

**Mandates of the Special Rapporteur on the rights to freedom of peaceful assembly and of association; the Special Rapporteur on the situation of human rights defenders; the Special Rapporteur on extrajudicial, summary or arbitrary executions; and the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism**

REFERENCE: AL  
AFG 3/2015:

17 December 2015

Excellency,

We have the honour to address you in our capacities as Special Rapporteur on the rights to freedom of peaceful assembly and of association; Special Rapporteur on the situation of human rights defenders; Special Rapporteur on extrajudicial, summary or arbitrary executions; and Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism pursuant to Human Rights Council resolutions 24/5, 25/18, 26/12, and 22/8.

In this connection, we would like to bring to the attention of your Excellency's Government information we have received concerning a landmine attack against members of the Afghanistan Independent Human Rights Commission.

The **Afghanistan Independent Human Rights Commission (AIHRC)** was established in 2002 as the national human rights institution of Afghanistan, and works for the promotion and protection of human rights in Afghanistan. It monitors, investigates and reports on human rights violations, carries out human rights education and advocates for the rights of women, children and persons with disabilities, among others.

According to the information received:

On 26 October 2015, at approximately 8.00 am Afghan time, GMT+4.30), a minibus carrying eight staff members of the Afghanistan Independent Human Rights Commission (AIHRC) was attacked using a remote-controlled improvised explosive device in the city of Jalalabad. The attack took place as the AIHRC staff members travelled to their office in Nangerhar Province in eastern Afghanistan. Two male staff members were killed at the spot. One female member of staff suffered serious injuries, whilst others were dealt minor injuries. All injured staff members were immediately hospitalized following the attack.

Local media, including Shamshad TV, announced that the Islamic State group (IS) had claimed responsibility for the attack. Even if this has not yet been officially corroborated, it is reported that the attack against AIHRC personnel also resembles recent attacks that were carried out by groups affiliated to the Taliban.

Grave concern is expressed at the fatal attack carried out against members of the AIHRC, which appears to be in direct retaliation for their human rights work both in Nangerhar Province and in Afghanistan and which can have a chilling effect on other defenders promoting and protecting human rights in the country.

While we do not wish to prejudge the accuracy of these allegations, we would like to draw the attention of your Excellency's Government to the relevant international norms and standards that are applicable to the issues brought forth by the situation described above.

In connection with the above alleged facts and concerns, please refer to the **Reference to international law Annex** attached to this letter which cites international human rights instruments and standards relevant to these allegations.

It is our responsibility, under the mandates provided to us by the Human Rights Council, to seek to clarify all cases brought to our attention. We would therefore be grateful for your observations on the following matters:

1. Please provide any additional information and any comment you may have on the above-mentioned allegations.
2. Please provide the details, and where available the results, of any investigation carried out in relation to this case. If no inquiries have taken place, or if they have been inconclusive, please explain why. Please provide the full details of any prosecutions which have been undertaken in this case.
3. Please indicate whether compensation has been provided to the victims or the family of the victims.
4. Please kindly indicate what measures have been taken to ensure that human rights defenders, including members of the national human rights institution, are able to carry out their legitimate work in a safe and enabling environment without fear of threats or acts of intimidation, harassment or assassination of any sort.

We would appreciate receiving a response within 60 days.

While awaiting a reply, we urge that all necessary interim measures be taken to halt the alleged violations and prevent their re-occurrence and in the event that the

investigations support or suggest the allegations to be correct, to ensure the accountability of any person(s) responsible for the alleged violations.

Your Excellency's Government's response will be made available in a report to be presented to the Human Rights Council for its consideration.

Please accept, Excellency, the assurances of our highest consideration.

Maina Kiai

Special Rapporteur on the rights to freedom of peaceful assembly and of association

Michel Forst

Special Rapporteur on the situation of human rights defenders

Christof Heyns

Special Rapporteur on extrajudicial, summary or arbitrary executions

Ben Emmerson

Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism

**Annex**  
**Reference to international human rights law**

In connection with above alleged facts and concerns, we would like to draw your attention to the following human rights standards:

As stipulated in the Advisory Opinion of the International Court of Justice on the legality of the threat or use of nuclear weapons, of 1996, human rights law continues to apply in time of war.

In this regard, we wish to draw the attention of your Excellency's Government on the principles set forth in the Universal Declaration of Human Rights (UDHR) and International Covenant on Civil and Political Rights (ICCPR), acceded to by Afghanistan on 24 January 1983. Articles 3 and 6 (1) of these instruments respectively guarantee the right of every individual to life and security and provide that these rights shall be protected by law and that no one shall be arbitrarily deprived of his life. Furthermore, we would also like to refer to the principle 9 of the Principles on the Effective Prevention and Investigation of Extra-legal, Arbitrary and Summary Executions, (resolution 1989/65 Economic and Social Council) which underlines that Governments shall undertake a "thorough, prompt and impartial investigation of all suspected cases of extra-legal, arbitrary and summary executions, including cases where complaints by relatives or other reliable reports suggest unnatural death in the above circumstances (...)". It should be noted that "the purpose of the investigation shall be to determine the cause, manner and time of death, the person responsible, and any pattern or practice which may have brought about that death. It shall include an adequate autopsy, collection and analysis of all physical and documentary evidence and statements from witnesses".

The obligation to investigate and respond to grave breaches of international human rights and humanitarian law is further enshrined in the Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law (General Assembly resolution 60/147, II (b) and III).

The United Nations, through the resolution 68/171 of the General Assembly and resolution 20/14 of the Human Rights Council, recognised the role of independent national institutions for the promotion and protection of human rights in working together with Governments to ensure full respect for human rights at the national level (OP 3, in both cases). The Special Rapporteur on the situation of human rights defenders and his predecessors have considered that national human rights institutions, which operate in compliance with the Paris Principles and their members and staff, can be considered as human rights defenders. In a 2013 report by the mandate-holder to the Human Rights Council, States were recommended that members and staff working for national institutions should be considered, in law and in practice, as human rights defenders and, as such, be publicly recognized, supported and protected by the Government and public authorities (A/HRC/22/47, para.119).

In that context, we would like to refer your Excellency's Government to the fundamental principles set forth in 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, also known as the UN Declaration on Human Rights Defenders. In particular, we would like to refer to articles 1 and 2 of the Declaration which state that everyone has the right to promote and to strive for the protection and realization of human rights and fundamental freedoms at the national and international levels and that each State has a prime responsibility and duty to protect, promote and implement all human rights and fundamental freedoms.

Furthermore, we would like to bring to the attention of your Excellency's Government article 12, paragraphs 2 and 3 of the UN Declaration on Human Rights Defenders which provides that the State shall take all necessary measures to ensure the protection of everyone against any violence, threats, retaliation, de facto or de jure adverse discrimination, pressure or any other arbitrary action as a consequence of his or her legitimate exercise of the rights referred to in the Declaration.

We also wish to refer to Human Rights Council resolution 13/13, which urges States to put an end to and take concrete steps to prevent threats, harassment, violence and attacks by States and non-State actors against all those engaged in the promotion and protection of human rights and fundamental freedoms.

Lastly, we note that Human Rights Council resolution 24/5 (operative paragraph 2) "reminds States of their obligation to respect and fully protect the rights of all individuals to assemble peacefully and associate freely, online as well as offline, including in the context of elections, and including persons espousing minority or dissenting views or beliefs, human rights defenders, trade unionists and others, including migrants, seeking to exercise or to promote these rights, and to take all necessary measures to ensure that any restrictions on the free exercise of the rights to freedom of peaceful assembly and of association are in accordance with their obligations under international human rights law."