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**PROCEDURES SPECIALES DU
CONSEIL DES DROITS DE L'HOMME**

**UNITED NATIONS
OFFICE OF THE UNITED NATIONS
HIGH COMMISSIONER FOR HUMAN RIGHTS**

**SPECIAL PROCEDURES OF THE
HUMAN RIGHTS COUNCIL**

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

REFERENCE: UA G/SO 214 (3-3-16) G/SO 214 (33-27)
SAU 5/2012

15 February 2012

Excellency,

We have the honour to address you in our capacity 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 resolutions 17/2 and 17/5.

In this connection, we would like to draw the attention of your Excellency's Government to information we have received regarding the imminent executions of Messrs. **Qassem bin Rida bin Salman al-Mahdi, Khaled bin Muhammad bin Issa al-Qudaihi** and **Ali Hassan Issa al-Buri**.

According to information received:

On 2 October 2005, the General Court in Qurrayat in the northern province of al-Jouf, sentenced Qassem bin Rida bin Salman al-Mahdi and Khaled bin Muhammad bin Issa al-Qudaihi to death, while Ali Hassan Issa al-Buri received a sentence of 20 years in prison and 4,000 lashes. The three Saudi Arabian nationals had been arrested on suspicion of drug smuggling in July 2004.

All three were allegedly coerced into making confessions. They were further denied access to a lawyer in pre-trial detention and during their trial.

On appeal, the Court of Cassation in Riyadh twice ordered the General Court in Qurrayat to commute all three sentences. Instead, the General Court upheld its verdict and amended Ali Hassan Issa al-Buri's sentence to the death penalty.

In 2007 the Supreme Judicial Council reportedly upheld the death sentences in all three cases and referred them to the King, who is believed to have confirmed the sentences.

They have exhausted all their appeals and could be executed imminently.

While we do not wish to prejudge the accuracy of the allegations reported to us, we would like to respectfully draw the attention of your Excellency's Government to the principles applicable to the present case under international law.

We would like to remind your Excellency's Government that, although the death penalty is not prohibited under international law, it 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."

Concerning the allegation that the three aforementioned individuals were denied access to a lawyer in pre-trial detention and during the trial, we wish to draw the attention of your Excellency's Government to safeguard 5 of the aforementioned instrument which stipulates that "Capital punishment may only be carried out pursuant to a final judgement rendered by a competent court after legal process which gives 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." In this regard, we wish to refer to similar provisions as enshrined in the United Nations Basic Principles on the Role of Lawyers (adopted on 7 September 1990), in particular principles 1 and 8. In accordance with the latter principle, all arrested, detained or imprisoned persons shall be provided with adequate opportunities, time and facilities to be visited by and to communicate and consult with a lawyer, without delay, interception or censorship and in full confidentiality. Such consultations may be within sight, but not within the hearing, of law enforcement officials pursuant to principle 8.

Finally, in respect of the allegation that the three individuals were coerced into making confessions, we wish to recall para. 4 of the aforementioned safeguards which stipulates that "Capital 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.”

Only full respect for stringent due process guarantees distinguishes capital punishment as still allowed under international law from a summary execution, which violates a fundamental human right. We therefore urge your Excellency’s Government to take all necessary steps to ensure that the rights under international law of the abovementioned persons are fully respected. Considering the irremediable nature of capital punishment we urge your Excellency’s Government to take all necessary measures to prevent the execution of the aforementioned individuals, which would, on the facts available to us, constitute a violation of international law. We would also respectfully appeal to your Excellency’s Government to seriously consider commuting the sentence.

In view of the urgency of the matter, we would appreciate a response on the initial steps taken by your Excellency’s Government to safeguard the rights of Messrs. Qassem bin Rida bin Salman al-Mahdi, Khaled bin Muhammad bin Issa al-Qudaihi and Ali Hassan Issa al-Buri.

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. Are the facts alleged in the summary of the cases accurate?
2. Please indicate the legal justification for imposition of the death penalty on Messrs. Qassem bin Rida bin Salman al-Mahdi, Khaled bin Muhammad bin Issa al-Qudaihi and Ali Hassan Issa al-Buri and please indicate how this complies with the standards developed under international law, in particular with the Safeguards guaranteeing protection of the rights of those facing the death penalty.
3. Please indicate the reasons for amending the sentence of Mr. Ali Hassan Issa al-Buri.

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.

Gabriela Knaul
Special Rapporteur on the independence of judges and lawyers

Christof Heyns
Special Rapporteur on extrajudicial, summary or arbitrary executions