

**Mandates of the Special Rapporteur on the independence of judges and lawyers and the
Special Rapporteur on extrajudicial, summary or arbitrary executions**

REFERENCE: AL G/SO 214 (3-3-16) G/SO 214 (33-27)
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Excellency,

We have the honour to address you in our capacities as Special Rapporteur on the independence of judges and lawyers and Special Rapporteur on extrajudicial, summary or arbitrary executions pursuant to General Assembly resolution 60/251 and to Human Rights Council resolution 17/2 and 17/5.

In this connection, we would like to bring to your Excellency Government's attention information we have received concerning the beheading of **Ms. Amina bint Addul bin Salem Nasser** on charges of "witchcraft and sorcery".

According to the information received:

On 12 December 2011, Ms. Amina bint Addul bin Salem Nasser, a Saudi Arabian national, believed to be around sixty year old, was executed for practising "witchcraft and sorcery" in the northern province of Jawf.

The Interior Ministry confirmed that the verdict against Ms. Nasser was upheld by the highest courts, but no further details were given on the charges. Reportedly she was arrested in April 2009 and subsequently convicted.

The beheading of Ms. Nasser reportedly follows other executions of individuals convicted for sorcery. In September 2011, a Sudanese national was allegedly beheaded in Medina, Saudi Arabia, following a trial during which he had allegedly no access to a lawyer and on charges he allegedly confessed after being tortured.

We are informed that the charges of "witchcraft and sorcery" are not defined as crimes under Saudi Arabian law, as was raised on the previous communication referred to above.

Cases of individuals convicted of witchcraft were the subject of an urgent appeal sent on 6 January 2010, which has regrettably remained without response. In view of the

above, we would like to respectfully draw the attention of your Excellency's Government to our main concerns in relation to these specific cases in light of international human rights norms and standards.

We wish to reiterate that the death penalty, although not prohibited under international law, has long been regarded as an extreme exception to the fundamental right to life. As such, it must be interpreted in the most restrictive manner and can be imposed only for the most serious crimes. In this regard, the Safeguards guaranteeing protection of the rights of those facing the death penalty adopted by Economic and Social Council resolution 1984/50 (25 May 1984) "serve as criteria for ascertaining whether an execution is of a summary or arbitrary nature" (E/CN.4/1985/17, para. 24). Para. 1 of the aforementioned instrument stipulates that "[i]n countries which have not abolished the death penalty, capital punishment may be imposed only for the most serious crimes, it being understood that their scope should not go beyond intentional crimes with lethal or other extremely grave consequences." This also coincides with the interpretation made by all of the principal United Nations bodies charged with interpreting the most serious crimes provision which held that a death sentence can only be imposed in cases where it can be shown that there was an intention to kill resulting in the loss of life (A/HRC/4/20, para. 53). Thus, we believe that the cases referred to above fail to meet such threshold.

According to Safeguard 2 which is an application of the principle of legality "[c]apital punishment may be imposed only for a crime for which the death penalty is prescribed by law at the time of its commission". However, we are concerned that such fundamental principle of criminal law is not complied with, as sorcery and witchcraft are not prohibited under criminal law, and a fortiori, no legal provision indicates that they carry the death penalty.

Furthermore, allegations received indicating that the Sudanese national was executed on similar charges he confessed under torture and had no access to a lawyer are equally great matters of concern. Only full respect for stringent due process guarantees distinguishes capital punishment from a summary execution. In this respect, safeguard 4 stipulates that "[c]apital punishment may be imposed only when the guilt of the person charged is based upon clear and convincing evidence leaving no room for an alternative explanation of the facts." Additionally, under article 10 of the Universal Declaration on Human Rights, all Governments have the obligation to provide criminal defendants with "a fair and public hearing before an independent and impartial tribunal." In cases for which the death penalty may be imposed upon individuals, it is critical that this right and its related procedural guarantees are strictly observed.

We wish to stress that the right to be assisted by legal counsel is a fundamental element of the right to a fair trial which enables the defendant to exercise his or her right to defense. In this respect, we would also like to refer your Excellency's Government to the Basic Principles on the Role of Lawyers, adopted by the Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders, Havana, Cuba, 27 August to 7 September 1990, in particular Principle 1, which reads: "All persons are

entitled to call upon the assistance of a lawyer of their choice to protect and establish their rights and to defend them in all stages of criminal proceedings”.

We urge your Excellency’s Government to take all effective measures to ensure that no individual is sentenced to death penalty and executed on charges of witchcraft or sorcery. We would appreciate a response on the measures taken to this end within sixty days as well as a response to the previous communication dated 6 January 2010. We would very much appreciate assurances of your Excellency’s Government that the death penalty of individuals sentenced to death charges of “witchcraft” or “sorcery” will not be carried out.

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 Council, we would be grateful for your cooperation and your observations on the following matters:

1. Are the facts alleged in the above summary of the case accurate?
2. Is it accurate that “witchcraft” or “sorcery” are not prohibited nor defined under the laws of the Kingdom of Saudi Arabia? If not so, please provide the definition and kindly indicate the relevant legal provision.
3. Please provide information on the number of people who have been sentenced to death on charges of “witchcraft” or “sorcery”. Please indicate what measures have been or will be taken to ensure that no more individuals will be sentenced to death on these charges.

We would greatly appreciate receiving your Excellency’s Government within 60 days the above mentioned additional information. We undertake to ensure that your Excellency’s Government’s response to each of these questions is accurately reflected in the report we will submit to the Human Rights Council for its consideration.

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

Christof Heyns
Special Rapporteur on extrajudicial, summary or arbitrary executions

Gabriela Knaul
Special Rapporteur on the independence of judges and lawyers