human Rights, respectively.

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. Please provide information about the current health condition of Mr. Al Sadhan and Mr. Al-Otaibi, and their access to medical attention, including treatment.
3. Please provide information concerning the factual and basis for the arrest and detention of Mr. Mohammad Abdullah Al-Otaibi, Mr.

¹ CAT/C/SAU/CO/2 and Corr. 1, para. 17

² See, inter alia, WGAD opinions Nos. 10/2018, para. 73; 22/2019, para. 74; 26/2019, para. 102; 56/2019, para. 86; and 71/2019, para. 86.

Abdullah Hamid Al-Hamid, Mr. Mohammed Saleh Al-Bajadi, Dr. Abdulkareem Yousef al-Khoder, Mr. Waleed Abu al-Khair, Mr. Fowzan al-Harbi, Mr. Issa al-Hamid, Mr. Fadhel Al-Manasif Mr. Raef Badawi, Mr. Issa Al-Nukheifi, Dr. Abdulrahman al-Hamid, Mr. Omar Mohammed Al-Said, Ms. Nouf Abdulaziz, Ms. Nassima al-Sadah, Ms. Samar Badawi, Ms. Eman Al-Nafjan, Ms. Hatoon Al-Fassi, Mr. Abdulrahman Al Sadhan, and Mr. Mohannad al-Mohaimed and explain how these are compatible with international human rights norms and standards, including Articles 3, 9 and 10 of the Universal Declaration of Human Rights. Please elaborate on the observance of the fair trial rights of these individuals, especially the right to legal assistance.

4. Please provide information about the factual and legal basis for the new investigation against Mr. Raef Badawi.
5. Please provide the details, and where available the results, of any investigation, and judicial or other inquiries carried out in relation to reported allegations of torture and/or cruel, inhuman or degrading treatment as well as reports of breaches of fair trial standards. If no inquiries have taken place, or if they have been inconclusive, please explain why.
6. Please provide information about the legal status of the cases against Mss. Hatoon Al- Fassi, Eman Al-Nafjan, Nassima Al-Sadah, Samar Badawi and Nouf Abdelaziz.
7. Please provide information on why charges related to terrorist acts and raising funds for terrorist organisations have been levied against the above-named human rights defenders and indicate how this complies with the obligation to pursue counter-terrorism obligations consistent with international law as set out inter alia in United Nations Security Resolution 1373, FATF Recommendation 8 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) and the model definition of terrorism provided by the mandate of the Special Rapporteur for the promotion and protection of human rights and fundamental freedoms while countering terrorism.
8. Please indicate what measures have been taken to ensure that human rights defenders and lawyers in Saudi Arabia are able to carry out their peaceful and legitimate work, including in cooperation with the UN, in a safe and enabling environment without fear of threats or acts of intimidation and harassment of any sort.

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.

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.

We may 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.

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

Mary Lawlor
Special Rapporteur on the situation of human rights defenders

Elina Steinerte
Vice-Chair of the Working Group on Arbitrary Detention

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

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

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

Dubravka Šimonovic
Special Rapporteur on violence against women, its causes and consequences

Annex

Reference to international human rights law

In connection with above alleged facts and concerns, we would like to appeal to your Excellency's Government to take all necessary steps to secure the right to freedom of opinion and expression in accordance with fundamental principles as set forth in article 19 of the Universal Declaration of Human Rights, which provides that "[e]veryone 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". Article 20 of UDHR stipulates that "[e]veryone has the right to freedom of peaceful assembly and association".

Furthermore, we would like to bring to the attention of your Excellency's Government that, according to article 29 (2) of UDHR, a State may impose restrictions on freedom of expression and information but only such as are determined by law solely for the purpose of securing due recognition and respect for the rights and freedoms of others and of meeting the just requirements of morality, public order and the general welfare in a democratic society.

In this regard, we refer to the United Nations Security Council resolutions 1373 (2001), 1456(2003), 1624 (2005), 2178 (2014), 2341 (2017), 2354 (2017), 2368 (2017) and 2370 (2017); as well as Human Rights Council resolution 35/34 and General Assembly resolution 70/148, which 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.

We would also like to bring to your Excellency's Government's attention that in his report to the General Assembly on impact of counter-terrorism measures on civil society, the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism urged States to ensure that their counter-terrorism legislation is sufficiently precise to comply with the principle of legality, so as to prevent the possibility that it may be used to target civil society on political or other unjustified grounds (A/70/371, para 46(c)). In connection with above alleged facts and concerns, we would like to remind your Excellency's Government that the measures taken by Saudi Arabia violate the principle of legality by applying overly broad and vague definition of terrorism and other crimes related to state security provided in the Penal Law for Crimes of Terrorism and its Financing (Royal Decree No. M/16 of 27 December 2013), the Anti-Cyber Crime Law (Royal Decree No. M/17 of 26 March 2007), the Civil Society Associations and Foundations Act (Royal Decree No. M/8 (1 December 2015) and the Basic Law of Governance (Royal Decree No. A/90, 1 March 1992).

We would also like to emphasize that that any restriction on expression or information that a government seeks to justify on grounds of national security and counter terrorism must have the genuine purpose and demonstrable effect of protecting a legitimate national security interest (CCPR/C/GC/34). As stated by the Special Rapporteur on the situation of human rights defenders, misuse of counter terrorism legislation with penal sanctions against individuals peacefully exercising their rights to freedom of expression, as well as freedom of religion or belief and freedom of peaceful association and assembly. These rights enjoy international legal

protection, and the message of international law is clear and simple: Non-violent criticism of the State or any of its institutions, including the judiciary, cannot be made a criminal offence in any society governed by rule of law and abiding by human rights principles and obligations. Countering terrorism should not be used as an excuse to suppress peaceful critics, human rights activists and members of minority groups (A/HRC/RES/25/18).

We would like to bring your attention to articles 3 and 9 of the UDHR that stipulate that “no one shall be subject to arbitrary arrest, detention or exile”. Your Excellency’s Government has further obligations under the Arab Charter on Human Rights (ACHR), acceded to by your Excellency’s Government on 15 April 2009. Article 14 provides for “the right to liberty and security of person, and the right not to be subjected to arbitrary arrest or detention”. Article 24 provides for “the right to freedom of association and peaceful assembly”. Article 27 articulates that “no one shall be arbitrarily or unlawfully prevented from leaving any country, including his own, nor prohibited from residing, or compelled to reside, in any part of his country”. Article 30 provides for the right to freedom of religion or belief. Article 32 provides for “the right to information and to freedom of opinion and expression”.

With reference to the jurisprudence of the Working Group on Arbitrary Detention, we wish to recall that the arrest or detention of individuals is considered arbitrary when it constitutes punishment for the legitimate exercise of human rights, such as freedom of opinion and expression, as well as assembly and association and participation in public affairs. We also recall that a deprivation of liberty is considered arbitrary when it constitutes a violation of international law on the grounds of discrimination. In addition, we wish to reiterate that incommunicado detention is inherently arbitrary as it places the person outside the protection of the law, in violation of article 6 of the UDHR.

We would like to bring to the attention of your Excellency’s Government article 10 of the UDHR whereby 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 also wish to recall that the right to legal assistance is one of the key safeguards in preventing the arbitrary deprivation of liberty, and it must be ensured from the moment of deprivation of liberty and, in the context of the criminal justice setting, prior to questioning by the authorities. We further underline that legal assistance should be available at all stages of criminal proceedings, namely, during pretrial, trial, re-trial and appellate stages, to ensure compliance with fair trial guarantees. In addition, we recall that the presence of legal counsel during interrogations is an essential safeguard in ensuring that any admissions by an individual are given freely, and that confessions made in the absence of legal counsel are not admissible as evidence in criminal proceedings.³

The prohibition of torture under article 5 of UDHR is universally binding, absolute and may not be derogated under any circumstance. It is peremptory norm that your Excellency’s Government has accepted by ratifying the Convention against Torture (CAT) on 23 September 1997, and it includes also timely and appropriate healthcare and medical treatment while in detention. The Committee against Torture has considered the right to be subjected to an independent medical examination as a fundamental legal safeguard from the moment of deprivation of liberty. Prisoners

³ See the most recent report of the Working Group on Arbitrary Detention to the Human Rights Council, A/HRC/45/16, at paras. 50-55.

should be able to have prompt access to an independent doctor at any time when requested by them, without conditioning such access on the permission or request of officials and irrespective of their detention regime. Access to timely and appropriate healthcare and medical treatment, including psychosocial services, are of particular importance in the context of complaints and allegations of torture or ill-treatment, for the purpose of assessing, documenting and promptly reporting on injuries or other health related consequences stemming from torture or ill-treatment (CAT/C/51/4).

In this regard, we refer to article 25 of the Universal Declaration of Human rights which recognizes the right to health and the United Nations Standard Minimum Rules for the Treatment of Prisoners (“the Mandela Rules”), adopted in General Assembly resolution 790/175, and in particular to Rules 24 to 3534 regarding States responsibility to provide health care for prisoners, including access to medication and treatment facilities, and examinations for signs of torture. Rule 27 in particular establishes that prisoners who require specialized treatment or surgery shall be transferred to specialized institutions or to civil hospitals and that clinical decisions may only be taken by health-care professionals and may not be overruled or ignored by non-medical prison staff.

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 (A/RES/53/144, adopted on 9 December 1998), also known as the UN Declaration on Human Rights Defenders provides in its articles 1, 2, and 6 that everyone has the right to promote and to strive for the protection and realization of human rights and fundamental freedoms at the national and international levels, as well as right to freely publish, impart or disseminate to others views, information and knowledge on all human rights and fundamental freedoms, while each State has a prime responsibility and duty to protect, promote and implement all human rights and fundamental freedoms.

Article 17 provides that in the exercise of the rights and freedoms referred to in the Declaration, everyone, acting individually and in association with others, shall be subject only to such limitations as are in accordance with applicable international obligations and are determined by law solely for the purpose of securing due recognition and respect for the rights and freedoms of others and of meeting the just requirements of morality, public order and the general welfare in a democratic society.

We would like to draw your attention to General Assembly resolution 68/181 as well as Human Rights Council resolution 31/32, in which States expressed particular concern about systemic and structural discrimination and violence faced by women human rights defenders. States should take all necessary measures to ensure the protection of women human rights defenders and to integrate a gender perspective into their efforts to create a safe and enabling environment for the defence of human rights. This should include the establishment of comprehensive, sustainable and gender-sensitive public policies and programmes that support and protect women defenders. Such policies and programmes should be developed with the participation of women defenders themselves.