

Mandates of the Special Rapporteur on the rights of persons with disabilities; the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health; the Special Rapporteur on the independence of judges and lawyers; the Independent Expert on the situation of human rights in Somalia; the Special Rapporteur on extrajudicial, summary or arbitrary executions; and the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment.

REFERENCE: UA
OTH 9/2015:

16 November 2015

Dear Mr. Sa'ad Ali Shire,

We have the honour to address you in our capacity as Special Rapporteur on the rights of persons with disabilities; Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health; Special Rapporteur on the independence of judges and lawyers; Independent Expert on the situation of human rights in Somalia; Special Rapporteur on extrajudicial, summary or arbitrary executions; and Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment pursuant to Human Rights Council resolutions 26/20, 24/6, 26/7, 24/30, 26/12, and 25/13.

In this connection, we would like to bring to your attention information we have received concerning the alleged imminent execution of **Mr. Abdullahi Ali, a man with a psychosocial disability who is reportedly at risk of imminent execution in Somaliland.**

According to the information received:

Mr. Abdullahi Ali, a 38 year old man from Somaliland and father to nine children has a long history of serious psychosocial disability and has exhibited psychotic symptoms since around 2010.

As a result of those repeated violent episodes, in 2012, Mr. Ali was institutionalized in Daryeel Mental Health Hospital in Somaliland, where he remained until his release in February 2014. Mr. Ali continued to experience psychotic episodes following his release.

Mr. Ali's hospital records confirm that he was admitted for management of acute psychotic symptoms, including visual and auditory hallucinations, paranoia and persecutory delusions and that he exhibited signs of self-neglect and episodes of aggression and violence as a result of his psychosocial disability. He also showed symptoms of mood disorder, particularly depression.

Two months after leaving hospital, Mr. Ali shot dead a man during an altercation. He confessed to the offence and was charged with manslaughter. He was subsequently detained for approximately one year before he was brought to trial.

Mr. Ali had no access to legal representation during his trial and was not provided with any type of procedural accommodation. Despite the fact that his psychosocial disability at the time of the offence was allegedly relevant to his culpability, there was no psychiatric or psychological evaluation carried out, nor was the court presented with any evidence of his psychosocial disability. In August 2015, the Regional Court of Somaliland sentenced Mr. Ali to death for the offence of manslaughter.

Following his sentence, Mr. Ali's family obtained his mental records from Daryeel Hospital and attempted to submit them to the Appellate Court for its consideration. However, the Court refused to accept the evidence and upheld the death sentence imposed by the regional court.

Mr. Ali is currently at risk of imminent execution by firing squad. His family has tried to contact the Chief Justice of the Supreme Court but received no response.

Reports indicate that Mr. Ali and his family could be at risk of retribution or revenge killing.

It is reported that the only meaningful possibility of Mr. Ali avoiding execution is if the Somaliland president agrees to pardon him on grounds of his psychosocial disability.

We express serious concern that the death penalty may be carried out against Mr. Abdullahi Ali, who has a psychosocial disability and whose sentence was upheld following judicial procedures that may not fulfill the most stringent guarantees of fair trial and due process for the imposition of the death penalty, particularly in relation to the lack of access to legal representation and effective defense, and in which his psychosocial disability was not assessed or taken into consideration as a factor relevant to determine his culpability.

In view of the urgency of the matter, and of the irreversibility of the punishment of the death penalty, **we call upon the authorities in Somaliland as a matter of urgency to take all necessary measures to prevent the execution of Mr. Abdullahi Ali**, which on the facts available to us may constitute a violation of applicable international human rights standards, and thus an arbitrary execution. **We further urge**

you to commute Mr. Ali's death sentence. In addition, we urge you to provide effective protection to Mr. Ali and his family from any risk of retribution or revenge killing and, where appropriate, to facilitate a settlement to avoid further violence.

Without making any judgment as to the accuracy of the information made available to us, the above allegations appear to be in contravention of the right of every individual to life, security, and not to be arbitrarily deprived of life, as set out in article 3 of the Universal Declaration of Human Rights (UDHR) and article 6 of the International Covenant on Civil and Political Rights (ICCPR).

We would like to recall that article 6.4 of ICCPR establishes that anyone sentenced to death shall have the right to seek pardon or commutation of the sentence and that amnesty, pardon or commutation of the sentence of death may be granted in all cases.

Moreover, as stressed in article 5 of the Safeguards guaranteeing protection of the rights of those facing the death penalty, capital punishment may only be carried out pursuant to legal procedures which give all possible safeguards to ensure a fair trial, including the right of anyone suspected of or charged with a crime for which capital punishment may be imposed to adequate legal assistance at all stages of the proceedings. Only full respect for stringent due process guarantees distinguishes capital punishment as possibly permitted under international law from an arbitrary execution. Article 6 of the same instrument provides that anyone sentenced to death shall have the right to appeal to a court of higher jurisdiction, and steps should be taken to ensure that such appeals become mandatory.

Persons with psychosocial and developmental disabilities face the risk of being sentenced to death and executed in breach of international standards, including the right to the highest attainable standard of physical and mental health. States must do their utmost to address this risk, including by providing accommodation during all phases of legal proceedings, and by granting adequate protection from any form of discrimination against them because of their mental health condition. The imposition and enforcement of the death penalty on persons with psychosocial disabilities is particularly cruel, inhuman and degrading and in violation of article 7 of the Covenant and articles 1 and 16 of the Convention against Torture.

We would further like to recall that according to article 4 of General Comment 31 of the Human Rights Committee, the obligations contained in the Covenant are binding on every State as a whole and that all branches of government (executive, legislative and judicial), and other public or governmental authorities, at whatever level - national, regional or local - are in a position to engage the responsibility of the State Party.

We also recall article 14 of the ICCPR, which provides that in the determination of any criminal charge, everyone shall be entitled to the minimum guarantees of fair trial and due process, including to have adequate time and facilities for the preparation of his

defence, to be assisted by and to communicate with a lawyer of his own choosing, as also established by the UN Basic Principles on the Role of Lawyers (Principle5).

The full texts of the human rights instruments and standards recalled above are available on www.ohchr.org or can be provided upon request.

It is our responsibility under the mandate provided to us by the Human Rights Council, to seek to clarify all cases brought to our attention. Since we are expected to report on these cases to the Human Rights Council, we would be grateful for your observations or comments, and any additional information on the measures taken in relation to the above mentioned allegations and urgent appeals.

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 responsible of the alleged violations.

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

We would like to inform you that a letter of similar content will be sent to the Government of Somalia.

Please accept, Mr. Sa'ad Ali Shire, the assurances of our highest consideration.

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Dainius Puras
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