

**Mandates of the Special Rapporteur on the situation of human rights defenders; the Working Group on Arbitrary Detention; the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression and the Working Group on discrimination against women and girls**

Ref.: AL SAU 10/2023  
(Please use this reference in your reply)

1 December 2023

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 promotion and protection of the right to freedom of opinion and expression and Working Group on discrimination against women and girls, pursuant to Human Rights Council resolutions 52/4, 51/8, 52/9 and 50/18.

In this connection, we would like to bring to the attention of your Excellency's Government information we have received concerning the criminalisation of sisters and women human rights defenders Manahel and Fouz al-Otaibi, namely the arrest and ongoing pre-trial detention of Manahel al-Otaibi, in relation to the exercise of their right to freedom of opinion and expression.

**Manahel al-Otaibi** is a woman human rights defender, certified fitness instructor and artist from Saudi Arabia. She is a social media activist, maintaining an active social media presence through which she frequently promotes content relating to women's empowerment, as well as her other interests including travel and yoga. Her posts have included advocacy for liberal dress codes for women, LGBTQ+ rights and the abolition of Saudi Arabia's male guardianship laws. She has also called on the government to shut down state-run shelters where women and girls had suffered abuse.

**Fouz al-Otaibi** is a woman human rights defender and social media activist from Saudi Arabia. She is known on social media for posting content critical of the Saudi Arabian government on X, and for sharing her personal life and marriage via her Instagram account. She has, in the past, sparked controversy among religious conservatives in Saudi Arabia for posting intimate photos and videos of her and her husband. In 2019, she was faced with an adverse reaction and hateful commentary online after she publicly shared her marital contract, which included a list of rules to which her husband expected her to adhere. She has also called on the government to shut state-run shelters where women and girls had suffered abuse.

According to the information received:

On 16 November 2022, woman human rights defender and fitness instructor Ms. Manahel al-Otaibi was arrested and detained, along with another health activist. The woman human rights defender's arrest and detention was allegedly in relation to social media posts which she had posted to her accounts.

The posts in question, which were reportedly brought to the attention of the authorities in Saudi Arabia by religious police, expressed criticism over the

male guardianship laws in Saudi Arabia. This was particularly in reference to the Personal Status Law (PSL), which codified the rules on male guardianship and which, on 8 March 2022, transferred these once informal rules under Sharia law into Saudi Arabian legislation. For example, as per article 126 (1) of the PSL, a women's custody over her child can be terminated by the child's father and legal guardian if she marries a man not related to her child. In denouncing these rules on social media, the woman human rights defender allegedly used several hashtags known for conveying this opposition, namely "isqaat al-wilaaya" ("abolish male guardianship"), which allegedly translates to #societyisready. Ms. Manahel al-Otaibi's posts also included criticism of the requirements for women to wear the customary body-shrouding abaya. Although the Saudi authorities announced a relaxation of the dress code for both foreign and Saudi women in 2019, Saudi women still face legal uncertainty and some have continued to be targeted under broad and poorly-defined accusations of wearing "indecent" clothing.

Ms. Manahel al-Otaibi's sister, Ms. Fouz al-Otaibi, also allegedly used her social media platforms to denounce the same male guardianship laws as her sister. Facing the same accusations and charges as her sister, Ms. Fouz al-Otaibi fled Saudi Arabia before an arrest by authorities could be carried out against her.

The charges brought against both women human rights defenders by the Saudi authorities relate to alleged offences which fall under the draconian Anti-Cybercrime Law of 2007. These include "opposing the laws relating to women, such as the male guardianship system and the hijab law," "having several photos and video clips in indecent clothes on accounts," and "going to the shops without wearing an abaya, photographing this, and publishing it on Snapchat."

In January 2023, Ms. Manahel al-Otaibi appeared in front of judges who referred her case to the Specialized Criminal Court (SCC).

While Ms. Manahel al-Otaibi was charged based on the offences listed above, prosecutors also subsequently levelled the charge of "defaming the Kingdom at home and abroad, calling for rebellion against public order and society's traditions and customs, and challenging the judiciary and its justice" against the woman human rights defender.

Public prosecutors also accused her of mobilising a movement to incite women and girls to abandon Saudi norms grounded in religion and tradition for more liberal and "immoral" practices.

On 26 July 2023, Ms. Manahel al-Otaibi was due to appear before the Specialised Criminal Court for the first session of her trial, as per the referral of her case the previous November. However, this was ultimately postponed, and there has been no indication of a new date on which this trial will commence.

Ms. Manahel al-Otaibi is currently being held in al-Malaz prison in Riyadh. She has reportedly been subject to physical and psychological abuse by another inmate and the prison authorities placed her in solitary confinement

when she notified them of this abuse. The woman human rights defender has also not been permitted to contact her family since 5 November 2023.

It is also alleged that Ms. Fouz Al-Oitabi remains at risk of being detained by authorities, should she decide to return to the state.

Without prejudging the accuracy of the information received, we wish to express our concern at the arrest and ongoing pre-trial detention of woman human rights defender Ms. Manahel al-Otaibi, which appears to constitute an express act of retaliation against her social media activism for the advancement and defence of women's rights. This allegation, if proven to be true, would constitute a violation of her right to freedom of opinion and expression, articulated under article 19 of the Universal Declaration of Human Rights (UDHR).

Moreover, we wish to similarly express our concern over the charges against the sister of the aforementioned woman human rights defender, the social media activist and woman human rights defender Ms. Fouz al-Otaibi, whose pending possibility of criminalisation has reportedly left Ms. al-Otaibi with no other choice than to flee her home state.

In her report on gender justice and freedom of expression, the Special Rapporteur on freedom of expression expressed concerns about the weaponization of "public morals" as a ground to police the online social behaviour of women and remove content relating to sexual expression, sexual orientation and gender identity. We wish to reiterate her recommendation to states to recognize non-discrimination and inclusion as central to their duty to respect, protect and fulfil the right to freedom of opinion and expression, and that they should take appropriate measures as part of their national development plans to eliminate gender stereotypes, negative social norms and discriminatory attitudes through legislative measures, social policies and educational programs.

We wish to further share our concern at the pending trial of Ms. Manahel al-Otaibi which is due to take place before the Specialized Criminal Court (SCC), established in 2008 to try individuals accused of terror-related crimes. This court, in tandem with the vague definition of terrorism advanced in both the 2014 Law on counterterrorism and the subsequent reforms of 31 October 2017, has reportedly been systematically used to quash criticism and opposition to the government and royal family. Indeed, the broad and damaging nature of these laws, capable of being used to indiscriminately criminalise a wide array of offences including acts of peaceful protest, have been previously brought to the attention of your Excellency's Government in communications OL SAU 12/2020 and AL SAU 5/2022, sent on 17 December 2020 and 28 March 2022 respectively. These were also criticised by the Special Rapporteur on Counter Terrorism in their 2018 visit to Saudi Arabia for their harmful impact to civil society and human rights defenders ([A/HRC/40/XX/Add.2](#)).

Finally, we would like to express our alarm that the criminal charges against Ms. Manahel and Fouz al-Otaibi have taken place in the context of a wider crackdown on human rights defenders and social media users, who have been targeted via state vigilance of their social media accounts. Such a trend has regretfully been enabled by legislation such as the aforementioned Anti-Cybercrime Law of 2007, wherein article 6 criminalises the alleged offence of "producing something that harms public order, religious values, public morals, the sanctity of private life, or authoring, sending, or storing it via an information network," imposing prison sentences of up to

five years where these laws are breached. The use of this law to stifle feminist or political dialogue online is a direct violation of the right to freedom of opinion and expression.

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 concerning the legal grounds for the arrest and detention of Ms. Manahel al-Otaibi and how these measures are compatible with international norms and standards as stated, inter alia, in the UDHR.
3. Please provide information on whether Ms. Manahel al-Otaibi has access to family members, legal counsel and medical personnel while in detention.
4. Please explain what measures have been taken to ensure that all human rights defenders in the Kingdom of Saudi Arabia, in particular those working towards the advancement and defence of women's rights, can carry out their peaceful and legitimate activities without fear of judicial harassment or other restrictions.

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.

Further, we would like to inform your Excellency's Government that after having transmitted the information contained in the present communication to the Government, the Working Group on Arbitrary Detention may also transmit the case 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

Matthew Gillett  
Vice-Chair on communications of the Working Group on Arbitrary Detention

Irene Khan  
Special Rapporteur on the promotion and protection of the right to freedom of opinion  
and expression

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

## **Annex**

### **Reference to international human rights law**

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

We would like to recall that article 19 of the ICCPR guarantees the right to opinion and expression. In its General Comment 34, the Human Rights Committee stated that States parties to the ICCPR are required to guarantee the right to freedom of opinion and expression, including inter alia 'political discourse, commentary on one's own and on public affairs, canvassing, discussion of human rights, journalism', subject only to admissible restrictions. Any advocacy of national, racial or religious hatred that constitutes incitement to discrimination, hostility or violence shall be prohibited by law. This right includes not only the exchange of information that is favorable, but also that which may shock or offend.

Restrictions on the right to freedom of expression must be compatible with the requirements set out in article 19 (3), that is, they must be provided by law, pursue a legitimate aim, and be necessary and proportionate. The State has the burden of proof to demonstrate that any such restrictions are compatible with the Covenant. An attack on a person because of the exercise of his or her freedom of opinion or expression, including arbitrary arrest, torture, threats to life and killing, cannot be compatible with article 19. (GC34 paragraph 23). The committee further observed in general comment No. 22, that "the concept of morals derives from many social, philosophical and religious traditions; and that, consequently, limitations... for the purpose of protecting morals must be based on principles not deriving exclusively from a single tradition". Any such limitations must be understood in the light of universality of human rights and the principle of non-discrimination (GC34 paragraph 32).

We also refer to the report of the Special Rapporteur on freedom of opinion and expression on disinformation (A/HRC/47/25). In this report, the Special Rapporteur notably highlighted that the right to freedom of expression applies "to all kinds of information and ideas, including those that may shock, offend or disturb," and "irrespective of the truth or falsehood of the content" (See also Human Rights Committee, general comment No. 34 (2011), paras. 47 and 49).

Furthermore, we bring to your attention 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 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. We wish to remind your Excellency's Government that any restrictions to the exercise of these rights must be provided by law and be necessary and proportionate to the aim pursued. No restrictions may be placed on the exercise of this right other than those which are prescribed by law and which are necessary in a democratic society in the interests of

national security or public safety, public order (ordre public), the protection of public health or morals or the protection of the rights and freedoms of others.

Furthermore, we would like to bring to the attention of your Excellency's Government the following provisions of the UN Declaration on Human Rights Defenders:

- article 5 (b) and (c), which provide for the right of all persons to form, join and participate in non-governmental organizations, associations and groups; and to communicate with non-governmental or intergovernmental organisations;
- article 6 point a), which provides for the right to know, seek, obtain, receive and hold information about all human rights and fundamental freedoms;
- article 6 points b) and c), which provide for the right to freely publish, impart or disseminate information and knowledge on all human rights and fundamental freedoms, and to study, discuss and hold opinions on the observance of these rights;
- article 12, paragraphs 2 and 3, which provide that the State shall take all necessary measures to ensure the protection of everyone against any violence, threats, retaliation, de facto or de jure adverse discrimination, pressure or any other arbitrary action as a consequence of his or her legitimate exercise of the rights referred to in the Declaration.

We would also like to refer to Human Rights Council Resolution 13/13, which urges States to put an end to and take concrete steps to prevent threats, harassment, violence and attacks by States and non-State actors against all those engaged in the promotion and protection of human rights and fundamental freedoms.

In addition, we would like to reiterate your Excellency's Government of its obligation under the International Convention on the Elimination of Discrimination against Women (CEDAW) through its ratification on 17 February 1982, in particular article 7, which provides that States shall take appropriate measures to eliminate discrimination against women in the political and public life of the country, including the right to participate in non-governmental organizations and associations concerned with the public and political life of the country.

As stressed by the Working Group on discrimination against women and girls in one of its thematic reports to the Human Rights Council (A/HRC/23/50), women human rights defenders are often the target of gender-specific violence, such as intimidation, attacks, and death threats, which are sometimes condoned or perpetrated by State actors. The Working Group has further called upon States to eliminate all forms of violence against women in order to fulfil women's human rights and to facilitate women's participation in political and public life.

Moreover, as the Working Group on discrimination against women and girls expressed in its report on girls' and young women's activism (A/HRC/50/25), girls and young women are mobilizing worldwide to demand and catalyse change on critical global issues. They are at the forefront of initiatives aimed at transforming

societies towards social justice, gender equality and sustainability. The realization of girls' and young women's human right to participate in public and political life, including organizing and engaging actively with a variety of State and non-State actors, is essential for the protection of their human rights. The Working Group on discrimination against women and girls has called on States to ensure that mechanisms are in place to solicit the views of girls and young women in all matters of public interest affecting them directly or indirectly and to give due weight to those views.

Furthermore, in its report to the Human Rights Council on women deprived of liberty (A/HRC/41/33), the Working Group on discrimination against women and girls noted that deprivation of liberty is deeply linked to gender. The Working Group underscored that women human rights defenders, perceived as challenging traditional notions of family and gender roles in society (A/HRC/40/60, para. 28), are increasingly at risk of facing criminalization and detention as a result of their legitimate public activism (see A/HRC/16/44 and Corr. 1). This is because stereotypes about a woman's "proper" role dictate not only how she should (not) behave within the home but also in public, and defying those standards in public may put women at risk of deprivation of liberty. Women who seek to participate in political, economic, social or cultural leadership in their communities or nations may be acting in defiance of stereotypes obliging women to stay quiet and invisible and defer to male governance. They may thus be stigmatized, or even criminalized or confined, to prevent them from speaking out or taking action (A/73/301). The Working Group on discrimination against women and girls has recommended States to eliminate any laws or policy measures designed to criminalize the public roles of women.

We would also like to refer your Excellency's Government to the General Assembly Resolution 68/181, adopted on 18 December 2013, on the protection of women human rights defenders. Specifically, we would like to refer to articles 7, 9 and 10, whereby States are called upon to, respectively, publicly acknowledge the important role played by women human rights defenders; take practical steps to prevent threats, harassment and violence against them and to combat impunity for such violations and abuses; and ensure that all legal provisions, administrative measures and policies affecting women human rights defenders are compatible with relevant provisions of international human rights law.