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**Human Rights Council**  
**Working Group on Arbitrary Detention**

## **Opinions adopted by the Working Group on Arbitrary Detention at its ninety-fifth session, 14–18 November 2022**

### **Opinion No. 84/2022 concerning Abdelrhman Mohammed Farhanah (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 10 March 2022 the Working Group transmitted to the Government of Saudi Arabia a communication concerning Abdelrhman Mohammed Farhanah. The Government replied to the communication on 5 May 2022. The State is not a party to the International Covenant on Civil and Political Rights.

3. The Working Group regards deprivation of liberty as arbitrary in the following cases:

(a) When it is clearly impossible to invoke any legal basis justifying the deprivation of liberty (as when a person is kept in detention after the completion of his or her sentence or despite an amnesty law applicable to him or her) (category I);

(b) When the deprivation of liberty results from the exercise of the rights or freedoms guaranteed by articles 7, 13, 14, 18, 19, 20 and 21 of the Universal Declaration of Human Rights and, insofar as States parties are concerned, by articles 12, 18, 19, 21, 22, 25, 26 and 27 of the Covenant (category II);

(c) When the total or partial non-observance of the international norms relating to the right to a fair trial, established in the Universal Declaration of Human Rights and in the relevant international instruments accepted by the States concerned, is of such gravity as to give the deprivation of liberty an arbitrary character (category III);

(d) When asylum seekers, immigrants or refugees are subjected to prolonged administrative custody without the possibility of administrative or judicial review or remedy (category IV);

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

(e) When the deprivation of liberty constitutes a violation of international law on the grounds of discrimination based on birth, national, ethnic, or social origin, language, religion, economic condition, political or other opinion, gender, sexual orientation, disability, or any other status, that aims towards or can result in ignoring the equality of human beings (category V).

### **Submissions**

#### *Communication from the source*

4. Abdelrhman Mohammed Farhanah is a 64-year-old Palestinian national, born on 21 March 1957. He lives in the eastern part of the Al-Qazzaz neighbourhood in Dammam, Saudi Arabia, and works as a journalist for the newspaper Al-Sabeel and for Al-Jazeera.

#### a. Context

5. According to the source, international organizations report that since February 2019, authorities in Saudi Arabia have arrested and detained over 60 Palestinian nationals living and working in the country with perceived links to Hamas de facto authorities, including doctors, engineers, academics, businessmen and students, with some of the individuals having lived and worked in Saudi Arabia for decades. Reportedly, individuals were forcibly disappeared, held in solitary confinement and detained incommunicado for months. As in the case of Mr. Farhanah, the other Palestinians have allegedly been detained without charge or legal reason and denied access to a lawyer and to their families. Severe abuses and gross human rights violations against detained Palestinians have been reported, including physical and psychological torture carried out by prison officials and interrogators, resulting in some detainees requiring hospitalization. The source adds that such violations mirror reports of alleged systematic human rights violations committed by Saudi officials against detainees.

6. According to the source, the prolonged detention of Mr. Farhanah is part of a campaign against Palestinian nationals living and working in Saudi Arabia, and part of a pattern of widespread torture and mistreatment of detainees by Saudi authorities.

#### b. Arrest and detention

7. Mr. Farhanah was reportedly arrested on 21 February 2019, while driving with a relative to King Fahd International Airport in Dammam, in the Eastern Province. His car was pulled over by security officers, some in civilian and some in military clothes, and was surrounded by about 10 security vehicles. Security officers first tried to arrest Mr. Farhanah for driving a stolen car but he was able to demonstrate his ownership of the car. The officers then identified themselves as officers of the State security services, forced him and his relative into a civilian car with security officers and arrested both of them. Reportedly, after the initial explanation for arrest was dropped, no further reason was provided, no indication of any other allegation was given and no warrant or other judicial document was presented to Mr. Farhanah. His relative was also not provided with a reason for arrest.

8. The source reports that the officers took Mr. Farhanah and his relative back to their home in Dammam, entered the flat, and searched the premises. Other relatives of Mr. Farhanah who were in the flat were detained in a separate room and prevented from communicating in any way with Mr. Farhanah. Reportedly, neither Mr. Farhanah nor his relatives were presented with a search warrant or provided with an explanation regarding the purpose of the search.

9. The source notes that the officers searching the flat confiscated small amounts of money belonging to Mr. Farhanah and his relatives. The officers reportedly provided no explanation as to why the money was seized, provided no documentation noting its seizure

and never returned the money. Once the search had been completed, the officers released the family members but took Mr. Farhanah away without providing a reason for his arrest or explaining why he was being taken into custody.

10. Officers were allegedly verbally abusive and intimidating. Mr. Farhanah was forced to remove his glasses and a hood was placed over his head. Reportedly, the officers denied Mr. Farhanah's request to collect and take with him personal items and medication needed to treat his diagnosed serious health conditions. The source notes that Mr. Farhanah has since been denied access to his prescribed medication.

11. According to the source, when Mr. Farhanah was taken from his home on 21 February 2019, neither he nor his family were informed where he was being taken. Mr. Farhanah was reportedly held in solitary confinement at the State security prison in the Eastern Province for the first eight months of his detention. He was allegedly not provided with a reason for his solitary confinement and was held incommunicado for a prolonged period.

12. The source notes that Mr. Farhanah was effectively forcibly disappeared for seven months following his arrest, despite his family's considerable efforts to discover his location. The family visited all known security headquarters and several prisons, including the State security prison in the Eastern Province, to inquire as to his whereabouts and well-being. At each facility, the authorities denied his presence there and did not provide the family with any information about his whereabouts. The family learned of Mr. Farhanah's location from a former inmate of the State security prison in the Eastern Province who reported having seen him there. The authorities only acknowledged his presence at the prison one month later and allowed the family a three-minute phone conversation with him. This was Mr. Farhanah's first communication with his family or anyone else since his arrest on 21 February 2019.

13. Reportedly, Mr. Farhanah's family directed inquiries to State security officers regarding the charges against him in the weeks following his arrest and were instructed to get in touch again the following week for answers. Upon doing so, they were allegedly subjected to abuse, told by State security officers to leave and threatened that any further inquiries would result in Mr. Farhanah "never seeing the light of day again". The source adds that such treatment emphasizes the severity of the violation of Mr. Farhanah's rights.

14. The source alleges that Mr. Farhanah was subjected to abusive and coercive interrogations during his detention, in particular during his eight months of solitary and incommunicado detention. During this period, Mr. Farhanah allegedly endured severe physical and mental torture from prison officials and interrogators. He was allegedly hung, including upside down, for prolonged periods, the strain of which caused him to faint and bleed, and was subjected to severe beating, electrocution, burning and conditions of near-starvation, as prison guards would only feed him small quantities of food and at unpredictable times. Reportedly, he was also subjected to sleep deprivation, including for one period of eight days when officials continuously prevented him from falling asleep. The source notes that such abuse was directly linked to his daily interrogations by security officials and interrogators who were allegedly not Saudi. The source adds that the physical abuse and lack of sleep and food left Mr. Farhanah in a highly vulnerable physical and emotional state for his interrogations. Allegedly, the authorities forced Mr. Farhanah to sign a guilty plea: they had prepared a form stating that he pleaded guilty to unintentionally violating Saudi law and was asking for a reduced sentence.

15. The source also reports that for a period of over a year no charges were brought against Mr. Farhanah and no legal reasons were provided to justify his continued detention. Mr. Farhanah was reportedly never brought before a judge or court, nor was he provided with access to any case file or evidence against him that might explain or justify his detention, rendering his detention unlawful and unreasonable. The source also submits

that such treatment establishes that Mr. Farhanah's detention has not been accessible, understandable or applied in a consistent and predictable way, and is therefore arbitrary.

c. Trial proceedings

16. On 8 March 2020, about 60 detainees, mostly of Palestinian nationality or descent and including Mr. Farhanah, appeared before a court in Riyadh and were presented with terrorism charges. That was reportedly Mr. Farhanah's first appearance before a judge. Allegedly, authorities did not inform the detainees of the hearing in advance; family members found out about the hearing and informed other families. It is unclear whether Mr. Farhanah was aware of the hearing in advance and thus able to prepare for it.

17. Following the hearing on 8 March 2020, families of detainees were reportedly informed that all future visits were suspended owing to the coronavirus disease (COVID-19) pandemic. No announcement was made regarding the delay of proceedings. According to the source, not only was Mr. Farhanah's right to access to his family violated, but the lack of visits has also had serious implications and caused further violations of his due process and fair trial rights. Though Mr. Farhanah, in common with other similarly detained individuals, reportedly stated in court that his confessions were made under torture, the court ignored these statements and took no action in this regard.

18. Mr. Farhanah was reportedly not able to consult a lawyer until December 2020 – almost 10 months after the start of his trial in March 2020. The consultation in December 2020 was his first opportunity to speak to or meet with a lawyer during his detention, and specifically to consult a lawyer about the charges against him and provide his responses to those charges. The source adds that Mr. Farhanah's second meeting with his lawyer took place in April 2021, when the lawyer was allowed to visit him in the prison in the Eastern Province and inform him of the timing of the next session of his trial, which had been postponed until June 2021.

19. According to the source, Mr. Farhanah was sentenced to 19 years in prison following a mass trial held on 8 August 2021.<sup>2</sup> Reportedly, the court did not provide any reasoning to support its findings against Mr. Farhanah or to justify the length of his sentence. An appeal hearing was scheduled for 8 November 2021 but postponed until 8 December 2021, when the appeals court confirmed the judgment but suspended half of the sentence. The source is not aware of the reasoning of the appeals court for either affirming the judgment or reducing the sentence.

d. Access to family

20. The source reports that Mr. Farhanah was allowed limited and sporadic communication with his family. Following the first phone conversation with his family, about eight months after his arrest, he was granted a family visit of 45 minutes and another visit in early 2020, which lasted about three hours. Reportedly, Mr. Farhanah has been held in hostile conditions: although he was moved to group cells after his initial eight-month solitary and incommunicado detention, prison officers regularly threaten to return him to those initial conditions, where he would not be able to communicate with his family at all. The source notes that Mr. Farhanah has been allowed fewer calls and visits than his cellmates and that his physical safety is endangered by prison officials who threaten to torture him physically. According to the source, the irregularity of the contact with his family, and the threats of further abuse and torture associated with such visits, have added significant pressure and stress to Mr. Farhanah's already vulnerable situation.

21. At present, communication between Mr. Farhanah and his family is reportedly still limited. He is permitted to call his family about once a week for 10 minutes but his request

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<sup>2</sup> Opinion No. 34/2021, paras. 65 and 93.

to increase the length of those calls or to call other phone numbers has reportedly been rejected.

22. In-person visits to Mr. Farhanah are reportedly still limited and conducted in difficult circumstances, making it hard to communicate effectively. The visits are only allowed every 60 days and take place with a glass barrier between Mr. Farhanah and his family.

e. Health condition

23. According to the source, Mr. Farhanah has been diagnosed with several serious health conditions, such as high blood pressure and brain ischemia, which require ongoing medical treatment with prescribed medications. If left untreated, high blood pressure can reportedly cause heart complications, including heart attacks, and brain ischemia, which is a condition of insufficient blood flow to the brain, can cause insufficient oxygen to the brain and damage to brain tissue.

24. As a result of the authorities denying his request to collect his medication at the time of his arrest, and their failure to grant him access to the required medication subsequently, Mr. Farhanah reportedly required hospitalization three times during the first eight months of his detention. According to the source, though each hospital visit further underscored Mr. Farhanah's need for prescribed medication, the medical care provided to him did not improve.

25. According to the source, Mr. Farhanah's overall health has deteriorated and he has lost up to 25 kg while in detention. His family is concerned that he does not receive the medical attention required to address the deterioration in his health and well-being, in particular given that he is 64 years old and has been detained for more than three years. In addition, the lack of regular communication – owing to the infrequent and restricted nature of visits makes monitoring Mr. Farhanah's health and well-being more difficult. According to the source, despite Mr. Farhanah's need for medical attention, the prison authorities have rejected his requests to see a doctor.

26. Mr. Farhanah has also reportedly been denied basic health amenities, which has an impact on his well-being and demonstrates that his detention conditions do not meet the minimum standards. This includes not providing him with new glasses, despite his poor eyesight, after his glasses were broken when he was physically abused during interrogations, and denying him amenities such as a chair and sanitary items. In addition, prison authorities have reportedly prevented his family from delivering sanitary items for him. His family's ability to deposit money into Mr. Farhanah's prison account so that he can purchase basic items from the prison canteen has allegedly been restricted, as money must now be deposited in person at the prison and in small increments, requiring the family to travel to the prison frequently.

27. The source notes that Mr. Farhanah's underlying health conditions and age put him at high risk in the context of the COVID-19 pandemic. Limitations on family visits since 8 March 2020 have meant that families have been unable to contact prison authorities to inquire about detainees' health and well-being. The source notes that Mr. Farhanah has now received the COVID-19 vaccine and that the prison authorities have stopped testing for COVID-19.

28. The source highlights that measures should be implemented, such as provisional release and house arrest, for individuals at high risk of contracting COVID-19 and with underlying health conditions, such as Mr. Farhanah.

f. Analysis of violations

i. Category I

29. The source submits that Mr. Farhanah was arrested and detained without charge, no charges were brought against him for more than a year, with no legal reasons provided to justify his continued detention. According to the source, his detention thus lacks legal basis and falls under category I.

30. Furthermore, the source submits that Mr. Farhanah's right to be informed of the reasons for his arrest and charges against him, both of which are integral to his fundamental fair trial rights and protected under article 14, in particular paragraphs 1, 3, 5 and 6 thereof, of the Arab Charter on Human Rights, was violated.

31. The source adds that, under national law, charges must be filed within 72 hours of arrest and authorities may not legally detain a person under arrest for more than 24 hours, except pursuant to a written order from a public investigator. In addition, article 14 of the Arab Charter on Human Rights requires that all detainees be provided with a legal reason for their detention and be entitled to petition a competent court to challenge such detention.

ii. Category III

32. The source submits that the national proceedings against Mr. Farhanah violated his right to a fair and public hearing by an independent and impartial tribunal, as set out in article 10 of the Universal Declaration of Human Rights. In addition, the source submits that Mr. Farhanah's detention is arbitrary insofar as it is unreasonable, unlawful, inappropriate and unnecessary, as a result of the alleged non-observance and violation by Saudi Arabia of his fundamental right to a fair trial.

33. The source submits as evidence that Mr. Farhanah was arrested and detained without charge or proper legal reason, was not brought before a judge or court for more than a year, was never given access to a case file or allowed to review the evidence against him, and was deprived of access to a lawyer. Furthermore, he was allegedly repeatedly interrogated while being tortured. He was held in incommunicado detention and denied communication with his family or any other person for about eight months, and currently only receives irregular and unpredictable calls and visits from his family. According to the source, such treatment demonstrates that he was not only denied his fair trial and due process rights, but also access to an independent and impartial judiciary.

34. Additionally, the source contends that the effect of being denied adequate medical treatment has exacerbated the impact of the above-mentioned violations. The source asserts that any of the violations on their own would indicate that Mr. Farhanah's detention is unlawful and unjust, but when viewed as a whole, overwhelmingly demonstrate the arbitrary character of Mr. Farhanah's detention under category III.

Denial of the right to instruct and consult a lawyer

35. The source submits that Mr. Farhanah's right to instruct and consult a lawyer was violated during the entire period of his detention, as he was never afforded the opportunity to consult a lawyer during interrogations. In fact, prison officials and interrogators reportedly actively prevented him from instructing a lawyer, explaining that he was not allowed to do so. Mr. Farhanah was interrogated without legal counsel and without having been informed of the allegations or charges against him and without sight of his case file.

36. The source notes that it was unclear to Mr. Farhanah whether the questioning related to specific allegations against him, legal reasons for his arrest and detention or any charges against him. Therefore, the source argues that the right to consult a lawyer during these interrogations was critical to preserving Mr. Farhanah's right to a fair trial.

37. Furthermore, the source submits that the right to a lawyer is fundamental to the principles of a fair trial as set out in the Universal Declaration of Human Rights. The fact that Mr. Farhanah was unable to instruct and consult a lawyer also denied him the opportunity to appear before an independent and impartial tribunal to determine his rights, and to seek an effective remedy by a competent national tribunal, contrary to the Universal Declaration of Human Rights and article 14 (5) and (6) of the Arab Charter on Human Rights. It also denied him the opportunity to challenge the circumstances of his detention.

38. The source notes that, following the hearing of 8 March 2020 when charges against Mr. Farhanah were presented, Mr. Farhanah's need to consult a lawyer who had full access to his case file and the evidence against him became critical for enabling him to present his defence and safeguard his rights. Reportedly, his lack of counsel impaired his ability to challenge the evidence gained through torture and other abusive interrogation methods. The source thus concludes that Mr. Farhanah was denied legal representation, which had a severe impact on his due process and fair trial rights and his right to an independent and impartial tribunal.

#### Coercive and abusive interrogations

39. The source recalls that Mr. Farhanah was subjected to abusive and coercive interrogations, in particular during the eight-month period when he was held in solitary and incommunicado detention. He was reportedly subjected to both severe physical and mental torture in violation of article 15 of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. According to the source, such ill-treatment, together with physical torture, sleep deprivation and inadequate provision of food, meant that Mr. Farhanah was in a state of exhaustion when interrogations were conducted and caused him to faint. Such treatment was aggravated by the absence of a lawyer during interrogation, despite Mr. Farhanah's attempts to be assigned one.

40. The source underlines that Mr. Farhanah was under further psychological pressure and was particularly vulnerable during interrogations, as he was being denied necessary medical treatment and care. Allegedly, any statement made or information provided by Mr. Farhanah and by any other detainee during these interrogations, which were conducted under conditions of physical and mental torture, without a lawyer and without Mr. Farhanah having knowledge of the charges or allegations against him, could be taken into consideration by the authorities in the proceedings against him.

#### Denial of regular communication with family

41. The source further submits that Mr. Farhanah's right to communicate with family members, protected under article 12 of the Universal Declaration of Human Rights and rule 68 of the United Nations Standard Minimum Rules for the Treatment of Prisoners (the Nelson Mandela Rules), was violated, in particular during the eight-month period of incommunicado detention, when his family was unable to obtain information about his whereabouts for at least seven of those months. Allegedly, the denial of his right to communicate with his family further hindered his fair trial rights, in particular for the hearing on 8 March 2020 and subsequently, as it had a negative impact on his ability to find a lawyer. The source notes that prison officials prevented Mr. Farhanah from instructing a lawyer and submits that, if family access had been provided for, Mr. Farhanah's family would have known where he was being held, and been able to consult him about seeking the instruction of a lawyer on his behalf, and been aware of his reported physical and psychological ill-treatment, allowing his family the opportunity to take immediate steps to challenge such treatment and the nature of his interrogations.

#### Torture allegations

42. The source reiterates that Mr. Farhanah was subjected to physical and mental torture while in detention, in particular during interrogations and throughout his solitary confinement and incommunicado detention, contrary to article 5 of the Universal Declaration of Human Rights, article 8 of the Arab Charter on Human Rights, rule 1 of the Nelson Mandela Rules, and the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.

43. Mr. Farhanah was allegedly hung for prolonged periods, including upside down, severely beaten, electrocuted, burned and subjected to sleep deprivation and near-starvation. Starvation amounts to physical torture; depriving individual of food adversely affects their well-being and exacerbates serious health conditions.

44. The source submits that each of these types of abuse is serious enough to warrant a finding that Mr. Farhanah was physically tortured. When considered cumulatively and with the fact that he sustained these types of abuse for a prolonged period, Mr. Farhanah's right to be free from torture has been violated and ignored. The source concludes that such treatment during Mr. Farhanah's interrogations further violated his fair trial rights.

45. Furthermore, while in solitary and incommunicado detention, Mr. Farhanah was allegedly held under extreme emotional and psychological pressure and without being provided with any reason for the nature of the detention. He was reportedly prevented from contacting his family or anyone else to let them know his whereabouts or the treatment he was facing. The source adds that the length of time that Mr. Farhanah was under such conditions contributed significantly to Mr. Farhanah's stress and the emotional pressure he faced, and resulted in his constant fear for his own safety. The source submits that the physical abuse caused Mr. Farhanah severe psychological pressure, which was exacerbated by the worry and stress of answering questions with no understanding or foresight as to whether the information he provided might be used as incriminating evidence against him.

46. The source notes that any part of Mr. Farhanah's interrogation might be used to justify future charges or legal proceedings, or to justify his continued detention, in violation of his fair trial rights and article 15 of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.

47. Furthermore, the failure by authorities to provide Mr. Farhanah with adequate medical care and necessary medication have reportedly added to his pain, suffering and emotional stress, thus contributing to the inhumane detention conditions and aggravating the severity of the psychological torture endured.

48. Reportedly, Mr. Farhanah continues to endure psychological torture even when no longer in solitary or incommunicado detention, as his detention conditions remain alarming and he is treated in a worse way than his cellmates. For example, he receives fewer and more irregular family visits and calls and is prevented from receiving personal items from his family, such as clothing or replacement prescription glasses, after his were broken during interrogations. Reportedly, prison officials constantly threaten to return him to solitary confinement and to torture him again, leaving him in a state of worry about his health and safety, despite the fact that he is no longer in solitary and incommunicado detention. Allegedly, the psychological torture has continued for the entire period of Mr. Farhanah's detention and further aggravates the violations of his fair trial rights.

#### Lack of access to adequate health care, treatment and living standards

49. The source submits that Mr. Farhanah's detention is contrary to his right to health, and to adequate treatment and living standards under article 25 of the Universal Declaration of Human Rights and rules 24–35 of the Nelson Mandela Rules.



50. The source argues that the failure to address Mr. Farhanah's medical needs and provide him with any medication is clearly in contravention of the provisions of the Nelson Mandela Rules, which require that the health of all detainees be evaluated to identify relevant health-care needs and provide adequate treatment for any conditions, and that such medical attention be provided with the regularity needed to adequately treat the diagnosed condition. The source emphasizes that the rules were agreed before the General Assembly, not as exceptional standards, but as the minimum treatment that a detainee should receive.

51. The source recalls that Mr. Farhanah is a 64-year-old man with serious medical conditions. According to the source, the conditions of his detention during his eight-month solitary and incommunicado detention, the severe physical and mental torture endured for the entire period of his detention, the stress of consistent coercive and abusive interrogations and the lack of necessary medical care explain the severe deterioration in Mr. Farhanah's health and demonstrate the failure to provide him with a standard of living that is adequate for his health and well-being.

52. The source is also concerned that, although Mr. Farhanah was placed in a communal cell after his release from solitary confinement, he continues to be held in poor conditions, which cause him considerable anxiety and stress and prevent him from obtaining the rest required to alleviate his medical conditions, in particular his high blood pressure. Most importantly, it is unclear to the source whether Mr. Farhanah's access to adequate medical care has been fully restored. Reportedly, his prescription glasses have not yet been replaced.

iii. Category V

53. The source submits that the detention of Mr. Farhanah is part of a pattern of behaviour of detaining Palestinian nationals living in Saudi Arabia. Furthermore, the source submits that Mr. Farhanah's detention is impermissibly linked to his race and national origin as Palestinian, and possibly also for reasons of imputed political opinion.

54. The source recalls that no information was provided or legal proceedings initiated at the point of, or shortly after, the arrest and detention of Mr. Farhanah, in common with the situation of other Palestinian individuals who have been detained. According to the source, Mr. Farhanah's detention and treatment fall within a pattern of conduct against Palestinian nationals and his detention is thus arbitrary under category V.

*Response from the Government*

55. On 10 March 2022 the Working Group transmitted the allegations from the source to the Government requesting it to provide detailed information about the current situation of Mr. Farhanah by 9 May 2022, and to ensure Mr. Farhanah's physical and mental integrity.

56. On 5 May 2022, the Government submitted its reply, in which it states that the source's allegations are unfounded, based on conjecture and lack evidence. It confirms that it has investigated the allegations to clarify all the facts, in line with its cooperation with international human rights mechanisms. Furthermore, it notes that it previously submitted a response to another communication from special procedures concerning several individuals, including Mr. Farhanah, and containing similar allegations. The Government states that internal investigations concluded that the applicable legislation and measures taken regarding Mr. Farhanah were consistent with international human rights principles and norms, and asks for this confirmation to be taken into account.

57. The Government submits that Mr. Farhanah was arrested on the basis of an arrest warrant issued by the competent authority, pursuant to article 5 of the Terrorist Crimes and Terrorism Financing Act, and detained pursuant to articles 2 and 19 of the Act on the

charge of committing terrorist offences punishable under the Act. Mr. Farhanah was reportedly informed of the grounds for his arrest, in accordance with national law.

58. Allegedly, Mr. Farhanah was charged after the investigating authority concluded that there was sufficient evidence to do so. His case file was reportedly referred by the public prosecution service to the competent court, in accordance with article 3 (1) (b)–(c) of the Royal Decree establishing the public prosecution service and article 15 of the Code of Criminal Procedure. Mr. Farhanah was reportedly also informed of the charges against him, consistent with articles 1, 3 and 14 of the Arab Charter on Human Rights.

59. The Government submits that the right to challenge the legality of one's arrest or detention is a general principle in its domestic law and a right guaranteed to anyone who is detained or arrested, in line with article 14 (1)–(3) and (6) of the Arab Charter on Human Rights and articles 3, 8, 9 and 10 of the Universal Declaration of Human Rights. According to the Government, the public prosecution service is independent and forms part of the judiciary, and its Statute prohibits any interference with its work. The Government therefore concludes that there has been no violation under category I.

60. The Government contends that all measures taken against Mr. Farhanah were based on domestic laws, which are consistent with international norms and the human rights treaties ratified by the State. It submits that Mr. Farhanah's case was heard by the legally competent court, the Specialized Criminal Court, in a fair and public trial. It notes that the Specialized Criminal Court was established pursuant to national law and as a measure to promote justice. Reportedly, it applies the same legal procedures as other criminal courts, under the Judiciary Act, the Code of Criminal Procedure and the Code of Sharia Procedure. Moreover, judges are allegedly appointed pursuant to a royal order based on a decree of the Supreme Judicial Council after obtaining endorsed certificates and fulfilling specific conditions, in accordance with article 47 of the Judiciary Act (2007).

61. The Government notes that domestic laws protect the right to a fair and public trial before an independent judiciary, in accordance with article 10 of the Universal Declaration of Human Rights and articles 12 and 13 of the Arab Charter on Human Rights. It explains that the judiciary derives its authority and principles from sharia law, which guarantees judicial independence.

62. The Government denies that Mr. Farhanah was subjected to torture or ill-treatment and submits that he was treated in a manner that preserved his dignity and rights. It explains that national law prohibits and punishes acts of torture, degrading treatment or physical or mental harm, and prohibits coercive interrogation measures or influencing a detainee's will to make a statement. According to the Government, all prisons and detention facilities in Saudi Arabia are subject to oversight and inspections, and necessary measures are taken in the event of any contravention of national law in that regard. Reportedly, national law requires all State bodies to guarantee justice for all, regardless of their religion, race, gender or nationality, and detention centres can be visited by the Human Rights Commission and the National Society for Human Rights.

63. The Government submits that Mr. Farhanah was not enforcedly disappeared but rather detained in a General Directorate of Investigation (Al-Mabahith) prison in the Eastern Province. Reportedly, it responded to a communication concerning Mr. Farhanah from the Working Group on Enforced or Involuntary Disappearances, which concluded that Mr. Farhanah's case had been clarified.

64. According to the Government, there are no secret or undisclosed places of detention in Saudi Arabia, and individuals are detained or imprisoned only in locations designated for such purposes and for the period prescribed by the competent authority. The Government refers to national law and contends that all prisons and detention centres in the country are subject to judicial, administrative, health and social inspections, and that detainees have the right to submit a complaint.

65. Allegedly, Mr. Farhanah was afforded the right to present a defence and obtain legal assistance. He was reportedly informed of his right to a lawyer, in accordance with article 4 (1) of the Code of Criminal Procedure. The Government alleges that Mr. Farhanah's requests for additional time to submit his plea and for a lawyer to be appointed to him at the State's expense were granted, and that his lawyer was granted the necessary facilities and time to provide Mr. Farhanah with the requisite legal assistance. The Government notes that the Charter of the Saudi Bar Association contains several provisions designed to increase the role of lawyers in promoting and protecting human rights. It contends that the above-mentioned procedures are consistent with article 16 (2)–(5) of the Arab Charter on Human Rights, principle 15 of the Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment, and article 11 (1) of the Universal Declaration of Human Rights.

66. Reportedly, Mr. Farhanah has the right to contact his family on a regular basis and, in common with other detainees, he receives all the necessary medical care and is provided with appropriate food. Referring to its national law, the Government notes that all detainees undergo a medical examination upon arrival in prison and are provided with medical care. It contends that the conditions of detention of Mr. Farhanah are consistent with the Nelson Mandela Rules, as well as the Body of Principles. The Government thus concludes that Mr. Farhanah's detention does not violate category III.

67. Furthermore, the Government contends that Mr. Farhanah was detained on charges of terrorism and that no person may be incriminated or punished apart from under previously enacted sharia and statutory provisions. In addition, it states that all citizens are treated equally, and that discrimination is criminalized and punishable under national law. According to the Government, several domestic mechanisms guarantee effective human rights safeguards, and national law requires all State authorities to treat people fairly, regardless of their religion, race, gender or nationality.

68. The Government reiterates its commitment to the relevant treaties it has ratified, including the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment and the International Convention on the Elimination of All Forms of Racial Discrimination, which it deems to be part of its legislation. It also provides details of the measures it has taken to counter the spread of COVID-19 in prisons and places of detention and notes that all family visits to inmates, cultural and sports activities and events involving groups of inmates have now resumed.

69. The Government reaffirms that it responds to the letters, appeals and communications submitted to it and clarifies all relevant facts, in line with its cooperation with international human rights mechanisms.

70. Lastly, the Government reminds the Working Group of the Code of Conduct for Special Procedure Mandate Holders of the Human Rights Council, adopted by the Council in its resolution 5/2 on 18 June 2007, and in particular their obligations under articles 4 (3), 6 (a)–(c), 9 (a) and (d)–(e), 12 (a)–(b) and 13 (a)–(b).

*Further comments from the source*

71. On 10 May 2022, the response of the Government was sent to the source for further comments, which were provided on 7 June 2022.

72. In reference to the communication sent by special procedures of the Human Rights Council to Saudi Arabia, the source submits that none of the violations alleged in the communication were remedied by the Government.

73. The source notes that the Government's response provides no mention or detail of any of the legal proceedings conducted against Mr. Farhanah and no information about his treatment to support the Government's denial of the allegations or to demonstrate that he was in fact afforded the procedural guarantees alleged to have been violated. The source

reiterates the allegations contained in the original submission and contends that the Government's mere listing of the relevant national and international laws and procedures is insufficient to rebut or diminish the allegations.

### **Discussion**

74. The Working Group thanks the source and the Government for their submissions, while noting that the Government has extensively referred to its domestic legislation and procedures but that its submissions do not fully clarify the extent and manner in which these legal standards have been applied specifically to Mr. Farhanah.

75. In determining whether a person'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.<sup>3</sup> Mere assertions by the Government that lawful procedures have been followed are not sufficient to rebut the source's allegations.<sup>4</sup>

76. The Working Group recalls that its methods of work permit the consideration of information received from the Government in response to the communication from the special procedures of the Human Rights Council referred to by both parties.

#### **i. Category I**

77. According to the source, when Mr. Farhanah's car was pulled over on 21 February 2019, security officers initially tried to arrest him on the basis that he was driving a stolen car. Reportedly, this reason was abandoned when Mr. Farhanah established his ownership of the car. The officers then identified themselves as being from the State security services and Mr. Farhanah was then arrested without being provided with any reason for his arrest or any warrant or other judicial document. Allegedly, no reason for his arrest or detention was provided during the eight months of his alleged solitary and incommunicado confinement. Reportedly, for over a year, no charges were brought against Mr. Farhanah, and no reasons were provided by an investigator, prosecutor or judge to justify his continued detention. During this period, Mr. Farhanah was reportedly never brought before a judge or court, or provided with access to his case file or any evidence against him that might explain his detention.

78. The Government claims that a warrant was issued and the charges were explained to Mr. Farhanah. It has however not been indicated at which stage a warrant was presented to Mr. Farhanah, the information it contained or whether it was the same warrant that authorized the search of Mr. Farhanah's house. The Government has not denied that charges were only presented to Mr. Farhanah after the hearing on 8 March 2020. All information relating to an arrest or detention should ordinarily be in the possession of the Government, and it should furnish that information to the Working Group as part of discharging the burden of proof it bears in refuting the source's allegations. The Government has not done so.

79. In order for a deprivation of liberty to have a legal basis, it is not sufficient for there to be a law authorizing the arrest; the authorities must invoke that legal basis and apply it to the circumstances of the case through an arrest warrant.<sup>5</sup> The authorities should have

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<sup>3</sup> A/HRC/19/57, para. 68.

<sup>4</sup> Ibid.

<sup>5</sup> See opinions No. 93/2017, para. 44; No. 36/2018, para. 40; No. 9/2019, para. 29; No. 32/2019, para. 29; No. 44/2019, para. 52; and No. 34/2021, para. 71.

informed Mr. Farhanah of the reasons for his arrest, at the time of arrest, and informed him promptly of the charges against him.<sup>6</sup>

80. The Working Group has found in several recent cases relating to Saudi Arabia that an arrest warrant was not presented at the time of the arrest, further strengthening the credibility of the source's claims.<sup>7</sup> The Working Group finds that Mr. Farhanah was not presented with a warrant or nor were the reasons for his arrest explained to him at the time of his arrest, nor was he informed of the charges against him, which are all elements that should have been integral to establishing the legal basis for Mr. Farhanah's arrest and detention and are procedurally inherent in the right to liberty and security and the prohibition of arbitrary deprivation.

81. The Government has not specifically addressed the source's allegation that Mr. Farhanah was held for over a year without being charged or brought before a court, or that his detention was not based on an individualized determination that it was reasonable or necessary. The Working Group finds credible the source's allegations that Mr. Farhanah was not brought before a judge promptly, that is within 48 hours of an arrest, except in absolutely exceptional circumstances, in line with the international standard set out in the Working Group's jurisprudence.<sup>8</sup>

82. Under international human rights law, pretrial detention must be the exception rather than the rule. It 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.

83. The Working Group therefore finds that the pretrial detention of Mr. Farhanah was contrary to articles 3 and 9 of the Universal Declaration of Human Rights and principles 10–11 and 37–39 of the Body of Principles.<sup>9</sup>

84. The source submits that Mr. Farhanah was held in solitary confinement at the State security prison in the Eastern Province for the first eight months of his detention. His detention was also incommunicado, as he was reportedly denied any access to or communication with his family or any other person. The source argues that Mr. Farhanah was effectively disappeared during the first seven months of his detention as, despite considerable efforts from his family to determine his whereabouts after he was arrested, the authorities refused to provide any information regarding his location.

85. In its response, the Government admits that Mr. Farhanah was detained at a General Directorate of Investigation (Al-Mabahith) prison in the Eastern Province but denies that he was detained incommunicado, stating that there are no secret or undisclosed places of detention in the country, and that individuals are detained or imprisoned only in locations designated for such purposes and for the period prescribed by the competent authority. The Working Group finds the Government's reply insufficient, as it does not explain when the family was informed of Mr. Farhanah's whereabouts, nor does it specifically address the allegation that the authorities refused to disclose his location.

86. As the Working Group has consistently argued, holding a person at a secret, undisclosed location and in circumstances undisclosed to the person's family violates that person's right to challenge the legality of the detention before a court or tribunal. Judicial oversight of any detention is a central safeguard for personal liberty and is critical in ensuring that the detention has a legitimate basis. Although the Government states that the

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<sup>6</sup> See opinions No. 10/2015, para. 34; No. 32/2019, para. 29; and No. 46/2019, para. 51.

<sup>7</sup> Opinions No. 22/2019, No. 26/2019, No. 56/2019, No. 71/2019, No. 33/2020, No. 86/2020, No. 92/2020, No. 34/2021, No. 72/2021 and No. 30/2022.

<sup>8</sup> Opinions No. 57/2016, paras. 110–111; No. 2/2018, para. 49; No. 83/2018, para. 47; No. 11/2019, para. 63; and No. 30/2019, para. 30.

<sup>9</sup> See also articles 14 (1) and (5) and 23 of the Arab Charter on Human Rights.

right to challenge the legality of one's own arrest or detention is a general principle in domestic law and a right guaranteed to every person who is detained or arrested, it does not specify whether this right was afforded to Mr. Farhanah and, if so, when.

87. The Working Group finds credible the source's submission that Mr. Farhanah was held incommunicado. As a result, he was not able to challenge his detention during that time and was placed outside the protection of the law, in violation of article 6 of the Universal Declaration of Human Rights. Moreover, the failure to provide notification of his arrest and location to his family is contrary to principles 15–19 of the Body of Principles.<sup>10</sup> Prompt and regular access to family members is an essential and necessary safeguard for the prevention of torture and for protection against arbitrary detention and infringement of personal security. Prolonged incommunicado detention is conducive to torture and ill-treatment and can itself constitute such treatment.<sup>11</sup>

88. In the light of the fact that Mr. Farhanah was unable to challenge the legality of his detention, the Working Group considers that his right to an effective remedy under article 8 of the Universal Declaration of Human Rights was violated.

89. The Working Group considers that Mr. Farhanah was initially detained in circumstances that amount to enforced disappearance, as his family could not locate him and the authorities refused to disclose his location. Enforced disappearance constitutes a particularly aggravated form of arbitrary detention, in violation of article 6 of the Universal Declaration of Human Rights.<sup>12</sup>

90. For the reasons articulated above, the Working Group finds that the detention of Mr. Farhanah is arbitrary under category I.

ii. Category III

91. According to the source, Mr. Farhanah's right to instruct and consult a lawyer has been violated during the entire period of his detention and prison officials have expressly denied him access to a lawyer during interrogations. Mr. Farhanah's lack of counsel reportedly left him unable to prepare his defence or challenge evidence obtained through torture and abusive interrogations.

92. The Government contends that Mr. Farhanah was free to hire a lawyer under national law. It does not however specifically deny the source's allegations or indicate what specific measures it took to ensure that Mr. Farhanah had access to a lawyer throughout the proceedings against him, including immediately after his arrest.

93. The Working Group considers legal representation as a core facet of the right to a fair trial. Legal assistance should be available at all stages of criminal proceedings and the denial of access to lawyers substantially undermines and compromises the capacity of an accused person to defend him or herself in any judicial proceedings. This right entitles persons deprived of liberty to be accorded adequate time and facilities to prepare their defence, including through the disclosure of information.<sup>13</sup>

94. 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 provide that persons deprived of their liberty have the right to legal assistance by counsel of their choice at any time during their detention, including

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<sup>10</sup> Opinions No. 22/2019, para. 71; No. 26/2019, para. 99; No. 56/2019, para. 83; and No. 92/2020, para. 72.

<sup>11</sup> General Assembly resolution 68/156, para. 27.

<sup>12</sup> Opinions No. 5/2020, No. 6/2020, No. 11/2020 and No. 34/2021.

<sup>13</sup> 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.

immediately after apprehension, and must be promptly informed of this right upon apprehension.<sup>14</sup>

95. In the light of the above-mentioned reasoning, and its finding that Mr. Farhanah was held incommunicado, the Working Group finds that the Government violated the right of Mr. Farhanah to legal assistance at all times, a right 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 established by law, in accordance with articles 3, 9, 10 and 11 (1) of the Universal Declaration of Human Rights and principles 15, 17 and 18 of the Body of Principles. The Working Group considers that these violations substantially undermined Mr. Farhanah's ability to defend himself in any subsequent judicial proceedings.<sup>15</sup> The present case is another example of legal representation being denied to or limited for individuals facing serious charges, suggesting that there is a systemic failure to provide access to counsel during criminal proceedings in Saudi Arabia.<sup>16</sup>

96. The source submits and the Government does not deny that Mr. Farhanah was tried on 8 March 2020, alongside 60 other defendants charged with similar offences. As the Working Group has emphasized, mass trials are incompatible with the interests of justice and do not meet the standards of a fair trial, given that such proceedings do not allow for a specific assessment of individual responsibility. The Working Group is not convinced that, in such a large trial, it was possible for all defendants, including Mr. Farhanah, to receive an individualized assessment of their culpability beyond reasonable doubt. It further notes the source's uncontested allegation that the court failed to provide any reasoning to support its findings against Mr. Farhanah, or to justify the length of his sentence, further supporting the conclusion that Mr. Farhanah did not benefit from an assessment of his individual responsibility.

97. Furthermore, the source argues that the fact that Mr. Farhanah was unable to communicate with family members, in particular during the eight months when he was held in incommunicado detention, hindered his ability to access a lawyer through his family.

98. In response to this allegation the Government merely submitted that Mr. Farhanah has the right to contact his family on a regular basis.

99. The Working Group finds this response generic and insufficient. The Government has the records of all detainees and prisoners in its detention facilities and could have provided particulars of Mr. Farhanah's communication with members of his family, possibly by name, date and time, to confirm the alleged regular contact between Mr. Farhanah and his family. The Working Group is therefore inclined to accept the source's submission.

100. Principle 15 of the Body of Principles provides that communication of a detained or imprisoned person with the outside world, and in particular his or her family or counsel, shall not be denied for more than a matter of days. The right to receive visits applies to all detainees, regardless of the offence of which they are suspected or accused. Under principle 19, this right can be subject only to reasonable conditions and restrictions as specified by law or lawful regulations.

101. The Working Group finds that Mr. Farhanah was denied contact with his family, contrary to principles 15 and 19 of the Body of Principles, which had an adverse impact on his ability to secure legal assistance.

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<sup>14</sup> See also principle 18 (3) of the Body of Principles and rule 61 (1) of the Nelson Mandela Rules.

<sup>15</sup> A/HRC/30/37, annex, paras. 12, 15, 67 and 71.

<sup>16</sup> Opinions No. 22/2019, No. 26/2019, No. 56/2019, No. 71/2019, No. 33/2020, No. 86/2020 and No. 36/2022.

102. The source submits that Mr. Farhanah was physically and mentally tortured during the initial period of solitary confinement and incommunicado detention. The source has listed instances of abusive and torturous acts allegedly committed against Mr. Farhanah by prison officials and interrogators. In its reply, the Government barely denies these allegations, merely stating that Mr. Farhanah was not subjected to torture or ill-treatment but was treated in a manner that preserved his dignity and rights. It fails to provide any specific information or documents, such as medical records, attesting to Mr. Farhanah's good treatment and merely argues that lawful procedures were followed.

103. The Working Group finds credible the source's allegations that Mr. Farhanah was subjected to abusive and coercive interrogations during his detention, in particular during the time he was held in solitary and incommunicado detention. The Working Group notes with concern the unrebutted allegations of the source that, despite being released from solitary and incommunicado detention, Mr. Farhanah is still being subjected to deplorable detention conditions and continues to be harassed by prison staff, who threaten him with a return to solitary confinement and further physical torture.

104. The Working Group recalls that principle 1 of the Body of Principles provides that persons under any form of detention or imprisonment shall be treated in a humane manner and with respect for the inherent dignity of the human person. It further recalls that the prohibition of torture and other cruel, inhuman or degrading treatment or punishment under article 5 of the Universal Declaration of Human Rights and principle 6 of the Body of Principles is absolute, applies in all circumstances and may never be restricted, including in times of war or a state of emergency. Such prohibition applies irrespective of the offence allegedly committed by the accused. In the view of the Working Group, torture or ill-treatment of detainees is not only a grave violation of human rights, but also seriously undermines the fundamental principles of a fair trial, as it can compromise the ability to defend oneself, especially in the light of the right not to be compelled to testify against oneself or to confess guilt.<sup>17</sup>

105. The Working Group notes with concern the specific allegation that Mr. Farhanah was tortured while being interrogated without a lawyer present and that the court ignored his declaration that he had confessed under torture. The Government does not specifically address these allegations and merely refers to national legislation forbidding acts of torture or ill-treatment.

106. Where torture is employed as part of a deliberate, orchestrated process to coerce a detainee into actions which would undermine that person's ability to adequately defend him or herself, such torture undermines the credibility of a trial.

107. The Working Group therefore finds violations of articles 10 and 11 of the Universal Declaration of Human Rights. The use of a confession extracted through ill-treatment is also contrary to principle 21 of the Body of Principles and article 15 of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.<sup>18</sup>

108. The Working Group also notes the source's grave allegations regarding the deterioration of Mr. Farhanah's physical and psychological health and the fact that he was denied his prescribed medication and necessary medical care, despite his serious health conditions. The source alleges that the torture and subsequent medical neglect of Mr. Farhanah has led to a deterioration in his health. In its response, the Government merely affirms that medical care is provided to all detainees and that Mr. Farhanah's treatment is consistent with relevant international norms. It provides no further individualized information, such as records of Mr. Farhanah's medical examinations. The Working

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<sup>17</sup> Opinions No. 22/2019, para. 78; No. 26/2019, para. 104; and No. 56/2019, para. 88.

<sup>18</sup> Opinions No. 48/2016, para. 52; No. 3/2017, para. 33; No. 6/2017, para. 43; No. 29/2017, para. 64; and No. 39/2018, para. 42.



Group notes that every detainee has the right to the highest attainable standard of physical and mental health. It considers that Mr. Farhanah's treatment falls short of the standards set out in, for example, rules 1, 24, 27 and 42 of the Nelson Mandela Rules. The Working Group further recalls that denial of medical care may constitute a form of torture, in violation of article 5 of the Universal Declaration of Human Rights.<sup>19</sup>

109. Taking these factors into account, the Working Group finds that the conditions of detention of Mr. Farhanah significantly undermined his ability to defend himself properly, amounting to a violation of his right to a fair trial.<sup>20</sup>

110. For the above-mentioned reasons, the Working Group finds that the detention of Mr. Farhanah was characterized by multiple fair trial rights violations of such gravity as to render his detention arbitrary under category III. The Working Group refers this case to the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment for appropriate action.

iii. Category V

111. The Working Group observes with concern that Mr. Farhanah was brought before a judge for the first time on 8 March 2020 with about 60 other detainees, who were mostly of Palestinian nationality or descent and who were also presented with terrorism charges. The source believes that the detention of Mr. Farhanah is part of a pattern of detaining Palestinian nationals living in Saudi Arabia, and therefore discriminatory on the basis of race and national origin, and possibly also for reasons of imputed political opinion.

112. In common with Mr. Farhanah, the other Palestinians were allegedly detained without charge or legal reason and denied access to a lawyer or their families. Reports have also included details of severe abuse and gross human rights violations against the Palestinian nationals detained, including alleged physical and psychological torture carried out by prison officials and interrogators, leading to some detainees requiring hospital treatment. The source adds that such violations suffered by Palestinian nationals, including Mr. Farhanah, mirror reports of alleged systematic human rights violations committed by Saudi officials against individuals in detention.

113. The Working Group recalls that, under article 7 of the Universal Declaration of Human Rights, every individual is entitled without any discrimination to equal protection of the law, and this includes discrimination on the basis of nationality or citizenship. Any detention based on discriminatory treatment would thus be arbitrary.

114. The Government affirms that Mr. Farhanah was detained on the charge of committing terrorist offences that are punishable under the Terrorist Crimes and Terrorism Financing Act. In response to the specific allegations of discrimination, the Government merely states that national legislation forbids detention that is not in accordance with the provisions of the law and criminalizes discrimination. The Working Group recalls that mere assertions by the Government that lawful procedures have been followed are not sufficient to rebut the source's allegations.<sup>21</sup>

115. In these circumstances, the Working Group accepts as credible the source's allegations and concludes that Mr. Farhanah was deprived of his liberty on discriminatory grounds, namely on the basis of his Palestinian nationality and ethnicity. His detention therefore violates articles 2 and 7 of the Universal Declaration of Human Rights and is arbitrary under category V.

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<sup>19</sup> A/HRC/38/36, para. 18.

<sup>20</sup> Opinion No. 32/2019, para. 42.

<sup>21</sup> A/HRC/19/57, para. 68.

116. In its 31-year history, the Working Group has found Saudi Arabia in violation of its international human rights obligations in over 70 cases.<sup>22</sup> The Working Group is concerned that this indicates a systemic problem with arbitrary detention in Saudi Arabia, which amounts to a serious violation of international law. The Working Group recalls that under certain circumstances, widespread or systematic imprisonment or other severe deprivation of liberty in violation of the rules of international law may constitute crimes against humanity.<sup>23</sup>

117. The Working Group would welcome the opportunity to work constructively with the Government to address arbitrary detention. On 24 August 2021, the Working Group reiterated previous requests to the Government to undertake a country visit and will continue to seek a positive response.

### **Disposition**

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

The deprivation of liberty of Abdelrhman Mohammed Farhanah, being in contravention of articles 2, 3, 6, 7, 8, 9, 10 and 11 of the Universal Declaration of Human Rights, is arbitrary and falls within categories I, III and V.

119. The Working Group requests the Government of Saudi Arabia to take the steps necessary to remedy the situation of Mr. Farhanah without delay and bring it into conformity with the relevant international norms, including those set out in the Universal Declaration of Human Rights and the International Covenant on Civil and Political Rights.

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

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

122. In accordance with paragraph 33(a) of its methods of work, the Working Group refers this case to Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, for appropriate action.

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

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

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<sup>22</sup> See decisions No. 40/1992, No. 60/1993, No. 19/1995 and No. 48/1995 and opinions No. 8/2002, No. 25/2004, No. 34/2005, No. 35/2005, No. 9/2006, No. 12/2006, No. 36/2006, No. 37/2006, No. 4/2007, No. 9/2007, No. 19/2007, No. 27/2007, No. 6/2008, No. 11/2008, No. 13/2008, No. 22/2008, No. 31/2008, No. 36/2008, No. 37/2008, No. 21/2009, No. 2/2011, No. 10/2011, No. 11/2011, No. 17/2011, No. 18/2011, No. 19/2011, No. 30/2011, No. 31/2011, No. 33/2011, No. 41/2011, No. 42/2011, No. 43/2011, No. 44/2011, No. 45/2011, No. 8/2012, No. 22/2012, No. 52/2012, No. 53/2012, No. 32/2013, No. 44/2013, No. 45/2013, No. 46/2013, No. 14/2014, No. 32/2014, No. 13/2015, No. 38/2015, No. 52/2016, No. 61/2016, No. 10/2017, No. 63/2017, No. 93/2017, No. 10/2018, No. 68/2018, No. 22/2019, No. 26/2019, No. 56/2019, No. 71/2019, No. 33/2020, No. 86/2020, No. 92/2020, No. 34/2021, No. 59/2021, No. 72/2021, No. 29/2022, No. 30/2022, No. 36/2022 and No. 62/2022.

<sup>23</sup> A/HRC/13/42, para. 30. See also opinions No. 68/2018, para. 60; No. 73/2018, para. 69; No. 82/2018, para. 53; No. 83/2018, para. 68; and No. 87/2018, para. 80.

**Follow-up procedure**

125. 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. Farhanah has been released and, if so, on what date;
- (b) Whether compensation or other reparations have been made to Mr. Farhanah;
- (c) Whether an investigation has been conducted into the violation of Mr. Farhanah'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.

126. 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.

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

128. 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>24</sup>

*[Adopted on 18 November 2022]*

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<sup>24</sup> Human Rights Council resolution 51/8, paras. 6 and 9.