

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

Ref.: AL SAU 10/2022  
(Please use this reference in your reply)

30 November 2022

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 and Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health, pursuant to Human Rights Council resolutions 43/16, 51/8, 50/17 and 51/21.

In this connection, we would like to bring to the attention of your Excellency's Government information we have received concerning the continued alleged arbitrary detention after the expiry of their sentences of Mr. **Mohammad al-Rabiah**, Mr. **Issa Al-Nukhaifi** and the risk to life and health of Dr. **Mohammad al-Qahtani** toward the end of his sentence.

This letter is a follow-up to communications SAU 6/2021, 13/2021, 3/2021, SAU 12/2017, SAU 4/2016, SAU 4/2016, SAU 11/2014, SAU 5/2013, SAU 9/2012, SAU 7/2012 sent on human rights defenders Mr. Mohammad al-Rabiah, Mr. Issa Al-Nukhaifi, and Dr. Mohammad al-Qahtani. It addresses for the first time the continued detention of Mr. Al-Rabiah, Mr. Al-Nukheifi and Dr. Al-Qahtani past the expiry of their sentences, and it expresses concern over the alleged ill treatment of Dr. Al-Qahtani in detention. The three men are held in Al-Ha'ir Reformatory Prison in Riyadh.

**Mr. Mohammed al-Rabiah** is a human rights defender working for women's rights and advocating for the end of male guardianship in Saudi Arabia. He was arrested on 15 May 2018 for his advocacy on women's right to drive, and sentenced in April 2021 to six years in prison, reduced to four years and six months on appeal. He was the subject of a communication sent to your Excellency's Government on 20 May 2021 (SAU 6/2021), in which we expressed concerns about acts of torture that he was subjected to during his almost two years in pre-trial detention in Jeddah's Dhahban Prison. This included reports of beatings, electric shocks and being hung upside down, as well as being starved during the first year of his detention. We thank your Excellency's Government for its reply on 15 July 2021.

**Mr. Issa Al-Nukhaifi** is a human rights defender, anti-corruption activist and lawyer who advocates against the Government's policy of forced displacement of persons from the borders between Saudi Arabia and Yemen without allegedly receiving adequate compensation. He has also been critical of and protested against Saudi Arabia's war on Yemen. He was the subject of communications sent to your Excellency's Government on 1 July 2016 (SAU 4/2016), 22 December 2017 (SAU 12/2017), 20 May 2021 (SAU 6/2021) and 30 November 2021 (SAU 13/2021). We thank your Excellency's Government for its replies on 24 November 2016, 22 March 2018, 15 July 2021, and 20 January 2022 respectively.

The case of Mr. Al-Nukheifi was included in the 2021, 2020, 2019 and 2018 reports of the Secretary-General on cooperation with the United Nations in the field of human rights UN (A/HRC/48/28, para. 23; 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 prison sentence issued on 28 February 2018, with a six-year travel and social media ban upon release for his cooperation with the Special Rapporteur on extreme poverty to Saudi Arabia during a visit in January 2017 (SAU 2/2017).

In November 2019, the Working Group on Arbitrary Detention stated that Mr. Al-Nukheifi's detention was arbitrary (A/HRC/WGAD/2019/71, paras. 76, 83, 90, 95), and raised particular concern about the reprisals against him for his consultation with the Special Rapporteur on extreme poverty (para. 93). In the May 2021 communication (SAU 6/2021), Special Procedures mandates expressed concern over his long prison sentence and the abuse and torture he was subjected to.

**Dr. Mohammad Al-Qahtani** is a human rights defender and a founding member of the Saudi Civil and Political Rights Association (ACPRA), a leading human rights organisation in Saudi Arabia. He was convicted on 9 March 2013 and sentenced to ten years in prison for “refusing to submit to the will of the King,” “incitement,” and “communicating with foreign entities.” The case of Dr. Al-Qahtani was included in the 2021, 2020, 2019, 2013 and 2012 reports of the Secretary-General on cooperation with the United Nations in the field of human rights (A/HRC/48/28, para. 23; A/HRC/45/36, Annex II para. 114; A/HRC/42/30, para. 74 and Annex II, para. 92; A/HRC/24/29, para. 42; and A/HRC/21/18, paras. 35–37), on allegations of interrogation, travel ban and sentencing to 10 years of imprisonment for allegedly providing false information to outside sources, including UN human rights mechanisms. He was the subject of communications sent to your Excellency's Government on 1 July 2016 (SAU 4/2016), 22 December 2017 (SAU 12/2017), and 30 November 2021 (SAU 13/2021). We thank your Excellency's Government for its replies on 24 November 2016, 22 March 2018, and 20 January 2022 respectively.

In December 2020, March 2021, and August 2021 Dr. Al-Qahtani reportedly went on a hunger strike jointly with other inmates to reportedly protest on harassment and a lack of family contact, access to books and to essential medication. by other prisoners and protested against the Al-Ha'ir prison administration's alleged refusal to have him transferred. He was the subject of a [press release](#) issued by the Special Rapporteur on the situation of human rights defenders on 9 November 2022.

According to the information received:

*The case of Mr. Mohammad Al-Rabiah:*

Mr. Al-Rabiah reportedly started a hunger strike in late September 2022 when he learned that he would not be released at the end of his term. He was allegedly informed by prison officials a few days before his scheduled release that the Supreme Court had overturned his sentence, and that he would stand trial again. He remained in detention, was reportedly not informed of any new charges or when the new trial would take place and was reportedly not provided with legal assistance.

*The case of Mr. Issa Al-Nukheifi:*

On 15 October 2022 Mr. Issa Al-Nukheifi was due to be released at the end of his sentence, instead of which he continued to be held in detention. He has reportedly not received any explanation by prison authorities or other sources for not releasing him on time, and he was reportedly not provided with legal assistance. He reportedly has joined Mr. Al-Rabiah in his hunger strike.

*The case of Dr. Mohammad Al-Qahtani:*

In May 2022, Dr. Al-Qahtani went on hunger strike to demand transfer from his cell after reportedly being beaten by co-detainees who suffer from mental illness. His request was reportedly not met.

In October 2022, Dr. Al-Qahtani was again attacked by co-detainees who suffer from mental illness, who were reportedly encouraged by another cellmate. His family are fearful that he may continue to be attacked, putting his life in danger, in particular after the death in prison of another human rights defender, Dr. Moussa Al-Garni, in October 2021 in similar circumstances. Dr. Al-Garni was reportedly subjected to beatings and harassment by co-detainees in his cell, possibly including by supporters of the Islamic State of Iraq and the Levant (ISIL), due to his reformist views. Dr. Al-Garni was found dead in his cell with signs of torture and broken ribs. He was the subject of a communication sent to your Excellency's Government (SAU 14/2021).<sup>1</sup>

Dr. Al-Qahtani completed his 10-year prison sentence on 21 November 2022 but remains unreleased. He has reportedly had no access to legal counsel or contact with his family and he has reportedly not been informed in relation to his release.

Without wishing to prejudge the accuracy of the above-mentioned allegations, we wish to express our grave concern for the physical and mental health as well as the integrity of the three detained human rights defenders mentioned above.

We are especially concerned about the allegations of holding Dr. Al Qahtani in the same cell with detainees who have been reportedly violent, thereby exposing him to physical attacks and putting his life in danger, in what amounts to ill-treatment by not moving him to a safer place.

We are also concerned that due process has not been followed and that the above-mentioned human rights defenders have not been released upon completing their sentence, in violation of international standards for fair trial. We are particularly concerned by what appears to be an emerging trend to keep human rights defenders in prison after having completed their sentence by overturning their original sentence and ordering new trials without providing them with sufficient information or legal assistance, in violation of the 'non bis in idem' principle (the prohibition of double jeopardy).

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

<sup>1</sup> We thank your Excellency's Government for its reply on 27 December 2021.

cites international human rights instruments and standards relevant to these allegations.

We are issuing this appeal in order to safeguard the rights of the abovementioned individuals from irreparable harm and without prejudicing any eventual legal determination.

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 information concerning the legal grounds for the reversal of sentences and the start of a new trial just before the end of the sentence of Mr. Al-Rabiah. The refusal to release him, as well as to release Mr. Al-Nukheifi and Mr. Al-Qahtani at the end of their sentences and the reported lack of information or legal counsel provided to them.
2. Please explain how this is compatible with the human rights obligations of Saudi Arabia, and with international norms and standards as stated, *inter alia*, in the Universal Declaration of Human Rights, the UN Body of Principles for the Protection of Persons under Any Form of Detention or Imprisonment, and the International Covenant on Civil and Political Rights.
3. Please provide information on whether all detainees have access to meet with family members, be provided with legal counsel, and have adequate access to medical health care. In particular, please also provide information on the current health situation of Dr. Al-Qahtani and the type of medical health care provided to him.
4. Please clarify the allegations that Dr. Al-Qahtani was placed in a cell with other prisoners who suffer from mental illness and who reportedly attacked him physically. Please also provide information on the reasons why he was allegedly not transferred to another cell despite his complaints. If these allegations are accurate, please clarify how they are compatible with the duty of care and human treatment of detainees and prisoners by penitentiary authorities, and with Saudi Arabia's obligations under the Convention against Torture and Other Cruel, Inhumane or Degrading Punishment, which it ratified in 1997.

We would appreciate receiving a response within 60 days. Past 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.

We would like to inform your Excellency's Government that having transmitted an allegation letter to the Government, the Working Group on Arbitrary Detention may also transmit cases through its regular procedure in order to render an opinion on whether the deprivation of liberty was arbitrary or not. The present communication in no way prejudices any opinion the Working Group may render. The

Government is required to respond separately to the allegation letter and the regular procedure.

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

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

Mary Lawlor  
Special Rapporteur on the situation of human rights defenders

Mumba Malila  
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

## Annex

### Reference to international human rights law

In connection with above alleged facts and concerns, we would like to draw the attention of your Excellency's Government to the principles and international standards applicable to this communication.

We wish to draw the attention of your Excellency's Government to articles 3 and 9 of the Universal Declaration on Human Rights, which provide that everyone has the right to life, liberty and the security of person and no one shall be subjected to arbitrary arrest, detention or exile. Article 14 of the Arab Charter on Human Rights (ACHR), acceded to by your Excellency's Government on 15 April 2009, also enshrines the right to liberty and security of person, and the right not to be subjected to arbitrary arrest or detention. In accordance with the jurisprudence of the Working Group on Arbitrary Detention, the arrest or detention of individuals is considered arbitrary when it constitutes punishment for the legitimate exercise of human rights. As provided for under Principle 2 of the, Principle 2 of the Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment, arrest, detention or imprisonment should only be carried out strictly in accordance with the provisions of the law and by competent officials or persons authorized for that purpose. In this regard, the Working Group considers a deprivation of liberty to be arbitrary where it is manifestly impossible to invoke any legal basis to justify the deprivation of liberty, as is the case where a person is kept in detention after having served his sentence.

We wish to recall article 1 and 16 of the Convention against Torture and Other Cruel, Inhuman and Degrading Treatment or Punishment (CAT), acceded by Saudi Arabia in 1997, which establish the absolute right of everyone to be free from torture and other cruel, inhuman and degrading treatment or punishment. In this regard, we wish to point out that Saudi Arabia is obliged to investigate, promptly and *ex officio*, all allegations of torture and ill-treatment and other serious human rights violations wherever there is reasonable ground to believe that an act of torture has been committed in any territory under its jurisdiction (article 12).

We would like to refer to the recommendation made by the Special Rapporteur on torture, according to which "countries should take effective measures to prevent prisoner-on-prisoner violence by investigating reports of such violence, prosecuting and punishing those responsible, and offering protective custody to vulnerable individuals, without marginalizing them from the prison population more than is required by the need for protection and without putting them at further risk of ill-treatment. Training programmes should be considered to sensitize prison officials to the importance of taking effective steps to prevent and remedy prisoner-on-prisoner abuse and to provide them with the means to do so. In accordance with the Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment, prisoners should be segregated according to gender, age and seriousness of the crime, alleged/committed; first-time prisoners should be segregated from repeat offenders and pre-trial detainees from convicted prisoners" (E/CN.4/2003/68, para. 26 (j)).

The former Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health, indicated that “In contexts of confinement and deprivation of liberty, violations of the right to health interfere with fair trial guarantees, the prohibition of arbitrary detention and of torture and other forms of cruel, inhuman or degrading treatment, and the enjoyment of the right to life. Violations of the right to health emerge as both causes and consequences of confinement and deprivation of liberty”. (A/HRC/38/36, para. 18). In the same report, he referred to other international human rights treaties that contain provisions to protect the right to health of specific groups, including persons in situation of deprivation of liberty and confinement. (para. 22).

We also wish to refer to the Standard Minimum Rules for the Treatment of Prisoners (the Nelson Mandela Rules), which include provisions on the responsibility of States regarding health care for persons detained in prisons (rules 24–35). In this regard, the former Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health urged States to “Fully abide by, and implement, the Nelson Mandela Rules, in particular as regards the provision of health care in prisons” (A/HRC/38/36, para. 98 a)).

We also like to bring to your Excellency’s Government attention the legal and procedural safeguards against ill-treatment including the right to legal counsel and to contact one’s family as provided in the UN Body of Principles for the Protection of Persons under Any Form of Detention or Imprisonment (Body of Principles). According to the Body of Principles “A detained or imprisoned person shall be allowed adequate time and facilities for consultation with legal counsel” (principle 18.2); and “A detained or imprisoned person shall have the right to be visited by and correspond with, in particular, members of his family” (principle 19); and “Except in special cases provided for by law, a person detained on a criminal charge shall be entitled, unless a judicial or other authority decides otherwise in the interest of the administration of justice, to release pending trial subject to the conditions that may be imposed in accordance with the law.”

We also refer to paragraph 28 of the General Assembly resolution 68/156 (2014), which emphasises that conditions of detention must respect the dignity and human rights of persons deprived of their liberty and calls upon States to address and prevent detention conditions that amount to torture or cruel, inhuman or degrading treatment or punishment.

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 of the Declaration which state that everyone has the right to promote and to strive for the protection and realization of human rights and fundamental freedoms 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.

Finally, we wish to remind your Excellency’s Government that Principles 15, 17 and 18 of the Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment protect the right of every detained individual to have the assistance of, communicate and consult with a legal counsel. As reiterated by the

Working Group on Arbitrary Detention, the right to legal assistance at all times is inherent in the right to liberty and security of person and the right to a fair trial.