

Mandates of the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression; the Working Group on Arbitrary Detention; 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 independence of judges and lawyers and the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment

Ref.: AL SAU 3/2024
(Please use this reference in your reply)

18 October 2024

Excellency,

We have the honour to address you in our capacities as Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression; Working Group on Arbitrary Detention; Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health; Special Rapporteur on the independence of judges and lawyers and Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, pursuant to Human Rights Council resolutions 52/9, 51/8, 51/21, 53/12 and 52/7.

In this connection, we would like to bring to the attention of your Excellency's Government information we have received concerning the **arrest, detention and conviction to 20 years of prison of Mr. Asaad bin Nasser Al Ghamdi on charges stemming from expressing his views and opinions on social media.**

Special Procedures mandate holders have previously raised with your Excellency's Government allegations and concerns regarding the curtailment of the freedom of opinion and expression as well as the prosecution and prison sentences handed to citizens in apparent retribution for exercising their right to free expression, including through the misuse of anti-terrorism laws to curtail this right. These communications include [SAU 2/2022](#), [SAU 5/2022](#), [SAU 1/2023](#), [SAU 2/2023](#), [SAU 4/2023](#), [SAU 8/2023](#). We regret to note that we have not received substantial responses to these communications, nor do we witness significant changes in policies by Your Excellency's Government pertaining to the serious concerns raised therein.

Mr. **Asaad bin Nasser Al Ghamdi** is a Saudi citizen born in Hijri, Saudi Arabia. He is a teacher and a private citizen who expressed his opinions and concerns on social media. He is the brother of Mr. Muhammad Al Ghamdi, who was arrested, convicted and sentenced to death for exercising his right to freedom of expression on the social media platform X (previously 'Twitter') and whose case was addressed in communication [SAU 8/2023](#) and in Opinion No. 10/2024 of the Working Group on Arbitrary Detention.

According to the information received:

On the night of 20 November 2022, Mr. Asaad bin Nasser Al Ghamdi was arrested by Saudi security forces during a raid on his home in the al-Hamdaneyah neighborhood of Jeddah, in the presence of his wife and children. Mr. Al Ghamdi was tightly restrained, his eyes were covered, and he was forcefully dragged away from his home.

Reportedly, his arrest was linked to some of his statements on social media, particularly in “X”, where he published several posts criticizing some of the projects associated with the ‘Vision 2030’ initiative. Additionally, his tweets addressed recent decisions and policies of the Saudi authorities, which he described as an “abandonment of the old religious alliance.” During his detention and subsequent judicial process, the prosecution and tribunal reportedly did not clarify which statements had led to his arrest and indictment.

Mr. Asaad Al Ghamdi was initially detained in Dhaban Prison, Jeddah, for three months, in solitary confinement. For two of these months, he was held incommunicado. Since his detention, Mr. Al Ghamdi had no contact with his family until 11 January 2023.

Later, during the trial sessions, he was often transferred and held in detention at Al Ha’ir prison, in Riyadh, for prolonged periods. The longest of these periods was of 21 days, during which he was unable to contact his family.

On 11 January 2023, nearly two months after the arrest, Mr. Al Ghamdi was charged under articles 30, 34, 43 and 44 of the ‘Anti-Terrorism Law and its Financing’ and the prosecutor sought the maximum penalty for each article he was charged under. These were the same articles under which his brother Mohammed Al Ghamdi was sentenced to death in July 2023.

The charges against Mr. Asaad Al Ghamdi reportedly stated that he used the social media platform ‘Twitter’, now ‘X’, to express opinions and concerns characterized as “*Challenging the religion and justice of the King and the Crown Prince*”, and “*seek[ing] to disrupt public order, destabilise the security of society and the stability of the state, and endanger its national unity*” by “*Publishing false and malicious news and rumours.*”. The charge sheet reportedly did not specify the particular statements that led to these criminal charges, nor was this information included in the documents made available to Mr. Al Ghamdi’s family.

Mr. Assad Al Ghamdi’s trial was heard before the Specialized Criminal Court, which appears to be increasingly used to target and prosecute those expressing dissenting, minority or critical opinions in Saudi Arabia.

Mr. Al Ghamdi was not provided access to legal assistance until over 9 months after his arrest and detention. According to reports, Mr. Al Ghamdi’s right to be represented by a lawyer was consistently curtailed during his detention, interrogations and in preparation for his trial. In addition, his requests to choose and instruct a lawyer on his behalf were refused by the Court. When allowed to be represented by a lawyer, Mr. Al Ghamdi was only provided with a State-appointed lawyer in the lead up to the first hearing in September 2023.

It has been reported that the lawyer never traveled to Jeddah to meet with Mr. Al Ghamdi, and their only encounters took place in court. Furthermore, the State-appointed lawyer refused to meet with Mr. Asaad Al Ghamdi’s family in his office, except sparingly and after lengthy delays. Reportedly, he also refused to provide a copy of the verdict to the family once it was issued.

To date, Mr. Asaad Al Ghamdi continues to be represented by the same state-appointed lawyer, as the family's efforts to instruct a lawyer of their choice were refused by the Court.

On 29 May 2024, the Special Criminal Court found Mr. Al Ghamdi guilty of the charges and sentenced him to 20 years in prison. Until now, Mr. Al Ghamdi's family has not been able to access a copy of the conviction ruling, despite its repeated requests, including to the defense lawyer.

Mr. Al Ghamdi is diagnosed with epilepsy, which requires medical treatment. Reports indicate that, in detention, he is not provided with adequate healthcare to treat his condition, prevent the fainting spells, or treat the injuries caused by the lack of care.

The treatment to which Mr. Al Ghamdi has been subjected, including two months of incommunicado detention, repeated transfers between Dhahban Prison in Jeddah and Al-Ha'ir Prison in Riyadh with little notice or information and no ability to contact his family, has reportedly caused a noticeable deterioration in his health and mental well-being. Despite the complaints of Mr. Al Ghamdi, there have been no meaningful changes to the medical attention he has been provided.

On 8 September 2024, the Appeals Court held a first hearing on Mr. Al Ghamdi's case. On 3 October, the Appeals Court held a second session in which it reportedly announced its decision to modify Mr. Al Ghamdi's sentence to 15 years of imprisonment. There was no written decision provided or any other documentation, and the family were only informed orally about this decision.

While we do not wish to prejudge the accuracy of these allegations, we would like to express our serious concern for the arrest, detention, prosecution and conviction to 20 years of prison of Mr. Asaad bin Nasser Al Ghamdi, which appear to closely mirror the charges and sentence of his brother, Mr. Muhammad Al Ghamdi. Notably, we express great concern about the fact that the basis of the prosecution and sentence of Mr. Al Ghamdi were some of his statements in social media, where he expressed views and opinions of his own, some of which were critical with the authorities, noting that, according to the information received, these statements did not constitute advocacy of any national, racial or religious hatred that constitutes incitement to discrimination, hostility or violence. For these reasons, we note that Mr. Al Ghamdi's sentence appears to be in clear violation of his right to freedom of expression.

We express concern about the above-mentioned alleged breaches of fair trial and due process standards, including of his right to a defence, noting the rejection of Mr. Al Ghamdi's petitions to appoint a lawyer of his choice and the State-appointed lawyer's failure, according to the allegations, to act in the best interest of Mr. Al Ghamdi. In the same vein, we are alarmed that throughout the entire trial no details were provided regarding the specific statements on which the charges against Mr. Al Ghamdi are based. Similarly, we express serious concerns about the fact that Mr. Al Ghamdi's family has not yet been granted access to the trial judgment that resulted in his conviction and express 20 year prison sentence. These constitute breaches of the

most basic fair trial and due process rules.

We are also concerned about the allegations of ill-treatment against Mr. Al Ghamdi throughout his detention which appear to breach the absolute prohibition against torture or to cruel, inhuman or degrading treatment or punishment and Saudi Arabia's obligations under the Convention against Torture and Other Cruel Inhuman or Degrading Treatment or Punishment (CAT), acceded by Saudi Arabia on 23 September 1997. We express serious concerns about Mr. Al Ghamdi's health situation as a result of his treatment in detention, which appears to breach Saudi Arabia's obligations to secure the health and well-being of all individuals in their custody. We urge the authorities to grant him full access to appropriate health care to treat his condition.

We also express concern about the continued pattern of prosecution of individuals on very serious charges for merely exercising their right to free expression, as well as for the misuse of anti-terrorism legislation in these prosecutions, which are often conducted before the Specialised Criminal Tribunal and lead to severe and disproportionate punishments.

In this regard, we reiterate the concerns and requests addressed in communication SAU 8/2023 and in opinion No. 10/2024 of the Working Group on Arbitrary Detention regarding the case of Mr. Muhammad Al Ghamdi.

We recall that the right to freedom of expression, enshrined in article 19 of the UDHR, includes not only the exchange of information that is favourable, but also that which may criticize, shock, or offend. Any restriction on the right to freedom of expression must be provided by law; pursue one of the legitimate aims for restriction, which are the respect of the rights or reputations of others and the protection of national security or of public, or of public health or morals; and be necessary and proportionate for those objectives. The State has the burden of proof to demonstrate that any such restrictions are compatible with the Covenant, proving "in specific and individualized fashion the precise nature of the threat, and the necessity and proportionality of the specific action taken, in particular by establishing a direct and immediate connection between the expression and the threat" (CCPR/C/GC/34, para. 35).

International law prescribes that any advocacy of national, racial or religious hatred that constitutes incitement to discrimination, hostility or violence shall be prohibited by law. Yet, this prohibition, that may entail restrictions of free expression, has a high threshold as it requires the fulfilment of three components: advocacy of hatred; advocacy which constitutes incitement and incitement likely to result in discrimination, hostility or violence (A/67/357, para. 43). The statements posted by Mr. Al-Ghamdi brought to our attention do not meet this threshold.

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, detention, prosecution and sentence to 20 years of imprisonment of Mr. Asaad Al Ghamdi and how these measures are compatible with international human rights norms and standards as stated, inter alia, in the UDHR, including the rights to freedom of expression and not to be subjected to arbitrary detention. Please indicate how Mr. Al Ghamdi's conviction to prison on the basis of his statements on a social media platform is in line with international standards.
3. Please provide information on the current conditions of detention of Mr. Asaad Al Ghamdi, including whether he has been given access to the medication required and appropriate treatment for his diagnosed conditions. Please also explain how these conditions are consistent with the Standard Minimum Rules for the Treatment of Prisoners (The Mandela Rules).
4. Please provide information on the allegations of ill-treatment of Mr. Asaad Al Ghamdi and indicate how his treatment throughout his detention complies with Saudi Arabia's international obligations, including under the Convention against Torture and Other Cruel Inhuman or Degrading Treatment or Punishment.
5. Please indicate the factual and legal grounds for the placement of Mr. Asaad Al Ghamdi in prolonged solitary confinement, beyond the internationally recognized standards (15 days maximum) and in incommunicado detention for the first two months following his arrest.
6. Please indicate what safeguards were in place during his incommunicado detention and solitary confinement to ensure that Mr. Asaad Al Ghamdi was not tortured or otherwise ill-treated.
7. Please provide the reason and explain why Mr. Assad Al Ghamdi was deprived of his legal right to be defended by a lawyer of his choice during his detention and trial, and how this is consistent with international standards for fair trial. Please indicate how the standards of due process and fair trial were strictly respected during the judicial process against Mr. Al Ghamdi.
8. Please indicate the reasons for the omission of details regarding the specific tweets or Twitter accounts that allegedly constituted the basis for the charges against Mr. Asaad Al Ghamdi in the chargesheet provided to his family. Additionally, please provide an explanation for the lack of access granted to Mr. Al Ghamdi's family to the conviction ruling.

9. Please indicate the safeguards and measures put in place to ensure that citizens are able to exercise their right to freedom of expression, including criticising the authorities, in line with international standards, without facing reprisals, notably judicial prosecution on criminal charges and sentences to prison.

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 present communication 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.

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

Ganna Yudkivska
Vice-Chair on Communications of the Working Group on Arbitrary Detention

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

Margaret Satterthwaite
Special Rapporteur on the independence of judges and lawyers

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

Annex

Reference to international human rights law

In connection with above alleged facts and concerns, we would like to refer your Excellency's Government to articles 3, 9, 10, 11, 18 and 19 of the Universal Declaration of Human Rights which enshrine and safeguards the rights to life, liberty and security, to freedom of thought, conscience and religion and to freedom of opinion and expression, as well as recognizing that "no one shall be subjected to arbitrary arrest, detention or exile" and "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.

Freedom of opinion and expression

We would like to draw the attention of your Excellency's Government to article 19 of the Universal Declaration of Human Rights (UDHR), which provides for the right to freedom of expression. Article 19 states that "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." This right applies online as well as offline and includes not only the exchange of information that is favourable, but also that which may criticize, shock, or offend.

Any limitation to the right to freedom of expression must meet the criteria established by international human rights standards, such as article 29 of the UDHR. Under these standards, limitations must be provided by law, must be applied only for those purposes for which they were prescribed, must be directly related to the specific need on which they are predicated and must conform to the strict test of necessity and proportionality for these objectives. The State has the burden of proof to demonstrate that any such restrictions are compatible with the Covenant, proving "in specific and individualized fashion the precise nature of the threat, and the necessity and proportionality of the specific action taken, in particular by establishing a direct and immediate connection between the expression and the threat" (CCPR/C/GC/34, para. 35).

We also recall resolution 12/16 of the Human Rights Council, which called on States to refrain from imposing restrictions that are not consistent with article 19(3), including: discussion of government policies and political debate; reporting on human rights; engaging in peaceful demonstrations or political activities, including for peace or democracy; and expression of opinion and dissent, religion or belief, including by persons belonging to minorities or vulnerable groups (A/HRC/RES/12/26).

International law prescribes that any advocacy of national, racial or religious hatred that constitutes incitement to discrimination, hostility or violence shall be prohibited by law. Yet, this prohibition, that may entail restrictions of free expression, has a high threshold as it requires the fulfilment of three components: advocacy of hatred; advocacy which constitutes incitement and incitement likely to result in discrimination, hostility or violence (A/67/357, para. 43).

Arbitrary detention

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. 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.

We would specifically like to underline that the "principle of legal certainty" under international law, enshrined in article 11 of the UDHR, requires that criminal laws are sufficiently precise so it is clear what types of behaviour and conduct constitute a criminal offense and what would be the consequence of committing such an offense. This principle recognizes that ill-defined and/or overly broad laws are open to arbitrary application and abuse. Moreover, the law must be formulated with sufficient precision so that the individual can regulate his or her conduct accordingly. We also respectfully remind your Excellency's Government of the applicable international human rights standards outlined by the Arab Charter on Human Rights (ACHR), specifically to articles 5, 8, 13, 15 16, 32 which safeguard the rights to life, liberty and security of person, to be brought promptly before a judge, to not be subjected to torture or cruel, inhuman or degrading treatment, to be treated with humanity while in detention and to be compensated in circumstances of unlawful arrest or detention, and the right to information and to freedom of opinion and expression.

We recall that the right to a fair trial is one of the fundamental guarantees of human rights and the rule of law. It comprises various interrelated attributes and is often linked to the enjoyment of other rights, such as the right to life and the prohibition against torture. When confronting the challenge of terrorism in particular, the Human Rights Committee has stressed the importance of developing and maintaining effective, fair, humane, transparent and accountable criminal justice systems which provide access to a fair and public hearing and to independent and adequate legal representation in accordance with obligations under international law (HRC, general comment no. 32, CCPR/C/GC/32).

Freedom from torture and other cruel, inhuman or degrading treatment or punishment

We also wish to recall article 1 and 16 of the Convention against Torture and Other Cruel, Inhuman and Degrading Treatment or Punishment (CAT), which was ratified by Saudi Arabia on 23 September 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 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 also respectfully remind your Excellency's Government of the relevant provisions of the United Nations Security Council resolutions 1373 (2001), 1456 (2003), 1566 (2004), 1624 (2005), 2178 (2014), 2242 (2015), 2341 (2017), 2354 (2017), 2368 (2017), 2370 (2017), 2395 (2017) and 2396 (2017); as well as Human Rights Council resolution 35/34 and General Assembly resolutions 49/60, 51/210, 72/123 and 72/180. All of these resolutions require that States ensure that any measures taken to combat terrorism or violent extremism, including incitement of and support for terrorist acts, must comply with all of their obligations under international law. As the General Assembly noted in the United Nations Global Counter-Terrorism Strategy, effective counter-terrorism measures and the protection of human rights are not conflicting goals, but complementary and mutually reinforcing. We would like to emphasize that any restriction on freedom of expression or information that a government seeks to justify on grounds of national security or counter terrorism, must have the genuine purpose and the demonstrable effect of protecting a legitimate national security interest.

We recall the model definition of terrorism advanced by the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism, which provides clear guidance to States on appropriate conduct to be proscribed and best practice. Those elements include:

- a) Acts, including against civilians, committed with the intention of causing death or serious bodily injury, or the taking of hostages.
- b) Irrespective of whether motivated by considerations of a political, philosophical, ideological, racial, ethnic, religious or other similar nature, also committed for the purpose of provoking a state of terror in the general public or in a group of persons or particular persons, intimidating a population, or compelling a government or an international organization to do or to abstain from doing any act.

- c) Such acts constituting offences within the scope of and as defined in the international conventions and protocols relating to terrorism.

We wish to echo the concerns expressed by the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism, in his report on the country-visit to Saudi Arabia, with regard to the use of detention for prolonged periods of time, the use of torture, the use of coerced confessions and the lack of accountability, as well as the failure of Saudi Arabia to provide minimum procedural safeguards during detention and interrogation, and its judicial practice of admitting coerced confessions into evidence, which, in the SR's view, amount to a systematic and flagrant denial of justice (A/HRC/40/52/Add.2).

Right to health

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 24-35 regarding States responsibility to provide health care for prisoners, including access to medication and treatment facilities, and examinations for signs of torture. In particular, rule 27 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 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)).

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)