

Mandates of the Working Group on Arbitrary Detention; the Special Rapporteur on freedom of religion or belief; 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 Special Rapporteur on minority issues; and the Special Rapporteur on extrajudicial, summary or arbitrary executions

REFERENCE: UA
SAU 12/2014:

17 November 2014

Excellency,

We have the honour to address you in our capacity as Chair-Rapporteur of the Working Group on Arbitrary Detention; Special Rapporteur on freedom of religion or belief; 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; Special Rapporteur on minority issues; and Special Rapporteur on extrajudicial, summary or arbitrary executions pursuant to Human Rights Council resolutions 24/7, 22/20, 24/6, 26/7, 25/5, and 26/12.

In this connection, we would like to bring to the attention of your Excellency's Government information we have received regarding the risk of arbitrary execution of **Sheikh Nimr Baqir Al-Nimr** after a trial that did not meet the most stringent due process and fair trial guarantees. Sheikh Al-Nimr was already the subject of a joint urgent appeal dated 28 August 2014, to which we are yet to receive a response.

According to the information received:

On 15 October 2014, Sheikh Nimr Baqir Al-Nimr was sentenced to death by the Specialized Criminal Court in Saudi Arabia having been convicted on charges of "disobeying the ruler", "inciting sectarian strife" and "encouraging, leading and participating in demonstrations" after a trial which did not comply with the most stringent due process and fair trial guarantees. During his trial which took place in August 2014 the prosecution had demanded his "crucifixion".

Since his arrest in July 2012, Sheikh Al-Nimr was the victim of various human right violations., his lawyer was not informed of some of the hearing dates and he was therefore deprived of providing a full defense to the allegations against his

client. Furthermore, the lawyer could not cross-examine the prosecution witnesses against his client as they were not called to testify in court.

Sheikh Al-Nimr has been subjected to severe torture and ill-treatment throughout his more than two-year detention, most of which he spent in solitary confinement in military hospitals and at the al-Ha'ir prison in Riyadh. He was also denied surgery to remove a bullet in his back and adequate treatment for his right leg which remains paralyzed following gunshot injuries sustained during the course of his arrest.

Information received indicates that the inculpatory evidence relied on to substantiate the criminal charges against him and on the basis of which he was eventually convicted derives from the religious sermons and interviews Sheikh Al-Nimr had given prior to his arrest. Sheikh Al-Nimr is a cleric belonging to the Shi'a religious minority in Saudi Arabia and in the past years has been denouncing the Saudi Arabian government over discrimination faced by members of the Shi'a community. Other charges are vague and may have been imposed to punish him for his peaceful activities.

We would like to express serious concern that the death penalty may have been imposed and may be carried out against Sheikh Nimr Baqir Al-Nimr after judicial proceedings which did not comply with the most stringent due process and fair trial guarantees; in particular we are concerned the Sheikh Al-Nimr did not have adequate access to his lawyer and that the principle of equality of arms was not respected during the proceedings. We further reiterate serious concern that Sheikh Al-Nimr is allegedly being denied the medical care he needs. We also further concerned at allegations that he was tortured and that he may have been coerced to sign incriminating statements against his will.

While we do not wish to prejudge the accuracy of these allegations or to express an opinion on whether or not the detention of Sheikh Nimr Baqir Al-Nimr is arbitrary, the above allegations appear to be in contravention of the right not to be arbitrarily deprived of his liberty as set forth in article 9 of the Universal Declaration of Human Rights (UDHR) as well as the right to fair proceedings before an independent and impartial tribunal, as set forth in article 10 of the UDHR. The allegations also appear to be in contravention of the right to have access to a lawyer enshrined in the Basic Principles on the Role of Lawyers.

Moreover, we would like to remind your Excellency's Government of the absolute and non-derogable prohibition of torture and other ill-treatment as set forth in article 5 of the UDHR.

We would also like to bring to the attention of your Excellency's Government that article 3 of the UDHR guarantees the right of every individual to life, liberty and security. According to article 5 of the United Nations Safeguards Protecting the Rights of those Facing the Death Penalty, capital punishment may only be carried out pursuant to all

possible safeguards to ensure a fair trial, including legal assistance at all stages of the proceedings. Only full respect for stringent due process guarantees distinguishes capital punishment from a summary execution.

Furthermore, the allegations of lack of adequate medical treatment appear to be in contravention with your Excellency's Government's responsibility to respect and fulfil Sheikh Nimr Baqir Al-Nimr's right to the enjoyment of the right to the highest attainable standard of physical and mental health, including access to medical care while in detention, as enunciated in the United Nations Standard Minimum Rules for the Treatment of Prisoners, Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment, and Basic Principles for the Treatment of Prisoners.

We also wish to recall articles 18 and 19 of the UDHR. Moreover, article 2 (1) of the 1981 Declaration of the General Assembly (A/RES/36/55) maintains the principle of non-discrimination on the grounds of religion or other belief. In this regard we also recall the international standards in relation to the protection of the rights of persons belonging to religious minorities, in particular to the 1992 Declaration of the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic minorities. Article 1 of the Declaration establishes the obligation of States to protect the existence and identity of religious minorities within their territories and to adopt the appropriate measures to achieve this end, and article 2 states that persons belonging to religious minorities have the rights to profess and practice their own religion without discrimination.

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

In view of the urgency of the matter, and of the irreversibility of the punishment of the death penalty, we call upon your Excellency's Government to halt the execution of Sheikh Nimr Baqir Al-Nimr and place a moratorium on all the executions in Saudi Arabia. Additionally, we would appreciate a response on the initial steps taken by your Excellency's Government to safeguard the rights of the members of religious communities, particularly Shi'a Islam, in compliance with international instruments.

Moreover, 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. Since we are expected to report on these cases to the Human Rights Council, we would be grateful for your cooperation and your observations on the following matters, when relevant to the case under consideration:

1. Please provide any additional information and any comment you may have on the above mentioned allegations.
2. Please provide information concerning the legal grounds for the arrest and detention of Sheikh Nimr Baqir Al-Nimr and how these measures are compatible with international human rights standards as enshrined, inter alia, in the UDHR.

3. Please provide detailed information on the charges upon which Sheikh Nimr Baqir Al-Nimr was convicted and sentenced to the death penalty. Please explain how such charges are compatible with Saudi Arabia international human rights obligations, in particular whether the court had discretion to impose a lesser sentence on Sheikh Nimr Baqir Al-Nimr, and whether the death sentence can be appealed or pardoned.
4. Please provide detailed information on each stage of the judicial proceedings conducted against Sheikh Nimr Baqir Al-Nimr and indicate how they comply with the requirements of the right to a fair trial and due process guarantees as enshrined, inter alia, in the UDHR and the Basic Principles on the Role of Lawyers.
5. Please provide information regarding the allegations of denial of medical treatment Sheikh Nimr Baqir Al-Nimr while in detention. What measures have been taken to ensure that he received adequate medical treatment?
6. Please provide detailed information on the measures taken to ensure the right to freedom of religion or belief, and on how the right of persons belonging to minorities not to be discriminated against during court proceedings is ensured in Saudi Arabia in line with international human rights obligations.

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 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.

Mads Andenas
Chair-Rapporteur of the Working Group on Arbitrary Detention

Heiner Bielefeldt
Special Rapporteur on freedom of religion or belief

Dainius Puras
Special Rapporteur on the right of everyone to the enjoyment of the
highest attainable standard of physical and mental health

Gabriela Knaut

Special Rapporteur on the independence of judges and lawyers

IZSÁK Rita
Special Rapporteur on minority issues

Christof Heyns
Special Rapporteur on extrajudicial, summary or arbitrary executions