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**Human Rights Council**  
Working Group on Arbitrary Detention**Opinions adopted by the Working Group on Arbitrary Detention at its ninety-ninth session, 18–27 March 2024****Opinion No. 10/2024 concerning Muhammad al-Ghamdi (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 51/8.
2. In accordance with its methods of work,<sup>1</sup> on 7 November 2023 the Working Group transmitted to the Government of Saudi Arabia a communication concerning Muhammad al-Ghamdi. The Government replied to the communication on 3 January 2024. 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).

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\* Miriam Estrada-Castillo did not participate in the discussion of the case.

<sup>1</sup> [A/HRC/36/38](#).

**1. Submissions**

**(a) Communication from the source**

4. Muhammad al-Ghamdi is a citizen of Saudi Arabia, born in 1968. He is a retired teacher and holds a Bachelor of Arts degree. He usually resides in Mecca, Saudi Arabia.

*(i) Context*

5. The source submits that Mr. Al-Ghamdi's situation is part of a widespread practice to silence dissent and opposition in Saudi Arabia.

6. Mr. Al-Ghamdi is not a political or human rights activist, but a private citizen who expressed his opinion and concerns peacefully on the Internet through posts on social media and viewed and followed social media accounts on political and social discourse. Before his current detention, Mr. Al-Ghamdi maintained a good reputation, and had never been arrested or detained.

7. The subject matter of his opinions, expressed through posts on social media, included concerns about the Government's oppression and corruption, the rights of detainees, unemployment and the high cost of living in Saudi Arabia.

*(ii) Arrest and detention*

8. The source reports that on 11 June 2022, Mr. Al-Ghamdi was arrested by a detective of the Saudi security services in front of his home in the Al-Nouriyah neighbourhood of Mecca.

9. Mr. Al-Ghamdi was reportedly initially detained in Dhahban prison, which is under the authority of the Presidency of State Security in Jeddah. For the first four months of his detention following his arrest on 11 June 2022, Mr. Al-Ghamdi was allegedly held in solitary confinement and incommunicado without being provided with any reason to justify this measure. During his solitary confinement, Mr. Al-Ghamdi was reportedly interrogated and was not given access to legal representation or assistance.

10. On 26 June 2022, a judicial document was issued that reportedly confirmed the charges brought against Mr. Al-Ghamdi and demonstrated that they were being brought as a result of the opinions and concerns that he had expressed on social media, and social media accounts that he had viewed and followed. The source highlights that this judicial document listed two anonymous social media accounts, which had two and eight followers respectively. This information was later included in the judgment and sentencing decision of 13 July 2023.

11. Reportedly, Mr. Al-Ghamdi was charged under articles 30, 34, 43 and 44 of the Counter-Terrorism and Financing of Terrorism Act of 2017, and the Prosecutor sought the maximum penalty of a death sentence for each charge. Mr. Al-Ghamdi was charged with using the Internet and his electronic devices contrary to article 43 of the Act to express public comments that allegedly amounted to the following: undermining the religion and justice of the King and the Crown Prince, contrary to article 30; spreading false rumours with the intent to disrupt public order, destabilize the security of society and endanger national unity, contrary to article 44; supporting terrorist ideology and a terrorist group, contrary to article 34; and betraying his religion, country and rulers.

12. According to the source, the Government first instructed a lawyer for Mr. Al-Ghamdi in December 2022. It is argued, therefore, that Mr. Al-Ghamdi did not have legal representation assigned to him from his arrest on 11 June 2022 until December 2022, including during the first four months of his detention while he was held in solitary confinement, incommunicado, and interrogated.

13. The source notes that there were concerns that the lawyer assigned by the Government was biased and potentially harmful to Mr. Al-Ghamdi's defence. For instance, the lawyer did not attend any of the interrogations of Mr. Al-Ghamdi conducted during the course of his instructions from December 2022 to March 2023, and refused to recognize Mr. Al-Ghamdi's diagnosed mental health conditions or to utilize existing medical reports, which could have provided an avenue of defence under Saudi law.

14. In January 2023, Mr. Al-Ghamdi was reportedly transferred to Al-Ha'ir prison in anticipation of trial proceedings, which started in May 2023. The trial was the first time Mr. Al-Ghamdi was brought before a judge, nearly a year after his arrest in June 2022.

15. The source adds that approximately three or four trial sessions were held before the final session, held on 10 July 2023, when both the judgment and the death sentence were delivered.

16. Allegedly, Mr. Al-Ghamdi's lawyer was dismissed in March 2023 owing to the above-mentioned bias concerns. However, because of difficulties in finding a new lawyer, only on 2 May 2023 was a new lawyer instructed by Mr. Al-Ghamdi's family. Mr. Al-Ghamdi was therefore left without a lawyer from March 2023, when his first lawyer was dismissed, until 2 May 2023, when the new one was appointed.

17. Reportedly, Mr. Al-Ghamdi's second lawyer was instructed only shortly before the start of the trial sessions in May 2023, not leaving sufficient time for the lawyer to read into the case and prepare. Moreover, it is submitted that communications between Mr. Al-Ghamdi and his newly appointed lawyer were limited to encounters before court sessions, despite the lawyer's attempts to meet with Mr. Al-Ghamdi earlier.

18. On 10 July 2023, the Specialized Criminal Court sentenced Mr. Al-Ghamdi to death. The source submits that his family tried to attend the trial but were prevented from doing so.

19. The trial judgment and sentencing document, both delivered together at the court session on 10 July 2023 and in a written judgment on the same date, reportedly stated that the complete case file would be forwarded to the appeal court for review as required by law. In this regard, the source understands that the appeal process continues, but has little information about its status.

20. There has reportedly been no developments in Mr. Al-Ghamdi's appeal process, and he has been returned to Dhahban prison in Jeddah, where he is currently being detained. Since Mr. Al-Ghamdi's return to Dhahban prison, there have been no other developments as to the status of the appeal proceedings. No court sessions for the appeal have been reported, and the appeal decision might be issued without a session in court before a judge.

21. According to the source, it appears that the appeal court will make an imminent decision on the appeal, which raises concerns that the appeal judgment might suddenly confirm the charges and sentence against Mr. Al-Ghamdi, allowing the authorities to carry out the death sentence. Additionally, given that Mr. Al-Ghamdi was able to communicate with his lawyer before the court sessions only and that the proceedings have now moved to the appeal stage without any court sessions scheduled, Mr. Al-Ghamdi's communication with his lawyer has been further limited.

22. Reportedly, Mr. Al-Ghamdi's family was recently allowed to visit him, but they were not able to speak freely with him.

23. The source submits that Mr. Al-Ghamdi's denial of adequate health care has contributed to the pain and suffering that he has experienced in detention, and that a series of violations of Mr. Al-Ghamdi's fundamental rights have culminated in amounting to cruel, inhuman and degrading treatment and, psychological torture. According to the source, Mr. Al-Ghamdi has been subjected to extreme emotional and psychological pressure and suffering by being held in solitary confinement, without explanation, for the first four months of his detention, while also being denied a lawyer and communication with his family; being denied a lawyer for large periods of his detention; and being denied the medical care and medication that he needs and that has been prescribed for his health conditions, including schizophrenia, bipolar disorder and delusional disorder, which has resulted in a deterioration of his health.

24. The source highlights the extreme psychological pressure that Mr. Al-Ghamdi has experienced in detention and argues that in the absence of the medication prescribed to him to manage his mental health conditions, his conditions have been uncontrolled, particularly after the death sentence was imposed.

(iii) *Obligations under international law*

25. The source submits that although Mr. Al-Ghamdi's detention and judicial proceedings are governed by domestic law, Saudi Arabia is obliged to apply international law that it has agreed to respect.

26. The source argues that Saudi Arabia must respect the rights and protections set out in the Universal Declaration of Human Rights, as adopted by the General Assembly.<sup>2</sup> Saudi Arabia is a party to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, and has ratified the Arab Charter on Human Rights. The source adds that Saudi Arabia should be informed by the guidance set out in the United Nations Standard Minimum Rules for the Treatment of Prisoners (the Nelson Mandela Rules).

(iv) *Legal analysis*

27. The source argues that the arrest and detention of Mr. Al-Ghamdi are arbitrary under categories II and III.

a. *Category II*

28. The source recalls that the Universal Declaration of Human Rights sets out the rights to freedom of expression and association in articles 18, 19 and 20. Specifically, article 19 guarantees not only the right to freedom of opinion and expression, but also the freedom to seek, receive and impart information and ideas through any media and regardless of frontiers.

29. It is submitted that while Mr. Al-Ghamdi is not a political or human rights activist, he has been increasingly expressing his opinions and concerns on the Internet in recent years, concerning the Government's alleged oppression and corruption, the rights of detainees, unemployment and the high cost of living in Saudi Arabia.

30. The source argues that several factors demonstrate that Mr. Al-Ghamdi's arrest and detention, as well as his prosecution, conviction and death sentence, were in response to the legitimate exercise of human rights and, specifically, that his deprivation of liberty is as a result of the exercise of the rights or freedoms guaranteed by the Universal Declaration of Human Rights.<sup>3</sup> The source asserts that these factors include the judicial document that confirmed the charges of the prosecutor, the focus of Mr. Al-Ghamdi's interrogations after his arrest, and the judgment following trial whereby he was found guilty of the alleged charges and sentenced to death.

31. The source notes that following Mr. Al-Ghamdi's arrest on 11 June 2022, a judicial document issued on 26 June 2022 confirmed the charges brought against him and demonstrated that they were being brought as a result of the opinions and concerns that he had expressed on social media, and social media accounts that he had viewed and followed.

32. It is submitted that following his arrest and charges, the focus of Mr. Al-Ghamdi's interrogations while in custody further demonstrate that he was arrested, detained and prosecuted by the Saudi security services as a result of having publicly expressed his thoughts, opinions and concerns on the Government's actions and policies.

33. Mr. Al-Ghamdi's interrogations reportedly focused on his posts on social media and his political opinions. Moreover, he was questioned about his thoughts and sympathies for individuals known to be political prisoners or prisoners of conscience, who had also been arrested and prosecuted by the Saudi authorities for exercising their right to freedom of expression, particularly through the Internet and social media.

34. The source further submits that the judgment of 10 July 2023 by the Specialized Criminal Court confirmed that Mr. Al-Ghamdi was convicted of the crimes alleged, which related only the opinions and concerns that he had expressed and the content that he had

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<sup>2</sup> General Assembly resolution 217 (III) A.

<sup>3</sup> See *Working Group on Arbitrary Detention: Fact Sheet No. 26 Rev. 1* (United Nations publication, 2024).

viewed on social media. In addition, the Court sentenced Mr. Al-Ghamdi to death, stating that he was being punished publicly for the heinous crimes that he had committed.

35. The source notes that the Working Group has previously found that violations of the right to freedom of expression and association, and instances of arrest and detention and legal proceedings brought as a result of the exercise of these rights, render the detention of the detained individuals arbitrary.<sup>4</sup> Moreover, the source recalls that the Working Group has found that expressing criticism of one's country and its leaders and communicating with other political actors in a peaceful way should not be categorized as an attempt to overthrow a Government, and that the restrictions on those rights cannot be considered to be proportionate and justified.<sup>5</sup>

36. According to the source, following the adoption in 2014 of counter-terrorism legislation, reports have documented repressive arrest campaigns that have targeted citizens and activists on charges related to freedom of opinion and expression.<sup>6</sup> The source argues that this pattern has continued during the period in which Mr. Al-Ghamdi was arrested, detained, convicted and sentenced to death for expressing his views.

37. It is submitted that the increased attention paid by Saudi Arabia to online expression of dissent and criticism against the Government has been accompanied by the use of terrorism laws and harsh punishments. The source argues that punishments under the Counter-Terrorism and Financing of Terrorism Act for online expression, which include the death penalty and imprisonment for multiple decades, are disproportionate compared with those for serious crimes involving explosives or hijacking, which include a maximum of 30 years' imprisonment.

38. The source concludes that Mr. Al-Ghamdi's deprivation of liberty is as a result of the legitimate exercise of his rights to freedom of thought and conscience, freedom of expression and opinion and freedom of association and assembly, and is arbitrary under category II.

b. Category III

39. The source argues that Mr. Al-Ghamdi's detention is arbitrary under category III as his fundamental right to a fair trial and right of access to an independent and impartial tribunal have been violated.

40. The source argues that in addition to the general pronouncement on fair trial rights under article 10 of the Universal Declaration of Human Rights, Saudi Arabia should be guided by the Nelson Mandela Rules.

41. The source recalls that solitary confinement and incommunicado detention are contrary to international protections. Rule 43 of the Nelson Mandela Rules prohibits indefinite and prolonged solitary confinement. As stated in rule 3 of the Nelson Mandela Rules, imprisonment and other measures that result in cutting off persons from the outside world are afflictive by the very fact of taking from these persons the right of self-determination by depriving them of their liberty. Detention which is solitary or incommunicado without justification and necessity aggravates the suffering inherent in such a situation.

42. The source recalls that such protections were not afforded to Mr. Al-Ghamdi for the first four months of his detention.

43. The source submits that Mr. Al-Ghamdi's solitary confinement was also incommunicado, as his family were prevented from contacting or visiting him for four months. Upon his release from solitary confinement, Mr. Al-Ghamdi was reportedly allowed a call to his family and a limited number of visits before January 2023, when he was moved to Al-Ha'ir prison in Riyadh, approximately 945 kilometres away and too far for regular family visits.

<sup>4</sup> See opinion No. 60/2013.

<sup>5</sup> Ibid., para. 21.

<sup>6</sup> Office of the United Nations High Commissioner for Human Rights, "UN rights expert raises alarm over Saudi Arabia's growing clamp down on freedom of expression", 16 December 2015.

44. The source highlights the extreme vulnerability of Mr. Al-Ghamdi during the first four months of his detention, when he was held in solitary confinement and incommunicado. During this period, Mr. Al-Ghamdi was reportedly interrogated without legal representation.

45. According to the source, Mr. Al-Ghamdi's lack of access to legal counsel during his interrogations while in solitary confinement put him at risk of unmonitored treatment and potential abuse, contrary to article 15 of the Convention against Torture, and meant that there was a risk that the interrogation could result in evidence relied upon at trial that had been collected improperly, coercively or without Mr. Al-Ghamdi's full understanding of the relevant charges, law and procedure.

46. The source recalls that the Nelson Mandela Rules acknowledge that the afflictive nature of imprisonment is aggravated by conditions such as solitary confinement and incommunicado detention, which are detrimental to the well-being of prisoners.

47. Given all of the above, the source concludes that the legal basis justifying Mr. Al-Ghamdi's detention is not accessible, understandable or applied in a consistent and predictable way,<sup>7</sup> and that his detention is arbitrary in nature.

48. The source notes that domestic law in Saudi Arabia provides that all accused persons have the right to seek the assistance of a lawyer or a representative to defend them during the investigation and trial stages. The right to legal representation upon arrest and charge, and during legal proceedings, is also protected in the Nelson Mandela Rules.

49. According to the source, Mr. Al-Ghamdi's right to instruct and consult a lawyer was breached during his detention, interrogations and preparations for his trial.

50. It is submitted that Mr. Al-Ghamdi was not afforded access to a lawyer during interrogations while in solitary confinement for the first four months of his detention. Moreover, since the nature of the questions asked during interrogations focused on Mr. Al-Ghamdi's expressed opinions and perceived associations and sympathies, it would have been imperative to ensure his access to legal counsel and his full understanding as to the charges against him, the proceedings under the Counter-Terrorism and Financing of Terrorism Act and the process before the Specialized Criminal Court.

51. The source reports that Mr. Al-Ghamdi was provided with a State-appointed lawyer only in December 2022, which means that from the moment of his arrest on 11 June 2022 and throughout his subsequent detention until December 2022, he did not have access to legal counsel. The source recalls that during the first four months of his detention, Mr. Al-Ghamdi was held in solitary confinement and incommunicado while being interrogated.

52. Moreover, it is argued that the State-appointed lawyer revealed a negative bias against Mr. Al-Ghamdi and took actions against his interests and ability to prepare and present a defence. For instance, the source explains that Mr. Al-Ghamdi's lawyer refused to recognize his client's diagnosed mental health conditions or to utilize existing medical reports, which could have provided an avenue of defence under Saudi law. Pursuing such a defence was deemed important given that asserting that Mr. Al-Ghamdi's actions constituted his exercise of the right to freedom of expression does not constitute a viable defence in Saudi Arabia.

53. The source explains that no lawyers wished to put forth an argument regarding Mr. Al-Ghamdi's diagnosed mental health conditions for fear of severe consequences, including arrest or revocation of their licence, as has reportedly happened to other lawyers and a former judge. The source submits that in the light of the lawyer's refusal to recognize Mr. Al-Ghamdi's diagnosed mental health conditions or the possibility that these diagnoses might assist in his defence under Saudi law, a change of lawyer was requested, and the Government-appointed lawyer was dismissed in March 2023. Mr. Al-Ghamdi's family was thus left responsible for finding and instructing a lawyer to assist him.

54. The process of finding a lawyer to represent Mr. Al-Ghamdi was reportedly difficult and required significant efforts. According to the source, many of the lawyers approached to represent Mr. Al-Ghamdi refused the case out of fear of reprisal by the authorities, including fear of arrest. Not until 2 May 2023 was a second lawyer obtained and instructed to represent

<sup>7</sup> A/HRC/22/44, para. 62.

Mr. Al-Ghamdi, meaning that Mr. Al-Ghamdi was left without legal representation for a second period, from March to May 2023. The source adds that the lawyer's instruction was achieved and recognized only after the case was referred to the Specialized Criminal Court in May 2023.

55. The source argues that the Saudi authorities should have been aware that Mr. Al-Ghamdi was without the assistance of counsel, in particular to be present and assist with interrogations or preparations for trial. However, Mr. Al-Ghamdi's detention continued and the proceedings against him progressed regardless of his lack of legal representation and in violation of his rights, leaving him without the ability to challenge his detention before a court, or to apply to come before a judge.

56. The source argues that Mr. Al-Ghamdi's access to his lawyer upon instruction in May 2023 is also of concern, and recalls rule 120 of the Nelson Mandela Rules. Reportedly, Mr. Al-Ghamdi was able to speak or meet with his lawyer before the court sessions only, which undermined his ability to ask questions to fully understand the charges and proceedings against him, provide instructions to his lawyers and participate in preparing a defence.

57. The source concludes that Mr. Al-Ghamdi's right to legal representation has been breached, which has affected his right to a fair trial and due process.

58. The source recalls rules 61 and 120 (1) of the Nelson Mandela Rules, which provide guidance on the right of prisoners to be provided with adequate opportunity, time and facilities to be visited by and to communicate and consult with a legal adviser of their own choice, without delay and in full confidentiality.

59. These protections, and consequently the right to fair trial, were reportedly denied to Mr. Al-Ghamdi. According to the source, Mr. Al-Ghamdi was not represented by a lawyer acting in his interests during two periods: first, from the moment of his arrest until he was appointed a lawyer by the Government; and second, from that lawyer's dismissal in March 2023 until a new lawyer was instructed by his family in May 2023. During these periods, Mr. Al-Ghamdi was reportedly interrogated.

60. The source adds that Mr. Al-Ghamdi had access to his instructed lawyer before court appearances and proceedings only. Thus, the source argues that Mr. Al-Ghamdi was not granted adequate time or facilities to consult with his lawyer, provide instructions and be involved in the preparation of his defence.

61. It is submitted that the ability of Mr. Al-Ghamdi's lawyer to fully present a case in his client's defence was limited to defence submissions, without the ability to summon witnesses.

62. Allegedly, the court did not consider existing medical reports, which Mr. Al-Ghamdi's second lawyer sought to rely upon as a defence against his client's charges under Saudi law, and the court further rejected requests from the defence to refer Mr. Al-Ghamdi to a medical authority to assess his mental and psychological condition.

63. The source concludes that Mr. Al-Ghamdi's restricted consultation and communication with a lawyer during his detention and interrogations and, upon instruction, his lack of regular access to his lawyer detrimentally affected his ability to prepare and present a defence. The limitations on his lawyer's ability to call witnesses, submit medical reports and request a medical referral during the trial proceedings equally affected the presentation of a defence case for Mr. Al-Ghamdi, in violation of his due process and fair trial rights.

64. The source submits that Mr. Al-Ghamdi's right to an independent and impartial tribunal has been violated given that the domestic proceedings against him, including his trial, have been heard by the Specialized Criminal Court. This court was created in 2008 to address serious terrorist activities but has allegedly been increasingly used to target and prosecute individuals expressing opinions or criticisms, and peaceful activists who dissented from the views of the Government.

65. The source adds that human rights reports have raised the alarm over the adjudication by the Specialized Criminal Court of cases that are within the jurisdiction of other Saudi domestic courts but where it is possible for the Specialized Criminal Court to impose more

severe sentences, and that it is not independent of the Ministry of the Interior. For instance, it is submitted that the identity of the judges involved in the trial of Mr. Al-Ghamdi was kept confidential throughout the trial proceedings. It is also noted that the Court refused to allow Mr. Al-Ghamdi's family to attend the sentencing session at which he was sentenced to death, and that it refused Mr. Al-Ghamdi's attempts to defend himself during the trial against certain detailed allegations regarding his online expressions, denying him the right to challenge the accuracy of the alleged statements for which he was charged.

66. The source argues that the Specialized Criminal Court should have been aware of Mr. Al-Ghamdi's prolonged solitary confinement lasting the first four months of his detention, during which he had been interrogated without access to legal representation to assist him. The source adds that the Court should have known of Mr. Al-Ghamdi's struggle to instruct a lawyer to act in his best interests, and that he was without counsel for nearly the first year of his detention. However, no steps were reportedly taken by the Court to address and correct these violations of Mr. Al-Ghamdi's right to a fair trial, and it did not allow requests for witnesses for the defence, a medical referral or the consideration of certain existing medical reports.

67. Mr. Al-Ghamdi's right to a fair trial has been violated as he did not have access to an independent and impartial tribunal in the Specialized Criminal Court.

68. The source recalls that international rights and protections support the right of individuals in detention to communicate regularly with family.

69. The source submits that under rule 68 of the Nelson Mandela Rules and article 14 of the Arab Charter on Human Rights, together with article 12 of the Universal Declaration of Human Rights, Saudi Arabia is obligated to provide for regular communications and visits between detained individuals and their family.

70. The source argues that Mr. Al-Ghamdi has been denied these rights and protections during his deprivation of liberty: both during the first four months of Mr. Al-Ghamdi's detention, when he was held in solitary confinement without any ability to communicate with his family; and after his release from solitary confinement, as he was allowed only a few irregular calls and visits before he was moved to Al-Ha'ir prison in Riyadh, approximately 945 kilometres away from where his family is located, removing the possibility of regular family visits.

71. It is reported that Mr. Al-Ghamdi's ability to freely communicate with his family during calls has been limited. For instance, a call with Mr. Al-Ghamdi was reportedly cut off by the authorities listening in on the telephone conversation after he told his family that he was suffering in detention. The source notes that such restrictions on communication can mean that instances of abuse, torture and other mistreatment go unreported and unaddressed.

72. The source notes the advantages that family communications and visits bring to a detained individual's well-being and sense of dignity, and the critical importance of monitoring the authorities' compliance with their obligations to protect and ensure fundamental rights. For instance, it is submitted that the denial of access to and communication with Mr. Al-Ghamdi during the first four months of his detention while in solitary confinement resulted in his family not being able to assist him earlier with instructing a suitable lawyer.

73. The source concludes that not only has Mr. Al-Ghamdi's right of access to his family been violated, but this violation has had serious implications and caused further violations of his right to a fair trial and due process.

74. The source recalls article 25 of the Universal Declaration of Human Rights and rules 24 to 35 of the Nelson Mandela Rules on health care.

75. The source submits that prior to his arrest and detention, Mr. Al-Ghamdi was diagnosed with medical conditions for which he was prescribed medications that he must take regularly. These medical conditions include epilepsy, with which he was diagnosed in childhood and for which he has been treated with medication for the past 40 years, and mental health conditions for which he was evaluated and was receiving treatment with medication before his arrest.



76. According to the source, while the authorities have continued to provide Mr. Al-Ghamdi with his medication for epilepsy, they have refused to provide him with the prescribed medications to effectively manage his diagnosed mental health conditions. This refusal is despite existing medical reports documenting his condition and a request for Mr. Al-Ghamdi to be medically evaluated, which was rejected.

77. The source argues that because Mr. Al-Ghamdi has been without these prescribed medications for more than a year and four months, throughout his detention, his health has deteriorated.

78. The source concludes that Saudi Arabia has violated Mr. Al-Ghamdi's right to health care.

79. It is submitted that Mr. Al-Ghamdi's rights not to be subjected to abusive treatment, or to cruel, inhuman and degrading treatment and potentially psychological torture, have been and continue to be violated. Reportedly, Saudi officials have placed Mr. Al-Ghamdi under extreme emotional and psychological pressure, particularly during the first four months of his detention, when he was held in solitary confinement and incommunicado without being provided with any reason to explain the need for this measure.

80. The source recalls that article 15 of the Convention against Torture addresses the inadmissibility of evidence obtained by acts of torture. The source argues that Mr. Al-Ghamdi was placed in a position whereby he was interrogated under emotional and psychological pressure, as he was interrogated without legal counsel and therefore without a full understanding of the charges or the procedure, while worrying that the information that he provided would be used as incriminating evidence against him.

81. In addition, the source notes that the emotional pressure and stress caused by Mr. Al-Ghamdi's solitary confinement and incommunicado detention continued with his current detention.

82. According to the source, Mr. Al-Ghamdi's stress and anxiety increased exponentially after having been sentenced to death in trial proceedings in which he was reportedly denied his right to a fair trial and before a court that the Working Group has found not to be an impartial or independent body.<sup>8</sup>

83. The source submits that the failure to provide Mr. Al-Ghamdi with adequate medical care, through the refusal to provide him with his prescribed medication to manage his mental health, has contributed to the violation of Mr. Al-Ghamdi's right not to be subjected to psychological torture and other abusive and degrading treatment. It is argued that the impact of experiencing the significant deterioration of his psychological and mental health while knowing that it is due to the denial of medication by the detaining authorities must be recognized as overwhelming, cruel and degrading, and could be understood to constitute psychological torture.

**(b) Response from the Government**

84. On 7 November 2023, the Working Group transmitted the allegations from the source to the Government of Saudi Arabia under its regular communication procedure. The Working Group requested the Government to provide detailed information by 8 January 2024 about the current situation of Mr. Al-Ghamdi.

85. On 3 January 2024, the Government submitted its reply. The Government recalls a joint urgent appeal sent by a number of special procedure mandate holders, including the Working Group, regarding the case of Mr. Al-Ghamdi.<sup>9</sup> The Government requests that its response, dated 11 November 2023, be taken into account by the Working Group in issuing its opinion.

86. The Government denies any violations under category II. It states that Mr. Al-Ghamdi was arrested, charged and convicted by the first-instance court for terrorist crimes, including

<sup>8</sup> Opinion No. 27/2023, para. 43.

<sup>9</sup> See communication SAU 8/2023, available from <https://spcommreports.ohchr.org/TMResultsBase/DownloadPublicCommunicationFile?gId=28381>.

seeking to incite sedition, spreading chaos, disrupting public security and inciting such actions. These acts cannot be justified under any circumstances, as stated in the Declaration on Measures to Eliminate International Terrorism.<sup>10</sup> While free speech is protected in Saudi Arabia, Mr. Al-Ghamdi's actions constituted terrorist acts. The procedures and guarantees adopted in his case were in accordance with international standards for a fair trial and due legal process. The judgment against him is supported by sufficient evidence, his trial has been held within a reasonable time frame and he enjoys all rights to defend himself.

87. All domestic laws are formulated with sufficient precision and clarity. The Kingdom protects freedom of thought and expression, and nobody is held in detention for exercising their rights and freedoms.

88. The Government submits that the death penalty is handed down for only the most serious offences and within the narrowest limits, and is carried out only after all judicial procedures have concluded, with respect for a fair trial and due process, in compliance with the international commitments of Saudi Arabia under international human rights law. It refers to Economic and Social Council resolution No. 1984/50.

89. The Government submits that the Counter-Terrorism and Financing of Terrorism Act is aligned with the United Nations Global Counter-Terrorism Strategy, and it refers to several resolutions of the Security Council and the General Assembly. Action taken against Mr. Al-Ghamdi complies with articles 18, 19 and 20 of the Universal Declaration of Human Rights.

90. According to the Government, Mr. Al-Ghamdi was arrested on the basis of an arrest warrant issued by the competent authority, he was informed of the reasons for his arrest and his rights on the day of his arrest, and he signed an acknowledgement thereof. During interrogations, he was asked clear questions free of any deception or ambiguity. Following the investigation, the investigating authority deemed the evidence against Mr. Al-Ghamdi to be sufficient to charge him. The right to challenge the legality of arrest or detention is guaranteed to all persons in custody, pursuant to article 115 of the Code of Criminal Procedure. The court deemed it necessary to try him while on remand. These measures were consistent with relevant international standards, including principle 2 of the United Nations Principles and Guidelines on Access to Legal Aid in Criminal Justice Systems, principles 17 and 18 of the Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment, principle 9 of the Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law, measures relating to the right of all persons deprived of liberty in the form of arrest or detention to bring a case before the courts, and article 14 (3) of the International Covenant on Civil and Political Rights.

91. The Government asserts that Mr. Al-Ghamdi was informed of his right to legal assistance at the investigative and trial stages and that he engaged an attorney to act in his defence at the expense of the State pursuant to an application submitted by him to the court, that he regularly met his attorney in his place of detention to discuss the case, and that the necessary facilities and adequate time were provided to prepare the defence. It observes that the counter-memorandums submitted by Mr. Al-Ghamdi's lawyer did not contain a request to call witnesses to refute the accusations against Mr. Al-Ghamdi.

92. According to the Government, Mr. Al-Ghamdi attended his trial in the presence of the public prosecutor and his case was considered by an independent and impartial court, the Specialized Criminal Court, in a fair and open trial. This court was established by the Supreme Judicial Council, under article 6 of the Judiciary Act. Judicial procedures of the Specialized Criminal Court are the same as those of other criminal courts according to domestic law. Judges are appointed by royal order pursuant to a decision of the Supreme Judicial Council, in accordance with article 47 of the Judiciary Act, and progress through the judicial hierarchy provided for in articles 31 to 42 of the Act. They are appointed after obtaining accredited certification and meeting certain conditions.

<sup>10</sup> General Assembly resolution 49/60, annex, para. 3.

93. The Government denies any violations under category III. Domestic laws guarantee the right to a fair and open trial before an independent court. The judiciary derives its authority and sovereignty from sharia, which requires justice to be the foundation of judgment and is the guarantee of judicial independence, under articles 46, 48 and 49 of the Basic Law of Governance and article 1 of the Judiciary Act. The initial judgment against Mr. Al-Ghamdi was based not on the confession exclusively but on the totality of evidentiary support, including arrest and search records, witness statements and court deliberations, during which a number of procedures, including witness testimony, review of transcripts, eyewitness statements and the expert testimony of a pathologist, were admitted. Moreover, Mr. Al-Ghamdi's case is currently under appeal, and the situation has been and continues to be monitored by the Human Rights Commission, which has not observed any indication of a violation of rights.

94. On the allegations regarding Mr. Al-Ghamdi's solitary confinement during the first four months of his detention, the Government states that he was arrested under the Counter-Terrorism and Financing of Terrorism Act, under which the investigative authority has the right to prevent accused persons from communicating with third parties for a specified period of time in exceptional circumstances during investigations, without prejudice to the right of accused persons to contact their relatives and legal representatives. That legal measure is consistent with international standards, including the Nelson Mandela Rules and principle 19 of the Body of Principles, and accused persons still enjoy the right to appeal the legality of their detention. Measures to prevent accused persons from contacting third parties in the Kingdom are subject to certain legal restrictions. The Kingdom treats torture as a criminal offence, punishable by law. Thus, the Counter-Terrorism and Financing of Terrorism Act stipulates that solitary confinement may be imposed only in exceptional circumstances set out in law, without prejudice to the right of accused persons to inform relatives of their arrest. The court has the right to issue an order forbidding communication with or visits to the accused person for a period of not more than 90 days, if required. The detainee or prisoner has the right to submit a complaint, pursuant to article 39 of the Code of Criminal Procedure.

95. The Government denies that Mr. Al-Ghamdi was prevented from submitting medical reports regarding his condition. Referral of Mr. Al-Ghamdi to a medical authority for consideration of his mental and psychological state was subject to judicial assessment: following perusal of the complete case file by the court of first instance hearing the case, the summoning of Mr. Al-Ghamdi and the reading of the general indictment, the court saw no reason to refer him to a specialist in psychiatric medicine. In addition, the Government states that Mr. Al-Ghamdi is in good health, has visited several medical clinics and has been provided with the necessary medications and regular follow-up checks. The Government refers to its domestic law. It affirms that Mr. Al-Ghamdi's treatment is consistent with rules 24 (1), 30 and 56 (1) of the Nelson Mandela Rules and reiterates that all detainees are provided with free and appropriate health care.

96. The Government denies that Mr. Al-Ghamdi's telephone calls were subject to any form of spying. Since his arrest, his right to visits and regular communication have been respected: he has received 14 general visits (the last being on 18 December 2023), 11 private visits (the last being on 17 December 2023) and 57 telephone calls (the last being on 26 December 2023). He has been enabled to meet his lawyer regularly for consultation at his place of detention. His treatment is consistent with rule 68 of the Nelson Mandela Rules.

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

**(c) Further comments from the source**

98. In its response of 31 January 2024, the source reiterates its initial submissions and provides further details to rebut the Government's submissions, as discussed below. The source argues that the Government merely denied the allegations as untrue, while failing to demonstrate that Mr. Al-Ghamdi has been afforded the procedural guarantees cited in its response. It submits that simply listing laws that should be applied does not demonstrate that

these safeguards were indeed afforded, and therefore does not invalidate the allegations that Mr. Al-Ghamdi's rights have been violated.

## 2. Discussion

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

100. In determining whether Mr. Al-Ghamdi's detention 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 for 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 by the Government that lawful procedures have been followed are not sufficient to rebut the source's allegations.<sup>11</sup>

101. The Working Group wishes to recall that, in accordance with its methods of work, it may take into account the information received in response to the joint urgent appeal referred to by the Government.<sup>12</sup>

### (a) Category II

102. The source submits that Mr. Al-Ghamdi's charges relate solely to the exercise of his right to freedom of expression and association and involve no other alleged actions beyond his online expression, viewing of videos and engagement on social media. In its further submissions, the source emphasizes that the Government's response neither contests nor denies that the action against Mr. Al-Ghamdi was solely due to the content that he had posted and viewed on social media. Moreover, the source claims that the Government's approach that Mr. Al-Ghamdi's expression amounts to terrorism and not peaceful criticism reinforces the view that his detention and threat to life from the death penalty are a product of the widespread crackdown on dissent, opposition and free speech in Saudi Arabia.

103. The source asserts that those claims are demonstrated in the following: (a) the judicial document issued on 26 June 2022 confirming the charges brought against him and demonstrating that they were being brought as a result of the opinions and concerns that he had expressed on social media, and the social media accounts that he had viewed and followed; (b) the focus of the questions asked during interrogations after his arrest; and (c) the judgment following trial, by which he was found guilty of the alleged charges and sentenced to death. The Government submits that while free speech is protected in Saudi Arabia, Mr. Al-Ghamdi's actions constituted terrorist acts. The Working Group notes that article 19 of the Universal Declaration of Human Rights protects the right to freedom of expression, which includes freedom to seek, receive and impart information and ideas through any media regardless of frontiers. This right includes political discourse and commentary on public affairs. It protects the holding and expression of opinions, including those that are critical of or not in line with government policy.<sup>13</sup> Weighing the submissions of both parties, the Working Group considers that Mr. Al-Ghamdi's conduct fell within the right to freedom of opinion and expression, protected under article 19 of the Universal Declaration of Human Rights, and that he was detained for peacefully exercising those rights through his posts on social media and the social media accounts that he had viewed and followed.

104. According to the source, following the adoption in 2014 of counter-terrorism legislation, a repressive arrest campaign has reportedly targeted citizens and activists on charges related to freedom of opinion and expression. While the Government submits that all laws in Saudi Arabia are formulated with sufficient precision and clarity, the Working Group recalls that the Counter-Terrorism and Financing of Terrorism Act, under which Mr. Al-Ghamdi was charged, lacks legal certainty. The Working Group has observed that the Act has been regularly used to criminalize a wide spectrum of acts falling within the rights to freedom of opinion, expression, peaceful assembly and association, as well as freedom of thought, conscience and religion, enshrined in the Universal Declaration of Human Rights. The Working Group considers that charges and convictions under the provisions of the Act

<sup>11</sup> A/HRC/19/57, para. 68.

<sup>12</sup> See, for example, opinions No. 48/2016 and No. 50/2022.

<sup>13</sup> Opinions No. 79/2017, para. 55; and No. 8/2019, para. 55.

that allow the criminalization of peaceful expression, enable arbitrary interpretation and make it difficult for citizens to determine how to act in order to comply with the law cannot be regarded as consistent with the Universal Declaration of Human Rights.<sup>14</sup>

105. The Working Group concurs with the observation of the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism that the 2014 counter-terrorism legislation fails to comply with international human rights standards of legal certainty, and that, contrary to basic international human rights standards, article 1 of that legislation has enabled the criminalization of a wide spectrum of acts of peaceful expression, which are viewed by the authorities as endangering “national unity” or undermining “the reputation or position of the State”.<sup>15</sup> The Working Group notes that these concerns have not been addressed in the Counter-Terrorism and Financing of Terrorism Act of 2017.

106. Based on the foregoing, the Working Group concludes that the deprivation of liberty of Mr. Al-Ghamdi is arbitrary, in violation of article 19 of the Universal Declaration of Human Rights, falling within category II.

**(b) Category III**

107. Given its finding that the deprivation of liberty of Mr. Al-Ghamdi is arbitrary under category II, the Working Group wishes to emphasize that in such circumstances no trial should take place. However, as his first-instance trial has taken place, the Working Group will now consider whether the alleged violations of the right to a fair trial and due process were grave enough to give his deprivation of liberty an arbitrary character, such that it falls within category III.

108. The source submits that Mr. Al-Ghamdi was not afforded access to a lawyer during interrogations while in solitary confinement and incommunicado detention for the four months following his arrest in June 2022. He was provided with a State-appointed lawyer in December 2022 who, for fear of serious consequences as other lawyers and a former judge had had their licence revoked, reportedly refused to recognize Mr. Al-Ghamdi’s diagnosed mental health conditions or the possibility that these diagnoses might assist in his defence. His family was thus left responsible for finding him a replacement lawyer, which was difficult because many of the lawyers approached refused for fear of reprisals. Mr. Al-Ghamdi was therefore left without legal representation from March to May 2023, until his case was referred to the Specialized Criminal Court, after which he was not permitted regular access to his lawyer.

109. The Government submits that Mr. Al-Ghamdi was informed of his right to legal assistance at the investigative and trial stages, that he engaged a lawyer for his defence and representation at the expense of the State, that he met his lawyer regularly at his place of detention, and that the necessary facilities and adequate time were provided for his lawyer to prepare the defence.

110. The source, in its further submissions, argues that merely reading out and notifying a detainee of theoretical rights, including the right to legal assistance, is not enough if the reality of their circumstances makes access to these protections impossible. The source notes that the Government does not mention the date on which Mr. Al-Ghamdi was provided with legal representation at the expense of the State. According to the source, it was in December 2022, at least six months after Mr. Al-Ghamdi’s arrest. Furthermore, the source submits that the Government’s response provides no details on when Mr. Al-Ghamdi was able to meet his lawyer, or for how long, in which detention facility and in what location within the facility.

111. As the Working Group has previously observed, 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

<sup>14</sup> See opinions No. 46/2011 and No. 45/2019, and [A/HRC/41/7](#), paras. 38.73 and 38.171.

<sup>15</sup> Opinion No. 63/2017, para. 62.

delay.<sup>16</sup> The Working Group notes that Mr. Al-Ghamdi was deprived of access to legal counsel of his choice while detained incommunicado and in solitary confinement. As such, the Government failed to respect his right to legal assistance at all times, which is inherent in the right to liberty and security of person and the right to a fair and public hearing by a competent, independent and impartial tribunal as established by law, in accordance with articles 3, 9, 10 and 11 (1) of the Universal Declaration of Human Rights. The Working Group considers that this violation substantially undermined his capacity to defend himself in any subsequent judicial proceedings. The Working Group therefore finds violations of articles 10 and 11 (1) of the Universal Declaration of Human Rights, and of principles 15, 17 and 18 of the Body of Principles, rule 61 of the Nelson Mandela Rules, and principle 9 and guideline 8 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. Moreover, as Mr. Al-Ghamdi is facing the death penalty, these violations are exacerbated because in cases involving the death penalty effective assistance by counsel at all stages of the trial is axiomatic.

112. The source claims Mr. Al-Ghamdi experienced other violations of the right to a fair trial and due process. It submits that Mr. Al-Ghamdi's restricted consultation and communication with a lawyer during his detention and interrogations and, upon instruction, his lack of regular access to his lawyer detrimentally affected his ability to prepare and present a defence. The limitations on his lawyer's ability to call witnesses, submit medical reports and request a medical referral during the trial proceedings equally affected the presentation of a defence case for Mr. Al-Ghamdi, in violation of his due process and fair trial rights. The Government makes a general submission that Mr. Al-Ghamdi was afforded a fair and open trial in which all his rights were protected. Noting the source's detailed submissions, the Working Group finds that Mr. Al-Ghamdi's right 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 Human Rights, were violated.

113. The Government notes that the initial judgment against Mr. Al-Ghamdi was based on sufficient evidence presented in court, including the individual's confessions. The Working Group has already established that Mr. Al-Ghamdi was held in solitary confinement and incommunicado and interrogated without a lawyer. As the Working Group has stated previously, confessions made in the absence of legal representation are not admissible as evidence in criminal proceedings.<sup>17</sup> Furthermore, the admission into evidence of a statement allegedly obtained through torture or ill-treatment renders the entire proceedings unfair, regardless of whether other evidence was available to support the verdict.<sup>18</sup> The burden is on the Government to prove that the statements were given freely,<sup>19</sup> but it has not done so.

114. Subsequently, the Government failed to respect Mr. Al-Ghamdi's right to legal assistance at all times, which is inherent in the right to liberty and security of person and the right to a fair and public hearing by a competent, independent and impartial tribunal as established by law, with all the guarantees necessary for his defence, in accordance with articles 3, 9, 10 and 11 (1) of the Universal Declaration of Human Rights.

115. Referring to various violations of the right to a fair trial and due process, the source submits that Mr. Al-Ghamdi's right to a fair trial has been violated as he did not have access to an independent and impartial tribunal in the Specialized Criminal Court. The Government submits that the Specialized Criminal Court is an independent and impartial court, which provided Mr. Al-Ghamdi with a fair and open trial. In its further submissions, the source notes that the Specialized Criminal Court had adopted a well-documented pattern of targeting and prosecuting individuals expressing opinions or criticisms, and that the Government did

<sup>16</sup> See 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. Opinions No. 63/2017, para. 70; No. 93/2017, para. 52; and No. 86/2020, para. 78. See also [CAT/C/SAU/CO/2](#) and [CAT/C/SAU/CO/2/Corr.1](#), paras. 14 and 15.

<sup>17</sup> [A/HRC/45/16](#), para. 53. See also opinions No. 1/2014, para. 22, and No. 41/2020, para. 70; and [E/CN.4/2003/68](#), para. 26 (e).

<sup>18</sup> Opinion No. 73/2019, para. 91.

<sup>19</sup> Opinion No. 41/2020, para. 70.



not directly reply to any of the allegations about the concerns raised regarding the Specialized Criminal Court, including that it kept the identity of the judges confidential, refused to allow Mr. Al-Ghamdi's family to attend the sentencing session and refused to allow Mr. Al-Ghamdi to challenge the accuracy of the alleged statements for which he was charged.

116. The Working Group recalls its earlier jurisprudence in which it has established that the Specialized Criminal Court is insufficiently independent of the Ministry of the Interior,<sup>20</sup> a concern shared by the Committee against Torture.<sup>21</sup> The Working Group further notes the assessment of the former Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism that governmental reorganization has placed the Ministry's investigatory powers directly under the authority of the public prosecution service and the Presidency of State Security, both of which report directly to the King, and that concerns regarding the lack of independence of the Specialized Criminal Court therefore remain undiminished.<sup>22</sup>

117. The Working Group therefore remains concerned about the independence and impartiality of the Specialized Criminal Court and the extent to which the presumption of innocence and the guarantees necessary for defence are maintained. The trial before the Court thus contravened article 10 of the Universal Declaration of Human Rights. The Working Group refers the present case to the Special Rapporteur on the independence of judges and lawyers.

118. The source submits that Mr. Al-Ghamdi's right of access to his family has not been respected, leading to further violations of his right to a fair trial and due process. The Government submits that his rights to regular visits and communication have been respected, and it states the number of telephone calls and general and private visits that he received. The source, in its further submissions, notes that the Government in its response did not provide information on the range of communications or the intervals in between them, and that the assertion that Mr. Al-Ghamdi had regular communication therefore remains unsupported.

119. Considering the source's detailed submissions, the Working Group finds a denial of Mr. Al-Ghamdi's due process rights to be visited by and correspond with his family and to be given adequate opportunity for contact with the outside world, subject to reasonable conditions and restrictions as specified by law or lawful regulations, in accordance with principles 15 and 19 of the Body of Principles and rules 43 (3), 58 and 68 of the Nelson Mandela Rules.<sup>23</sup> In particular, it notes his reported transfer to a prison 945 kilometres from his family, thus encumbering regular family visits. Absent a response from the Government on this matter, the Working Group is of the view that this transfer has denied him the protection of rule 59 of the Nelson Mandela Rules, which requires that prisoners be allocated, to the extent possible, to prisons close to their homes. Prompt and regular access to family, and to independent medical personnel and lawyers, is an essential and necessary safeguard for the prevention of torture and arbitrary detention.<sup>24</sup> The denial of access to and communication with family during the first four months of Mr. Al-Ghamdi's detention while in solitary confinement resulted in his family being unable to assist him earlier with instructing a suitable lawyer.

120. The source submits that for the first four months of his detention following his arrest on 11 June 2022, Mr. Al-Ghamdi was held in solitary confinement and incommunicado, was interrogated and was not given access to a lawyer. The Government does not deny this allegation and explains that under the Counter-Terrorism and Financing of Terrorism Act, under which Mr. Al-Ghamdi was arrested, the investigative authority has the right to prevent accused persons from contacting others for a specific period of time in exceptional circumstances during investigations. Measures include solitary confinement for a period not exceeding 90 days if required by the investigative authority. The source, in its further submissions, states that the Government provides no explanation as to why Mr. Al-Ghamdi's solitary confinement was required as an exceptional necessity of the investigation. Moreover,

<sup>20</sup> Opinions No. 10/2018, para. 73; No. 27/2023, paras. 102–104; and No. 56/2023, para. 108.

<sup>21</sup> CAT/C/SAU/CO/2 and CAT/C/SAU/CO/2/Corr.1, para. 17.

<sup>22</sup> A/HRC/40/52/Add.2, para. 47.

<sup>23</sup> Opinions No. 35/2018, para. 39, and No. 44/2019, paras. 74 and 75.

<sup>24</sup> Opinion No. 84/2020, para. 70.

in holding Mr. Al-Ghamdi in solitary confinement for four months, the Government exceeded the maximum period of 90 days outlined in its own law.

121. With respect to Mr. Al-Ghamdi's four-month solitary confinement, the Working Group recalls that the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment has deemed that solitary confinement in excess of 15 days is prolonged, because at that point some of the harmful psychological effects of isolation can become irreversible.<sup>25</sup> The Working Group notes that, in accordance with rule 45 of the Nelson Mandela Rules, the imposition of solitary confinement must be accompanied by certain safeguards. The Government has not demonstrated that any safeguards were put in place or justified its use of solitary confinement, which is a measure of last resort, nor has it explained why Mr. Al-Ghamdi was in solitary confinement for four months, in violation of domestic legislation.

122. The Government submits that it treats torture as a criminal offence, punishable by law. The source notes that the Government simply refers to the existence of legal safeguards without providing any information to dispute the source's submissions that Mr. Al-Ghamdi has been subjected to cruel, inhuman and degrading treatment and, potentially, psychological torture, including solitary confinement.

123. According to the source, Mr. Al-Ghamdi has been subjected to extreme emotional and psychological pressure and suffering by being held in solitary confinement, without explanation, for the first four months of his detention, while also being denied a lawyer and communication with his family; being denied a lawyer for large periods of his detention; and being denied medical care and medication, which has resulted in a deterioration of his health. The Government submits that he is in good health, has visited several medical clinics and has been provided with the necessary medication and regular follow-up checks. The source, in its further submission, states that the Government's mere assertions are not sufficient to demonstrate that Mr. Al-Ghamdi was actually provided these services.

124. The Working Group recalls that the denial of medical care can constitute a form of torture and cruel and inhuman treatment.<sup>26</sup> Noting the severity of the allegations, the Working Group finds that the violations linked to Mr. Al-Ghamdi's conditions of detention and lack of medical care significantly undermined his ability to defend himself properly. The Working Group has consistently concluded that torture or other forms of ill-treatment or punishment that make it impossible for the person concerned to prepare an adequate defence before the judicial proceedings amount to a violation of the person's right to a fair trial.<sup>27</sup>

125. The Working Group concludes that the breaches of Mr. Al-Ghamdi's right to a fair trial and due process are of such gravity as to give his deprivation of liberty an arbitrary character, falling within category III.

**(c) Concluding remarks**

126. While the Government maintains that Mr. Al-Ghamdi is in good health, the Working Group is concerned about the numerous health conditions reported by the source, including his mental health conditions. The Working Group is obliged to remind the Government of its obligations under article 25 of the Universal Declaration of Human Rights and rules 1, 24, 27 and 118 of the Nelson Mandela Rules, and that all persons deprived of their liberty must be treated with humanity and with respect for the inherent dignity of the human person.<sup>28</sup> Such treatment includes being allowed to enjoy the same standards of health care as those available in the community.

127. In its 30-year history, the Working Group has found the Government to be in violation of its international human rights obligations in more than 75 cases.<sup>29</sup> The Working Group reiterates its concern that this indicates a widespread or systemic problem with arbitrary detention in Saudi Arabia, which amounts to a serious violation of international law. The

<sup>25</sup> A/66/268, paras. 26 and 61. See also A/63/175, para. 56.

<sup>26</sup> A/HRC/38/36, para. 18, and opinion No. 20/2022, para. 104.

<sup>27</sup> Opinions No. 32/2019, para. 42; No. 59/2019, para. 69; and No. 65/2022, para. 117.

<sup>28</sup> Opinion No. 26/2017, para. 66.

<sup>29</sup> See, for example, opinions No. 55/2023 and No. 56/2023.



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 a crime against humanity.<sup>30</sup>

128. The Working Group welcomes the voluntary pledges pursuant to General Assembly resolution 60/251 concerning the Human Rights Council by Saudi Arabia.<sup>31</sup> 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.

### 3. Disposition

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

The deprivation of liberty of Muhammad al-Ghamdi, being in contravention of articles 3, 9, 10, 11 and 19 of the Universal Declaration of Human Rights, is arbitrary and falls within categories II and III.

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

131. The Working Group considers that, taking into account all the circumstances of the case, the appropriate remedy would be to release Mr. Al-Ghamdi immediately and accord him an enforceable right to compensation and other reparations, in accordance with international law.

132. 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-Ghamdi and to take appropriate measures against those responsible for the violation of his rights.

133. The Working Group requests the Government to bring its laws, particularly the Counter-Terrorism and Financing of Terrorism Act, into conformity with the recommendations made in the present opinion and with the commitments made by Saudi Arabia under international human rights law.

134. In accordance with paragraph 33 (a) of its methods of work, the Working Group refers the present case to the Special Rapporteur on the independence of judges and lawyers for appropriate action.

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

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

### 4. Follow-up procedure

137. 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-Ghamdi has been released and, if so, on what date;
- (b) Whether compensation or other reparations have been made to Mr. Al-Ghamdi;

<sup>30</sup> A/HRC/13/42, para. 30. See also opinions No. 37/2011, para. 15, and No. 51/2017, para. 57.

<sup>31</sup> See A/75/377.

(c) Whether an investigation has been conducted into the violation of Mr. Al-Ghamdi'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.

138. 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.

139. 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 of any failure to take action.

140. 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>32</sup>

*[Adopted on 19 March 2024]*

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<sup>32</sup> Human Rights Council resolution 51/8, paras. 6 and 9.