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## Human Rights Council Working Group on Arbitrary Detention

### Opinions adopted by the Working Group on Arbitrary Detention at its eighty-fifth session, 12–16 August 2019

#### Opinion No. 56/2019 concerning Abbas Haiji Al-Hassan (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 33/30.

2. In accordance with its methods of work (A/HRC/36/38), on 4 March 2019 the Working Group transmitted to the Government of Saudi Arabia a communication concerning Abbas Haiji Al-Hassan. The Government replied to the communication on 2 May 2019. The State is not a party to the International Covenant on Civil and Political Rights.

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

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

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

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

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

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



## Submissions

### *Communication from the source*

4. Abbas Haiji Al-Hassan is a citizen of Saudi Arabia. He was born in Jeddah on 31 July 1973. Mr. Al-Hassan is a businessman who has established a company involved in the import and export of goods from the Islamic Republic of Iran. He has also been regional manager for the Arab Bank's automated support unit.

5. According to the source, Mr. Al-Hassan is a practising Shia Muslim and has participated in a number of religious events and ceremonies. Such activities have included the opening of a centre for the practice of Shia religious ceremonies, a government-approved project. Furthermore, he has brought together community members to participate in religious rites, including by organizing travel and tourism to the Islamic Republic of Iran for religious purposes.

#### (a) Arrest and detention

6. The source reports that, on 2 June 2013, Mr. Al-Hassan was arrested in the Eastern Province by security agents from the General Directorate of Investigations in Jeddah, as he was returning from work. No warrant was allegedly presented for his arrest. The arresting officers informed Mr. Al-Hassan that the reason for his arrest was his presence on a Ministry of the Interior "wanted list". He was reportedly among 32 persons arrested across the country for alleged involvement in carrying out acts of espionage against Saudi Arabia on behalf of the Islamic Republic of Iran.

7. According to the source, Mr. Al-Hassan was taken to his home, where the arresting officers carried out a search of his property. A member of Mr. Al-Hassan's family was present and asked to remain in one of the children's rooms. No warrant was presented for the search of the property.

8. The source reports that Mr. Al-Hassan was subsequently transferred to Al-Ha'ir Prison in Riyadh, where he was denied access to a lawyer. The detaining authorities allowed him to communicate with his family for two minutes in the evening upon transfer, after which he was placed in solitary confinement and held incommunicado for more than two months.

9. In Al-Ha'ir Prison, investigators of the General Directorate of Investigations allegedly subjected Mr. Al-Hassan to torture and ill-treatment for a period of three months for the purpose of extracting a confession. The source adds that he was subjected to the following forms of torture, among others:

(a) Beatings while blindfolded and restrained, with blows to sensitive areas of his body;

(b) Being forced to stand in stress positions while restrained by his hands and legs for prolonged periods of time;

(c) Sleep deprivation, including by being forced to stand with his face against a wall throughout the night;

(d) Threats of further beatings if he did not confess;

(e) Solitary confinement for a period of two months and 16 days.

10. The source adds that on one occasion, 14 investigators of the General Directorate of Investigations interrogated Mr. Al-Hassan and threatened him with further beatings if he did not sign a confession.

11. According to the source, Mr. Al-Hassan received treatment within the prison hospital for injuries sustained as a result of the torture and ill-treatment. However, he does not recall the number of occasions he received medical treatment.

12. On 1 July 2015, Mr. Al-Hassan was reportedly transferred from Al-Ha'ir Prison in Riyadh to Al-Thaban Prison in Jeddah.

13. The source reports that on 12 January 2016, after Mr. Al-Hassan had spent three years in pretrial detention without being informed of the charges against him, the Bureau of Investigation and Public Prosecution transferred the case for trial before the Specialized Criminal Court in Riyadh.

(b) Charges and trial

14. The source adds that Mr. Al-Hassan was not brought before a judicial authority or formally charged until February 2016, when the Bureau of Investigation and Public Prosecution charged him, together with 31 other individuals, with espionage. However, Mr. Al-Hassan was not informed of these charges or provided with a formal indictment.

15. According to the source, prosecutors requested that the Specialized Criminal Court hand down a discretionary death sentence against Mr. Al-Hassan. The charges against him included the following:

- (a) Communicating with Iranian intelligence agents and cooperating with them in the interest of Iranian intelligence;
- (b) Meeting with Iranian intelligence agents;
- (c) Providing information to Iranian intelligence agents;
- (d) Recruiting individuals to spy on behalf of the Islamic Republic of Iran in exchange for a monthly salary;
- (e) Recruiting individuals to hinder the reputation of Saudi Arabia;
- (f) Providing material support to clerics, including Sheikh Mohammad al-Attieh, who was sentenced to death in this trial;
- (g) Supporting the spread of Shia doctrine;
- (h) Attending meetings with the cultural and commercial attaché at the embassy of the Islamic Republic of Iran in order to favour his business, which included the import of Iranian goods;
- (i) Organizing propaganda events and financing terrorism;
- (j) Storing photographs of an official speech on his laptop;
- (k) Supporting riots and protests to jeopardize the security of Saudi Arabia.

16. The source reports that the first hearing before the Specialized Criminal Court was held on 21 February 2016. Mr. Al-Hassan and others were not provided with a copy of the indictment. The Court asked him and others to enter a plea and whether they would appoint counsel. This was the first opportunity for Mr. Al-Hassan to appoint legal counsel in three years. A lawyer attended on his behalf but was not allowed to confer with him.

17. The source adds that subsequent hearings were held on 16 March, 21 April, 11 July and 10 August 2016. Counsel was reportedly ordered to submit a defence argument to the Specialized Criminal Court at the second hearing.

18. The source reports that, at that hearing, Mr. Al-Hassan's lawyer requested an adjournment to allow him time to prepare an adequate defence, as he had been prevented access to his detained client. He also requested an adjournment of the third hearing because he could not attend for health reasons. However, the Specialized Criminal Court denied the requests and proceeded with the hearings.

19. At the third hearing, Mr. Al-Hassan reportedly entered a plea of not guilty and informed the judge that his confession had been extracted through torture and ill-treatment. However, no investigation was initiated by the Specialized Criminal Court.

20. The source reports that, on or around 14 December 2016, the Specialized Criminal Court issued a death sentence against Mr. Al-Hassan, as well as against 14 others, partially on the basis of his confession, which had allegedly been extracted through torture. The written judgment was received on 15 January 2017.

21. On 11 January 2017, Mr. Al-Hassan's counsel reportedly submitted an appeal against his client's death sentence before the Specialized Criminal Court's appellate division. On 25 July 2017, the appellate division upheld the death sentence against Mr. Al-Hassan and 14 others.

22. According to the source, on or around 12 December 2017, Mr. Al-Hassan and 14 others were informed that the Supreme Court of Saudi Arabia had confirmed the death sentence against them, concluding all legal appeals in the case. Mr. Al-Hassan and his lawyer were neither informed of the hearing nor brought before the Supreme Court to make submissions, either orally or in writing. On or around that same date, Mr. Al-Hassan's family and the families of the 14 others were informed that the death sentence had been confirmed.

23. According to the source, Mr. Al-Hassan was held in Al-Thaban Prison while waiting to be executed without prior notification, in the absence of a formal notification process in Saudi Arabia.

24. On or around 7 March 2018, Mr. Al-Hassan was reportedly taken for an unscheduled medical examination in prison, along with six other prisoners sentenced to death and facing imminent execution. He was first taken for a physical exam, then a psychological assessment. The source adds that the reason for this medical examination is unknown; however, it is understood that it may have been carried out to determine the detainees' "fitness for execution", as reported in other cases of prisoners sentenced to death by the Specialized Criminal Court.

25. The source reports that Mr. Al-Hassan's family was informed on 5 November 2018 that his confirmed death sentence had been given an official docket number before the Presidency of State Security,<sup>1</sup> which his lawyer believed was the first indication that a royal decree for his client's execution had been issued.

(c) Further developments

26. According to the source, in September 2018 family visits for Mr. Al-Hassan were restricted or cancelled altogether. In particular, when a family member requested a day-long visit, the prison administration responded that Mr. Al-Hassan was not entitled to that type of visit because he had been sentenced to death. His books were reportedly confiscated.

27. On 3 January 2019, a prison officer reportedly transferred Mr. Al-Hassan to solitary confinement, where he stayed for a whole week, as punishment. The officer claimed that Mr. Al-Hassan had illegally borrowed eyeglasses from one of his visitors; however, Mr. Al-Hassan confirmed that he had had them since his detention at Al-Ha'ir Prison.

28. While in solitary confinement, Mr. Al-Hassan reportedly slept on the floor with no blankets, no consideration having been taken for his high blood pressure from hypertrophic cardiomyopathy. After he was transferred back to his cell, he was forced to stand for long hours after breakfast, on three consecutive days, and to repeatedly stand up and sit down.

29. The source reports that on the morning of 7 January 2019 a barber came to Mr. Al-Hassan's cell and was ordered to cut off his hair without his prior consent. Mr. Al-Hassan reportedly heard an officer screaming at one of the prisoners in the hall next to the solitary confinement rooms. The officer entered Al-Hassan's cell and asked the barber to bring in the anti-riot squad; the anti-riot officers cuffed his hands behind his back, shackled his legs and transferred him to the room where prisoners had access to sunlight. There, the officers provoked him by asking him if he preferred to walk with or without the cuffs. Mr. Al-Hassan answered that he preferred to walk without them. The officers then removed the cuffs from his hands and legs and ordered him to run as quickly as possible, while cursing, yelling and threatening him. Mr. Al-Hassan told the officers repeatedly that he could not run any faster. The officers subsequently handcuffed him, tied his legs and started hitting

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<sup>1</sup> According to the source, the Presidency of State Security, established by royal decree in late 2017, is an intelligence and security agency overseen directly by the King. It has assumed the intelligence and security capabilities previously held by the Ministry of the Interior and is empowered to arrest and interrogate suspects and defendants.

him on sensitive areas, using sharp objects. Afterwards, they returned him to solitary confinement.

30. On 12 January 2019, after the evening prayer, a well-known officer at Al-Thaban Prison entered Mr. Al-Hassan's cell and asked about the reason for his solitary confinement. Mr. Al-Hassan told him the explanation that he had received, in other words that he had illegally borrowed eyeglasses. After Mr. Al-Hassan confirmed that he had spent a week in solitary confinement, the officer ordered his release and had him returned to his cell.

31. On 13 January 2019, Mr. Al-Hassan's family visited him at the prison; that was when his relatives first discovered that he had been held in solitary confinement. They visited him again the following day. During those visits, they noticed that his back was swollen and that he had bruises on his body. On their next visit, on 27 January, they noted that the swelling and bruises remained, nearly three weeks after his release from solitary confinement.

32. The source notes that Mr. Al-Hassan's family subsequently filed a complaint to the prison administration to investigate the officer who had transferred him to solitary confinement, to know the reason behind this transfer and to inquire into his subsequent torture. No response had been received by the time of the submission.

33. The source reports that a few days later the officer in charge of Mr. Al-Hassan's cell told him to get his family to drop the complaint since the officer might get fired if he were to be found accountable. Mr. Al-Hassan responded that the prison administration should review the surveillance camera recordings to see how the officer had abused him and cursed at him for the whole week of his solitary confinement.

(d) Joint communications from special procedure mandate holders

34. Mr. Al-Hassan has been the subject of two joint communications by special procedure mandate holders, one dated 28 July 2017 and the other 8 February 2018. The Working Group acknowledges the responses to them from the Government of Saudi Arabia. Mr. Al-Hassan has also been the subject of a joint press release by special procedure mandate holders dated 15 March 2018.<sup>2</sup>

(e) Analysis of the violations

35. The source submits that the detention of Mr. Al-Hassan is arbitrary and falls within categories I, III and V. The source adds that Saudi Arabia is bound by both international law and the regional agreements to which it is a party, which prohibit the gross human rights violations described above.

(i) Category I: lengthy pretrial detention

36. The source notes that, while Saudi Arabia is not a party to the International Covenant on Civil and Political Rights and cannot therefore be bound by its provisions, much of the contents of the Covenant are generally recognized as customary international law. As such, Saudi Arabia is allegedly bound by many of its principles. The source refers to articles 9 (4) and 14 (3) of the Covenant and article 14 (5) of the Arab Charter on Human Rights, which guarantee the right to be brought promptly before a court following an arrest and the entitlement to a trial within a reasonable time. The source submits that, once detained, a person is entitled to a trial within a reasonable time or to release, and notes that extremely prolonged pretrial detention may also jeopardize the presumption of innocence under article 14 (2) of the Covenant. The source adds that pretrial detention should not be general practice but be based on an individualized determination that it is reasonable and

<sup>2</sup> Office of the United Nations High Commissioner for Human Rights (OHCHR), "UN experts urge Saudi Arabia to halt executions on spying, spreading Shia faith charges", press release, 15 March 2018.

necessary in all circumstances. Factors should be specified in law and should not include vague standards such as “public security”.

37. As described above, despite the lack of a warrant, Mr. Al-Hassan was reportedly arrested on 2 June 2013. He was then detained and tortured for three years, until his trial in 2016, at the end of which he was convicted in spite of a significant lack of evidence. As such, the source submits that his lengthy pretrial detention without criminal charges being disclosed to him constitutes deprivation of liberty falling within category I, as there is no legally justifiable basis for such detention.

(ii) Category III: failure to comply with due process and fair trial safeguards

38. The source notes that the rights to life, liberty and security and to fair proceedings are enshrined in articles 3, 9 and 10 of the Universal Declaration of Human Rights and in articles 5, 6, 13, 14 and 16 of the Arab Charter on Human Rights. The absolute and non-derogable prohibition of torture and other ill-treatment is codified in articles 2 and 16 of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, to which Saudi Arabia acceded in 1997. The source also refers to articles 12, 13 and 15 of the Convention against Torture and adds that the right to counsel and to adequate time and facilities for the preparation of one’s defence are key elements of the right to a fair trial.

39. The source asserts that, in the present case, there was no fair trial or respect for the presumption of innocence in the court proceedings. At the first hearing, held on 21 February 2016, the public prosecutor called for the immediate execution of Mr. Al-Hassan and the 24 other individuals named in the case. On 6 December 2016, the Specialized Criminal Court tried all 32 individuals in the same case. Of the 32 men, two were acquitted, 15 were given sentences ranging between six months and 25 years, and Mr. Al-Hassan and 14 others were sentenced to death.

40. The source submits that this collective sentence was imposed after a trial riddled with fair trial and human rights violations. All 32 men had been arrested without a warrant and had been held incommunicado for up to three months, during which time they were interrogated without a lawyer being present. The Saudi authorities allegedly tortured Mr. Al-Hassan and other defendants to coerce confessions. The authorities failed to provide defence attorneys with the necessary documents to prepare an adequate defence and also withheld evidence used by the prosecution, such as USB drives, computers, confessions and statements given to investigators. Furthermore, the prosecution spent three years preparing the case against these individuals but demanded that the defence be prepared in three weeks. In some cases, the Saudi authorities did not even allow defendants to meet with their attorneys. Some of the men were allegedly threatened with solitary confinement or the arrest of their family members if they did not sign confessions.

41. According to the source, the Saudi authorities extracted confessions from the accused during interrogations by punching them, forcing them to stand overnight, forcing them to march and intimidating them. The source adds that Mr. Al-Hassan suffers from a permanent cardiovascular condition that was egregiously neglected by the prison authorities.

42. In July 2017, the Court of Appeal upheld all of the sentences, including the 15 death penalties. According to the source, the judge in the case was connected to the Ministry of the Interior.

43. The source notes that the prohibition against torture is widely accepted to have attained the status of a *jus cogens* norm. It also notes that the Committee against Torture is of the view that the safeguards, including the measures included in articles 3 to 16 of the Convention against Torture, are rules of customary international law that have also attained the status of *jus cogens* norms.<sup>3</sup>

<sup>3</sup> Committee against Torture general comment No. 2 (2007) on the implementation of article 2, para. 1.

44. The source highlights that a thorough investigation should be initiated immediately or without delay as soon as there is suspicion or an explicit allegation of torture, and must be reported ex officio to the relevant authorities (A/HRC/13/39, at para. 45). The source refers to the call made by the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment to rigorously observe the restrictions and conditions imposed by articles 1 and 16 of Convention against Torture (A/67/279, para. 80). He also recalls that the failure to do so, and the enforcement of a death sentence following violations of the right to a fair trial, is considered to be particularly cruel, inhuman and degrading and in violation of articles 1 and 16 of the Convention against Torture (ibid., para. 58).

45. The source submits that the Specialized Criminal Court did not guarantee Mr. Al-Hassan's right to a fair trial and a public hearing by a competent authority, pursuant to articles 13 of the Arab Charter on Human Rights and 14 (1) of the Covenant. The source adds that the independence and impartiality of the Court has been called into question, as it falls under the auspices of the Ministry of the Interior, which is the same government body that oversees the police and investigation services. Furthermore, Court judges are individually selected by government authorities.

46. The source asserts that the treatment of Mr. Al-Hassan is in contravention of the right to be assisted by a lawyer as set out in article 4 of the Criminal Procedure Code, article 16 (4) of the Arab Charter on Human Rights, article 19 (e) of the Cairo Declaration on Human Rights in Islam and article 14 (d) of the Covenant. The right to legal assistance in capital trials is axiomatic to the right to a fair trial. The judicial proceedings in the present case have not complied with the essential guarantees of a fair trial and due process.

47. The source submits that Mr. Al-Hassan has been subjected to breaches of his right to a fair trial and due process, including through the use of confessions extracted under torture. The source adds that the failures of the trial are such that the death sentences resulting from it are unlawful and that the imposition of the death penalty would be an unlawful and arbitrary deprivation of the right to life. As such, the source submits that the current detention of Mr. Al-Hassan constitutes deprivation of liberty falling within category III and that it is therefore in violation of the right to freedom from arbitrary detention enshrined in the Universal Declaration of Human Rights, the Covenant and the Arab Charter on Human Rights.

48. The source further submits that the secrecy surrounding the execution process subjects Mr. Al-Hassan and his relatives to torture and cruel, inhuman and degrading treatment.

(iii) Category V: discrimination

49. The source submits that, because Mr. Al-Hassan was convicted of "spreading the Shia doctrine", his imprisonment also constitutes deprivation of liberty falling within category V, as the criminal provision is blatantly discriminatory on the basis of religion. As such, it is argued that the discriminatory aspect renders Mr. Al-Hassan's detention arbitrary, in violation of the right to freedom from arbitrary arrest or detention. Furthermore, the source notes the Working Group's view that a heightened standard of review applies in cases where the right to freedom of religion is restricted and human rights defenders are involved.<sup>4</sup> The source therefore submits that such a heightened standard would be appropriate in the present case.

<sup>4</sup> See opinions No. 57/2017, para. 46; No. 41/2017, para. 95; No. 62/2012, para. 39; No. 54/2012, para. 29; and No. 64/2011, para. 20. Domestic authorities and international supervisory bodies should apply a heightened standard of review when analysing government action, especially when there are claims of a pattern of harassment (see opinion No. 39/2012, para. 45). See also article 9 (3) of the Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms (General Assembly resolution 53/144, annex).

*Response from the Government*

50. On 4 March 2019, the Working Group transmitted the allegations made by the source to the Government through its regular communications procedure. The Working Group requested the Government to provide, by 3 May 2019, detailed information about the situation of Mr. Al-Hassan and any comments on the source's allegations. Moreover, the Working Group called upon the Government to ensure Mr. Al-Hassan's physical and mental integrity.

51. In its response of 2 May 2019, the Government stated that Mr. Al-Hassan was presented with a warrant and the reason for his arrest; family visits were allowed, as were telephone calls. The Government also provided the dates concerning the allegation of solitary confinement and the reasons for its implementation, which included the possession of contraband items, while contending that no complaints were submitted in that regard and no threats were made to Mr. Al-Hassan.

52. The Government claims that Mr. Al-Hassan was examined by medical personnel 107 times since his arrest and that his health remained good. The Government also elaborated upon the national legal safeguards against ill-treatment and the related avenues for obtaining domestic remedies.

*Further comments from the source*

53. The response from the Government was transmitted to the source on 8 May 2019 for further comments. In its response of 22 May 2019, the source stated that the Government did not address the allegation of the violation of the principle of legality and failed to provide evidence against the allegation of torture and coerced confession.

*Family visits and calls*

54. The source confirms that one family member did visit Mr. Al-Hassan, as stated by the Government. The source rejects the Government's claim that the person did not visit on 22 July 2018, asserting instead that the relative went to the prison but that the authorities denied entry. According to the source, this happened again on 8 August 2018. The source states that the telephone calls listed by the Government did in fact take place.

*Solitary confinement*

55. The source argues that the dates provided by the Saudi authorities concerning Mr. Al-Hassan's solitary confinement, 27–31 December 2018, are inaccurate. The source maintains that Mr. Al-Hassan was held in solitary confinement from 3 to 12 January 2019.

56. The source notes that the Government fails to provide any reason for holding Mr. Al-Hassan in solitary confinement other than that he was punished for "borrowing" his own eyeglasses.

57. The source submits that, even if Mr. Al-Hassan had been in possession of contraband items, his solitary confinement would still have been arbitrary and in violation of his human rights. In particular, international standards require that solitary confinement be used only in exceptional circumstances, as a last resort and for a limited time, with independent legal oversight.<sup>5</sup> In the present case, Mr. Al-Hassan's solitary confinement was improper: allegedly, it was applied after a minor infraction, was used as the first disciplinary measure instead of a warning or a lesser form of punishment and was not subjected to any judicial or legal oversight. The source further notes that, in some cases, the use of prolonged solitary confinement has been found to constitute ill-treatment and may even amount to torture (A/63/175, para. 77).<sup>6</sup>

58. The source maintains that in January 2019 Mr. Al-Hassan's family submitted a complaint to the prison concerning the solitary confinement and torture. The prison

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<sup>5</sup> See rules 37 (d), 43 (1) (a)–(b) and 45 (1) of the United Nations Standard Minimum Rules for the Treatment of Prisoners (the Nelson Mandela Rules).

<sup>6</sup> See also the Istanbul Statement on the Use and Effects of Solitary Confinement (A/63/175, annex).



reportedly did not provide them with any sort of formal documentation of the complaint, supposedly because prisons do not keep records of complaints in any formal manner. Mr. Al-Hassan also submitted a 10-page complaint on the conditions of his detention and the ill-treatment he endured to the prison director. Neither he nor his family received any response.

59. The source rejects the Government's assertion that no complaint was ever filed and that no threats were made against Mr. Al-Hassan, and maintains that the prison guard threatened him.

#### Treatment and denial of access to medical care

60. The source rejects the Government's assertion that Mr. Al-Hassan was examined by medical personnel 107 times since his arrest. Rather, the source notes that prison examinations are typically conducted only every six months and that Mr. Al-Hassan's examinations were sometimes nine months apart.

61. The source further maintains that Mr. Al-Hassan's medical condition deteriorated precisely because the examinations were so sporadic and because he was deprived of medication.

#### Saudi legislation

62. The source acknowledges that the legal provisions cited by the Government do in fact exist in Saudi Arabia. The source submits that the Government's treatment of Mr. Al-Hassan is in violation of those domestic provisions, as well as of international standards and obligations.

#### Domestic redress

63. Mr. Al-Hassan's family filed complaints with the Saudi Human Rights Commission but received no response. Eventually, the family members stopped submitting complaints to the Commission, believing it to be futile. Mr. Al-Hassan's family also filed complaints with the Council of the Crown Prince, but received no response from it either.

64. The source states that the family members also sent letters to the Ministry of the Interior, the prison administrations for Al-Ha'ir and Al-Thaban, the General Directorate of Prisons, the General Directorate of Investigations in Jeddah and the Royal Court. All letters and complaints have gone unanswered.

65. Furthermore, the source notes that many of the institutions lack the requisite independence to provide appropriate redress for human rights abuses. Most recently, the Committee on the Rights of Persons with Disabilities expressed concern that the Human Rights Commission does not function in line with the principles relating to the status of national institutions for the promotion and protection of human rights (the Paris Principles) (CRPD/C/SAU/CO/1, para. 57).

66. Considering the complaints submitted to multiple institutions, the failure of those bodies to act or respond and the lack of independence inherent in the institutions, the source submits that Mr. Al-Hassan took appropriate steps to obtain domestic redress and that the inaction demonstrates the futility of seeking relief from those institutions.

67. The source reiterates the arguments made in the initial submission, chiefly that:

(a) Because Mr. Al-Hassan was arrested without a warrant, detained and tortured for three years and convicted despite a lack of compelling evidence, because he was held without knowledge of the criminal charges against him for three years, his detention constituted deprivation of liberty falling within category I, as there was no legally justifiable basis for his detention;

(b) Because Mr. Al-Hassan was convicted in a patently unfair mass trial of 32 individuals, because he was tortured to produce a confession, because his coerced confession was entered as evidence against him (in violation of articles 2 and 16 of the Convention against Torture) and because he was not given adequate time or access to legal

counsel to prepare a defence, his detention constituted deprivation of liberty falling within category III, as it was the result of unfair trial proceedings;

(c) Because Mr. Al-Hassan was convicted of “spreading the Shia doctrine”, the source submits that his imprisonment also constituted deprivation of liberty falling within category V, as the criminal provision is discriminatory on the basis of religion;

(d) Additionally, because Mr. Al-Hassan’s execution has been carried out since the original submission, the source submits that the imposition of the death penalty in his case was an unlawful and arbitrary deprivation of the right to life.

#### Execution

68. On 22 May 2019, the source regrettably informed the Working Group that Mr. Al-Hassan had been put to death by the severing of his head from his body on 23 April 2019, along with 36 other men.<sup>7</sup> His family did not receive prior notice of his impending execution.

69. Additionally, the source reports that Mr. Al-Hassan’s family has encountered a number of obstacles in attempting to obtain Mr. Al-Hassan’s body. On 24 April, family members went to Al-Thaban Prison in Jeddah to ask for the body; the authorities told them to go to the Ministry of the Interior, which sent them to Mecca, where they were told to ask the prison administration. They were again directed from the prison to the Ministry of the Interior, then to the Presidency of State Security in Riyadh. When they attempted to call the Presidency, they were redirected to Al-Ha’ir Prison, where the authorities stated that they would submit a request for the body to be returned.

70. The source also reports that Mr. Al-Hassan’s family had to pledge not to hold a funeral procession and to receive only a small number of people expressing condolences in their home. The source adds that the authorities threatened to arrest children of the family if those limits were exceeded and that the authorities parked vehicles near the house.

71. On 16 May 2019, the source reported that the Government had refused to return Mr. Al-Hassan’s body to the family, stating that all the individuals executed on 23 April had already been buried. The source further reports that the authorities at the Presidency of State Security have threatened to detain Mr. Al-Hassan’s family members if they continue to request his body, personal effects and death certificate. On 19 May 2019, Presidency officials asked family members requesting the return of Mr. Al-Hassan’s body to sign a form pledging that they would not communicate about Mr. Al-Hassan’s case with any outside bodies.

#### Discussion

72. At the outset, the Working Group expresses its dismay and outrage at the carrying out of Mr. Al-Hassan’s death sentence by beheading as part of the mass execution of 37 persons on 23 April 2019.<sup>8</sup> The Working Group notes that it had specifically called upon the Government to ensure Mr. Al-Hassan’s physical and mental integrity in its communication of 4 March 2019. The Human Rights Council, in its resolution 33/30, which Saudi Arabia voted in favour of together with 45 other members, had requested the States concerned to take account of the views of the Working Group and, where necessary, to take appropriate steps to remedy the situation of persons arbitrarily deprived of their liberty. The Working Group observes that while the situation of arbitrary detention can be remedied by releasing and according appropriate reparations to the detainee, bringing someone back from death is not possible. It is difficult to see how Mr. Al-Hassan’s execution, while his case was pending before the Working Group, squares with the international obligations of Saudi Arabia, as a State Member of the United Nations and as a member of the Human Rights Council, to take joint and separate action, in cooperation with the United Nations, to achieve universal respect for and observance of human rights and

<sup>7</sup> OHCHR, “Bachelet strongly condemns mass executions in Saudi Arabia”, press release, 24 April 2019.

<sup>8</sup> Ibid.

fundamental freedoms for all, without distinction as to race, sex, language or religion, in accordance with Articles 55 and 56 of the Charter of the United Nations.

73. The Working Group has in its jurisprudence established the ways in which it deals with evidentiary issues. If the source has established a *prima facie* case for breach of international requirements constituting arbitrary detention, the burden of proof should be understood to rest upon the Government if it wishes to refute the allegations (A/HRC/19/57, para. 68).<sup>9</sup>

74. The Working Group wishes to reaffirm that the States have the obligation to respect, protect and fulfil the right to liberty and that any national law allowing deprivation of liberty should be made and implemented in conformity with the relevant international standards set forth in the Universal Declaration of Human Rights and other applicable international and regional instruments.<sup>10</sup> Consequently, even if the detention is in conformity with national legislation, regulations and practices, the Working Group is entitled and obliged to assess the judicial proceedings and the law itself to determine whether such detention is also consistent with the relevant provisions of international human rights law.<sup>11</sup>

#### Category I

75. The Working Group will first consider whether there have been violations under category I, which concerns deprivation of liberty without legal basis.

76. The source alleges, and the Government has not refuted with credible evidence such as copies of arrest warrants or court documents, that Mr. Al-Hassan was not presented with an arrest warrant and was merely informed that the reason for his arrest was his presence on the Ministry of the Interior's "wanted list" at the time of his arrest on 2 June 2013. The source also alleges that Mr. Al-Hassan was not promptly informed of any charges against him by the General Directorate of Investigations.

77. The customary international norms on detention include the right to be presented with an arrest warrant to ensure the exercise of effective control by a competent, independent and impartial judicial authority, which is procedurally inherent in the right to liberty and security and the prohibition of arbitrary deprivation under articles 3 and 9 of the Universal Declaration of Human Rights and principles 2, 4 and 10 of the Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment.<sup>12</sup> The Working Group finds no valid grounds, such as arrest *in flagrante delicto*, to justify exception to this principle in the present case. The search of his property without warrant also violated article 12 of the Universal Declaration and article 21 (1) and (2) of the Arab Charter on Human Rights.

78. The Working Group also finds that, in order to ascertain a legal basis for deprivation of liberty, the authorities should have informed Mr. Al-Hassan of the reasons for his arrest,

<sup>9</sup> See, for example, opinions No. 50/2017, para. 54; No. 61/2017, para. 25; No. 62/2017, paras. 30 and 45; No. 69/2017, para. 24; No. 70/2017, para. 48; No. 75/2017, para. 34; No. 79/2017, para. 47; No. 11/2018, para. 41; No. 19/2018, para. 25; No. 35/2018, para. 24; No. 36/2018, para. 37; No. 37/2018, para. 27; No. 40/2018, para. 42; No. 43/2018, para. 71; No. 44/2018, para. 78; No. 45/2018, para. 39; No. 46/2018, para. 45; No. 52/2018, para. 68; No. 67/2018, para. 69; No. 70/2018, para. 31; No. 75/2018, para. 57; No. 78/2018, para. 67; No. 79/2018, para. 68; and No. 90/2018, para. 29.

<sup>10</sup> See General Assembly resolution 72/180, fifth preambular paragraph; Commission on Human Rights resolutions 1991/42, para. 2, and 1997/50, para. 15; and Human Rights Council resolutions 6/4, para. 1 (a), and 10/9, para. 4 (b). See also Working Group opinions No. 41/2014, para. 24; No. 28/2015, para. 41; No. 76/2017, para. 62; No. 83/2017, paras. 51 and 70; No. 88/2017, para. 32; No. 94/2017, para. 59; No. 38/2018, para. 60; No. 68/2018, para. 37; No. 82/2018, para. 25; and No. 87/2018, para. 51.

<sup>11</sup> See, for example, opinions No. 1/1998, para. 13; No. 5/1999, para. 15; No. 1/2003, para. 17; No. 33/2015, para. 80; No. 94/2017, paras. 47–48; No. 38/2018, para. 60; No. 68/2018, para. 37; No. 82/2018, para. 25; and No. 87/2018, para. 51.

<sup>12</sup> See opinions No. 76/2017, para. 55; No. 83/2017, para. 65; No. 88/2017, para. 27; No. 93/2017, para. 44; No. 3/2018, para. 43; No. 10/2018, para. 46; No. 26/2018, para. 54; No. 30/2018, para. 39; No. 38/2018, para. 63; No. 47/2018, para. 56; No. 51/2018, para. 80; No. 63/2018, para. 27; No. 68/2018, para. 39; and No. 82/2018, para. 29. See also article 14 (1) of the Arab Charter on Human Rights.

which should state an impugned act or omission rather than a vague reference to “wanted list”, at the time of arrest, and of the charges against him promptly; their failure to do so violates article 9 of the Universal Declaration and principle 10 of the Body of Principles.<sup>13</sup> In fact, as Mr. Al-Hassan was not informed of the charges against him even after he was formally charged in February 2016, his detention for the first 31 months and beyond were without any legal basis.

79. The source further maintains, and the Government does not meet the burden of proof to dispute, that Mr. Al-Hassan was disappeared and held incommunicado for more than two months. Such deprivation of liberty, entailing a refusal to disclose the fate or whereabouts or to acknowledge detention, lacks any valid legal basis and is inherently arbitrary as it places the person outside the protection of the law, in violation of article 6 of the Universal Declaration of Human Rights.<sup>14</sup>

80. The Working Group notes that Mr. Al-Hassan was not brought promptly before a judge, within 48 hours of his arrest,<sup>15</sup> nor was he afforded the right to initiate proceedings before a court so that it may decide without delay on the lawfulness of his detention, in violation of articles 3, 8 and 9 of the Universal Declaration of Human Rights and principles 11, 32 and 37 of the Body of Principles.<sup>16</sup> In addition, the Working Group recalls that, according to 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, the right to challenge the lawfulness of detention before a court is a self-standing human right, the absence of which constitutes a human rights violation, and that judicial remedy is essential to preserve legality in a democratic society (A/HRC/30/37, paras. 2–3). This right, which is in fact a peremptory norm of international law, applies to all forms and situations of deprivation of liberty.<sup>17</sup>

81. The Working Group therefore considers that Mr. Al-Hassan’s arrest and deprivation of liberty were carried out without a legal basis and are thus arbitrary under category I.

### Category III

82. The Working Group will now consider whether the alleged violations of the right to a fair trial and due process were of such gravity so as to give Mr. Al-Hassan’s deprivation of liberty an arbitrary character, falling within category III.

83. According to the information provided by the source, which the Government did not refute with credible evidence, Mr. Al-Hassan was denied the right to notify and communicate with his family and lawyers, contrary to principles 15–19 of the Body of Principles and rule 58 of the United Nations Standard Minimum Rules for the Treatment of Prisoners (the Mandela Rules), during his incommunicado detention for more than two months after his transfer to Al-Ha’ir Prison in Riyadh. In the view of the Working Group, such procedural defects severely compromised his due process and fair trial rights from the beginning of the detention.

84. Subsequently, the Government failed to respect Mr. Al-Hassan’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 established by law with all the guarantees necessary for defence in a criminal case, in accordance with articles 3, 9, 10 and 11 (1) of the Universal Declaration of Human Rights. The fact that Mr. Al-Hassan’s lawyers were absent deprived him of his right to legal counsel during critical stages of the criminal proceedings and exposed him to torture and

<sup>13</sup> See also articles 14 (3) and 16 (1) of the Arab Charter on Human Rights.

<sup>14</sup> See the Declaration on the Protection of All Persons from Enforced Disappearance, Working Group opinion No. 82/2018, para. 28, and article 22 of the Arab Charter on Human Rights.

<sup>15</sup> See 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>16</sup> See also articles 12, 14 (1), (5) and (6), and 23 of the Arab Charter on Human Rights.

<sup>17</sup> See opinion No. 39/2018, para. 35.

other coercive means used to extract a confession. The Working Group therefore finds serious violations of articles 10 and 11 (1) of the Universal Declaration of Human Rights.<sup>18</sup>

85. The Working Group further determines that Mr. Al-Hassan's pretrial detention from 2 June 2013 to 12 January 2016, for 31 months, without individualized judicial determination, undermines the presumption of innocence and the right to be tried within a reasonable time or to be released pending trial, guaranteed under article 11 (1) of the Universal Declaration of Human Rights and principles 36 (1) and 38 of the Body of Principles.<sup>19</sup> Such an undue delay in holding a criminal trial cannot be in the interest of justice or human rights.

86. The Committee against Torture has observed, and the Working Group agrees, that the Specialized Criminal Court, which tried, convicted and sentenced Mr. Al-Hassan to death, through a mass trial, is a court of exception with jurisdiction over terrorism cases that is not composed of independent judges but of a panel appointed by the Ministry of the Interior and cannot be considered independent (CAT/C/SAU/CO/2 and CAT/C/SAU/CO/2/Corr.1, para. 17).

87. The Working Group cannot fail to express its gravest concern at the allegations of torture and ill-treatment, including punching, sleep deprivation, including by forcing Mr. Al-Hassan to stand with his face against a wall throughout the night, forced marching and threats of further beatings if Mr. Al-Hassan did not confess, as well as solitary confinement for two months and 16 days, which combined left Mr. Al-Hassan in a severe state of mental and physical disorder, until his untimely death, in violation of articles 5 and 25 (1) of the Universal Declaration of human rights.<sup>20</sup> The treatment described reveals a prima facie breach of the absolute prohibition of torture, which is a peremptory norm of international law, of the Body of Principles (principle 6) and of the Nelson Mandela Rules (rule 1). The Working Group therefore refers the present case to the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment for further consideration.<sup>21</sup>

88. In the Working Group's view, not only is torture a grave violation of human rights, but it also seriously undermines the ability of persons to defend themselves and hinders the exercise of their right to a fair trial, especially in light of the right not to be compelled to testify against oneself or to confess guilt. The Specialized Criminal Court's failure to act upon credible torture allegations with a prompt and impartial investigation, in violation of articles 12 and 13 of the Convention against Torture, compromised Mr. Al-Hassan's due process and fair trial rights. The use of a confession extracted through ill-treatment also constitutes a violation of article 15 of the Convention against Torture and principle 21 of the Body of Principles.<sup>22</sup>

89. The Working Group recalls that capital punishment may only be carried out pursuant to a final judgment rendered by a competent court, after legal process which gives all possible safeguards to ensure a fair trial, at least equal to those contained in article 14 of the Covenant, including the right to adequate legal assistance at all stages of the proceedings.<sup>23</sup> Not only is it dubious, from the discussion above, that Mr. Al-Hassan was accorded the minimum guarantees during the investigative and trial stages of his criminal proceedings, but the Supreme Court confirmed the death sentences against Mr. Al-Hassan and 14 others without oral or written submissions from those convicted.

<sup>18</sup> See also articles 12, 13 (1) and 16 (2) and (3) of the Arab Charter on Human Rights.

<sup>19</sup> See also articles 14 (6) and 16 of the Arab Charter on Human Rights.

<sup>20</sup> See also article 8 (1) of the Arab Charter on Human Rights.

<sup>21</sup> Opinion No. 39/2018, para. 42. As the Committee against Torture has concluded, States should ensure that all victims of torture are able to access remedy and obtain redress, wherever acts of torture occurred and regardless of the nationality or the perpetrator or victim, including by restricting the application of State immunity laws (CAT/C/CAN/CO/6, para. 15, and CAT/C/CAN/CO/7, paras. 40–41).

<sup>22</sup> See also 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.

<sup>23</sup> Safeguards guaranteeing protection of the rights of those facing the death penalty (Economic and Social Council resolution 1984/50, annex).

90. In the Working Group's view, Mr. Al-Hassan's case does not meet the minimum standards of justice required for deprivation of liberty, let alone deprivation of life. The imposition and execution of the death sentence resulting from such a blatant miscarriage of justice cannot but shock the conscience of humanity. The Working Group need not remind the Government that death is so terribly final. The violation of due process and fair trial rights in Saudi Arabia appear widespread and systematic in nature.<sup>24</sup> The Working Group therefore refers the present case to the Special Rapporteur on the independence of judges and lawyers for further consideration.

91. Given the above, the Working Group concludes that the violations of the right to a fair trial and due process are of such gravity as to give Mr. Al-Hassan's deprivation of liberty an arbitrary character under category III.

#### Category V

92. The Working Group will now examine whether Mr. Al-Hassan's deprivation of liberty constitutes discrimination under international law for the purpose of category V.

93. The Working Group notes the Government's and the Sunni majority's historic discrimination against the Shi'ite ethno-religious minority in the Eastern Province. The brutal crackdown that included mass executions of Shias following the protest movement in 2011 form the background to Mr. Al-Hassan's arrest, trial, death sentence and execution.

94. The Working Group also notes that in 2018 the Committee on the Elimination of Racial Discrimination expressed concern that ethno-religious minorities faced obstacles in freely practising their right to freedom of religion or belief and that certain ethno-religious minorities faced discrimination in education, employment and the legal system (CERD/C/SAU/CO/4-9, para. 23). The Committee recommended that Saudi Arabia take all measures necessary to ensure the rights of ethno-religious minorities, including their right to freedom of thought, conscience and religion, without any discrimination on the basis of race, colour, descent or national or ethnic origin, as specified in article 5 of the International Convention on the Elimination of All Forms of Racial Discrimination and to eliminate all barriers faced by ethno-religious minorities in education, including by removing from textbooks derogatory comments on other religions, as well as in employment and in the legal system (*ibid.*, para. 24).

95. The Working Group notes that Mr. Al-Hassan was detained in the Eastern Province of Saudi Arabia and was convicted of "spreading the Shia doctrine", among other charges that reportedly include communicating with and cooperating with the Islamic Republic of Iran, a Shia majority country. In addition, his detention and execution was part of a mass trial of other members of the same minority, all of whom were sentenced to death.

96. After considering all the elements of the case, the Working Group considers that Mr. Al-Hassan's deprivation of liberty constitutes a violation of articles 2 and 7 of the Universal Declaration of Human Rights on the grounds of discrimination based on ethno-religious origin and political opinion. His deprivation of liberty therefore falls under category V.<sup>25</sup>

97. In its 28-year history, the Working Group has found Saudi Arabia in violation of its international human rights obligations in about 60 cases.<sup>26</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 duty to comply with

<sup>24</sup> See also opinion No. 26/2019.

<sup>25</sup> See also article 3 (1) of the Arab Charter on Human Rights.

<sup>26</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 and No. 68/2018.

international human rights standards that are peremptory and erga omnes norms, such as the prohibition of arbitrary deprivation of liberty and life, as well as the prohibitions of torture and enforced disappearance, rests with all State organs, officers and agents, as well as all other persons.<sup>27</sup> 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 (A/HRC/13/42, para. 30).<sup>28</sup>

98. Finally, given its findings that Mr. Al-Hassan was arbitrarily deprived of his liberty without legal basis and in violation of his right to a fair trial and non-discrimination, the Working Group considers that his death sentence is indefensible and the execution thereof inexcusable. Mr. Al-Hassan's death by beheading, on 23 April 2019, reveals a prima facie case of arbitrary deprivation of life in violation of article 3 of the Universal Declaration of Human Rights.<sup>29</sup>

99. The Working Group reminds the Government that the General Assembly, in its resolution 73/175, called upon all States to establish a moratorium on executions with a view to abolishing the death penalty. The Working Group refers the present case to the Special Rapporteur on extrajudicial, summary or arbitrary executions, and recommends that she initiate a human rights inquiry into the mass execution of 37 persons on 23 April 2019, as well as of the general framework and application of capital punishment in Saudi Arabia, under the terms of her mandate.<sup>30</sup>

### Disposition

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

The deprivation of liberty of Abbas Haiji Al-Hassan, being in contravention of articles 2, 3, 5, 6, 7, 8, 9, 10, 11 (1), 12 and 25 (1) of the Universal Declaration of Human Rights, is arbitrary and falls within categories I, III and V.

101. The Working Group requests the Government of Saudi Arabia to take the steps necessary to remedy the situation of Mr. Al-Hassan without delay and to bring it into conformity with the relevant international norms, including those set out in the Universal Declaration of Human Rights, the Convention against Torture and the International Convention against All Forms of Racial Discrimination.

102. The Working Group considers that, taking into account all the circumstances of the case, the appropriate remedy would be to immediately return Mr. Al-Hassan's remains to his family members and to accord them an enforceable right to compensation and other reparations, in accordance with international law.

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

104. 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, the Special Rapporteur on extrajudicial, summary or arbitrary executions and the

<sup>27</sup> The domestic political and judicial organs are under a positive obligation to ensure an effective remedy and reparation for violations of international human rights law by removing the statute of limitations, sovereign immunity, *forum non conveniens* doctrine or other procedural obstacles to redress in such cases through legislative or judicial action (opinion No. 52/2014, para. 51). See also CAT/C/CAN/CO/6, para. 15, and CAT/C/CAN/CO/7, paras. 40–41.

<sup>28</sup> See opinions No. 1/2011, para. 21; No. 37/2011, para. 15; No. 38/2011, para. 16; No. 39/2011, para. 17; No. 4/2012, para. 26; No. 38/2012, para. 33; No. 47/2012, paras. 19 and 22; No. 50/2012, para. 27; No. 60/2012, para. 21; No. 9/2013, para. 40; No. 34/2013, paras. 31, 33 and 35; No. 35/2013, paras. 33, 35 and 37; No. 36/2013, paras. 32, 34 and 36; No. 48/2013, para. 14; No. 22/2014, para. 25; No. 27/2014, para. 32; No. 34/2014, para. 34; No. 35/2014, para. 19; No. 36/2014, para. 21; No. 44/2016, para. 37; No. 60/2016, para. 27; No. 32/2017, para. 40; No. 33/2017, para. 102; No. 36/2017, para. 110; No. 51/2017, para. 57; and No. 56/2017, para. 72.

<sup>29</sup> See also article 5 of the Arab Charter on Human Rights.

<sup>30</sup> [www.ohchr.org/EN/Issues/Executions/Pages/Inquiry.aspx](http://www.ohchr.org/EN/Issues/Executions/Pages/Inquiry.aspx).

Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment.

105. The Working Group recommends that the Government ratify the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights, as well as their optional protocols, and the International Convention for the Protection of All Persons from Enforced Disappearance.

106. The Working Group requests the Government to translate, publish and disseminate the present opinion through all available means and as widely as possible.

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

107. 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 compensation or other reparations have been made to Mr. Al-Hassan's family;
- (b) Whether an investigation has been conducted into the violation of Mr. Al-Hassan's rights and, if so, the outcome of the investigation;
- (c) 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;
- (d) Whether any other action has been taken to implement the present opinion.

108. 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.

109. 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.

110. 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>31</sup>

*[Adopted on 16 August 2019]*

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<sup>31</sup> See Human Rights Council resolution 33/30, paras. 3 and 7.