

**PROSECUTION OF HUMAN RIGHTS DEFENDERS IN SAUDI ARABIA’S
SPECIALISED CRIMINAL COURT:
THE CASE OF ISSA AL-NUKHAIFI**

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A. INTRODUCTION

1. Available documentation² raises concerns that the prosecution of Issa Bin Hamid Bin Mohammad Al-Nukhaifi before Saudi Arabia’s Specialized Criminal Court is part of a pattern of prosecution of Saudi human rights defenders and political dissidents under counterterrorism laws. These prosecutions have been decried by human rights organizations, the United States Department of State, and several UN Rapporteurs.³
2. The conduct identified in the Indictment against Mr. Al-Nukhaifi as giving rise to criminal liability constitutes the exercise of internationally protected rights of free expression and/or association. Based on available documentation, these are the only allegations against him which he has notice of and can defend himself against. If these are the only allegations against him, there are grounds for concern that he is being prosecuted merely for the exercise of his fundamental rights under international law. If the Saudi Prosecution is asserting that Mr. Al-Nukhaifi engaged in acts of terrorism and/or materially supported others engaged in acts of terrorism, the failure of the Prosecution to identify this conduct in the Indictment violates his right to be properly put on notice of the charges against him.

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² This analysis is based on a review of unofficial translations of the Indictment in this case, selected Saudi domestic laws, an official summary of proceedings in court on October 30, 2017, and a statement given by Mr. Al-Nukhaifi in November 2017. It is not an exhaustive analysis of the evidence for or against Mr. Al-Nukhaifi.

³ See below.

3. Saudi Arabia has an obligation to its citizens, its allies, and the international community to prevent terrorist groups from operating within its borders. This obligation is even more pressing in the context of a history of serious terrorist attacks on Saudi soil, directed at both Saudi and foreign targets. However, conflating pro-democracy activists, human rights advocates, or nonviolent political dissidents with terrorists risks undermining domestic and international support for Saudi counterterrorism measures.

B. PROCEDURAL HISTORY

4. On December 18, 2016, Al-Nukhaifi (“Defendant”) was arrested and detained in a prison in Mecca, Saudi Arabia.⁴ Available information indicates that the Defendant’s trial began in August 2017 and the Defendant was detained during the eight months between his arrest and trial.
5. The Kingdom of Saudi Arabia’s (“Saudi Arabia”) public prosecution service issued an Indictment against the Defendant before the Specialized Criminal Court (“SCC”),⁵ charging him with three crimes: 1) adopting a “Takfiri” approach by accusing the Guardians of the Kingdom of Saudi Arabia of being infidels; 2) communicating with foreign⁶ groups that are considered enemies of the state and receiving funds from them; and 3) using a personal cell phone and the internet to store and transfer information that is allegedly harmful to the public order.⁷

⁴ *Indictment*, 1.

⁵ The Specialized Criminal Court was set up in 2008 to handle terrorist cases, and its jurisdiction is currently based upon the 2014 Law on Crimes of Terrorism and its Financing. See Lori Plotkin Boghardt, Washington Institute for Near East Policy, *From ISIS to Activists: New Security Trials in Saudi Arabia* (2016), available at: <http://www.washingtoninstitute.org/policyanalysis/view/from-isis-to-activists-new-securitytrials-in-saudi-arabia>.

⁶ Based on available documentation, references to foreign groups and foreign contacts in the Indictment appear to refer to Saudis who have left Saudi Arabia.

⁷ *Indictment*, 1, paras. 1, 2, and 3.

6. The Defendant is facing a prison sentence of up to 20 years and a fine not exceeding 3 million riyals (approximately US \$799,890), under Saudi Arabia’s Anti-Cyber Crime Law, Royal Decree M/17,⁸ and Saudi Arabia’s anti-terrorism laws, which include the Law of Terrorism Crimes and Financing or Royal Decree M/16, Royal Decree 16820, and Royal Decree A/44.⁹ The Defendant contests the legitimacy of the court, denies certain allegations in the Indictment, and avers that the remaining allegations relate to protected conduct.¹⁰

C. SAUDI ARABIA’S OBLIGATION TO PROVIDE PROMPT NOTIFICATION OF THE CHARGES AGAINST THE DEFENDANT

7. Under international law, a person accused of a crime and facing the possibility of criminal punishment is entitled to be informed promptly and in detail, in a language he understands, of the reasons for his arrest and the charges against him.¹¹ Such notification must come well before trial: even assuming *arguendo* that exceptional circumstances might sometimes require delays in notification, a defendant has the right to “adequate time and facilities for the

⁸ *Indictment*, 7, paras. 4 and 5. See generally *Anti-Cyber Crime Law*, Kingdom of Saudi Arabia Bureau of Experts at the Council of Ministers Official Translation Department (May 11, 2016), available at: http://www.citc.gov.sa/en/RulesandSystems/CITCSysstem/Documents/LA_004_%20E_%20Anti-Cyber%20Crime%20Law.pdf.

⁹ Law of Terrorism Crimes and Financing Royal Decree M/16, Saudi Arabia (2014), available at: <https://boe.gov.sa/printsystem.aspx?lang=en&systemid=327&versionid=305>; *Full text of the communique issued by the Saudi Interior Ministry on proscribed organisations*, Middle East Monitor, April 12, 2014, available at: <https://www.middleeastmonitor.com/20140412-full-text-of-the-communique-issued-by-the-saudi-interior-ministry-on-proscribed-organisations/>.

¹⁰ See generally *Statement of the Defendant of November 18, 2017*.

¹¹ E.g. ICCPR, Article 14(3)(a). While Saudi Arabia is not a party to the ICCPR, the same right is codified in Article 16(1) of the Arab Charter on Human Rights and a very similar right appears in Article 14(3) of the same charter. Similar rights were also codified in the statutes of the various international criminal tribunals. E.g. ICTY Statute Article 21(4)(a); ICTR Statute Article 20(4)(a); STL Statute Article 16(4)(a); ICC Statute Article 60(1).

preparation of his defense”¹², a right which is effective only if the defendant is clearly informed of the charges against him in order to prepare a meaningful defense.¹³

8. International jurisprudence recognizes that a defendant’s right to be informed of the charges against him may be satisfied through various forms of notice.¹⁴ However, in this case, the available documentation does not indicate that the defendant was put on notice of alleged material facts substantially different from those pled in the Indictment in any way.¹⁵

Consequently, from this point this analysis will focus on the Defendant’s acts as pled in the Indictment. As set forth below, the facts pled in the Indictment – even if proven to be true – do not appear to put the Defendant on notice of any allegation that he engaged in conduct which went beyond exercises of his human rights of free speech and association.

D. SAUDI ARABIA IS BOUND TO PERMIT FREE EXPRESSION, INCLUDING EXPRESSION OF POLITICAL DISSENT

9. Saudi Arabia is obligated under international law to protect the rights to freedom of expression, opinion, and assembly. These fundamental freedoms are enshrined in the United Nations Charter, the Universal Declaration of Human Rights (UDHR), the International Covenant on Civil and Political Rights (ICCPR), and the Arab Charter on Human Rights (ACHR), among other sources.
10. The fundamental freedoms, as defined in the UDHR, include “the right to freedom of opinion and expression; this right includes freedom to hold opinions without interference and to seek, receive and impart information and ideas through any media and regardless of frontiers,” and

¹² Arab Charter on Human Rights, League of Arab States (2004), *available at*:

<http://hrlibrary.umn.edu/instree/loas2005.html> (hereinafter “ACHR”), Article 16(2).

¹³ *E.g. Pélissier and Sassi v. France*, App. 25444/94 (ECHR), Judgement, para.54 (citations omitted).

¹⁴ *E.g. id.*, para.53; *Drassich v. Italy*, App. No. 25575/04 (ECHR), Judgement, para.34.

¹⁵ The witness statements discussed in the analysis offer allegations that the Defendant insulted the Saudi royal family similar to those in the Indictment.

“the right to freedom of peaceful assembly and association.”¹⁶ These rights are also affirmed in Articles 19 and 21 of the ICCPR. The United Nations General Assembly’s Declaration on the Rights of Human Rights Defenders further states that everyone has the right, individually and in association with others, to “impart or disseminate to others views, information and knowledge on all human rights and fundamental freedoms.”¹⁷

11. Saudi Arabia has ratified the ACHR, which reaffirms in its preamble “the principles of the Charter of the ... [UDHR] and the provisions of the [ICCPR].”¹⁸ Under Article 24 of the ACHR, every citizen has “the right to freely form and join associations with others, to freedom of association and peaceful assembly, and to freely pursue political activity.” Article 32 of the ACHR guarantees the “right to information, freedom of opinion and expression, as well as the right to seek, and receive and impart information and ideas through any medium, regardless of geographical boundaries.”¹⁹ Accordingly, Saudi Arabia has accepted the obligation to respect its citizens’ rights to peacefully associate with others and freely express their political opinions.

12. Protecting public order and safeguarding national security are legitimate state interests.

Consequently, the ACHR allows for limitations on fundamental freedoms on the condition that those limitations “are prescribed by law and ... are necessary in a democratic society in

¹⁶ Universal Declaration of Human Rights, art. 19 and 20. While the UDHR is not a binding treaty, it has been repeatedly recognized as a foundational document in the field of international human rights. For instance, the World Conference on Human Rights in 1993 declared the UDHR “is the source of inspiration and has been the basis for the United Nations in making advances in standard setting as contained in the existing international human rights instruments.” Vienna Declaration, *available at*: <http://www.ohchr.org/EN/ProfessionalInterest/Pages/Vienna.aspx>.

¹⁷ G.A. Res. 53/144, U.N. Doc. A/RES/53/144 (March 8, 1999), art. 6(b), *available at*: <http://www.ohchr.org/EN/Issues/SRHRDefenders/Pages/Declaration.aspx>.

¹⁸ ACHR. *See Civic Freedom Monitor: Saudi Arabia*, International Center for Not-for-Profit Law, *available at*: <http://www.icnl.org/research/monitor/saudiarabia.html> (last updated October 18, 2017).

¹⁹ ACHR, Arts. 24 and 32.

the interests of national security or public safety, public health or morals or the protection of the rights and freedoms of others.”²⁰

13. However, these state interests do not justify criminalizing political dissent in the name of public order. They are not “a justification for the muzzling of any advocacy of multi-party democracy, democratic tenets and human rights.”²¹ Indeed, the U.N. Human Rights Committee has opined that limitations on the right to freedom of expression must be defined by law and be necessary and proportional to achieve a particular goal.²² While Saudi Arabia is not a State party to the ICCPR, the language in the Arab Charter and the ICCPR is substantially the same.²³ The U.N. Human Rights Committee’s guidance is therefore relevant to the interpretation of the ACHR.

14. The Human Rights Committee has expressed particular concern about laws that infringe on citizens’ rights to criticize public officials:

Thus, the mere fact that forms of expression are considered to be insulting to a public figure is not sufficient to justify the imposition of penalties, albeit public figures may also benefit from the provisions of the Covenant. Moreover, all public figures, including those exercising the highest political authority such as heads of state and government, are legitimately subject to criticism and political opposition. Accordingly, the Committee expresses concern regarding laws on such matters as, lese majesty, *desacato*, disrespect for authority, disrespect for flags and symbols, defamation of the head of state and the protection of the honour of public officials, and laws should not provide for more severe penalties solely on the basis of the identity of the person that may have been impugned. States parties should not prohibit criticism of institutions, such as the army or the administration.²⁴

²⁰ ACHR, Art. 24(7). This language is similar to Article 19 of the ICCPR, which permits restrictions on the right to freedom of expression in order to ensure “respect of rights or reputations of others and the protection of national security or public order or public health or morals.”

²¹ *Id.* at para 23.

²² Human Rights Committee, General Comment 34 on the International Covenant for Civil and Political Rights, paras. 22, 35, U.N. Doc. CCPR/C/GC/34.

(September 12, 2011), available at: <http://www2.ohchr.org/english/bodies/hrc/docs/gc34.pdf>.

²³ Compare Arab Charter on Human Rights, League of Arab States (2004), Arts. 24 and 32, with ICCPR, Articles 19 and 22.

²⁴ General Comment 34, supra n. 22, para. 38 (citations omitted).

E. THE DEFENDANT IS BEING PROSECUTED UNDER VAGUE LAWS WHICH
HAVE BEEN USED TO STIFLE DISSENT

15. The Saudi regime has been criticized repeatedly on the grounds that it has used the laws at issue in this case to criminalize nonviolent political dissent and target human rights defenders.²⁵ For instance, last year, the U.N. Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism condemned the use of Saudi counterterrorism legislation “against individuals peacefully exercising their rights to freedom of expression, as well as freedom of religion or belief and freedom of peaceful association and assembly.”²⁶ On January 2, 2018, an expert group operating under the U.N. High Commissioner for Human Rights noted that human rights defenders in Saudi Arabia continued to face persecution, opining, “We are witnessing the persecution of human rights defenders for peacefully exercising their rights to freedom of expression, assembly, association and belief, as well as in retaliation for their work. The Government has ignored repeated calls by UN experts and others to halt these violations, rectify them, and prevent their recurrence,” and that religious figures, writers, journalists, academics, and political activists were being targeted by the Saudi government.²⁷ The United Nations Working

²⁵ Similarly, Human Rights Watch has expressed concern that Saudi terrorism laws were being used “to prosecute and convict independent activists and peaceful dissidents.” Human Rights Watch, *Saudi Arabia: New Terrorism Regulations Assault Rights, Campaign to Silence Peaceful Activists*, March 20, 2014, available at <https://www.hrw.org/news/2014/03/20/saudi-arabia-new-terrorism-regulations-assault-rights>.

²⁶ UN Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism concludes visit to Saudi Arabia, Preliminary findings of the visit to Saudi Arabia (May 4, 2017), available at:

<http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=21584&LangID=E>.

²⁷ U.N. Office of the High Commissioner for Human Rights, *UN experts decry Saudi Arabia’s persistent use of anti-terror laws to persecute peaceful activists*, (2 January 2018), available at:

http://webcache.googleusercontent.com/search?q=cache:nzN5SgBQ_loJ:www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx%3FNewsID%3D22570%26LangID%3DE&num=1&client=safari&hl=en&gl=us&strip=1&vwsr=0.

Group on Arbitrary Detention has repeatedly found the detention of human rights defenders like the Defendant arbitrary and called upon Saudi Arabia to release them.²⁸

16. The laws at issue in this case are written in general language which an overzealous prosecution could construe broadly to target all the types of groups listed by the High Commissioner. For instance, a defendant can be prosecuted under these laws for preaching “atheist thought”²⁹ or communicating with any “groups, currents, or individuals deemed hostile to the Kingdom”.³⁰

17. Saudi Arabia’s Anti Cyber-Crime Law criminalizes the “production, preparation, transmission or storage of material impinging on public order, religious values, public morals, and privacy, through the information network or computers.”³¹ Any person found guilty under this law is subject to imprisonment for a period not exceeding five years and/or a fine not exceeding three million riyals.³²

18. Royal Decree M/16 similarly defines terrorism very broadly as:

Any criminal act committed, individually or collectively, directly or indirectly, by a perpetrator, with the intention to disturb public order, destabilize national security or state stability, endanger national unity, suspend the Basic Law of Governance or some of its articles, undermine state reputation or status, cause damage to state facilities or natural resources, attempt to coerce any of its authorities into a particular action or inaction or threaten to carry out acts that would lead to any of the aforementioned objectives or instigate such acts.³³

²⁸ *E.g.* Opinions adopted by the Working Group on Arbitrary Detention at its seventy-third session, 31 August-4 September 2015, [A/HRC/WGAD/2015/38](#); Opinions adopted by the Working Group on Arbitrary Detention at its seventy-ninth session, 21-25 August 2017, [A/HRC/WGAD/2017/63](#).

²⁹ *Full text of the communique issued by the Saudi Interior Ministry on proscribed organisations*, Middle East Monitor, April 12, 2014, available at:

<https://www.middleeastmonitor.com/20140412-full-text-of-the-communique-issued-by-the-saudi-interior-ministry-on-proscribed-organisations/>.

³⁰ *Id.*

³¹ *Anti-Cyber Crime Law*, Kingdom of Saudi Arabia Bureau of Experts at the Council of Ministers Official Translation Department (May 11, 2016), available at:

http://www.citc.gov.sa/en/RulesandSystems/CITCSys/Docs/LA_004_%20E_%20Anti-Cyber%20Crime%20Law.pdf

³² *Id.*

³³ *See generally* Law of Terrorism Crimes and Financing Royal Decree M/16, Saudi Arabia (2014).

Royal Decree A/44 reportedly proscribes a punishment of imprisonment for no less than three and no more than twenty years for terrorism offenses.³⁴

19. Decree M/16 was amended in 2017 to add, “or to harm or cause death of any person when the purpose- by its nature and context- is to intimidate people or force the government or an intentional organization to act or refrain from doing any act[.]” The amendment also provides for a minimum sentence of five years and a maximum sentence of ten years to be imposed on anyone who criticizes the King or the Crown Prince on matters concerning justice or religion.
20. There is no definition in these laws of what constitutes disturbing public order, destabilizing national security, or endangering national unity or religious values. Moreover, Decree M/16 does not include any requirement that acts charged under the Saudi terrorism laws be intended to facilitate the acts of violence or destruction commonly understood to fall within the definition of terrorism.³⁵
21. Of course, many of the prosecutions under these laws will address allegations of conduct which most lawyers would quickly agree constituted acts of terrorism. However, the allegations contained within the four corners of the Indictment suggest the Defendant’s arrest and indictment are related to his advocacy of human rights and of political opinions different at odds with the Saudi regime.

³⁴ *E.g. Indictment*, 7, para.4.

³⁵ For instance, many other domestic terrorism laws require the prosecution to show a defendant intended to cause death or serious bodily injury; extensive destruction; or serious economic loss. MICHAEL NEWTON, A LEGAL ASSESSMENT OF THE PENAL LAW FOR TERRORISM AND ITS FINANCING (June 14, 2015) available at, <http://www.esohr.org/en/?p=759>, para.10(e).

F. THE ALLEGATIONS CONTAINED IN THE INDICTMENT APPEAR TO
CRIMINALIZE THE DEFENDANT’S POLITICAL DISSENT

22. The Indictment appears to criminalize conduct that should be considered protected speech.³⁶

Saudi Arabia is required to protect fundamental freedoms of expression, opinion, and association through the United Nations Charter, the Universal Declaration of Human Rights and the Arab Charter of Human Rights.³⁷ While protecting public order and safeguarding national security are legitimate state interests, they cannot be used as justifications to prosecute dissent. Read on its face, however, the Indictment appears to treat mere political dissent as terrorism and online dissent as cyber-crime.

23. An unofficial translation of the Indictment indicates that the Defendant has been accused of

“communicating with foreign contacts that are hostile to the kingdom and receiving funds from them,” under Royal Decrees 16820 and A/44.³⁸ The Indictment further references paragraph 8 of Royal Decree 16820 indicating that the Defendant is accused of “seeking to destabilize the social fabric and national cohesion, etc.”³⁹ The Indictment refers specifically to Article 6 of the Anti-Cyber Crime Law, Royal Decree M/17, and accuses the Defendant of the “storage and transmission of that which would affect the public order by means of the internet and his cellphone.”⁴⁰ The Indictment does not specify what constitutes a threat to the public order, social fabric, or national cohesion.

³⁶ *See generally* Law of Terrorism Crimes and Financing Royal Decree M/16, Saudi Arabia (2014); *See also generally* *Indictment*.

³⁷ *See* above.

³⁸ *Indictment*, 1, para. 2.

³⁹ *Indictment*, 7, para. 4.

⁴⁰ *Indictment*, 1, para. 3.

24. The conduct specified in the Indictment which could be seen as “transmitting” information appears to take the form of political dissent, including criticism of the Saudi royal family and support for democratic elections. Specifically, the Indictment alleges:

- that the Defendant used the twitter handle @aesa_al_nukhifi to tweet and retweet statements that are harmful to the public order and/or insult the royal family with the aim of influencing public opinion.⁴¹
- that the Defendant is affiliated with the twitter handle “Saudi’s Popular Parliament,” which has advocated for an elected constituency in Saudi Arabia.⁴²
- that the Defendant communicated with and retweeted statements of members of the Saudi Civil and Political Rights Association (ACPRA), an agency formed in 2009 by 15 Saudi nationals with the mission to call for civil and constitutional reform in Saudi Arabia.⁴³ The ACPRA worked to document human rights violations until it was shut down by the government several years ago.⁴⁴

The Indictment appears to treat these statements as crimes in themselves, rather than as evidence the Defendant intended to commit a criminal act.

⁴¹ For example, the Indictment alleges that the Defendant tweeted, *inter alia*: Insults to the royal family and accusations that they are Christians, or Jews and do not belong to Islam; news about the war in Yemen in order to influence public opinion against the war; criticizing the unjust conditions in Saudi Arabian prisons; and accusing the Saudi government of committing crimes against civilians in Yemen. See *Indictment*, 1-5, 7; *Court Proceeding of October 30, 2017*, 4.

⁴² *Indictment*, 2; *Court Proceeding of October 30, 2017*, 1, 4. Saudi Arabia is an absolute monarchy, where the members of the Shura Council or consultative body are appointed by the King. Basic Law of Governance Royal Order No. A/91, Saudi Arabia (1992), art. 67, 68, and 69. Consequently, advocating the establishment of an elected parliament is an expression of a dissenting political opinion.

⁴³ *Indictment*, 2 and 5.

⁴⁴ U.S. Department of State, Bureau of Democracy, Human Rights, and Labor, 2016 Country Reports on Human Rights Practices Report: Saudi Arabia (March 3, 2017), <https://www.state.gov/j/drl/rls/hrrpt/2016/nea/265518.htm>.

25. To the extent that the Prosecutor has supplemented these charges in court, the evidence we are aware of is similarly limited to statements which are apparently understood to be critical of the Saudi regime. In a hearing held on October 30, 2017, the Prosecutor submitted supplemental documentation of five witness statements against the Defendant.⁴⁵ According to the statements, these witnesses indicated they were making voluntary and non-coerced admissions that they heard the Defendant, Issa Al-Nukhaifi, attempting to influence public opinion and insult the royal family, the government, and the police, and call them Christians and Jews.⁴⁶ The Defendant disputes the reliability of the witness statements and notes they were taken from individuals currently being detained in Saudi Arabia.⁴⁷
26. The Indictment also alleges that pictures of the Defendant with Abd Allah Al-Hamid and Waleed Abu Alkhair were discovered on his phone.⁴⁸ Al-Hamid and Abu Alkhair are well-known human rights activists who have also been detained in Saudi Arabia. The U.N. Working Group on Arbitrary Detention has found their detention to be in violation of international law.⁴⁹ Alkhair, a human rights lawyer and founder of the Monitor for Human Rights in Saudi Arabia, was convicted by the Saudi Specialized Criminal Court on terrorism charges that were widely criticized in the international community as having been grounded on his human rights advocacy.⁵⁰ Al-Hamid, a co-founder of the Saudi Association for Civil and Political Rights, was reportedly convicted and sentenced for crimes including “spreading

⁴⁵ *Court Proceeding of October 30, 2017*, 3-4.

⁴⁶ *Court Proceeding of October 30, 2017*, 3.

⁴⁷ *Statement of Issa Al-Nukhaifi dated November 18, 2017*, 2-3. Court records appear to confirm that at least 4 of the 5 witnesses were arrested and charged with crimes at the time of their statements. *Court Proceeding of October 30, 2017*, 3-4.

⁴⁸ *Indictment*, 5.

⁴⁹ U.S. Department of State, Bureau of Democracy, Human Rights, and Labor, 2016 Country Reports on Human Rights Practices Report: Saudi Arabia (March 3, 2017), <https://www.state.gov/j/drl/rls/hrrpt/2016/nea/265518.htm>.

⁵⁰ *Id.*

chaos” and “questioning the authority of official clerics.”⁵¹ Indeed, the Indictment gives rise to grave concerns that the Saudi prosecution is using the prosecution of two human rights activists for their protected political activity as grounds to support a prosecution of the Defendant for the same reason.

27. The Indictment further alleges that the Defendant engaged in financial transactions with enemies of the state. Again, these transactions appear to have been with other human rights defenders tried and sentenced for their human rights advocacy.

28. For instance, the Indictment asserts that the Defendant confessed to communicating with and receiving funds from Abd-Allah Al-Hamid⁵² and Hassan Bin Farhan Al-Maliki, a Sunni cleric who was arrested for making “public statements suggesting a link between Wahhabi religious ideology and the Islamic State of Iraq and the Levant.”⁵³ The Defendant allegedly stated that Al-Hamid gave him 50,000 Riyals (USD \$13,332.50) and Al-Maliki gave him 2000 Riyals (USD \$533.30). The Prosecutor introduced these “confessions” at the October 30, 2017 hearing in this case.⁵⁴

29. Because the allegedly unlawful transactions identified in the Indictment are between the Defendant and other persons who have been prosecuted for their human rights advocacy, there is cause for concern that these transactions also constitute protected activity.

G. CONCLUSIONS AND RECOMMENDATIONS

⁵¹ *E.g. Two Saudis in Human Rights Group Get 10 Years*, CNN (2013) <https://www.cnn.com/2013/03/09/world/meast/saudi-arabia-activists-sentenced/index.html>.

⁵² *See above*, para.25.

⁵³ U.S. Department of State, Bureau of Democracy, Human Rights, and Labor, 2014 Report on International Religious Freedom Report: Saudi Arabia (October 14, 2015).

⁵⁴ *Indictment*, 3; *Court Proceeding of October 30, 2017*, 7. The Indictment also refers to financial dealings with “Tharif”, who is alleged to be an enemy of the state but not further described. *Indictment*, 3.

30. The available information raises grave concerns that the Defendant is being prosecuted, and is at risk of a lengthy prison term, for his dissenting political views. The Indictment alleges that the Defendant engaged in acts of protected political speech and/or association, for instance that he criticized the Saudi government and royal family and that he received money from others who have been prosecuted for their political views.
31. Prosecuting the Defendant for political dissent would violate Saudi Arabia's international obligations. Moreover, international human rights groups have raised concerns about other similar prosecutions of human rights activists under Saudi counterterrorism laws, a tactic that undermines the seriousness of terrorism charges, reduces public confidence in Saudi counterterrorism efforts, and distracts from efforts to prosecute individuals conspiring with internationally recognized terrorist groups.
32. Based on these findings, it is recommended that:
 - a. The Defendant should be released from custody unless the Indictment can be amended to give him fair notice of any well-founded allegations that he engaged in criminal activity which was not merely an exercise of his international human rights.
 - b. Saudi Arabia should commit not to prosecute individuals merely for expressing political opinions, advocating increased protections for human rights, or forming political associations.
 - c. Saudi Arabia should revise its definition of terrorism to make clear that the crime of terrorism under Saudi law does not encompass protected political speech which does not advocate, incite, or otherwise materially support any act of violence or internationally recognized terrorist group.