

Mandates of the Working Group on Arbitrary Detention; the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression; the Special Rapporteur on the rights to freedom of peaceful assembly and of association; and the Special Rapporteur on the situation of human rights defenders

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Excellency,

We have the honour to address you in our capacity as Working Group on Arbitrary Detention; Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression; Special Rapporteur on the rights to freedom of peaceful assembly and of association; and Special Rapporteur on the situation of human rights defenders, pursuant to Human Rights Council resolutions 24/7, 25/2, 24/5, and 25/18.

In this connection, we would like to bring to the attention of your Excellency's Government information we have received concerning the **arrest, the detention and the severe sentences, including corporal punishment, of members of the Saudi Civil and Political Rights Association (ACPRA) and other human rights defenders, as well as allegations of prolonged solitary confinement and incommunicado detention**. On the same occasion, we would like to raise concerns about the fact that the information we continued receiving points to a pattern of increasing repression of human rights defenders in the country.

The Special Procedures have sent numerous communications related to alleged harassment and intimidation of human rights defenders and political activists in the country. The Special Rapporteurs thank the Government for its detailed responses to several of its communications: 30 May 2005, see E/CN.4/2006/95/Add.1, para 455, 3 May 2012, see A/HRC/21/49, case no. 7/2012, 12 July 2012, see A/HRC/22/67, case no. SAU 9/2012, 24 April 2014, see A/HRC/27/72, case no. SAU 5/2014, 8 December 2014, see A/HRC/29/50, case no. SAU 14/2014. We reiterate our interest in receiving responses to specific questions asked in previous communications, in conformity with the requirement of Human Rights Council resolutions 24/5 (2013), 21/16 (2012) and 15/21 (2010) to fully cooperate with the mandate.

According to information provided by the Government in its responses to the communications mentioned above, human rights defenders were found guilty of offenses related to establishing and participating in the establishment of unlicensed associations, misleading public opinion and tarnishing the country's reputation. In the Government's view, the measures taken against the accused were compatible with international norms and standards. The Special Rapporteurs remind the State that, according to the Universal

Declaration of Human Rights, no restrictions may be placed on the exercise of these rights 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. They emphasize that the freedoms are the norm and the restrictions the exception. While States do not have to agree with the opinions and criticisms expressed by people who embrace different convictions or beliefs, they have a positive obligation to ensure the existence of an enabling environment for civil society, in terms of enjoyment of the rights of peaceful assembly and association, so that it may exist, operate and express itself freely and without fear (A/HRC/20/27, paragraph 63).

According to the information received:

Since 2014 the Saudi Arabian authorities have reportedly increasingly been targeting civil society activists and human rights defenders, including members of ACPRA, through legal proceedings and other administrative measures such as the imposition of travel bans as a means to harass, intimidate and impede their work in the defence of human rights. Most of Saudi Arabia's prominent and independent human rights defenders have reportedly been imprisoned or scared into silence, have fled the country, been subjected to travel bans and have been intimidated and harassed by the security forces. The alleged systematic repression of human rights defenders and activists is reportedly part of a larger campaign by the authorities to silence all forms of criticism. Since February 2014 the authorities have allegedly used the new counter-terror law to further target human rights defenders and dissidents.

ACPRA (Saudi Civil and Political Rights Association)

ACPRA has reportedly never been legally recognized by the Government and was formally banned in 2013. The founders and members of ACPRA have allegedly been prosecuted by the authorities for calling for political and human rights reforms in the country.

Mr. Abdilaziz al-Shubaily, founding members of ACPRA, was allegedly sentenced on 29 May 2016 to eight years in prison, an eight year travel ban and banned from writing. He was convicted by the Specialized Criminal Court (SCC) for “defaming the Council of Senior Scholars,” “insulting the integrity of the judicial system and the judges, and contesting their independence”, “accusing governmental authorities of violating human rights”, “violating Article 6 of the Anti-Cyber Crime Law” by “inciting public opinion against the rulers of this country and signing statements that were published online that call on people to demonstrate”, and “insisting to not abide by the judicial decision to abolish ACPRA”. He was also reportedly ordered to sign a pledge to not return to his activism. He is one of the last active members to be sentenced.

Mr. Issa al-Hamid, member of ACPRA, was reportedly sentenced by the SCC to nine years in prison, followed by a nine year travel ban on 24 April 2016. The charges against him were reportedly “harming the Sate” by cooperating with international organizations and insulting public authorities.

Mr. Abdulrahman al-Hamid, one of the founding members of ACPRA, was reportedly sentenced to nine years in prison followed by a nine-year travel ban and a fine of £8,800 on 13 October 2015. 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 was previously allegedly held incommunicado until he started a hunger strike. He is reportedly detained at Al-Malaz prison.

Mr. Abdulkareem al-Khoder, one of the founding members of ACPRA, has allegedly been banned from travelling since 2010, and was reportedly sentenced to eight years of prison for “inciting public disorder by calling for demonstrations, harming the image of the state by disseminating false information to foreign groups, and helping to found an unlicensed organisation (ACPRA)”. After an appeal Court decided to overturn his sentence, he was reportedly sentenced to ten years in prison on 19 October 2015. He is currently detained in Buraydah prison.

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.

Mr. Mohammed al-Bajadi, member of ACPRA, was released from jail in April 2016, after having been sentenced on 5 March 2015 to four years in prison and a travel ban for acquiring banned books, organising a protest by the families of prisoners and publishing material that “would prejudice public order”.

Mr. Sheikh Suliaman al-Rashudi, lawyer, former judge and one of the founding members of ACPRA is reportedly serving a 15-year sentence in al-Ha’ir prison in Riyadh since December 2012 and has been banned from travelling abroad for at least 20 years. He was convicted of alleged involvement in forming a secret organization, attempting to seize power, incitement against the King, financing terrorism, and money laundering.

Mr. Abdullah al-Hamid, one of the founding members of ACPRA, is allegedly serving an 11-year sentence at al-Ha’ir prison. There are allegations of ill-treatment while in detention. He was convicted, on 9 March 2013, of 12 alleged charges including "Refusing to submit to the will of the King", "Incitement" and "Communicating with foreign entities."

Mr. Mohammad al-Qahtani, one of the founding members of ACPRA, is reportedly in prison after having received a 10 year sentence at al-Ha'ir prison where he allegedly has been subjected to ill-treatments. He was also convicted, on 9 March 2013, of 12 alleged charges including "Refusing to submit to the will of the King", "Incitement" and "Communicating with foreign entities."

Mr. Saleh al-Ashwan, member of ACPRA, is held without charge or trial at al-Ha'ir prison since July 2012, and is reported to have been subjected to torture and other ill-treatment in detention. He is reportedly detained without any charge or trial since his arrest in April 2012.

Mr. Fowzan al-Harbi, member of ACPRA, was reportedly sentenced on 19 November 2014 and is allegedly serving a sentence of ten years in prison followed by a ten-year travel ban. The charges brought against him allegedly include 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".

Updates on other Saudi human rights defenders

Lawyer and activist **Mr. Waleed Abu al-Khair**, was sentenced in January 2015 to 15 years imprisonment, a 15 years travel ban and a fine for "holding discussions about human rights in his home, defending others who had been punished for speaking out, and signing a letter that criticised the authorities for imprisoning a group of activists who had peacefully advocated democratic reform". He was allegedly found guilty of charges including "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". He is allegedly the first human rights activist to be tried and sentenced under Saudi Arabia's 2014 anti-terrorism law.

Mr. Abu al-Khair, a Saudi Arabian lawyer and human rights activist, and the head of the "Monitor of Human Rights in Saudi Arabia" (MHRSA) organization, was sentenced to 15 years in prison in January 2015, under the anti-terrorism law (five years were added for his refusal to apologize for his offences). He would currently be detained in Dhahban prison in Jeddah.

Mr. Isa al-Nakhefi, a social and human rights activist, was reportedly released on 6 April 2016 after 44 months in jail for charges of encouraging people to challenge the king and question his validity, for challenging the judicial authority, ridiculing and being sceptical towards the authorities and accusing state institutions of negligence in their performance of their duties. He is also accused

of spreading sedition among the people, arranging demonstrations and incitement by preparing prejudice public order. He was allegedly 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.

We express serious concern that these measures appear to be directly connected to the legitimate exercise of the right to freedom of expression and association of the above-mentioned individuals, as guaranteed by articles 19 and 20 of the Universal Declaration of Human Rights (UDHR). We express concern at the broad use of defamation provisions and counter-terror legislation to limit the exercise of the right to freedom of expression online and offline.

While we do not wish to express an opinion on whether or not the detention of the aforementioned individuals is arbitrary and on the accuracy of the above allegations, these appear to be in contravention of the right not to be deprived arbitrarily of their liberty as set forth in article 9 of the UDHR and the right to fair proceedings before an independent and impartial tribunal, as set forth in article 10 of the UDHR.

In addition, we would like to refer to 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 articles 1, 2, 5, 6 and 12.

We would also like to refer to Human Rights Council resolution 24/5, and in particular operative paragraph 2 that “reminds States of their obligation to respect and fully protect the rights of all individuals to assemble peacefully and associate freely, online as well as offline, including in the context of elections, and including persons espousing minority or dissenting views or beliefs, human rights defenders, trade unionists and others, including migrants, seeking to exercise or to promote these rights, and to take all necessary measures to ensure that any restrictions on the free exercise of the rights to freedom of peaceful assembly and of association are in accordance with their obligations under international human rights law.”

Regarding the allegation of incommunicado detention of Mr. Abdulrahman al-Hamid, we would also like to remind your Excellency's Government, that prolonged incommunicado detention or detention in secret places can facilitate the perpetration of torture or other cruel, inhuman or degrading treatment or punishment and can in itself constitute a form of such treatment and of the absolute and non-derogable prohibition of torture and other ill-treatment as codified in articles 1 and 2 of the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (CAT), which Saudi Arabia acceded on 23 September 1997.

In this context we would also like to draw your Excellency's Government's attention to the report of the Special Rapporteur on torture and other cruel, inhuman or

degrading treatment or punishment to the 60th session of the General Assembly, in which he, with reference to the jurisprudence of UN treaty bodies, concluded that any form of corporal punishment is contrary to the prohibition of torture and other cruel, inhuman or degrading treatment or punishment. He also noted that States cannot invoke provisions of domestic law to justify violations of their human rights obligations under international law, including the prohibition of corporal punishment and called upon States to abolish all forms of judicial and administrative corporal punishment without delay (para.28 A/60/316). Both the Human Rights Committee and the Committee against Torture have called for the abolition of judicial corporal punishment.

The full texts of the human rights instruments and standards recalled above are available on www.ohchr.org or can be provided upon request.

In view of the urgency of the matter, we would appreciate a response on the initial steps taken by your Excellency's Government to safeguard the rights of the above-mentioned person(s) in compliance with international instruments.

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 any comment you may have on the above-mentioned allegations against human rights defenders in Saudi Arabia.
2. Has a complaint been lodged by or on behalf of the alleged victims?
3. Please provide information concerning the legal grounds for the arrest and detention of Mr. Abdilaziz al-Shubaily, Mr. Issa al-Hamid, Mr. Abdulrahman al-Hamid, Mr. Abdulkareem al-Khoder, Mr. Omar al-Said, Mr. Mohammed al-Bajadi, Mr. Sheikh Suliaman al-Rashudi, Mr. Abdullah al-Hamid, Mr. Mohammad al-Qahtani, Mr. Saleh al-Ashwan, Mr. Fowzan al-Harbi, Mr. Waleed Abu al-Khair, Mr. Abu al-Khair, Mr. Isa al-Nakhefi and how these measures are compatible with international norms and standards as stated, inter alia, in the UDHR. Please also explain how the imposition of travel ban is compatible with international human rights standards.
4. Please provide information on the legal grounds for the banning of ACPRA, and explain how this is compatible with article 19 and 20 of the UDHR.
5. Please provide detailed information on the judicial proceedings underway against the above mentioned persons and explain how these are in compliance with international human rights standards, in particular fair trial and due process guarantees as enshrined, among other, in the UDHR.

6. Please provide information on measures taken to bring the Anti-Cyber Crime Law and the Counter-Terror Law into line with international human rights standards.

7. Please indicate what measures have been taken to ensure that the legitimate right to associate, to meet and assemble peacefully, to freedom of expression or opinion are respected and that the physical and psychological integrity of those exercising these rights is guaranteed.

8. Please kindly indicate what measures have been taken to ensure that human rights defenders in Saudi Arabia are able to carry out their legitimate work in a safe and enabling environment without fear of threats or acts of intimidation and harassment of any sort.

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 responsible of the alleged violations.

Your Excellency's Government's response will be made available in a report to be presented to the Human Rights Council for its consideration.

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

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