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Human Rights Council Working Group on Arbitrary Detention

Opinions adopted by the Working Group on Arbitrary Detention at its ninety-third session, 30 March to 8 April 2022

Opinion No. 30/2022 concerning Abdulrahman Al Sadhan (Saudi Arabia)

1. The Working Group on Arbitrary Detention was established in resolution 1991/42 of the Commission on Human Rights. In its resolution 1997/50, the Commission extended and clarified the mandate of the Working Group. Pursuant to General Assembly resolution 60/251 and Human Rights Council decision 1/102, the Council assumed the mandate of the Commission. The Council most recently extended the mandate of the Working Group for a three-year period in its resolution 42/22.
2. In accordance with its methods of work (A/HRC/36/38) on 10 December 2022, the Working Group transmitted to the Government of the Kingdom of Saudi Arabia a communication concerning Abdulrahman Al Sadhan. The Government replied to the communication on 4 February 2022. The State is not a party to the International Covenant on Civil and Political Rights.
3. The Working Group regards deprivation of liberty as arbitrary in the following cases:
 - (a) When it is clearly impossible to invoke any legal basis justifying the deprivation of liberty (as when a person is kept in detention after the completion of his or her sentence or despite an amnesty law applicable to him or her) (category I);
 - (b) When the deprivation of liberty results from the exercise of the rights or freedoms guaranteed by articles 7, 13, 14, 18, 19, 20 and 21 of the Universal Declaration of Human Rights and, insofar as States parties are concerned, by articles 12, 18, 19, 21, 22, 25, 26 and 27 of the Covenant (category II);
 - (c) When the total or partial non-observance of the international norms relating to the right to a fair trial, established in the Universal Declaration of Human Rights and in the relevant international instruments accepted by the States concerned, is of such gravity as to give the deprivation of liberty an arbitrary character (category III);
 - (d) When asylum seekers, immigrants or refugees are subjected to prolonged administrative custody without the possibility of administrative or judicial review or remedy (category IV);
 - (e) When the deprivation of liberty constitutes a violation of international law on the grounds of discrimination based on birth, national, ethnic or social origin, language, religion, economic condition, political or other opinion, gender, sexual orientation, disability, or any other status, that aims towards or can result in ignoring the equality of human beings (category V).

Submissions

Communication from the source

4. **Abdulrahman Al Sadhan**, born in 1983, is a Saudi national. Prior to his arrest, he was residing in Riyadh, Saudi Arabia. He holds a university degree in business and used to work as an assistant to the Head of the Saudi Arabian Red Crescent Society in Riyadh.
- a. Arrest and detention
 5. On 12 March 2018 at around noon, agents of the State Security Presidency (SSP) dressed in civilian clothes reportedly arrested Mr. Al Sadhan at his workplace at the Red Crescent Society in Riyadh. They confiscated his phone before taking him to an unknown location. Reportedly, they did not show an arrest warrant, nor did they give any reason for the arrest. Moreover, they did not inform his family nor allow him to inform his family of where he was being taken or how his family could contact him.
 6. Mr. Al Sadhan's co-workers reportedly later confirmed to his family that the officials identified themselves as belonging to the SSP. The following day, his neighbours saw a group of men dressed in state security uniforms entering his place of residence by force. As they were walking in and out of the property, neighbours saw men seizing a laptop and other personal belongings. Mr. Al Sadhan's car was also confiscated.
 7. In April and May 2018, Mr. Al Sadhan's family searched for his name in the *nafethah* website, the General Investigative Directorate's (*Mabahith*) online prison database – which has since then been suspended. His name did not appear in the register of inmates. The family also contacted the SSP on a number of occasions. After being informed several times that they did not have any information on his fate or whereabouts, in mid-April 2018, approximately a month after his arrest, a clerk finally confirmed that his name was listed in their system and that he was being held for investigation. However, the clerk refused to give any information as to the location of his place of detention and said that no one was allowed to contact or visit him. The SSP official told Mr. Al Sadhan's relative that he could try to place a request for a telephone call or a visit, but that an in-person visit would not be permitted, stating rather that it could be, "after years, not months."
 8. Mr. Al Sadhan's family made three separate requests to visit him, in April, August and October 2018. On each occasion, the request was rejected. When they tried for the fourth time, the request was once again rejected. His relative was then told that "there is no point of you calling us and you should just stop and wait until we respond to you."
 9. On 1 November 2018, the family filed a complaint with two Saudi human rights agencies, the Saudi Human Rights Commission, and the National Society for Human Rights. A Human Rights Commission official acknowledged receipt of the request but none of these institutions have reportedly ever provided his family with information as to his fate and whereabouts.
 10. In October 2018, Mr. Al Sadhan was allegedly seen in Dhahban prison in Jeddah by co-detainees. Subsequently, his family tried to call Dhahban prison to enquire but was told to speak with the State Security directly. On 25 November 2018, the National Society for Human Rights informed his family that he had been transferred to Al Ha'ir prison in Riyadh. The family has been unable to confirm whether he was held at Dhahban prison at any point.
 11. On multiple accounts, first in April 2018, then in April and October 2019, Mr. Al Sadhan's family received reports that he was allegedly subjected to severe acts of torture while held in a secret location during his first year in detention, which includes, but is not limited to: electric shocks, beatings that caused bone fractures, flogging, hanging from the feet and suspension in stress-positions, sleep deprivation, threats of murder and beheading, insults, verbal humiliation and solitary confinement. Furthermore, he was allegedly forced to sign documents while blindfolded. During the torture, his hand was reportedly broken and his fingers smashed.
 12. In mid-February 2020, after almost two years of alleged enforced disappearance, he was allowed to make a one-minute call to his family. He mentioned that he was being held at Al Ha'ir prison, information the Saudi authorities have failed to officially confirm to this date.

13. He was reportedly denied further contacts with his family until 22 February 2021 when he was allowed to make a second call to his family. At this point, the authorities informed him that he would “be released soon” and that to this point there were “no charges against him.”

14. The source contends that since his arrest, he has been held in solitary confinement and completely denied visits.

b. Trial before the Specialized Criminal Court

15. On 2 March 2021, Mr. Al Sadhan reportedly had a very quick call with his father to inform him that his trial would begin the next day. On 3 March 2021, he was reportedly presented in secret before the Specialized Criminal Court (SCC) for a first hearing.

16. Mr. Al Sadhan reportedly had no legal representation, and his father was denied access to the hearing. During the hearing, he was, for the first time, presented with a list of charges pressed against him. Based on a compilation of tweets from satirical Twitter accounts that he was allegedly running, and his forced confession, he was reportedly accused by the Public Prosecutor of *inter alia*: funding terrorism; support and sympathy for a terrorist entity (ISIS) and advocating for it; using a website and electronic devices to commit crimes stipulated in the Anti-Terrorism Law; preparing, storing and sending what would prejudice public order and religious values through tweets, under the Anti-Terrorism and Anti-Cybercrime Laws.

17. On 3 March 2021, Mr. Al Sadhan’s father made a request for temporary release; however, the court never responded, and the request was ignored.

18. On 11 March 2021, a second hearing took place, which was attended by Mr. Al Sadhan’s father as well as a court-appointed lawyer. The latter had only been permitted a 40-minute meeting with Mr. Al Sadhan shortly before the hearing. Mr. Al Sadhan’s father was able to obtain a power of attorney to represent his son as his lawyer, but the court did not permit proper access to him. For an hour only, his father and lawyer were permitted to examine a list of evidence against Mr. Al Sadhan, which consisted of 200 pages of tweets from the defendant’s alleged Twitter accounts and of a two-page document containing accusations and confessions made by him under duress. He had allegedly been forced to sign and stamp the aforementioned list of “evidence”. Neither Mr. Al Sadhan’s father, nor his lawyer received a copy of the evidence.

19. Mr. Al Sadhan was reportedly constantly under the surveillance of guards and was never able to talk confidentially with his father. As a result, the family is unsure to date if the Twitter accounts actually belonged to him.

20. During the hearing, Mr. Al Sadhan’s father shared and reviewed an oral argument with his son that was prepared with an independent lawyer. He was going to present it to the judge, however, the court-appointed lawyer reportedly told him to wait by claiming that he wanted to review it and present it in the next hearing instead. A third hearing was announced to take place on 17 March 2021, during which Mr. Al Sadhan would be allowed to present his defence.

21. After the second hearing, Mr. Al Sadhan’s father reported that his son’s health appeared to be poor and that he seemed to have trouble focusing.

22. On 17 March 2021, a third hearing took place, during which Mr. Al Sadhan’s lawyer presented a response to the charges brought against him, arguing that the accusations were broad, vague, and invalid as they were not relying on any actual evidence, and that they should therefore be dropped.

23. The lawyer also argued that Mr. Al Sadhan’s alleged tweets dated from before the entry into force of the Anti-Terrorism Law on the basis of which he was charged. Moreover, he established that the tweets were satirical and represented individual opinions of the complainant and that he maintained no links to any terrorist organisation in this regard. The Public Prosecution reportedly appeared to make attempts at incentivising Mr. Al Sadhan to confess what they would like to hear him say by promising that he would be released after the trial.

24. On 22 March 2021, a fourth hearing took place. Mr. Al Sadhan’s father was reportedly not informed of the hearing, while his lawyer was informed thereof last minute. When the lawyer arrived, the hearing had already been concluded, thus leaving Mr. Al Sadhan without

any legal representation. During this hearing, the Public Prosecution indicated that they intended to provide evidence contrary to the defence plea.

25. A fifth hearing took place on 25 March 2021. Mr. Al Sadhan's father was instructed to wait outside the courtroom for the hearing to begin, only to learn shortly thereafter from the lawyer that it had already taken place. According to the lawyer, the prosecutor claimed that Mr. Al Sadhan had not asked for a lawyer and had received a visit from the Saudi Human Rights Commission in Ulaysha prison as well as a visit by a second named individual for two minutes who had confirmed that he was "doing fine." The family reportedly denied these stands as they believe he was never held in Ulaysha prison. On 1 April 2021, Mr. Al Sadhan's lawyer submitted a response to the judge to refute the Public Prosecution's stands.

26. In addition, Mr. Al Sadhan told his father that he was pre-diabetic and suffering from high triglycerides, which he was given daily pills to manage – health conditions that he did not suffer from prior to his arrest – due to the poor quality of food in prison, prolonged stay in solitary confinement and the stress and torture he went through. His family reportedly believes that he currently does not receive adequate medical care.

27. On 5 April 2021, the SCC sentenced Mr. Al Sadhan to 20 years in prison, followed by a travel ban of another 20 years. Both his father and lawyer were reportedly hindered from attending the hearing on time and were only allowed to enter the court room when the decision had already been rendered. In fact, that day, both men reportedly arrived on time and were waiting in court for 20 minutes before they were told to leave and come back in a couple of hours. They were told that the "judge needed to rewrite the decision upon request of the Public Prosecutors." When they came back after two hours, they reportedly saw four men attending the hearing on the side of Public Prosecution, whom they believed to be State Security officials.

28. The 20-year prison sentence is reportedly based on the maximum penalties stipulated in articles 30, 34, 43, and 47 of the Anti-Terrorism Law and in article 6(1) of the Anti-Cybercrime Law. The travel ban of 20 years was pronounced according to article 53(1) of the Anti-Terrorism Law. The judgement also included the confiscation of computers and his hard disk "used in the crime" and the closure of his Twitter accounts, according to article 58 of the Anti-Terrorism Law and article 13 of Anti-Cybercrime Law. He was given 30 days to appeal the decision.

29. On 4 May 2021, Mr. Al Sadhan's father, as his legal representative, submitted the appeal, which was prepared by the lawyer and reviewed by Mr. Al Sadhan's father.

30. On 4 August 2021, the first hearing took place before the appeal court, during which Mr. Al Sadhan, together with his father and lawyer, were allowed to discuss the appeal submitted in May. In particular, they argued that there was a lack of evidence supporting the sentence, and that his confessions were obtained through torture and after years of incommunicado detention and solitary confinement. Moreover, they asked for a psychiatric evaluation of his psychological health, which had got severely critical due to the many years of imprisonment. However, the judges reportedly did not take such stands into consideration and did not order any investigation into the acts of torture.

31. Between the first instance's sentence and the appeal's first hearing, i.e., for a period of four months, Mr. Al Sadhan was allegedly held incommunicado. He was denied any contact with his family and lawyer and was only able to meet with them during the hearings.

32. On 13 September 2021, the second hearing, during which Mr. Al Sadhan was not present while his lawyer was, was postponed by the judges because Mr. Al Sadhan had submitted an additional plea. After a first rejection and just several hours later, the lawyer was finally allowed to briefly read the oral argument in which Mr. Al Sadhan raised that the Saudi judiciary system is de facto controlled by the *Mabahith* under the authority of the SSP, thus not independent and impartial, and that the charges were built on invalid legal grounds, violating Saudi laws and the Constitution. However, his plea was only officially shared the day after the appeal decision was issued.

33. On 5 October 2021, the final hearing took place, during which the arguments raised by the defence were not even considered by the judges. The SCC appeal court upheld the first instance's ruling, thus confirming the sentence. The source notes that the lawyer was present. The following day, the court shared the ruling with the lawyer, which reportedly did

not list neither the names of the judges nor of the Public Prosecutor, in violation of article 181(2) of the Criminal Procedural Law.

34. Since the appeal sentence, Mr. Al Sadhan has allegedly been held incommunicado. Although his family believes he is currently held in solitary confinement in Al Ha'ir prison, he could have been transferred to another location.

35. On 2 November 2021, Mr. Al Sadhan's father appealed the second instance's ruling before the Saudi Supreme Court. He argued that the sentence was built on invalid procedures, and that it violated several Saudi laws. He also shared details of the acts of torture that Mr. Al Sadhan was allegedly subjected to and restated some of the points raised during the first and second instances. At the time of the source's submission, the court proceeding is still pending.

c. Analysis of violations

36. In the light of the above, the source submits that the detention of Mr. Al Sadhan is arbitrary according to categories I, II, III and V.

Response from the Government

37. On 10 December 2021, the Working Group transmitted the source's allegations to the Government under its regular communication procedure, requesting the Government to provide detailed information by 4 February 2022 about Mr. Al Sadhan and clarify the legal provisions justifying his continued detention, as well as its compatibility with the obligations of Saudi Arabia under international human rights law.

38. On 4 February 2022, the Government submitted its reply arguing that the allegations and claims made in the communication are untrue, being based on unfounded and uncorroborated information from the source, noting that it has taken steps to investigate the allegations and to clarify all relevant facts, in line with its policy of cooperation with international human rights procedures.

39. The Government rebuts the source's claim that these allegations amount to arbitrary deprivation of liberty under categories I, II, III and V because it is devoid of evidence and contrary to reality. Moreover, information concerning Mr. Al Sadhan was provided earlier, in the reply to joint communication SAU 6/2021 dated 20 May 2021, which covered most of the claims and allegations contained in the present communication, demonstrating that the allegations made are untrue.¹

40. The Government submits that Mr. Al Sadhan was arrested pursuant to an arrest warrant issued by the competent authority under article 5 of the Anti-Terrorism Act, then detained under articles 2 and 19 of the Act, being accused of having committed the following terrorist offences:

1. Financing terrorism by collecting, holding, providing and transferring money to a terrorist entity (article 47 of the Anti-Terrorism Act);

2. Supporting, sympathizing with and promoting a terrorist entity (Da'esh) (article 34 of the Act);

3. Using the Internet and electronic programmes and devices to commit offences envisaged in the Act (article 43 of the Act);

4. Perpetrating actions criminalized and punished under article 30 of the Act;

5. Perpetrating actions criminalized and punished under article 6(1) of the Cybercrime Act.

41. He was informed of the reason for his arrest, in accordance with article 36(1) of the Code of Criminal Procedure (CCP). Having questioned him, the investigating authority, the Public Prosecution Service (PPS), was of the view that there was sufficient evidence to level charges and referred the case file to the competent court.

¹ Reply of Saudi Arabia No. 21-09890 HRC/NONE/2021/SP/580 dated 15 July 2021.

42. The Government denies the source's claim that he was subjected to enforced disappearance and detained incommunicado during which time he was not allowed to communicate with his family and lawyer. The Government submits that he was held in the Al-Ha'ir prison in Riyadh, a well-known and designated place of detention. He was not deprived of his right to seek legal assistance, counsel and protection, and he was regularly able to exercise his right to receive visits and make calls. The Government further notes that Saudi Arabia has already replied to a previous communication from the Working Group on Enforced or Involuntary Disappearances (WGEID) concerning the alleged enforced disappearance of this individual and at its 124th session held in May 2021, the WGEID considered that the case had been clarified.

43. The Government submits that there are no secret detention centres in Saudi Arabia, all prisons and places of detention being unconcealed and well-known. In addition, all detention centres and prisons are subject to judicial, administrative, health and social inspections.

44. The right to contest the legality of an arrest or detention is a general principle enshrined in article 115 of the CCP. The Government submits that the PPS is an independent body that is part of the judiciary and no one has the right to interfere in its operation. Domestic law protects the rights of accused persons from the moment of arrest to the moment of release, and any accused person has the right to bring a case before the courts for them to decide on the legality of his detention. These provisions are consistent with articles 3, 8, 9 and 10 of the Universal Declaration.

45. The sentence was handed down against Mr. Al Sadhan on the basis of evidence that he had committed terror offences punishable under the Anti-Terrorism Act. The sentence includes a clear and detailed description of the conviction based on articles 30, 34, 43 and 47 of the Act. Saudi laws are formulated with sufficient clarity and accuracy, and anyone can understand them and regulate their behaviour accordingly. The law contains no vaguely or broadly worded provisions. Moreover, laws are publicly available and subject to constant review, updating and improvement in line with changes and developments at the local and international levels.

46. Under Saudi law, detention, imprisonment and restriction of individual freedom of movement are prohibited except where permitted by law, in accordance with article 36 of the Basic Law of Governance, which stipulates that all Saudi citizens and all persons residing in its territory shall be guaranteed security.

47. The Government refutes the source's claim that the facts that triggered Mr. Al Sadhan's conviction predated the entry into force of the Anti-Terrorism Act, which would violate the principle of *nullum crimen sine lege certa*. It argues that the source is attempting to justify the terrorist offences committed by the individual in question. The Government submits that the *nullum crimen sine lege certa* principle is one of the fundamental tenets of Saudi law and refers to article 38 of the Basic Law of Governance and article 3 of the CCP. At the time of his arrest, the Anti-Terrorism Act had already been in force for a number of months. The Government submits that he suffered no violation under category I.

48. Mr. Al Sadhan was arrested on charges of having committed crimes punishable under the aforementioned Acts, and the arrest had no connection with the exercise of the right to freedom of expression. No one is detained for exercising their rights and freedoms, and Saudi law protects freedom of opinion and expression, the exercise of which is guaranteed for all persons unless deemed to breach or exceed the bounds of public order or the norms applicable to society, its members or its precepts. Such a restriction is consistent with the relevant international legal standards.

49. On the source's claim that the sentence cannot be considered commensurate with the nature of the alleged facts, the Government asserts that those crimes are punishable under the aforementioned Acts. The sentence was handed down by the court acting under its independent authority in which no other body may interfere. Thus, the sentence is commensurate with the nature of the crimes for which he was convicted. The Government thus submits that he suffered no violation under category II.

50. All proceedings against Mr. Al Sadhan were based on current domestic laws, which are consistent with international standards and applicable human rights treaties. He was detained during the course of the investigation and informed of the reasons for his arrest and

of the charges against him. Upon completion of the interrogation, the PPS decided that there was sufficient evidence to charge him. It referred his case file to the competent court, and he was summoned to appear before it.

51. The court issued its judgment only after it had heard statements from all the parties, after the submission of all oral and written defence pleas, after the parties had confirmed that they did not wish to make any additions thereto, and after the evidence and the evidence-collection records had been examined.

52. Mr. Al Sadhan was able to exercise his right to a defence and to legal assistance and was made aware that he had the right to engage the services of a lawyer or defence representative to plead on his behalf, pursuant to articles 4(1) and 139 of the CCP. He requested a delay to present his response and asked that a lawyer be appointed to defend him. His request was granted, and the court appointed a lawyer on his behalf at State expense. The lawyer was given the facilities and time necessary to provide legal assistance to the individual in accordance with relevant provisions.

53. The Government submits that Mr. Al Sadhan's father and Human Rights Commission representatives attended the entire trial. Once the first instance judgment had been handed down, the individual was granted the right to enter a challenge by filing a memorandum of appeal within 30 days of receiving a copy of the judgment. The challenge was filed but the judges of the court of first instance upheld the original judgment. The case file was then referred to the Court of Appeal. A number of hearings were held at the Court, which were attended by the public prosecutor, the defendant, his father, his lawyer and Human Rights Commission representatives. The Court examined the case file and heard the statements of all the parties involved. The Court of Appeal ruled to uphold the original sentence of 20 years' imprisonment, to begin from the date of his arrest, and a travel ban for an equivalent period. The sentence was handed down after he was convicted of having committed the aforementioned terrorist offences. The convicted party, who can apply for cassation under article 198 of the CCP, is currently serving his sentence in the Al-Ha'ir prison in Riyadh.

54. In accordance with the law, he was able to exercise his right to appear before the court in person and to attend all the trial hearings, both before the court of first instance and the Court of Appeal. All trial hearings were public, in accordance with relevant provisions of the Code of Sharia Procedure and the CCP.

55. Mr. Al Sadhan's case was examined by the legally competent court, the SCC, in a fair and public trial. The SCC was established by decree of the Supreme Judicial Council. The SCC - the creation of which has strengthened the administration of justice - is part of the country's ordinary system of justice, it follows the same judicial procedures as those applied in other criminal courts. Judges in Saudi Arabia are appointed by decree of the Supreme Judicial Council, endorsed by royal order.

56. Domestic law grants all accused persons the right to a fair and public trial before an independent court. The Saudi judiciary derives its authority and principles from Islamic sharia, which enshrines the principle of justice as the basis of governance and the guarantee of judicial independence.

57. The Government denies allegations that he suffered torture and was held in solitary confinement. He was regularly able to exercise his right to receive visits and make calls and was treated well and in a manner that maintained his dignity and preserved all his rights. Domestic law prohibits any form of physical or mental abuse, torture or degrading treatment, and the interrogation of accused persons has to be conducted in a manner that does not influence their will to make statements. They must not be required to take an oath or be subjected to coercive measures. Torture is criminalized and penalized under Saudi law. All prisons and detention facilities are supervised and inspected, and steps are taken in the event of any violation. Moreover, members of the PPS supervise the professional conduct of law enforcement officers pursuant to article 25 of the CCP.

58. Mr. Al Sadhan had a fair trial before the competent court and there is no truth to allegations concerning the use of evidence extracted under torture. Of his own free will, he confessed to the charges against him before the investigating authorities and then acknowledged that confession before the courts. When acknowledging the confession before the court, he reportedly did not indicate that he had suffered coercion. In making a judgement, the judge does not rely on confessions but on factual and presumptive evidence, arrest and

search reports, witness testimonies, and cross-examinations and statements heard during the trial proceedings. Measures taken by the judge in that context may comprise hearing witnesses, visiting and inspecting the scene of the offence and seeking the assistance of experts, including forensic medical examiners. The trial, in fact, serves as the final investigation and therefore necessitates safeguards and protection for the parties involved.

59. He receives the necessary medical care like any other detained person or prisoner. His state of health is good and he is not suffering from any illnesses. Prisoners and detainees undergo a medical examination immediately after they are admitted to a general prison and periodic medical tests thereafter. The Government adds that it was one of the first countries to take measures to confront the outbreak of COVID-19 in prisons and detention centres in accordance with the protocols and guidelines adopted by the Ministry of Health.

60. The information provided shows that his conditions of detention are consistent with the Nelson Mandela Rules and the Body of Principles. Since the source's claims and allegations have been thus refuted, it should be clear that that the individual concerned suffered no violation under category III.

61. The Government reiterates that he was arrested on charges of having committed acts that are criminalized and punished under the Anti-Terrorism Act (see para. 40 above). No one is detained for exercising their rights and freedoms, and all citizens and residents, men and women, enjoy their rights and exercise their freedoms without discrimination, in accordance with national law.

62. All citizens and residents are treated equally before the law, pursuant to article 47 of the Basic Law of Governance. All Saudi citizens are Muslims and enjoy their rights on an equal footing. Discrimination is, in fact, criminalized and punishable under article 8, and the Government also refers to articles 11, 12 and 26 of the Basic Law of Governance. The Kingdom is committed to the human rights treaties to which it is a party, which are considered to be part of domestic law. Since the source's claims and allegations have been thus refuted, it should be clear that that the individual concerned suffered no violation under category V. Based on the foregoing, the Government refutes the conclusion reached by the source that Mr. Al Sadhan's detention amounts to arbitrary deprivation of liberty under categories I, II, III and V.

63. Lastly, the Government reminds the Working Group of the Code of Conduct for Special Procedure Mandate Holders of the Human Rights Council, adopted by the Council in its resolution 5/2 on 18 June 2007, and in particular their obligations under articles 6(a)–(c), 9(a) and (d)–(e), 12(a)–(b) and 13(a)–(b).

Further comments from the source

64. On 25 February 2022, the source provided further comments in which in maintained its original submissions that Mr. Al Sadhan is being arbitrarily detained under categories I, II, and III and V.

Discussion

65. The Working Group thanks the source and the Government for their timely submissions.

66. In determining whether the deprivation of liberty of Mr. Al Sadhan is arbitrary, the Working Group has regard to the principles established in its jurisprudence to deal with evidentiary issues. If the source has presented a prima facie case for breach of the international law constituting arbitrary detention, the burden of proof should be understood to rest upon the Government if it wishes to refute the allegations. Mere assertions by the Government that lawful procedures have been followed are not sufficient to rebut the source's allegations (A/HRC/19/57, para. 68).

i. Category I

67. The source submits that Mr. Al Sadhan was arrested without a warrant, and notes that the circumstances of his arrest do not give any cause for *flagrante delicto*, which might have obviated the need for an arrest warrant. The Government argues that he was arrested pursuant to an arrest warrant issued by the competent authority under article 5 of the Anti-Terrorism

Act, then detained under articles 2 and 19 of the Act, being accused of having committed a number of terrorist offences.

68. The source also submits that Mr. Al Sadhan was not promptly informed of the reasons for his arrest – which were communicated to him, together with the charges, during the first trial hearing, on 3 March 2021, i.e., nearly three years after his arrest. The Government states that he was informed of the reason for his arrest in accordance with article 36(1) of the CCP, but it does not specify when this notification took place or provide other relevant information pertinent to such notification.

69. In order for a deprivation of liberty to have a legal basis, it is not sufficient for there to be a law authorizing the arrest, the authorities must invoke that legal basis and apply it to the circumstances of the case through an arrest warrant.² The international law on deprivation of liberty includes the right to be presented with an arrest warrant, which is procedurally inherent in the right to liberty and security of person.

70. The Working Group observes that the Government does not specifically address the source's detailed submissions as to how the arrest of Mr. Al Sadhan was executed. The Government has not clarified if the arrest warrant was specifically served upon Mr. Al Sadhan at the time of his arrest. It also does not provide any timeframe neither in relation to the arrest, the issuing of the arrest warrant, nor the issuance of the charges by the Public Prosecution. The Working Group has found in a series of recent cases relating to Saudi Arabia that an arrest warrant was not presented at the time of the arrest, further bolstering the credibility of the source's claims.³ Considering the submissions of both parties, the Working Group finds that no arrest warrant was presented at the time of Mr. Al Sadhan's arrest, that he was not provided with the reasons for his arrest and was not promptly informed of the charges against him. For these reasons, the Working Group finds that his arrest violates articles 3 and 9 of the Universal Declaration and principles 2, 4 and 10 of the Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment.

71. The source asserts that for the most part of nearly four years of detention, Mr. Al Sadhan was subjected to enforced disappearance and that he was held in solitary confinement throughout his entire detention. Moreover, he is reportedly currently held incommunicado and has been detained under these conditions for nearly two and a half years, from 12 March 2018 to 11 February 2020, from 5 April 2021 to 4 August 2021, and from 5 October 2021 to date. During these periods, he was not allowed to communicate with his family and lawyer. Moreover, although in mid-February 2020, Mr. Al Sadhan was allowed to have a quick telephone call with his family, he was denied further contacts until 22 February 2021. Further contacts were briefly allowed during the court proceedings. The source submits that Mr. Al Sadhan is still held incommunicado and his family who have no access to him do not know where he is detained. The Government denies these allegations and submits that he has not been denied his right to seek legal advice and protection and enjoys his right to visit and communicate regularly, but it does not substantiate this claim with additional information.

72. Moreover, as the Working Group has consistently argued, holding persons incommunicado violates their right to challenge the lawfulness of their detention before a court.⁴ The Working Group notes that Mr. Al Sadhan was not brought promptly before a judge or afforded the right to take proceedings before a court so that it may decide without delay on the lawfulness of his detention. The Working Group observes that while the Government provides a list of legal provisions, it does not dispute that he was only brought before a judicial authority on 3 March 2021, nearly three years after his arrest.

73. The Working Group considers that judicial oversight of detention is a fundamental safeguard of personal liberty,⁵ and is essential in ensuring that detention has a legal basis. Given that Mr. Al Sadhan was not able to challenge the legality of his detention, his rights under articles 8 and 10 of the Universal Declaration were violated.

74. The Government submits that Mr. Al Sadhan was held in the Al-Ha'ir prison in Riyadh, a well-known and designated place of detention. The Working Group observes that the Government has not specified when he was admitted into this prison. While the

² See e.g. opinions Nos. 10/2018, paras.45–46; 33/2019, para.48; and 46/2019, para.51.

³ Opinions Nos. 22/2019, 26/2019, 56/2019, 71/2019, 33/2020, 86/2020, 92/2020, 34/2021, 59/2021 and 72/2021.

⁴ See opinions Nos. 28/2016, 79/2017, 93/2017, 33/2020 and 86/2020.

⁵ A/HRC/30/37, para.3.

Government argues that there are no secret or unknown places of detention in the Kingdom, the Working Group recalls that the WGEID has stated that in Saudi Arabia there are “clear trends of occurrence of both short and long term enforced disappearances” in particular “against manifestations of free speech and peaceful assembly”.⁶ Moreover, the Working Group takes note of the source’s un rebutted submission that it was the National Society for Human Rights that informed Mr. Al Sadhan’s family of his whereabouts on 25 November 2018 after he was taken by the SSP on 12 March 2018. In accordance with paragraph 16 of its Methods of Work, the Working Group also notes that the WGEID decided to reopen Mr. Al Sadhan’s case on 24 November 2021, as he has allegedly been held incommunicado since his final appeal hearing on 5 October 2021 (see para. 42 above).

75. Based on the foregoing, the Working Group notes that it would appear that Mr. Al Sadhan has also been forcibly disappeared. Indeed, such deprivation of liberty, entailing a refusal to disclose the fate or whereabouts of the victims or to acknowledge their detention, lacks any valid legal basis and is inherently arbitrary as it places the victims outside the protection of the law. The Working Group recalls that enforced disappearance constitutes a particularly aggravated form of arbitrary detention, in violation of article 6 of the Universal Declaration.⁷ It also recalls that no jurisdiction should allow for individuals to be deprived of their liberty in secret for potentially indefinite periods, held outside the reach of the law, without the possibility of resorting to legal procedures, including habeas corpus.⁸

76. Noting all the above, the Working Group therefore considers that Mr. Al Sadhan’s arrest and detention violate articles 3, 6, 8, 9 and 10 of the Universal Declaration.

77. The Working Group notes that Mr. Al Sadhan was prosecuted and sentenced on the basis of several articles contained in the 2017 Anti-Terrorism Law and the 2007 Anti-Cybercrime Law. The source submits that the provisions used to prosecute him lack legal certainty. The Government denies this, stating that articles 30, 34, 43 and 47 of the Anti-Terrorism Law are formulated with precision and any person can understand them and regulate their behaviour within their framework and provisions.

78. The Government does not specifically comment on the lack of clarity of the Anti-Cybercrime Law. The source on the other hand notes that article 1(8) of that Law defines “cybercrime” in overly broad terms and that article 6(1) of the Law is equally vague.

79. The source also notes that article 1 of the Anti-Terrorism Law contains a broad and vague definition of a terrorist crime, and that such provisions allow for the criminalisation of peaceful expression, enable arbitrary interpretation, and make it difficult for Saudi citizens to determine how to act in order to comply with the law.

80. As the Working Group has stated, “vaguely and broadly worded provisions, such as the Anti-Cyber Crime Law and the 2017 Anti-Terrorism Law [...], which cannot qualify as *lex certa*, violate the due process of law undergirded by the principle of legality in article 11(2) of the Universal Declaration...”⁹ The Working Group reiterates this finding in relation to Mr. Al Sadhan. The Working Group recalls that two former Special Rapporteurs on counter-terrorism have expressed their concerns about the definition of “terrorist crime”, as contained in article 1 of the Anti-Terrorism Act, as it “does not restrict the acts it criminalizes to violent acts.”¹⁰ Similar concerns were raised by the Committee against Torture (CAT).¹¹

81. During the first instance court proceedings, Mr. Al Sadhan’s lawyer reportedly argued that the alleged facts that triggered the accusations and convictions have taken place before the entry into force of the Anti-Terrorism Law. The source refers to the principle of *nullum crimen sine lege certa* which “ensures that no defendant may be punished arbitrarily or

⁶ WGEID, General allegation: Saudi Arabia, 121st session, 11-15 May 2020, paras.33-34 and 36, available at: <https://www.ohchr.org/Documents/Issues/Disappearances/Allegations/121-SaudiArabia.pdf>.

⁷ See opinions Nos. 56/2019, 5/2020, 6/2020, 11/2020, 13/2020, 33/2020 and 72/2021. See also the 1992 Declaration on the Protection of All Persons from Enforced Disappearance (General Assembly resolution 47/133).

⁸ A/HRC/16/47 and A/HRC/16/47/Corr.1, para.54.

⁹ Opinion No. 71/2019, para.73.

¹⁰ OL SAU 12/2020, p.6 and A/HRC/40/52/Add.2, para.16.

¹¹ CAT/C/SAU/CO/2, para.16.

retroactively by the State”,¹² thus meaning that “a person cannot be [...] convicted under a penal law that is passed retroactively to criminalize a previous act or omission.”¹³ The Government argues that this principle is a fundamental tenet of Saudi law and that the Anti-Terrorism Law was in force for a number of months before Mr. Al Sadhan’s arrest.

82. The Working Group recalls that the *nullum crimen sine lege certa* principle provides that no one should be convicted under a penal law that was not yet in force *at the moment of the acts or omissions*. Accordingly, an act is only punishable by law if when committed it was the object of a “valid, sufficiently precise, written criminal law to which a sufficiently certain sanction was attached.”¹⁴

83. Therefore, the fact that the Anti-Terrorism Law was already in force when Mr. Al Sadhan was arrested as put forward by the Government, does not cure the violation of this principle. The Working Group finds a violation of article 11(2) of the Universal Declaration.

84. Noting all the above, the Working Group therefore considers that Mr. Al Sadhan’s arrest and detention lack a legal basis and are arbitrary under category I.

ii. Category II

85. The source also submits that Mr. Al Sadhan’s detention is arbitrary because it directly derives from the exercise of his right to freedom of expression. Indeed, Mr. Al Sadhan was convicted on charges that have a direct connection to him allegedly running two satirical Twitter accounts.

86. The Government states that the reasons for his detention are charges of committing terrorist crimes punishable according to the Anti-Terrorism and Anti-Cybercrime Laws and are not related to his exercise of the right to freedom of expression. It does not specifically rebut the source’s submissions but cites to Saudi legal provisions, without clarifying their application.

87. The source notes that the connection between the conviction and Mr. Al Sadhan’s right to freedom of expression is even clearer considering the evidence presented by the Saudi Public Prosecution during court hearings. During the second hearing, the defence was informed that the prosecution relied on 200 pages of tweets from Mr. Al Sadhan’s Twitter accounts, which the defence was only allowed to briefly examine without being permitted to make copies.

88. The source notes that although the restrictions imposed on Mr. Al Sadhan are provided by law, it has already discussed above the lack of legal clarity of the provisions applied in the present case. It adds that even if it were assumed that Mr. Al Sadhan’s arrest, detention and sentencing were grounded in Saudi law, and that these measures pursued a legitimate aim such as protecting public order, it cannot be said that the restrictions were necessary and proportionate. The source also adds that the prosecution has failed to produce convincing evidence proving that the dissemination of Mr. Al Sadhan’s satirical views via Twitter might compromise national security or public order. Finally, the source notes that the excessively long period of imprisonment (20 years) and travel ban (20 years) imposed on Mr. Al Sadhan cannot be reasonably considered as a proportionate measure to protect public order.¹⁵

89. The Working Group has considered a number of cases concerning deprivation of liberty by the Government under the provisions of the Anti-Cybercrime Law.¹⁶ The individuals in these prior cases, as with Mr. Al Sadhan, were deprived of their liberty for online comments expressing their political views. For this reason, the Working Group has in the past found prosecution and imprisonment under the Anti-Cybercrime Law, as well as the Anti-Terrorism law, to be arbitrary when they result from the legitimate exercise of fundamental human rights.¹⁷

90. The Working Group recalls that holding and expressing opinions, including those that are not in accordance with official government policy, are protected by article 19 of the

¹² Opinion No. 20/2017, para.49.

¹³ Ibid.

¹⁴ Ibid.

¹⁵ E/CN.4/2006/7, para.43

¹⁶ See, for example, opinions Nos. 10/2018 and 71/2019

¹⁷ Opinions Nos. 63/2017, paras.54–63, and 71/2019, para.82.

Universal Declaration. The Working Group is of the view that Mr. Al Sadhan's running of two satirical twitter accounts falls within the boundaries of the right to expression of opinion, which is protected by article 19. Moreover, article 29(2) of the Universal Declaration provides that the only legitimate limitations to the exercise of that right must be for the purposes of securing due recognition and respect for the rights and freedoms of others and of meeting the just requirements of morality, public order and the general welfare in a democratic society.¹⁸

91. According to the Working Group's established practice, restrictions placed on freedom of expression by way of deprivation of liberty can only be justified when it is shown that the deprivation of liberty has a legal basis in national law, does not violate international law and is necessary to ensure respect for the rights or reputation of others, or for the protection of national security, public order, public health or morals, and is proportionate to the pursued legitimate aims.¹⁹ These criteria do not appear to have been met in the present case.

92. For these reasons, the Working Group considers that the deprivation of liberty of Mr. Al Sadhan is arbitrary, as it resulted from his exercise of the rights or freedoms guaranteed under article 19 of the Universal Declaration. His deprivation of liberty therefore falls within category II. The Working Group refers the case to the Special Rapporteur on the right to freedom of opinion and expression.

iii. Category III

93. Given its finding that the deprivation of liberty of Mr. Al Sadhan is arbitrary under category II, the Working Group wishes to emphasize that no trial should have taken place. However, the trial did take place and Mr. Al Sadhan was sentenced to 20 years of imprisonment and 20 years of travel ban. At the time of the source's submission, court proceedings before the Saudi Supreme Court are pending. The source argues that Mr. Al Sadhan's right to fair trial has been violated, while the Government denies this.

94. According to the source, Mr. Al Sadhan was brought to trial on 3 March 2021, i.e., over three years after his arrest. Although cases involving crimes defined as terrorism have been accepted as being more difficult and complex than routine criminal cases, the one involving Mr. Al Sadhan should not be considered as such. Firstly, as argued under category II, the classification of the alleged facts as terrorist acts has been instrumental in order to punish Mr. Al Sadhan for his criticism of the Government. Secondly, the evidence gathered during the three-year detention period reportedly merely consisted in coerced confessions and 200 pages of tweets. No witnesses were summoned to appear/testify. According to the source, this demonstrates that no thorough investigation was carried out. The source also notes that no delay can be attributable to the accused, Mr. Al Sadhan, who conversely has been held incommunicado and in solitary confinement for the whole period, and allegedly subjected to extensive and severe acts of torture, also aimed at extracting self-incriminating confessions. The source adds that given the political nature of the charges and the absence of proper material evidence, the three-year period before the beginning of the trial is unreasonable.

95. The Government submits that Mr. Al Sadhan was brought to trial without delay and cites to relevant legislation but does not explain its application in this case to address the source's specific claims.

96. In the Working Group's view, Mr. Al Sadhan pretrial detention for over three years without an individualized judicial determination has undermined the presumption of innocence guaranteed under article 11(1) of the Universal Declaration and principle 36(1) of the Body of Principles. The delay in this case, during which time he remained deprived of his liberty, is unjustified and in violation of the right to be tried without undue delay, guaranteed under articles 10 and 11(1) of the Universal Declaration and principle 38 of the Body of Principles.²⁰

¹⁸ See opinions Nos. 48/2016 and 6/2017.

¹⁹ See Deliberation No. 8 on deprivation of liberty linked to/resulting from the use of the Internet (E/CN.4/2006/7, paras. 32-52), at para.43 and opinions Nos. 21/2017, para.40 and 63/2017, para.55.

²⁰ See e.g. opinion No. 33/2020, para.88.

97. Considering these arguments, the Working Group concludes that Mr. Al Sadhan's right to be tried without undue delay under articles 10 and 11(1) of the Universal Declaration was violated.

98. The source recalls that Mr. Al Sadhan was denied access to legal counsel after his arrest and during interrogation and was only allowed to meet with his lawyer, who was appointed by the court and not chosen by him, during the trial's second hearing. He was also reportedly denied access to legal counsel on several occasions during the trial. The Government denies this allegation submitting that he was able to exercise his right to a defence and to legal assistance, and he was appointed a lawyer to defend him at State expense. The lawyer was reportedly given the facilities and time necessary to provide legal assistance in accordance with relevant provisions. The Government does not further substantiate its submissions.

99. According to the source, Mr. Al Sadhan was not given adequate time and facilities to prepare his defence. Besides not being promptly informed of the charges, he did not obtain adequate legal assistance and did not properly access the evidence and materials retrieved, which served as the basis for the accusation. The source also submits that the principle of equality of arms, the essential guarantee of the accused's right to defend himself, has not been ensured to Mr. Al Sadhan.

100. Having examined the submissions from both parties, the Working Group is convinced by the detailed submissions of the source. The Working Group concludes that these violations contravene article 11(1) of the Universal Declaration as well as principles 15-19 of the Body of Principles, principle 9 of the Basic Principles and Guidelines, and rule 61(1) of the Nelson Mandela Rules.

101. On the allegation that on several occasions during the trial, Mr. Al Sadhan and his lawyer have been denied access to the hearings without any valid reasons, the Government responds only in general terms. Taking into account these two versions of events, the Working Group is persuaded by the source's submissions and finds violations of principle 11 and guideline 10 of the Basic Principles and Guidelines²¹ and recalls that this practice is consistent with the findings of the former Special Rapporteur on counter-terrorism during his 2017 country visit.²²

102. While article 27 of the Anti-Terrorism Law authorises the SCC to hear secret witnesses and expert testimonies without providing the defence with any opportunity to cross-examine, the Working Group observes that there is a strict obligation to respect the right to have witnesses admitted that are relevant for the defence and to be given a proper opportunity to question and challenge witnesses against the defence at some stage of the proceedings. The refusal to allow any witnesses on behalf of the defence bears the hallmarks of a serious denial of equality of arms in the proceedings.²³ The Working Group recalls that the Special Rapporteur on counter-terrorism stated that this provision "violates the fundamental rights of defence and can only be consistent with the right to a fair trial if counterbalanced by effective safeguards".²⁴

103. The Working Group refers the present case to the Special Rapporteur on the independence of judges and lawyers, for appropriate action.

104. The source alleges that Mr. Al Sadhan has been subjected to severe acts of torture and cruel, inhuman and degrading treatment that has severely affected his physical and psychological well-being. The Government denies this allegation. The source further submits that the security forces tortured him to coerce him into signing self-incriminating statements. Moreover, his confessions were reportedly not excluded from the court proceedings despite the fact that, during the appeal, he informed the judicial authorities that they were extracted under torture. The Government denies this allegation stating that his confessions were provided of his own free will.

105. The Working Group notes with concern the source's submission, refuted by the Government, that Mr. Al Sadhan has been denied access to adequate medical care although

²¹ A/HRC/30/37.

²² A/HRC/40/52/Add.2, para.31.

²³ Opinion No. 19/2022, para.66.

²⁴ A/HRC/40/52/Add.2, para.46.

he is suffering from medical issues that he did not have prior to his imprisonment. Moreover, during the appeal, the court reportedly rejected his lawyer's request for a psychiatric examination of his client.²⁵ The Working Group recalls that the denial of medical care can constitute a form of torture.²⁶

106. In light of the lack of legal assistance during the interrogations and the many violations to his right to a fair trial, the Working Group finds to be untenable the Government's position that Mr. Al Sadhan confessed willingly. Moreover, he was subjected to prolonged incommunicado detention (see paras. 30, 71-72 and 74) that is conducive to torture and ill-treatment and can itself constitute such treatment.²⁷ Taken together, these factors, lead to the conclusion that the source has established credible allegations of torture in violation of article 10 of the Universal Declaration. The Working Group considers that confessions made in the absence of legal counsel are inadmissible as evidence in criminal proceedings.²⁸ The use of a confession extracted through ill-treatment also constitutes a violation of principle 21 of the Body of Principles²⁹ and a violation of article 15 of the Convention against Torture. The Working Group refers this case to the Special Rapporteur on torture.

107. The Working Group concludes that the violations of the right to a fair trial noted above are of such gravity as to give the detention of Mr. Al Sadhan an arbitrary character under category III.

iv. Category V

108. The source submits that Mr. Al Sadhan's arrest, prosecution and treatment are the direct result of his political opinions which led to his unequal treatment before the law. The Government claims that his detention is not related to political opinions and that no one is detained in the country for exercising rights and freedoms.

109. The source notes that although Mr. Al Sadhan was a peaceful social media activist, he was tried in a court with competence over terrorist crimes. The source also argues that the behaviour of both the executive and judiciary branches of the state clearly shows that the arrest, trials, and imprisonment of Mr. Al Sadhan are a direct result of his political beliefs. In the discussion above concerning category II, the Working Group established that his detention resulted from the peaceful exercise of his fundamental rights. When detention has resulted from the active exercise of civil and political rights, as is the case here, there is a strong presumption that the detention also constitutes a violation of international law on the grounds of discrimination based on political or other views.³⁰

110. For these reasons, the Working Group finds credible the source's submission that Mr. Al Sadhan's arrest, conviction, and lengthy sentence are to silence and punish him for sharing his views peacefully, an activity that is expressly protected by international law.

111. The Working Group thus finds that Mr. Al Sadhan was deprived of his liberty on discriminatory grounds, because of his political opinion. His detention violates articles 2 and 7 of the Universal Declaration and is arbitrary under category V.

v. Concluding Remarks

112. The Working Group recalls rules 1, 24, 27 and 118 of the Nelson Mandela Rules which provide that all persons deprived of their liberty must be treated with humanity and with respect for their inherent dignity. With reference to para. 105 above, the Working Group refers the present case to the Special Rapporteur on health.

²⁵ See opinions Nos. 53/2018, para.77(c); 52/2018, para.79(j); and 47/2017, para.28 and also E/CN.4/2004/3/Add.3, para.33.

²⁶ See A/HRC/38/36, para.18.

²⁷ GA RES 68/156, para.27 and opinion No. 47/2017, para.26. According to rule 43(1)(b) and rule 44 of the Nelson Mandela Rules, prolonged solitary confinement – meaning for a time period in excess of 15 consecutive days – constitutes torture or other cruel, inhuman, or degrading treatment or punishment.

²⁸ A/HRC/45/16, para.53.

²⁹ Opinions Nos. 48/2016, para.52; 3/2017, para.33; 6/2017, para.43; 29/2017, para.64; and 39/2018, para.42.

³⁰ Opinions Nos. 59/2019, para.79; 13/2018, para.34; and 88/2017, para.43.

113. In its 30-year history, the Working Group has found Saudi Arabia in violation of its international human rights obligations in over 65 cases.³¹ The Working Group reiterates its concern that this indicates a widespread or systemic problem of arbitrary detention in Saudi Arabia, which amounts to a serious violation of international law. The Working Group recalls that under certain circumstances, widespread or systematic imprisonment or other severe deprivation of liberty in violation of the rules of international law may constitute crimes against humanity.³²

114. The Working Group welcomes the voluntary pledges pursuant to General Assembly resolution 60/251 concerning the Human Rights Council by Saudi Arabia.³³ In particular, the Working Group lauds the expressed willingness of the Government to cooperate with the Council and its various mechanisms, including the special procedures. In the light of this and recalling its request for a country visit reiterated on 24 August 2021 and 4 February 2022, the Working Group would welcome the opportunity, at the Government's earliest convenience, to conduct a visit to Saudi Arabia in order to engage with the Government in a constructive manner and to offer its assistance in addressing its serious concerns regarding instances of arbitrary deprivation of liberty.

Disposition

115. In the light of the foregoing, the Working Group renders the following opinion:

The deprivation of liberty of Mr. Abdulrahman Al Sadhan, being in contravention of articles 2, 3, 6, 7, 8, 9, 10, 11 and 19 of the Universal Declaration of Human Rights is arbitrary and falls within categories I, II, III and V.

116. The Working Group requests the Government of Saudi Arabia to take the steps necessary to remedy the situation of Mr. Al Sadhan without delay and bring it into conformity with the relevant international norms, including those set out in the Universal Declaration of Human Rights.

117. The Working Group considers that, taking into account all the circumstances of the case, the appropriate remedy would be to release Mr. Al Sadhan immediately and accord him an enforceable right to compensation and other reparations, in accordance with international law. In the current context of the global coronavirus disease (COVID-19) pandemic and the threat that it poses in places of detention, the Working Group calls upon the Government to take urgent action to ensure his immediate unconditional release.

118. The Working Group urges the Government to ensure a full and independent investigation of the circumstances surrounding the arbitrary deprivation of liberty of Mr. Al Sadhan and to take appropriate measures against those responsible for the violation of his rights.

119. The Working Group requests the Government to bring its laws into conformity with the recommendations made in the present opinion and with the commitments made by Saudi Arabia under international human rights law.

120. In accordance with paragraph 33(a) of its methods of work, the Working Group refers the present case to the (i) Special Rapporteur on the right to freedom of opinion and expression; (ii) Special Rapporteur on the independence of lawyers and judges; (iii) Special Rapporteur on torture and (iv) Special Rapporteur on health, for appropriate action.

121. The Working Group recommends that the Government accede to the International Covenant on Civil and Political Right.

³¹ Decisions Nos. 40/1992, 60/1993, 19/1995 and 48/1995, and opinions Nos. 8/2002, 25/2004, 34/2005, 35/2005, 9/2006, 12/2006, 36/2006, 37/2006, 4/2007, 9/2007, 19/2007, 27/2007, 6/2008, 11/2008, 13/2008, 22/2008, 31/2008, 36/2008, 37/2008, 21/2009, 2/2011, 10/2011, 11/2011, 17/2011, 18/2011, 19/2011, 30/2011, 31/2011, 33/2011, 41/2011, 42/2011, 43/2011, 44/2011, 45/2011, 8/2012, 22/2012, 52/2012, 53/2012, 32/2013, 44/2013, 45/2013, 46/2013, 14/2014, 32/2014, 13/2015, 38/2015, 52/2016, 61/2016, 10/2017, 63/2017, 93/2017, 10/2018, 68/2018, 22/2019, 26/2019, 56/2019, 71/2019, 33/2020, 86/2020, 92/2020, 34/2021, 59/2021 and 72/2021.

³² A/HRC/13/42, para.30; and also opinions Nos. 1/2011, para.21; 37/2011, para.15; 51/2017, para.57; and 56/2017, para.72.

³³ A/75/377.

122. The Working Group requests the Government to disseminate the present opinion through all available means and as widely as possible.

Follow-up procedure

123. In accordance with paragraph 20 of its methods of work, the Working Group requests the source and the Government to provide it with information on action taken in follow-up to the recommendations made in the present opinion, including:

- (a) Whether Mr. Al Sadhan has been released and, if so, on what date;
- (b) Whether compensation or other reparations have been made to Mr. Al Sadhan;
- (c) Whether an investigation has been conducted into the violation of Mr. Al Sadhan's rights and, if so, the outcome of the investigation;
- (d) Whether any legislative amendments or changes in practice have been made to harmonize the laws and practices of Saudi Arabia with its international obligations in line with the present opinion;
- (e) Whether any other action has been taken to implement the present opinion.

124. The Government is invited to inform the Working Group of any difficulties it may have encountered in implementing the recommendations made in the present opinion and whether further technical assistance is required, for example through a visit by the Working Group.

125. The Working Group requests the source and the Government to provide the above-mentioned information within six months of the date of transmission of the present opinion. However, the Working Group reserves the right to take its own action in follow-up to the opinion if new concerns in relation to the case are brought to its attention. Such action would enable the Working Group to inform the Human Rights Council of progress made in implementing its recommendations, as well as any failure to take action.

126. The Working Group recalls that the Human Rights Council has encouraged all States to cooperate with the Working Group and has requested them to take account of its views and, where necessary, to take appropriate steps to remedy the situation of persons arbitrarily deprived of their liberty, and to inform the Working Group of the steps they have taken.³⁴

[Adopted on 5 April 2022]

³⁴ Human Rights Council resolution 42/22, paras.3 and 7.