

Mandates of the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression; 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: AL
YEM 6/2014:

3 November 2014

Excellency,

We have the honour to address you in our capacities as Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression; 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 25/2, 26/12, and 25/13.

In this connection, we would like to bring to the attention of your Excellency's Government information we have received concerning allegations of extrajudicial executions and excessive use of force against peaceful protesters by Yemeni security forces.

According to the information received:

On 7 and 9 September 2014, nine people were killed and 67 injured, by security forces during mostly peaceful protests in Sanaa.

It is reported that without warning, security forces opened fire on Houthi protestors, armed only with sticks, stones and umbrellas, killing nine and injuring 67. The persons killed included a farmer, an ambulance driver, an airport worker and several students.

On 7 September 2014, protest blocked the main road to the airport. Houthi protestors were sitting on the road at about 5:30 p.m. when soldiers and Special Security Forces (SSF), and paramilitary troops of the Ministry of Interior, arrived

with water cannons on trucks and, without warning, started firing water and teargas at the crowd. The demonstrators responded by throwing stones from the street, which prompted the military units to fire assault rifles at the crowd. Two people were killed; one was shot in the back, and the other died two days later from tear gas asphyxiation.

On 9 September 2014 at about 9 a.m., several thousand Houthi protesters began walking down a road near Sanaa University toward the Sanaa Radio building and the prime minister's office. Military units and SSF personnel were present, as well as a group of armed men from an unknown force, wearing all-black uniforms, including gloves, masks and helmet. They had a 12.7 mm machine gun mounted on an armoured vehicle, and another large-calibre double-barrelled weapon on an armoured vehicle. Armed security forces, possibly snipers, were on the roofs of buildings near the Sanaa Radio Building. It is reported that without warning, the military units used water cannons and teargas and started firing live ammunition at the protesters, causing several deaths and injured.

It is furthermore reported that as the protestors escaped, members of the armed forces chased them, arresting those who sought refuge in nearby buildings and private homes. Military officials were also storming hospitals where the wounded were taken and arresting anyone suspected of taking part in the protests.

Security forces allegedly also interfered with attempts by medical personnel to assist the wounded. It is reported that on one occasion a doctor, who had come with an ambulance to a street close to the demonstration was denied access at a check point. Reportedly, two of the soldiers present at the check point switched off the safeties on their assault rifles, chambered bullets, and pointed their weapons at the doctor.

According to the information received nine people were killed, including an ambulance driver who was struck by a bullet while he sat in his marked ambulance after driving it to the area to collect the wounded. At least 67 people were injured, including 33 with gunshot wounds. The youngest person wounded was 12 years old. Of the eight who died from gunshot wounds, four had been struck in the head, while the rest had been hit in the stomach, back, or chest.

Of those with gunshot wounds, at least three were hit in the back, four in the head, five in the stomach and chest, and eighteen in their arms or legs. Four people had shrapnel injuries. At least 30 demonstrators had fractures and bruises. Three people were hit by a military vehicle mounted with a water cannon, and one had

lost sight in one eye after being struck by water from a water cannon. About 96 people were treated for the effects of teargas.

Serious concern is expressed about the allegations of extrajudicial executions and excessive use of force against peaceful protesters by security forces, leading to deaths and injuries. Serious concern is also expressed at the potential negative implications of law No. 29

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 indicate whether complaints have been lodged by or on behalf of the victims.
3. Please provide the details, and, where available, the results, of any investigation, medical examinations, and judicial or other inquiries which may have been carried out in the wake of the two reported incidents. If no inquiries have taken place, or if they have been inconclusive, please explain why.
4. In the event that the alleged perpetrators have been identified, please provide the full details of any prosecutions which have been undertaken. Have penal, disciplinary or administrative sanctions been imposed on the alleged perpetrators?
5. Please indicate any remedial action taken vis-à-vis the victims or their families.

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.

David Kaye
Special Rapporteur on the promotion and protection of the right to freedom of opinion
and expression

Christof Heyns
Special Rapporteur on extrajudicial, summary or arbitrary executions

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

Annex
Reference to international human rights law

In connection with above alleged excessive use of force and concerns, we would like to draw the attention of your Excellency's Government to the UN Code of Conduct for Law Enforcement Officials and the UN Basic Principles on the Use of Force and Firearms by Law Officials, which provide that law enforcement officials may only use force when it is strictly necessary and only to the extent required, for the performance of their duties. The use of force and firearms must as far as possible be avoided, using non-violent means before resorting to violent means. Force used must be proportionate to the legitimate objective to be achieved. Should lethal force be used, restraint must be exercised at all times and damage and/or injury mitigated, including giving a clear warning of the intent to use force and to provide sufficient time to heed that warning, and providing medical assistance as soon as possible when necessary. In this context, we would like draw the attention of your Excellency's Government to para. 188 of the Report of the former Special Rapporteur on Torture (A/HRC/13/39/Add.5), which provides that, "If the use of force is not necessary and, in the particular circumstances of the case, disproportional to the purpose achieved, it amounts to cruel or inhuman treatment."

We would also like to remind your Excellency's Government of the absolute and non-derogable prohibition of torture and other ill-treatment as codified in article 1 of the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (CAT), which Yemen accessed on 5 November 1991.

Concerning alleged extrajudicial executions, we would like draw the attention of your Excellency's Government to article 6(1) of the International Covenant on Civil and Political Rights (ICCPR), accessed by Yemen on 9 February 1987, which provides that, every individual has the right to life and security of the person, that this right shall be protected by law, and that no person shall be arbitrarily deprived of his or her life. The Human Rights Committee, in its General Comment 6, para. 3 has said that it considers article 6 (1) of the ICCPR to include that States parties should take measures to prevent and punish deprivation of life by criminal acts, and to prevent arbitrary killing by their own security forces.

In this context, would like draw the attention of your Excellency's Government to Human Rights Committee's General Comment 6, para. 3, which provides that, "The protection against arbitrary deprivation of life which is explicitly required by the third sentence of article 6 (1) is of paramount importance. The Committee considers that States parties should take measures not only to prevent and punish deprivation of life by

criminal acts, but also to prevent arbitrary killing by their own security forces. The deprivation of life by the authorities of the State is a matter of the utmost gravity. Therefore, the law must strictly control and limit the circumstances in which a person may be deprived of his life by such authorities.”

We would like to remind your Excellency’s Government of the duty to investigate, prosecute, and punish all violations of the right to life. We urge your Excellency’s Government in line with the Principles on Effective Prevention and Investigation of Extra-legal, Arbitrary and Summary Executions (Prevention and Investigation Principles), in particular principle 9, that there must be thorough, prompt and impartial investigations of all suspected cases of extra-legal, arbitrary and summary executions. This principle was reiterated by the Human Rights Council in Resolution 26/12 on the “Mandate of the Special Rapporteur on extrajudicial, summary or arbitrary executions” (OP 4). The Council added that this includes the obligation “to identify and bring to justice those responsible ... to adopt all necessary measures, including legal and judicial measures, in order to bring an end to impunity and prevent the recurrence of such executions.”

We wish to recall also that the families and dependents of victims of extra-legal, arbitrary or summary executions shall be entitled to fair and adequate compensation within a reasonable period of time, pursuant to principle 20 of the of the Principles on the Effective Prevention and Investigation of Extra-legal, Arbitrary and Summary Executions.

We would also like to draw the attention of your Excellency’s Government to article 12 of the CAT, which requires the competent authorities to undertake a prompt and impartial investigation wherever there are reasonable grounds to believe that torture has been committed, and article 7 of the CAT, which requires State parties to prosecute suspected perpetrators of torture. In this context, we also would like to draw the attention of your Excellency’s Government to paragraph 7(b) of Human Rights Council Resolution 16/23, which urges States, “To take persistent, determined and effective measures to have all allegations of torture or other cruel, inhuman or degrading treatment or punishment investigated promptly, effectively and impartially by an independent, competent domestic authority, as well as whenever there is reasonable ground to believe that such an act has been committed; to hold persons who encourage, order, tolerate or perpetrate such acts responsible, to have them brought to justice and punished in a manner commensurate with the gravity of the offence, including the officials in charge of the place of detention where the prohibited act is found to have been committed; and to take note, in this respect, of the Principles on the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment and the updated set of

principles for the protection of human rights through action to combat impunity as a useful tool in efforts to prevent and combat torture”.

Finally, we would like to refer your Government to article 19 of the Universal Declaration of Human Rights and article 19 of the ICCPR, which recognise that everyone has the right to freedom of expression and that this right includes “freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art, or through any other media of his choice”.