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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–8 April 2022**

### **Opinion No. 29/2022 concerning Omar Aljabri, Sarah Aljabri and Salem Almuzaini (United Arab Emirates and 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,<sup>1</sup> on 6 August 2021 the Working Group transmitted to the Governments of the United Arab Emirates and Saudi Arabia a communication concerning Omar Aljabri, Sarah Aljabri and Salem Almuzaini. The Government of the United Arab Emirates did not reply to the communication. The Government of Saudi Arabia submitted a response on 22 October 2021. Neither State is 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,

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<sup>1</sup> A/HRC/36/38.

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. Omar Aljabri, born in 1998, is a dual citizen of Malta and Saudi Arabia, usually residing in Riyadh. At the time of his arrest, he was about to pursue an undergraduate degree in computer science at Suffolk University in Boston, United States of America.

5. Sarah Aljabri, born in 2000, is a dual citizen of Malta and Saudi Arabia, usually residing in Riyadh. She is the younger sister of Omar Aljabri. At the time of her arrest, she was to begin the two-year International Baccalaureate programme at the British International School of Boston.

6. Salem Almuzaini, born in 1979, is a Saudi citizen who is married to the sister of Mr. Aljabri and Ms. Aljabri and who usually resides in Riyadh. Mr. Almuzaini's wife and two children have been living in Canada for the last several years. Mr. Almuzaini is a businessman who previously ran a highly regarded regional airline company.

#### **a. Context**

7. The three individuals reportedly share a familial relationship to Saad Aljabri, a former high-level intelligence and counter-terrorism official with the Government of Saudi Arabia and a close confidant of former Saudi Crown Prince Mohammed bin Nayef. Omar Aljabri and Sarah Aljabri are among the youngest of Dr. Aljabri and his wife's eight children. Salem Almuzaini is married to their second daughter.

8. The source alleges that, since 2017, Saudi Crown Prince Mohammed bin Salman has engaged in a global campaign to find and kill Dr. Aljabri because of his close ties to the intelligence and security apparatus of the United States. Dr. Aljabri has a deep knowledge of the operations of the Saudi Royal Court, specifically the allegedly corrupt business dealings of the Crown Prince. The Crown Prince reportedly perceives this as a threat to his ascension to the throne.

9. After fleeing Saudi Arabia in May 2017, Dr. Aljabri was allegedly contacted by the Crown Prince in repeated efforts to bring him back to Saudi Arabia. In retaliation for Dr. Aljabri's refusal to return, the Crown Prince allegedly falsely accused him of corruption, claiming through anonymous sources in the media that he had stolen funds that had been lawfully appropriated by the Government for counter-terrorism efforts. Dr. Aljabri has never been charged or convicted of any crime. Instead, the Crown Prince allegedly had an arrest warrant issued against him and a Notice lodged with the International Criminal Police Organization (INTERPOL) based on that warrant. INTERPOL reportedly deleted the Notice after finding that it was politically motivated.

10. As the Crown Prince was unable to personally force Dr. Aljabri to return or to use the international legal system to do so, he reportedly went outside the operations of the Government of Saudi Arabia, making a direct attempt on Dr. Aljabri's life. He allegedly deployed a team of personal mercenaries to North America to kill Dr. Aljabri, but Canadian border security interrupted the operation.

11. The Crown Prince – through the levers of the Government of Saudi Arabia and personal means – has reportedly sought to collectively punish Dr. Aljabri's family and close associates. Mr. Aljabri, Ms. Aljabri and Mr. Almuzaini have allegedly been the focus of harassment. The Crown Prince has allegedly repeatedly confirmed, including in WhatsApp messages, that the sole purpose of Mr. Aljabri and Ms. Aljabri's detention is to force Dr. Aljabri to return.

12. These attempts have reportedly escalated in recent months, involving many innocent individuals. Approximately 20 family members and associates of Dr. Aljabri have been arrested without valid arrest warrants and held incommunicado without charge at undisclosed locations in Saudi Arabia.

b. Arrest and detention of Mr. Aljabri and Ms. Aljabri

13. In 2017, Mr. Aljabri and Ms. Aljabri were set to attend school in the United States. When they went to the airport in Riyadh on 21 June 2017, Saudi officials informed them that a travel ban had been imposed on them. In September 2017, the Crown Prince reportedly explicitly linked their travel ban with Dr. Aljabri's return to Saudi Arabia, telling him in a WhatsApp message, "I want to resolve this problem of your son and daughter," but that Dr. Aljabri needed to return to Saudi Arabia for him to do so. Knowing that his life would be at risk, Dr. Aljabri could not return.

14. The source claims that, when confronted by INTERPOL about the restriction on Mr. Aljabri and Ms. Aljabri's ability to travel, Saudi Arabia initially denied that there was any such restriction and claimed that Dr. Aljabri's children were not in Saudi Arabia. However, Saudi Arabia later acknowledged that there was a travel ban on them, but that it was not relevant to its purported investigation of Dr. Aljabri.

15. Mr. Aljabri and Ms. Aljabri remained in Saudi Arabia for nearly three years before the Crown Prince allegedly increased efforts to force Dr. Aljabri's return. On 5 March 2020, a close aide to the Crown Prince – and member of the Saudi State Security – reportedly sent a message to a relative of Dr. Aljabri, asking about Mr. Aljabri and Ms. Aljabri. On 9 March, the same security official requested an in-person meeting with them. At the meeting that same afternoon, aides for the Crown Prince told them that they could not leave Saudi Arabia until Dr. Aljabri returned, and allegedly pressured them to convince their father to return.

16. A week later, on 16 March 2020, more than 50 armed men in unmarked cars and dressed in civilian clothes – believed to be members of Saudi State Security acting under the supervision of a major general who is a close aide to the Crown Prince – reportedly entered the Aljabri residence in Riyadh. No arrest warrant or other documentation authorizing the arrest of Mr. Aljabri and Ms. Aljabri was presented and they were given no explanation for the arrest.

17. Since March 2020, Mr. Aljabri and Ms. Aljabri have allegedly been held incommunicado at an undisclosed location. They had virtually no contact with the outside world for the first six months of their detention, and their external contact remains severely limited. Their close family members have not heard from them since their arrest. Despite repeated requests from the Aljabri family, Saudi officials have refused to provide information about their location. Their lawyer, who was only allowed to represent them six months after their disappearance, has not been allowed to visit the detention facility. His first opportunity to speak with his clients was at a hearing after the commencement of criminal proceedings, in the presence of the prosecutor and the judge.

18. Unable to communicate with their immediate family and having been disappeared to a secret location, Mr. Aljabri and Ms. Aljabri have reportedly suffered severe psychological torture. In addition, the Crown Prince has allegedly made it clear that he will pursue any means to kill Dr. Aljabri as a way of silencing him. In the light of the Crown Prince's recent actions, the risk that they may be further tortured, both physically and psychologically, is allegedly increasing.

19. On 6 August 2020, Dr. Aljabri filed a lawsuit against the Crown Prince and his mercenaries in the United States in relation to the alleged threats of extrajudicial killing, pursuant to the Torture Victim Protection Act of the United States. The lawsuit, as well as the disappearance of Mr. Aljabri and Ms. Aljabri, garnered widespread media attention. Facing increased international scrutiny, the Government of Saudi Arabia was reportedly forced to articulate a basis for their detention, resulting in criminal charges lacking any evidentiary or legal basis.

20. On 10 September 2020, Mr. Aljabri and Ms. Aljabri were brought for the first time to a hearing in Riyadh Criminal Court and charged, six months after their detention. They learned for the first time the purported basis of their arrest. The criminal hearing was closed to the public – only the judge, the prosecutor, Mr. Aljabri and Ms. Aljabri, their lawyer and Saudi security personnel were permitted to attend.

21. The prosecutor reportedly levied against Mr. Aljabri and Ms. Aljabri baseless charges of money laundering and attempting to flee Saudi Arabia in violation of their travel ban of

2017 – charges based on the alleged criminal activity of their father. Consistent with the extrajudicial nature of the detention, the charging documents were reportedly unnamed, unsigned, undated and printed on paper without any formal letterhead.

22. The charging documents assert that the travel ban was initially imposed because of a money laundering case dating to 2017 – when Mr. Aljabri and Ms. Aljabri were 18 and 17 years old, respectively – in connection with corruption allegations against Dr. Aljabri that have only been circulated in media reports sourced to anonymous Saudi officials. None of the alleged money laundering activities that the siblings were later charged with committing had taken place before the travel ban was imposed, and Saudi Arabia declared to INTERPOL that the travel ban was not related to its investigation of Dr. Aljabri.

23. The charging documents also allege that Mr. Aljabri met with a non-Saudi associate of Dr. Aljabri on 5 March 2020 in Riyadh to discuss a plan for Mr. Aljabri and Ms. Aljabri to leave Saudi Arabia. He did meet with a friend of Dr. Aljabri visiting the Gulf region for business. The latter had offered to Dr. Aljabri to check on his children, who had been in Saudi Arabia without their family for almost three years. Dr. Aljabri's friend met with Mr. Aljabri to express his family's concern for their well-being. Despite this, the prosecutor sought imprisonment and a fine for Mr. Aljabri and Ms. Aljabri, pursuant to article 15 of the border security law implementing regulations; an enhanced penalty for Mr. Aljabri for conspiring and agreeing with his father and his brother and the foreign defendant to flee Saudi Arabia by unlawful means; and an enhanced penalty for both for misleading the judicial authorities and for impeding the course of their work by not informing the authorities of the crime. The source notes that these allegations lacked any factual basis.

24. The prosecutor reportedly also levied unfounded charges against the siblings under the Anti-Money Laundering Law. According to the prosecutor, the siblings' receipt and use of funds from their father constitutes money laundering because his money was allegedly derived from criminal activities, even though no proof has been presented of the same. Their receipt of rental income from properties that their father lawfully transferred to them when they were teenagers allegedly constitutes money laundering. The prosecutor sought the maximum penalty under article 27 (1) of the Anti-Money Laundering Law.

25. Mr. Aljabri and Ms. Aljabri were subsequently brought before a judge on 17, 22 and 30 September, 7 October and 4 November 2020, hearings that the public reportedly could not attend. They were not allowed to consult with their lawyer outside of the hearings or to provide guidance or information for the submissions.

26. On 17 September 2020, the lawyer presented a response to the charges, noting the absence of evidence of an attempt to flee Saudi Arabia and identifying the legitimate sources of their money from lawfully owned properties. On 22 September, the prosecution presented evidence, which did not include any witnesses and was comprised primarily of information allegedly improperly obtained from the siblings during interrogations. The prosecutor revealed that it had conducted six separate interrogation sessions with them, in violation of their right to legal counsel. No lawyer was allowed to attend the interrogations or even informed of their occurrence.

27. None of the information from the interrogations reportedly incriminated Dr. Aljabri's children. For example, Mr. Aljabri acknowledged that the money at issue in the charging documents had come from rent for villas and other properties lawfully owned by them. The prosecutor did not present any evidence indicating that the villas had been purchased with the proceeds of crime or that Mr. Aljabri and Ms. Aljabri, aged 17 and 16 years, respectively, at the time they received the properties, knew the source of the funds. The evidence also described measures taken by their family to obtain Maltese passports in 2019, involving the completion of an application process initiated in 2015, years before the travel ban. They had allegedly obtained Maltese passports to aid their attempt to flee. However, they had sent their passports to their family abroad, contradicting any notion that they had planned to flee.

28. In October 2020, a prominent businessman and close associate of both Dr. Aljabri and the lawyer of Mr. Aljabri and Ms. Aljabri, was detained by Saudi State Security in Jeddah in the weeks leading up to Mr. Aljabri and Ms. Aljabri's sentencing. This was allegedly an apparent attempt to intimidate their lawyer during the proceedings. The Government of Saudi Arabia subsequently imposed a travel ban and asset freeze on the lawyer and his family.

29. On 4 November 2020, the court sentenced Mr. Aljabri to nine years' imprisonment and Ms. Aljabri to 6.5 years' imprisonment without the opportunity to present or cross-examine any witnesses.

30. In late January 2021, the source learned through unofficial channels that the siblings had been separated and moved to prison facilities. The source suspects that Mr. Aljabri is being held at a maximum-security prison, likely Al-Ha'ir. Ms. Aljabri is possibly being held at Al-Malaz prison. Saudi officials provided no information about their whereabouts, condition or legal status. Records of their criminal proceedings were reportedly erased from the Ministry of Justice database. Their lawyer was informed that no record existed of their appeal.

31. On 5 April 2021, counsel for the Crown Prince in Dr. Aljabri's case in the United States filed a document issued by the Public Prosecutor. The document – dated four days before the filing – states that the judgments against Mr. Aljabri and Ms. Aljabri were promulgated by the Riyadh Criminal Court on 4 November 2020 and upheld in the Court of Appeal on 24 December 2020. Prior to those dates, neither the Aljabri family nor Mr. Aljabri and Ms. Aljabri's lawyer were aware that any appeal proceedings had progressed, or of the final resolution of any appeal. This late revelation left the family unable to appeal to the Supreme Court within the required 30 days.

c. Arrest and detention of Mr. Almuzaini

32. From early 2018, Mr. Almuzaini had served as an intermediary between Dr. Aljabri and a major general acting on behalf of the Crown Prince. In July 2020, the major general sought a meeting with Mr. Almuzaini to discuss the reaction of Dr. Aljabri's family to the detention of Mr. Aljabri and Ms. Aljabri. Mr. Almuzaini informed the major general that the Aljabri family had only one goal: to ensure the siblings' well-being.

33. A few weeks after Dr. Aljabri had filed the lawsuit against the Crown Prince in August 2020, the major general reportedly called Mr. Almuzaini to another meeting at Saudi State Security. Mr. Almuzaini has not been heard from since. A few hours after Mr. Almuzaini had reported to the Saudi State Security, the major general called Mr. Almuzaini's brother to ask that he collect his car. The source alleges that Mr. Almuzaini was disappeared without charge and is being held incommunicado at a secret location. No information has been received regarding his whereabouts and contact with him remains completely severed. The current detention of Mr. Almuzaini is allegedly an act of retaliation for Dr. Aljabri's lawsuit and another sign that the Crown Prince's actions have intensified. The Aljabri family does not know Mr. Almuzaini's condition, but fears that he is again being physically tortured, as he allegedly was several years earlier.

34. According to the source, Mr. Almuzaini was previously targeted as part of the attempts to harm Dr. Aljabri. Mr. Almuzaini was a legal permanent resident of the United Arab Emirates, where he worked on business ventures. In September 2017, soon after Dr. Aljabri had fled Saudi Arabia, Mr. Almuzaini attempted to leave Dubai to visit him in Turkey, but passport agents at the airport informed him that State Security of the United Arab Emirates had issued an arrest warrant for him, at the request of the Government of Saudi Arabia. The source adds that they did not explain the basis of the warrant. On 25 September 2017, State Security of the United Arab Emirates allegedly found and arrested Mr. Almuzaini, then immediately handed him over to Saudi officials, who placed him on a private plane to Saudi Arabia on the same night as his arrest. Mr. Almuzaini was not presented with an arrest warrant during his arrest in the United Arab Emirates or when he arrived in Saudi Arabia, and he was not informed of the reason for his arrest on either occasion. He was never brought before a judge. Instead, he was imprisoned initially for 45 days at a maximum-security prison in Jeddah and at Al-Ha'ir prison in Riyadh.

35. During this detention, Mr. Almuzaini was allegedly physically and psychologically tortured: he was beaten and lashed and held incommunicado, with Saudi forces denying him visits and contact with anyone outside of the prisons. Saudi forces, acting at the behest of the major general referred to above, allegedly detained and tortured Mr. Almuzaini to extract information about Dr. Aljabri and to compel him to return to Saudi Arabia. Mr. Almuzaini was interrogated about the Aljabri family and other individuals associated with his "uncle",

Dr. Aljabri. The alleged perpetrators reportedly told Mr. Almuzaini that he was being tortured in Dr. Aljabri's place: when he was lashed 300 times, he was told that half of the lashes were for him and half for Dr. Aljabri.

36. In November 2017, Mr. Almuzaini was transferred to the Ritz Carlton Hotel in Riyadh, where other perceived rivals of the Crown Prince who had reportedly been arrested in the crackdown were detained. The source alleges that the Saudi forces continued to detain Mr. Almuzaini without charges, due process or access to counsel. After his release on 28 January 2018, he was forced to wear an ankle bracelet and to report periodically to Saudi State Security for questioning focused on Dr. Aljabri and his family. Mr. Almuzaini was prohibited from leaving Saudi Arabia, and thus deprived of contact with his family in Canada.

37. The source reports that, when confronted by INTERPOL about Mr. Almuzaini's detention, Saudi Arabia claimed that his case related to activity "separate" from Dr. Aljabri.

d. Analysis of violations

i. Category I

38. The source submits that Saudi Arabia, at the direction of the Crown Prince, violated the well-established prohibition against hostage-taking by disappearing and detaining Dr. Aljabri's three relatives to compel him to return to Saudi Arabia. The desire for his return motivated the incommunicado detentions, as communicated by the Crown Prince to Dr. Aljabri and by the perpetrators of Mr. Almuzaini's alleged torture in 2017, who stated that his torture was intended for Dr. Aljabri. In March 2020, Mr. Aljabri and Ms. Aljabri were disappeared, a week after the Crown Prince's aides told them that they could not leave Saudi Arabia until their father returned.

39. As indicated by the arrests of other family members and close associates of Dr. Aljabri, the detention of Mr. Aljabri, Ms. Aljabri and Mr. Almuzaini is part of the targeting of Dr. Aljabri. The hostage-taking of the detainees and collective punishment of Dr. Aljabri's family and associates violate their rights to the presumption of innocence and a fair trial under articles 10 and 11 of the Universal Declaration of Human Rights.

40. The source submits that the Government of Saudi Arabia has held Mr. Aljabri and Ms. Aljabri incommunicado at a secret location since their arrest on 16 March 2020. They have not been permitted to contact their parents or siblings, and their location remains a secret. Their access to the outside world has been only through meeting with their lawyer at court hearings and, more recently, a handful of telephone calls with extended relatives.

41. Since August 2020, Mr. Almuzaini has been held in incommunicado detention. Saudi officials have refused to disclose his whereabouts or allow him contact with the outside world. This detention is reminiscent of his incommunicado detention in 2017/18 in then-secret locations; only after his release did his family learn where he had been detained.

42. The source refers to the circumstances of the arrest of Mr. Aljabri and Ms. Aljabri (see para. 16 above). No explanation was provided until criminal charges were levied six months later, and no arrest warrant has ever been revealed.

43. Saudi forces have reportedly also failed to present an arrest warrant or provide any legal basis for Mr. Almuzaini's arrest in August 2020. In 2017, he was not presented with an arrest warrant nor promptly informed of any legal basis for his detention.

44. The source submits that the Government of Saudi Arabia failed to promptly provide the three individuals with the reason for their arrests or proper information about the charges and an explanation of the available legal remedies, in violation of articles 3 and 9 of the Universal Declaration of Human Rights, principles 2, 4, 10 and 12 (1) of the Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment, and articles 35, 36, 101 and 116 of the Law of Criminal Procedures of Saudi Arabia.

45. The source submits that Mr. Aljabri and Ms. Aljabri were first brought before a judge six months after their arrest. At the hearings in 2020, they were not provided with an opportunity to challenge the lawfulness of their detention. Mr. Almuzaini's detention in 2017 and 2020 suffered from the same deficiency. Indeed, he has never been brought before a

court. The failure to afford the three individuals an opportunity to challenge their detention violates articles 3, 8 and 9 of the Universal Declaration of Human Rights and principles 11, 32 and 37 of the Body of Principles.

46. According to the source, in 2017, the Government of Saudi Arabia, on the orders of the Crown Prince, collaborated with the Security Services of the United Arab Emirates to conduct an extraordinary rendition of Mr. Almuzaini. Although he was told that the United Arab Emirates had issued an arrest warrant at the request of the Government of Saudi Arabia, he was never presented with a warrant or told the reason for the arrest. No formal legal proceedings took place during his arrest and same-day transfer to Saudi Arabia via private jet, or during his subsequent four-month incommunicado detention in Saudi Arabia. This informal transfer to Saudi Arabia lacked the procedural safeguards required under article 9 of the Universal Declaration of Human Rights.<sup>2</sup>

ii. Category III

47. The source asserts that, during their ongoing detention, Mr. Aljabri and Ms. Aljabri have been deprived of contact with their parents and siblings. Since August 2020, Mr. Almuzaini has been held incommunicado without any outside contact. He was also denied contact with his family during his detention in 2017/18. The denial of contact with family violates principles 15, 16 (1) and 19 of the Body of Principles, rules 43 (3), 58 (1) and 68 of the United Nations Standard Minimum Rules for the Treatment of Prisoners (the Nelson Mandela Rules) and article 116 of the Law of Criminal Procedures.<sup>3</sup>

48. The source submits that the Government of Saudi Arabia has used torture to extract information and confessions from the three individuals. They have all been detained incommunicado for prolonged periods in secret locations, which itself constitutes torture.<sup>4</sup> In addition, Mr. Almuzaini allegedly endured 300 lashes during his detention in 2017, and the perpetrators told him that he was being tortured as a proxy for Dr. Aljabri.

49. The source refers to article 5 of the Universal Declaration of Human Rights, the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, and articles 2 and 36 of the Law of Criminal Procedures.

50. The source asserts that Mr. Aljabri and Ms. Aljabri were detained incommunicado for six months before the commencement of judicial proceedings. No individualized determination was made that it was reasonable or necessary for them to be detained pending trial. Similarly, Mr. Almuzaini has been detained incommunicado without any individualized determination. The detainees' pretrial detention violates article 11 of the Universal Declaration of Human Rights and principles 38 and 39 of the Body of Principles. The failure to release the detainees after five days without extending the detention also violates article 114 of the Law of Criminal Procedures.

51. The source asserts that the Government of Saudi Arabia held Mr. Aljabri and Ms. Aljabri incommunicado, first bringing them before a judge on 10 September 2020, six months after their arrest. The Government of Saudi Arabia has not brought Mr. Almuzaini before a judge since his arrest in August 2020, and he was never brought before a judge during his detention in 2017/18. The Government of Saudi Arabia has therefore violated their right to prompt appearance before a judge under articles 3, 8 and 10 of the Universal Declaration of Human Rights and principles 11 and 37 of the Body of Principles.<sup>5</sup>

52. Mr. Aljabri and Ms. Aljabri were reportedly denied access to legal counsel for the first six months of their detention. Their lawyer made contact with them at the hearing on 10 September 2020. During this period, the Public Prosecutor interrogated the siblings six times each without the presence of counsel, eliciting false and forced confessions. The authorities

<sup>2</sup> Opinions No. 19/2007, paras. 18 and 21; and No. 8/2007, paras. 22 and 25; and [A/HRC/4/40](#), p. 2 and para. 50.

<sup>3</sup> Opinion No. 45/2018, para. 58.

<sup>4</sup> Opinions No. 30/2018, paras. 42 and 44; and No. 93/2017, para. 55; [A/66/268](#), para. 26; and [A/54/426](#), para. 42.

<sup>5</sup> Opinion No. 52/2015, para. 46.

failed to inform anyone that the interrogations had taken place until 22 September 2020, during a hearing.

53. Mr. Aljabri and Ms. Aljabri's access to legal counsel remained severely restricted for the duration of their criminal proceedings. They were permitted to see their lawyer only during hearings and could not meet with their lawyer except in the presence of the prosecutor and State Security officials. In addition, the arrest of a close associate of their lawyer is a form of intimidation that interferes with their right to legal counsel.<sup>6</sup> Mr. Almuzaini has been denied access to legal counsel since his arrest in August 2020.

54. The source submits that denying the three individuals access to legal counsel violates articles 3, 9, 10 and 11 (1) of the Universal Declaration of Human Rights, principles 17 and 18 of the Body of Principles, principle 9 of the United Nations Basic Principles and Guidelines on Remedies and Procedures on the Right of Anyone Deprived of Their Liberty to Bring Proceedings Before a Court, and articles 4, 65 and 70 of the Law of Criminal Procedures.<sup>7</sup> The interrogation of Mr. Aljabri and Ms. Aljabri in secret also violates article 102 of the Law of Criminal Procedures.

55. All hearings held in Mr. Aljabri and Ms. Aljabri's proceedings were reportedly closed to the public. A relative of Mr. Aljabri and Ms. Aljabri attempted to attend the hearings, but was turned away by courthouse security. The failure to hold the hearings in public violates articles 10 and 11 (1) of the Universal Declaration of Human Rights, principle 36 of the Body of Principles, and articles 154 and 181 of the Law of Criminal Procedures.

56. The source asserts that Mr. Aljabri and Ms. Aljabri were detained for six months without contact with a lawyer or their immediate family before the proceedings commenced. Even after first meeting their lawyer, they could only meet during the proceedings in front of Saudi officials. They had no other opportunity to confer with their lawyer to prepare their defence.

57. Moreover, their lawyer had only one week to prepare a response to the charges. He also had no opportunity to respond to the prosecution's evidence, which was primarily comprised of information derived from interrogations of the siblings without the presence of legal counsel, at least one of which took place after the proceedings had commenced. At no point were witnesses called to testify, removing any opportunity for cross-examination, and the court rendered its judgment based on information extracted during unlawful interrogations. The denial of the rights to the presumption of innocence, to adequate time and facilities to prepare a defence, to a fair trial before an independent and impartial tribunal, to a speedy trial and to cross-examine witnesses violates articles 9, 10 and 11 of the Universal Declaration of Human Rights.

#### *Responses from the Governments*

58. On 6 August 2021, the Working Group transmitted the source's allegations to the Governments under its regular communication procedure, requesting them to provide detailed information by 5 October 2021 about the situation of the three individuals.

59. The Working Group regrets that it did not receive a response from the Government of the United Arab Emirates, nor did the Government request an extension of the time limit for its reply, as provided for in paragraph 16 of the Working Group's methods of work.<sup>8</sup>

60. On 4 October 2021, the Government of Saudi Arabia requested an extension of the deadline for its response. The extension was granted, with a new deadline of 22 October.

61. In its response of 22 October 2021, the Government of Saudi Arabia states that the allegations concerning the three individuals are inaccurate, based on information from a source without grounds or proof. While rejecting the allegations, the Government is investigating them and explaining the facts in the interest of cooperation with international human rights bodies.

<sup>6</sup> Opinion No. 59/2011, para. 17.

<sup>7</sup> Opinions No. 68/2018, para. 47; and No. 93/2017, para. 52.

<sup>8</sup> [A/HRC/36/38](#).



62. Saudi Arabia adheres to the principle that punishment is to be imposed on the individual, that there is to be no crime or penalty except on the basis of a legal text, and that punishment is not to be imposed ex post facto, in accordance with article 38 of the Basic Law of Governance. The laws of Saudi Arabia prohibit restricting a person's actions, or arresting or imprisoning a person, except pursuant to the Basic Law.

63. Mr. Aljabri and Ms. Aljabri were reportedly banned from travelling in 2017 at the request of the Public Prosecutor, in accordance with article 6 of the Travel Documents Law, due to evidence that they had committed criminal offences. The Public Prosecution is independent and part of the judicial branch. From the date of the travel ban until their arrest in March 2020, they lived in complete freedom, with the exception of measures related to the travel ban.

64. Mr. Aljabri and Ms. Aljabri were arrested along with others in 2020 after evidence had become available that they had committed crimes punishable under the laws of Saudi Arabia. After they had been referred to the Public Prosecution, they were informed of the reasons for their arrest and their legal rights, and they signed an acknowledgement of the same. These rights include securing legal assistance in accordance with article 22 of the Implementing Regulations of the Law of Criminal Procedures and articles 36 (1) and 116 of the Law of Criminal Procedures. They were interrogated by the Public Prosecution and detained pursuant to an arrest warrant, having been accused of major crimes requiring arrest under article 112 of the Law of Criminal Procedures. Their detention was extended in accordance with article 114 of that law. The Public Prosecution deemed the evidence sufficient to charge them. Their case was referred to the Riyadh Criminal Court and they were summoned to appear in court.

65. Mr. Aljabri and Ms. Aljabri appeared at a trial hearing accompanied by their lawyer, and the prosecutor also appeared. The indictment was read out and a copy was given to Mr. Aljabri and Ms. Aljabri. They were charged with money laundering; conspiring with their father, brother and a foreign suspect to flee Saudi Arabia; and obstruction of justice. The court issued its verdict after hearing the parties' statements. All pleas were presented in oral argument and written briefs. The evidence was considered, arguments were closed in the presence of the defendants and their lawyer, and the case file was examined. A first instance judgment was issued, sentencing Mr. Aljabri to nine years' imprisonment and a fine of SRI 1 million and Ms. Aljabri to 6.5 years' imprisonment and a fine of SRI 500,000. The court confiscated two properties registered in their names. The verdict was upheld by the Court of Appeal. They are currently serving their sentences.

66. The laws of Saudi Arabia guarantee the right to a fair and public trial before an independent judiciary, which occurred in this case. The laws of Saudi Arabia contain numerous safeguards to ensure that the defendant – who is presumed innocent – is not considered guilty until convicted pursuant to a final verdict issued in compliance with the law.

67. Mr. Aljabri and Ms. Aljabri were not subjected to enforced disappearance. They were detained in designated locations. They received visits from and communicated with family members on a regular basis. The law, particularly article 2 of the Law of Criminal Procedures, offers protections against enforced disappearance, and there are no secret or unknown detention locations in the country. All prisons and detention centres are subject to judicial, administrative, health and social inspection.

68. Mr. Aljabri and Ms. Aljabri did not undergo any form of torture, abuse or humiliation. They were treated well to preserve their dignity and guarantee their rights under domestic laws, including articles 36 (1) and 102 of the Law of Criminal Procedures. Other laws and decrees prohibit and punish by imprisonment acts of torture committed by public officials.

69. Public Prosecution staff supervise the work of investigation officers, and all detention centres are subject to oversight. The laws of Saudi Arabia mandate that all State agencies are to treat a person fairly regardless of religion, race, sex or nationality. There are several mechanisms that operate as effective guarantees of human rights, including judicial bodies and governmental and non-governmental human rights institutions.

70. Saudi Arabia is committed to the international human rights conventions to which it is a party, including the Convention against Torture, and considers such conventions to be part of its legal system. The verdicts issued against Mr. Aljabri and Ms. Aljabri comply with the State's obligations under international human rights law.

71. All of the trial hearings for Mr. Aljabri and Ms. Aljabri were public, in accordance with articles 154 and 181 (1) of the Law of Criminal Procedures.

72. Mr. Almuzaini was arrested after evidence had become available that he had committed crimes punishable under domestic laws. An arrest warrant was issued by the competent authority and he was detained in accordance with articles 2, 35 and 112 of the Law of Criminal Procedures. His case is still under investigation by the competent authority. He was afforded the rights prescribed under the Law of Criminal Procedures and its Implementing Regulations. Mr. Almuzaini enjoys all his statutory rights and is detained in the custody of the prisons designated for such purpose.

73. The three individuals are in good health and receive necessary medical care. They have received two doses of the coronavirus disease (COVID-19) vaccine. The Government outlines measures taken to address COVID-19 outbreaks in detention centres.

74. The Government rejects claims that the actions taken against the three individuals are retaliation against Dr. Aljabri. It asserts that INTERPOL found the information submitted about Dr. Aljabri's involvement in the alleged crimes to be thorough and sufficient, but considered that the request fell within the prohibition under its Constitution on involvement in activity of a political character. Moreover, Dr. Aljabri has not been charged because he fled the country. There are several pending cases in more than one country, including the United States, with similar allegations.

75. The allegations are part of a coordinated strategy that may be used in civil cases, along with an organized media campaign, to deflect attention from the major financial crimes committed by Dr. Aljabri. The Government recalls the Code of Conduct for Special Procedure Mandate Holders of the Human Rights Council, notably articles 6 (a), (b) and (c), 9 (a), (c), (d) and (e), 12 (a) and (b), and 13 (a) and (b).

*Further comments from the source*

76. The source reiterates that criminal proceedings were initiated against Mr. Aljabri and Ms. Aljabri in September 2020, one month after their father filed human rights litigation against the Crown Prince in the United States. Mr. Almuzaini was disappeared 18 days after this litigation was filed. The source confirms that Mr. Aljabri is detained in Al-Ha'ir prison, while Sarah Aljabri is detained in Al-Malaz prison. Mr. Almuzaini has been held at an undisclosed location since August 2020. The Government has never officially disclosed their locations.

77. The Government's reply refers to Saudi law and statements that Saudi Arabia afforded the three individuals their rights, but it has not rebutted the detailed allegations made under categories I and III.

78. The source submits that the assertion that the three individuals committed unlawful conduct is false, noting that the Government does not directly refute the allegations concerning the detentions being part of the targeting of Dr. Aljabri.

79. In addition, the Government provides no detail relating to any arrest warrants, what they contained and when or if they were presented to the three individuals. By stating that Mr. Aljabri and Ms. Aljabri were informed of the reasons for their arrest after they had been referred to the Public Prosecution, the Government acknowledges that it did not provide this information at the time of their arrest. The Government further claims that the siblings signed an acknowledgement that they had been informed of their rights, but it did not provide any evidence of a signed document or any proof that it had not been obtained through coercion.

80. Similarly, the Government does not address the violations associated with the rendition of Mr. Almuzaini in 2017. It is also silent regarding the alleged detention of the three individuals without (a) providing them with an opportunity to challenge their detention, (b) making an individualized determination that pretrial detention was reasonable and

necessary, and (c) promptly bringing them before a judge. The Government does not refute the six-month gap between the detention and the arraignment of the siblings and does not state whether Mr. Almuzaini has been brought before a court.

81. In relation to the torture allegations, the existence of laws prohibiting torture does not mean that torture did not occur, whereas the Government does not claim to have complied with laws requiring the inspection of places of detention.

82. While the Government states that Mr. Aljabri and Ms. Aljabri were informed of their right to legal assistance, it does not assert that they were permitted to have any confidential communication. Similarly, the Government does not assert that they were interrogated with counsel present.

83. The Government does not respond to the allegation that a relative was refused entry to the hearings, and it provided no indication that the public was allowed to attend them. The Government also acknowledges that Mr. Almuzaini has not received a hearing, whether public or private, more than one year after he was detained. While the Government claims that the laws of Saudi Arabia guarantee the right to a fair and public trial, it does not explain how, when or where these rights were assured.

### Discussion

84. In determining whether the detention of Omar Aljabri, Sarah Aljabri and Salem Almuzaini is arbitrary, the Working Group has regard to the principles established in its jurisprudence to deal with evidentiary issues. If the source has established a prima facie case of breach of 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 that lawful procedures have been followed are not sufficient to rebut the source's allegations.<sup>9</sup>

#### *Allegations against the United Arab Emirates*

85. In the absence of a response from the Government of the United Arab Emirates, the Working Group has decided to render the present opinion, in conformity with paragraph 15 of its methods of work.

86. The allegations against the United Arab Emirates relate to the arrest and transfer of Mr. Almuzaini on 25 September 2017. While he was reportedly held in the United Arab Emirates for a short time prior to his same-day transfer to Saudi Arabia, this nevertheless amounts to deprivation of liberty.<sup>10</sup>

87. The Working Group notes that Mr. Almuzaini was released from this initial detention on 28 January 2018. According to paragraph 17 (a) of its methods of work, the Working Group reserves the right to render an opinion, notwithstanding the release of the person concerned. Mr. Almuzaini was allegedly subjected to serious human rights violations, including torture, as a result of his arrest, detention and forcible transfer to Saudi Arabia. The Working Group therefore considers it important to render an opinion.

#### a. Category I

88. The source alleges that, on 25 September 2017, the State Security of the United Arab Emirates arrested Mr. Almuzaini without presenting an arrest warrant and without informing him of the reason for his arrest. The Government of the United Arab Emirates did not contest these allegations.

89. The right to be presented with an arrest warrant is procedurally inherent in the right to liberty and security of person and the prohibition of arbitrary detention under articles 3 and 9 of the Universal Declaration of Human Rights, as well as under principles 2, 4, 10 and 12 (1) of the Body of Principles.<sup>11</sup> By failing to present an arrest warrant and failing to inform

<sup>9</sup> A/HRC/19/57, para. 68.

<sup>10</sup> Opinion No. 67/2017, para. 19.

<sup>11</sup> Opinions No. 65/2020, para. 75; and No. 33/2020, para. 54.

Mr. Almuzaini of the reason for his arrest, the authorities did not invoke a legal basis for his detention.<sup>12</sup>

90. Additionally, the source alleges, and the Government of the United Arab Emirates does not contest, that Mr. Almuzaini was arrested and immediately handed over to Saudi officials, who placed him on a private jet to Saudi Arabia on the same night of his arrest. The Working Group considers that he was denied the right to take proceedings before a court in the United Arab Emirates to challenge the legality of his detention, in violation of articles 3 and 9 of the Universal Declaration of Human Rights and principles 11 and 32 of the Body of Principles.<sup>13</sup> Judicial oversight of detention is a fundamental safeguard of personal liberty and is essential in ensuring that detention has a legal basis.<sup>14</sup> Given that Mr. Almuzaini had no opportunity to challenge his detention, his right to an effective remedy under article 8 of the Universal Declaration of Human Rights was violated. His deprivation of liberty falls within category I.

b. Category III

91. The source submits that the informal transfer of Mr. Almuzaini to Saudi Arabia lacked the procedural safeguards required under international law and constitutes an extraordinary rendition in violation of article 9 of the Universal Declaration of Human Rights.

92. Involuntary expulsion to a foreign State without a hearing by judicial authorities cannot be in conformity with due process.<sup>15</sup> International law regarding extradition provides procedures that must be observed in returning individuals to face criminal proceedings in another country and in ensuring that their right to a fair trial is protected.<sup>16</sup>

93. The source has established a credible case, not rebutted by the United Arab Emirates, that those procedures were not observed in this case. Mr. Almuzaini was handed over to Saudi Arabia without a fair and public extradition hearing by an independent and impartial tribunal. The Government of the United Arab Emirates could have transferred him through extradition channels, but it chose to circumvent this process by forcibly transferring him to Saudi Arabia. The United Arab Emirates appears to have allowed Saudi agents, who placed him on a private jet, to operate on its territory, suggesting coordination between both Governments. By facilitating the transfer of Mr. Almuzaini, the Government of the United Arab Emirates denied his fair trial rights.

94. The Working Group recalls that individuals should not be expelled to another country when there are substantial grounds for believing that their life would be at risk or that they would be in danger of being subjected to torture or other ill-treatment.<sup>17</sup> The risk of arbitrary detention in the receiving State must be among the elements taken into consideration.<sup>18</sup> According to the source's uncontested allegations, the United Arab Emirates facilitated Mr. Almuzaini's transfer to Saudi Arabia without any apparent regard for the risks. The Government of the United Arab Emirates has not provided any information that it had assessed the charges or evidence against him and whether he would receive a fair trial. This represents a violation of the principle of non-refoulement and may have violated the obligations of the United Arab Emirates under article 3 of the Convention against Torture. The deprivation of liberty of Mr. Almuzaini falls within category III.

c. Category V

95. While the source does not argue that category V is applicable, the Working Group will analyse Mr. Almuzaini's deprivation of liberty under this category of its methods of work.

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<sup>12</sup> Opinions No. 4/2021, para. 83; and No. 45/2019, para. 51.

<sup>13</sup> Opinion No. 33/2020, para. 56.

<sup>14</sup> [A/HRC/30/37](#), para. 3.

<sup>15</sup> [A/HRC/48/55](#), para. 54.

<sup>16</sup> Opinion No. 88/2020, para. 88.

<sup>17</sup> [A/HRC/4/40](#), paras. 44–45.

<sup>18</sup> Opinions No. 15/2021, para. 94; and No. 11/2018, para. 54.

96. The source alleges that Mr. Almuzaini was forcibly transferred to Saudi Arabia on 25 September 2017 as part of attempts to harm and force Dr. Aljabri to return to Saudi Arabia. Mr. Almuzaini is married to Dr. Aljabri's second daughter. The Government of the United Arab Emirates, at the request of the Government of Saudi Arabia, arrested, detained and forcibly transferred Mr. Almuzaini based on prohibited grounds of discrimination, namely, birth and family ties, as discussed below. His deprivation of liberty falls within category V.

97. The Working Group considers that the Government of the United Arab Emirates is responsible for its own actions in the arbitrary arrest, detention and forcible transfer of Mr. Almuzaini, as well as the violation of his rights in Saudi Arabia.<sup>19</sup> The Working Group calls upon the United Arab Emirates to accord Mr. Almuzaini compensation for his detention from 25 September 2017 to 28 January 2018.

*Allegations against Saudi Arabia*

98. The Working Group thanks the source and the Government of Saudi Arabia for their submissions in relation to the detention of the three individuals.

99. Given the similarity of the allegations in relation to the three individuals, the Working Group will consider their cases together under each relevant category of its methods of work, noting any findings particular to each case. The discussion considers the alleged detention of Mr. Almuzaini on two occasions – in Saudi Arabia in 2017/18 and since 24 August 2020.

100. Furthermore, Mr. Almuzaini was allegedly detained at the Ritz Carlton Hotel in Riyadh in November 2017. The Working Group considers that this amounted to a continuation of his detention, as he was not free to leave the hotel until his release in January 2018.<sup>20</sup>

a. Category I

101. The source alleges that, on 16 March 2020, more than 50 armed men, believed to be Saudi State Security, arrested Mr. Aljabri and Ms. Aljabri at their residence without presenting an arrest warrant or informing them of the reasons for their arrest. No explanation was provided until criminal charges were brought six months later. The source also alleges that, upon Mr. Almuzaini's arrival in Saudi Arabia in September 2017, and during his arrest in August 2020, he was not shown an arrest warrant or provided the legal basis for his detention.

102. The Government of Saudi Arabia states that Mr. Aljabri and Ms. Aljabri were detained pursuant to an arrest warrant, and that an arrest warrant was issued for Mr. Almuzaini by the competent authority. It did not address the detention of Mr. Almuzaini in 2017.

103. The Working Group considers that the Government of Saudi Arabia did not rebut the source's allegations. Notably, it provided no details regarding the arrest warrants, including their dates of issue, the issuing body or when they were presented to the three individuals.<sup>21</sup> In its response, it admits that Mr. Aljabri and Ms. Aljabri were notified of the reasons for their arrest and their rights after being referred to the Public Prosecution and not at the time of their arrest, and it does not state whether Mr. Almuzaini was ever notified of the reason for his arrest in 2020. It also states that Mr. Aljabri and Ms. Aljabri signed an acknowledgement that they had been informed of the reasons for their arrest and their legal rights, including to a lawyer, but it does not provide details to support the assertion, such as the specific contents of the document and when it was signed. Lastly, the Government of Saudi Arabia does not state when Mr. Aljabri and Ms. Aljabri were notified of the charges or whether Mr. Almuzaini was charged in 2017. This information should have been readily available to the Saudi authorities.

104. The Saudi authorities should have presented a warrant and informed the three individuals of the reasons for their arrests, at the time of arrest, and promptly informed them

<sup>19</sup> Opinions No. 88/2020, para. 94; and No. 84/2020, para. 59.

<sup>20</sup> A/HRC/36/37, para. 51.

<sup>21</sup> Opinion No. 53/2021, para. 74.

of the charges.<sup>22</sup> Detained persons are entitled to be informed, at the time of their arrest, of their right to assistance by a lawyer of their choosing.<sup>23</sup> The failure to ensure that these procedural steps were taken violates articles 3 and 9 of the Universal Declaration of Human Rights, as well as principles 2, 4, 10, 12 (1) and 13 of the Body of Principles, rendering the detention of the three individuals devoid of legal basis.

105. The source further alleges that Mr. Aljabri and Ms. Aljabri were disappeared in March 2020, while Mr. Almuzaini was disappeared in August 2020. All three individuals were allegedly held incommunicado in undisclosed locations: Mr. Aljabri and Ms. Aljabri were permitted limited contact with their lawyer six months after their arrest and limited telephone calls in January 2021, while Mr. Almuzaini was held incommunicado in 2017 and has been held incommunicado since his disappearance in 2020. The Government of Saudi Arabia states that Mr. Aljabri and Ms. Aljabri have not been subjected to enforced disappearance and were detained in known locations, while Mr. Almuzaini is in custody and his case is being investigated. It did not, however, offer anything more than mere assertions.

106. It is clear that the three individuals were deprived of their liberty against their will, with the involvement of government agents who refused to disclose their fate and whereabouts, and they were therefore subjected to enforced disappearance.<sup>24</sup> The Working Group refers this case to the Working Group on Enforced or Involuntary Disappearances. Enforced disappearance constitutes an aggravated form of arbitrary detention<sup>25</sup> that has no legal basis and amounts to a violation of article 9 of the Universal Declaration of Human Rights.

107. Additionally, the Government of Saudi Arabia is silent in relation to the allegations that the three individuals were not brought promptly before a judge and were denied the opportunity to challenge the legal basis of their detention. While in its response it mentions that Mr. Aljabri and Ms. Aljabri appeared at a trial hearing, the Government of Saudi Arabia did not state the date of that hearing and did not contest that they were only brought before a court six months after their arrest. In its response it also states that Mr. Almuzaini's case is under investigation, suggesting that he has not been brought before a court. The Working Group finds that the three individuals were not brought promptly before a judge, which is required within 48 hours of their arrest barring exceptional circumstances.<sup>26</sup> Moreover, they were held incommunicado and denied the right to challenge their detention before a court.<sup>27</sup> The Saudi authorities did not acknowledge their detention, thus placing them outside the protection of the law, in violation of article 6 of the Universal Declaration of Human Rights. They were also denied an effective remedy under article 8 of the Declaration.

108. Under international human rights law, pretrial detention must be the exception rather than the rule. Pretrial detention must be based on an individualized judicial determination that it is reasonable and necessary to prevent flight, interference with evidence or the recurrence of crime, and must be accompanied by consideration of whether alternatives, such as bail, would render detention unnecessary.<sup>28</sup> The Government of Saudi Arabia has not demonstrated that these requirements were met. The pretrial detention of Mr. Aljabri and Ms. Aljabri was not properly constituted under article 9 of the Universal Declaration of Human Rights or principles 11, 38 and 39 of the Body of Principles, and had no legal basis. Mr. Almuzaini's detention in 2017 and his current detention since 2020 without trial also have no legal basis for this reason.

109. The detention of all three individuals falls within category I.

<sup>22</sup> Opinion No. 33/2020, para. 72.

<sup>23</sup> Opinions No. 43/2019, para. 53; and No. 39/2019, para. 87.

<sup>24</sup> [A/HRC/16/48/Add.3](#), para. 21.

<sup>25</sup> Opinions No. 37/2021, para. 65; and No. 41/2020, para. 61.

<sup>26</sup> Opinions No. 76/2019, para. 38; and No. 56/2019, para. 80.

<sup>27</sup> Opinions No. 36/2020, para. 53; and No. 10/2019, para. 65.

<sup>28</sup> [A/HRC/19/57](#), paras. 48–58; and Opinion No. 33/2020, para. 76.

## b. Category III

110. The source alleges that Mr. Aljabri and Ms. Aljabri were denied access to legal counsel for the first six months of their detention. They were later permitted to see their lawyer only during hearings and in the presence of the prosecutor and State officials. Mr. Almuzaini was denied access to legal counsel in 2017 and has been since August 2020.

111. The Government of Saudi Arabia refers to the representation of Mr. Aljabri and Ms. Aljabri by their lawyer at trial, but it does not address the allegations that they had no counsel for six months, were interrogated in the absence of counsel and were not permitted to hold confidential discussions, and that an associate of their lawyer was detained as a means of intimidation.

112. All persons deprived of their liberty have the right to legal assistance by counsel of their choice at any time during their detention, including immediately after their apprehension, and such access must be provided without delay.<sup>29</sup> Legal consultations may be within sight but not within hearing of the authorities, and all communications must remain confidential.<sup>30</sup> The Working Group considers that the Government of Saudi Arabia failed to ensure that the three individuals had confidential access to counsel from the outset and throughout their proceedings, in violation of articles 10 and 11 (1) of the Universal Declaration of Human Rights, and principles 15, 17 and 18 of the Body of Principles.

113. The source further alleges that the three individuals have been subjected to torture, having been detained incommunicado for prolonged periods in secret locations. Mr. Almuzaini allegedly suffered lashing while detained in 2017. They all allegedly provided forced confessions, elicited without the presence of a lawyer. The Government of Saudi Arabia denies that Mr. Aljabri and Ms. Aljabri were tortured, referring to laws that prohibit torture and to the monitoring of places of detention. It did not address the alleged confessions.

114. The source has presented a prima facie case that the three individuals were subjected to torture, in violation of article 5 of the Universal Declaration of Human Rights and article 2 of the Convention against Torture, which resulted in forced confessions. Confessions made in the absence of legal representation are not admissible as evidence in criminal proceedings.<sup>31</sup> The burden is on the Government to prove that the confessions were given freely,<sup>32</sup> but it has not done so. The authorities violated the right of the three individuals to be presumed innocent and not to be compelled to confess guilt under article 11 (1) of the Universal Declaration of Human Rights. They also violated article 15 of the Convention against Torture and principles 6 and 21 of the Body of Principles. The Working Group refers this case to the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment.

115. According to the source, all trial hearings held in Mr. Aljabri and Ms. Aljabri's case were closed to the public. Only the judge, the prosecutor, Mr. Aljabri and Ms. Aljabri, their legal counsel and State Security officials were allowed to be present. A relative who attempted to attend the hearings was refused entry. The Government of Saudi Arabia asserts that all the trial hearings were public. The Working Group considers that their right to a public hearing under articles 10 and 11 (1) of the Universal Declaration of Human Rights and principle 36 (1) of the Body of Principles was violated.

116. The source claims that other due process violations occurred during the trial of Mr. Aljabri and Ms. Aljabri. Their lawyer had limited time to respond to the charges and no opportunity to respond to the prosecution's evidence. No witnesses were called to testify. Apart from stating that both defendants enjoyed a fair and public trial, the Government of Saudi Arabia did not dispute these allegations. Accordingly, the Working Group finds that the rights of Mr. Aljabri and Ms. Aljabri to equality of arms, to adequate time to prepare a defence and to a fair hearing under articles 10 and 11 (1) of the Universal Declaration of

<sup>29</sup> United Nations Basic Principles and Guidelines on Remedies and Procedures on the Right of Persons Deprived of Their Liberty to Bring Proceedings Before a Court, principle 9 and guideline 8; and CAT/C/SAU/CO/2, paras. 14–15.

<sup>30</sup> The Nelson Mandela Rules, rule 61 (1); and Body of Principles, principle 18 (4).

<sup>31</sup> Opinion No. 59/2019, para. 70; A/HRC/45/16, para. 53; and CAT/C/SAU/CO/2, paras. 23–24.

<sup>32</sup> Opinion No. 61/2020, para. 86.

Human Rights were violated. The Working Group also considers that Mr. Almuzaini has not been afforded his right to a trial without undue delay in relation to his current detention, in violation of articles 10 and 11 (1) of the Universal Declaration of Human Rights and principle 38 of the Body of Principles.

117. The Working Group notes the allegation that Mr. Aljabri and Ms. Aljabri have not been afforded the right to appeal. The Government of Saudi Arabia states that the verdict was upheld by the Court of Appeal, but it does not address the removal of their appeal from the Ministry of Justice database or the failure to disclose that an appeal had taken place. The Working Group finds that Mr. Aljabri and Ms. Aljabri's right to appeal under article 8 of the Universal Declaration of Human Rights was violated.

118. Lastly, the Working Group notes the denial of the rights of the three individuals to communicate with their family under principles 15, 16 (1) and 19 of the Body of Principles, and rules 43 (3) and 58 (1) of the Nelson Mandela Rules. This likely affected their ability to present a defence, as they had no access to comfort and support, in violation of their right to a fair trial.

119. The detention of the three individuals falls within category III.

c. Category V

120. The source submits that Saudi Arabia has violated the prohibition against hostage-taking by detaining the three individuals to compel Dr. Aljabri to return to Saudi Arabia. In Mr. Aljabri and Ms. Aljabri's case, the charges were reportedly based on the alleged criminal activity of their father. The Government of Saudi Arabia rejects claims that the actions taken against the three individuals are retaliation against Dr. Aljabri. However, it provided no explanation of the crimes allegedly committed by them.

121. The Working Group notes the uncontested allegations that the Crown Prince sent messages to Dr. Aljabri that the detentions could be resolved if he returned, and that Mr. Almuzaini was tortured in 2017 as a proxy for Dr. Aljabri. Moreover, the timing of the alleged events does not appear to be coincidental: Mr. Aljabri and Ms. Aljabri were arrested one week after being told that they could not leave Saudi Arabia until their father returned. Mr. Almuzaini was disappeared one month after meeting with the Crown Prince's aide to discuss the reaction of Dr. Aljabri's family to the detention of his two children.

122. The Working Group considers that the three individuals were detained on the discriminatory basis of their birth and family ties to Dr. Aljabri. No one should be detained for the crimes, real or not, committed by a family member by birth or marriage.<sup>33</sup> Their detention violates articles 2 and 7 of the Universal Declaration of Human Rights and falls within category V.

123. Lastly, the Working Group considers that the Government of Saudi Arabia is responsible for the arbitrary arrest, detention and forcible transfer of Mr. Almuzaini from the United Arab Emirates.<sup>34</sup> The Working Group considers that the actions of both Governments were clandestine and undertaken outside the law, and that they are jointly responsible for the violations of Mr. Almuzaini's rights.

### Disposition

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

Regarding the United Arab Emirates:

The deprivation of liberty of Salem Almuzaini, being in contravention of articles 2, 3, 6, 7, 8, 9, 10 and 11 (1) of the Universal Declaration of Human Rights, was arbitrary and falls within categories I, III and V.

<sup>33</sup> Opinions No. 31/2021, para. 85; No. 2/2021, para. 82; and No. 51/2018, paras. 94–97.

<sup>34</sup> Opinion No. 84/2020, para. 72.



Regarding Saudi Arabia:

The deprivation of liberty of Omar Aljabri, Sarah Aljabri and Salem Almuzaini, being in contravention of articles 2, 3, 6, 7, 8, 9, 10 and 11 (1) of the Universal Declaration of Human Rights, is arbitrary and falls within categories I, III and V.

125. The Working Group requests the Governments to take the steps necessary to remedy the situation of Mr. Aljabri, Ms. Aljabri and Mr. Almuzaini without delay and bring it into conformity with the relevant international norms, including those set out in the Universal Declaration of Human Rights. The Working Group urges both Governments to accede to the International Covenant on Civil and Political Rights.

126. The Working Group considers that, taking into account all the circumstances of the case, the appropriate remedy would be for:

(a) The Government of Saudi Arabia to release Mr. Aljabri, Ms. Aljabri and Mr. Almuzaini immediately and unconditionally;

(b) The Government of the United Arab Emirates to accord Mr. Almuzaini an enforceable right to compensation and reparations<sup>35</sup> for his detention from 25 September 2017 to 28 January 2018;

(c) The Government of Saudi Arabia to accord Mr. Aljabri, Ms. Aljabri and Mr. Almuzaini (for his detention from 25 September 2017 to 28 January 2018 and his detention since 24 August 2020) an enforceable right to compensation and other reparations.

127. The Working Group urges both Governments to ensure a full and independent investigation of the circumstances surrounding the arbitrary detention of liberty of the three individuals and to take appropriate measures against those responsible for the violation of their rights.

128. The Working Group requests both Governments to disseminate the present opinion through all available means and as widely as possible.

#### **Follow-up procedure**

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

(a) Whether Mr. Aljabri, Ms. Aljabri and Mr. Almuzaini have been released and, if so, on what date;

(b) Whether compensation or other reparations have been made to them;

(c) Whether an investigation has been conducted into the violation of their 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 the United Arab Emirates and Saudi Arabia with their international obligations in line with the present opinion;

(e) Whether any other action has been taken to implement the present opinion.

130. The Governments are invited to inform the Working Group of any difficulties they 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.

131. The Working Group requests the source and the Governments 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

<sup>35</sup> A/HRC/45/16, annex I.

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.

132. 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.<sup>36</sup>

*[Adopted on 5 April 2022]*

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<sup>36</sup> Human Rights Council resolution 42/22, paras. 3 and 7.