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PROCEDURES SPECIALES DU
CONSEIL DES DROITS DE L'HOMME

SPECIAL PROCEDURES OF THE
HUMAN RIGHTS COUNCIL

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 Chair-Rapporteur of the 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 15/18, 16/4, 15/21, and 16/5.

In this connection, we would like to bring to the attention of your Excellency's Government information we have received concerning **the allegedly arbitrary arrests, and detention as well as investigations and charges brought against human rights defenders and the series of restrictions to freedom of association.**

Messrs. Abdulla Al Hamid, Mohammad Fahd Al-Qahtani, Abdulkareem Yousef Al-Khoder and Saleh Al Ashwan are members of the Saudi Civil and Political Rights Association (ACPRA). Established in 2009, the organization promotes human rights in the Kingdom of Saudi Arabia, documents human rights violations and assists families of detainees held without charge or trial to lodge complaints with the Ministry of Interior.

The situation of Mr. Mohammad Fahd Al-Qahtani and Mr. Mukhlif Shammari was referred to in a previous communication sent to your Excellency's Government on 3 May 2012 by the Chair-Rapporteur 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 freedom of religion or belief, the Special Rapporteur on the situation of human rights defenders, the Special Rapporteur on the independence of judges and lawyers and the Special Rapporteur on torture and other cruel, inhumane or degrading treatment or punishment. We regret that no response has been received from your Excellency's Government to date.

The alleged detention and trial of Mr. Fadhel Al Manasif was referred to in a previous communication sent to your Excellency's Government on 12 May 2011 by the Chair-

Rapporteur 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, the Special Rapporteur on the situation of human rights defenders and the Special Rapporteur on the independence of judges and lawyers. We regret that to date no response to this communication has been received from your Excellency's Government.

According to the information we continued to receive:

On 11 June 2012, **Mr. Abdulla Al Hamid** was brought before Riyadh Criminal Court charged with offences related to his human rights work, including allegedly inciting disorder by drafting and publishing statements calling for protests. While attending the trial as a member of Mr. Al Hamid's defence team, Mr. Mohammad Fahd Al Qahtani was reportedly notified that he himself faced similar charges and was ordered to appear before Riyadh Criminal Court on 18 June.

On 18 June 2012, **Mr. Mohammad Fahd Al-Qahtani** was presented before a court in Riyadh. During his trial, eleven criminal charges were reportedly raised against Mr. Al Qahtani, which carry a combined sentence of up to thirty years' imprisonment. They include amongst others establishing an unlicensed association; providing false information about Saudi Arabia to human rights mechanisms of the United Nations (UN); inciting human rights organizations against the Kingdom of Saudi Arabia and agitating them to criticize the civil, political, economic, social and cultural pillars of the country; breaking allegiance to the ruler; seeking to undermine state policies; accusing the judiciary of allowing torture and accepting testimonies made under duress; describing the Saudi Arabian authorities as a police state; and preparing and storing information detrimental to public order. Concerning the accusation of founding an unlicensed organization, it is reported that the founders of the ACPRA attempted to register it as an association on 12 October 2009 by sending a formal letter to His Majesty the King of Saudi Arabia, who did not object to the application.

Mr. Al Hamid and Mr. Al Qahtani are to reportedly re-appear before the Court on 1 September 2012. Furthermore, it is reported that a travel ban has been imposed on Mr. Al Qahtani since 18 March 2012.

As previously communicated to your Excellency's Government, **Mr. Fadhel Al Manasif**, who is a member of various local and regional human rights organizations in the Kingdom of Saudi Arabia, including the Arab Institute for Human Rights, was arrested on 1 May 2011 and presented with charges in relation to protests which took place in March 2009 in the Eastern Province. New information received indicates that he was released on 11 August 2011 after signing a pledge not to participate in any further protests. Mr. Al Manasif was reportedly re-arrested on 2 October 2011 and has been detained since then in the General Investigations Prison in Dammam, where he allegedly has no access to family visits but is allowed to make a call to his family twice a month. On 28 February 2012, Mr. Al Manasif reportedly appeared before the Specialised Criminal Court in Riyadh, which deals exclusively with terrorism and security related cases, to face charges which include among others breaking allegiance to

the ruler; stirring sedition and disorder; inciting public opinion against the State and disrupting order by participating in marches. On 9 May 2012, his trial was adjourned. It is reported that Mr. Al Manasif was subjected to solitary confinement for three months and denied family visits. It is also alleged that Mr. Al Manasif has been subjected to acts of torture and ill treatment during his first and second arrests, including the use of electrocution.

It is reported that other human rights defenders would be facing lawsuits in relation to their human rights work. **Mr. Mukhlif Shammari** would be facing charges with “defaming the reputation of the kingdom in international media outlets”, “communication with suspicious organizations”, and “accusing government institutions of corruption”. **Mr. Waleed Abulkhir**, head of Monitor of Human Rights in Saudi Arabia, is accused of “defaming the judiciary”, and “harming the reputation of the kingdom through giving out false information to international organizations.” **Mr. Raef Badawi**, founder of the Saudi Free Liberal Network, would be charged with creating a “liberal network” and “mistreatment of his parents” as his father had reportedly accused him of disobeying him and of publishing information online against Islam. Some of his friends and family members who were able to visit him in prison have reported to have been subjected to verbal abuse by security guards.

According to the information received, **Mr. Abdulkareem Yousef Al-Khoder**, cofounder and current President of the ACPRA, is under investigation by the Public Prosecutor since March 2012 and may face similar charges as those brought against his colleagues. On 8 July 2012, security service reportedly raided the house of **Mr. Saleh Al Ashwan** and arrested him without presenting an arrest warrant. All computers and cell phones were reportedly confiscated. He is allegedly being questioned at the Criminal Investigation Department in Riyadh.

Should this information be corroborated, grave concerns are expressed that the detention, investigation charges and trials brought against the aforementioned human rights defenders may be linked to the exercise of their fundamental rights and freedoms. Serious concern is expressed that the prosecution of the aforementioned individuals may lack adequate legal basis and may be directly related to their legitimate and peaceful work in defence of human rights. Concern is further expressed that the alleged detention of Mr. Al-Qahtani and charges against him may be related to his work in the defence of human rights, in particular, his involvement in the documentation and dissemination of human rights violations, as well as his engagement with UN mechanisms and other international human rights organisations.

It is alleged that these cases of detention, investigations, charges and trials against human rights defenders form part of a continuing campaign of harassment aimed at silencing individuals and associations working on human rights issues.

On 5 December 2011, the **Adala Center for Human Rights** submitted an application to the Ministry of Social Affairs to register as an association. A copy of the application form was reportedly sent to His Majesty the King of Saudi Arabia, His Majesty the Crown Prince, the Governor of the Eastern Province, the Saudi Human Rights Commission and the National Society for Human Rights, but

the association received no reply from any of these entities. On 19 December 2011, the Ministry of Social Affairs rejected the application of the association on the grounds that the Center was not a charity organization. The association challenged this decision on 1 January 2012, but it is reported that the application was once again rejected on 7 February 2012. On 22 April 2012, the association lodged an appeal before the Administrative Court. The first Court hearing reportedly took place on 21 May 2012, and the case is still pending.

It is further reported that the websites of the human rights associations '**Human Rights First Society**', '**Saudi Arabia**' and the '**Committee for the Defence of Human Rights in the Arab Peninsula**' continue to be blocked within the country.

Serious concern is expressed concerning the legal grounds for rejecting the application of the Adala Center for Human Rights to register as an association. Concern is also expressed that the websites of the aforementioned human rights associations continue to be blocked. Serious concerns are expressed that these restrictions may be linked to the activities of the concerned associations to promote and protect human rights.

Without expressing at this stage an opinion on the facts of the case and on whether the detention of the abovementioned persons is arbitrary or not, we would like to appeal to your Excellency's Government to take all necessary measures to guarantee their right not to be deprived arbitrarily of their liberty and to fair proceedings before an independent and impartial tribunal, in accordance with articles 9 and 10 of the Universal Declaration of Human Rights (UDHR).

In this context, we would like to call on your Excellency's Government to take all necessary steps to secure the rights to freedom of peaceful assembly and of association in accordance with fundamental principles as set forth in article 20 of the UDHR which provides that "[e]veryone has the right to freedom of peaceful assembly and association. No one may be compelled to belong to an association." Furthermore we would like to refer to Human Rights Council resolution 15/21, and in particular paragraph 7 of the preamble, where it recognizes that, "exercising the rights to freedom of peaceful assembly and of association free of restrictions, subject only to the limitations permitted by international law, in particular international human rights law, is indispensable to the full enjoyment of these rights, particularly where individuals may espouse minority or dissenting... political beliefs". In this context, we would like to recall operative paragraph 1 of the same resolution that, "Calls upon States to respect and fully protect the rights of all individuals to assemble peacefully and associate freely,... 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."

In this connection, 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, and in particular articles 1 and 2

which state that "everyone has the right individually or in association with others, 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, inter alia, by adopting such steps as may be necessary to create all conditions necessary in the social, economic, political and other fields, as well as the legal guarantees required to ensure that all persons under its jurisdiction, individually and in association with others, are able to enjoy all those rights and freedoms in practice".

Furthermore, we would like to bring to the attention of your Excellency's Government the following provisions of the Declaration:

- article 5 points b) and c) which provide that for the purpose of promoting and protecting human rights and fundamental freedoms, everyone has the right to form, join and participate in non-governmental organizations, associations or groups, and to communicate with non-governmental or intergovernmental organizations.
- article 6 point a) which provides that everyone has the right, individually and in association with others to know, seek, obtain, receive and hold information about all human rights and fundamental freedoms, including having access to information as to how those rights and freedoms are given effect in domestic legislative, judicial or administrative systems.
- article 6 points b) and c) which provide that everyone has the right, individually and in association with others as provided for in human rights and other applicable international instruments, freely to publish, impart or disseminate to others views, information and knowledge on all human rights and fundamental freedoms; and to study, discuss, form and hold opinions on the observance, both in law and in practice, of all human rights and fundamental freedoms and, through these and other appropriate means, to draw public attention to those matters.

We also wish to recall the provisions of resolution 12/2 of the Human Rights Council (A/HRC/RES/12/2), which, inter alia, "condemns all acts of intimidation on reprisal by Governments and non-State actors against individuals and groups who seek to cooperate or have cooperated with the United Nations, its representatives and mechanisms in the field of human rights (OP 2) and "calls upon all States to ensure adequate protection from intimidation or reprisals for individuals and groups who seek to cooperate or have cooperated with the United Nations, its representatives and mechanisms in the field of human rights (...)" (OP 3).

We would further 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 UDHR 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." In this connection, we wish also to draw the attention of your Excellency's Government to the principle

enunciated in Human Rights Council Resolution 12/16, which calls on all States to refrain from imposing restrictions on discussion of government policies and political debate; reporting on human rights, government activities and corruption in government; engaging in election campaigns, 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.

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 persons in compliance with the above international instruments.

Moreover, 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 cooperation in clarifying the following matters, when relevant to the case under consideration:

1. Are the facts alleged in the above summary accurate?
2. Has a complaint been lodged by or on behalf of the alleged victims?
3. Please provide the full details of the legal basis for the charges that have been brought against of Messrs. Abdullah Al-Hamid, Mohammad Fahd Al-Qahtani, Mukhlif Shammari, Waleed Abulkhir and Raef Badawi and how these charges are compatible with international norms and standards as stated in the UDHR.
4. Please provide the full details of the legal basis for the ongoing detention and charges that have been brought against Mr. Fadhel Al-Manasif and how these measures are compatible with international norms and standards as stated in the UDHR. Please provide information about the current physical and psychological conditions of Mr. Al-Manasif.
5. Please provide the full details of the legal basis for the investigation that is being carried on Mr. Al-Khoder and Mr. Saleh Al Ashwan, and how this investigation is compatible with international norms and standards as stated in the UDHR.
6. Please specify the legal grounds for rejecting the application of the Adala Center for Human Rights and how these restrictions are in compliance with international human rights standards related to freedom of association.
7. Please indicate what measures have been taken to ensure that the legitimate rights to freedom of association and expression are respected and that the physical and psychological integrity of those exercising this right is guaranteed.

We undertake to ensure that your Excellency's Government's response is included in the report we will submit to the Human Rights Council for its consideration.

While waiting for your response, we urge your Excellency's Government to take all necessary measures to guarantee that the rights and freedoms of the above mentioned

persons are respected and, in the event that your investigations support or suggest the above allegations to be correct, the accountability of any person responsible of the alleged violations should be ensured. We also request that your Excellency's Government adopt effective measures to prevent the recurrence of these acts.

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

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Chair-Rapporteur of the Working Group on Arbitrary Detention

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