

Mandates of the Special Rapporteur on extrajudicial, summary or arbitrary executions; the Working Group on Arbitrary Detention; the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression; 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 freedom of religion or belief; the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism and the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment

REFERENCE:
UA SAU 1/2018

8 February 2018

Excellency,

We have the honour to address you in our capacity as Special Rapporteur on extrajudicial, summary or arbitrary executions; Working Group on Arbitrary Detention; Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression; 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 freedom of religion or belief; Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism; and Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, pursuant to Human Rights Council resolutions 35/15, 33/30, 34/18, 33/9, 35/11, 31/16, 31/3 and, 34/19.

In this connection, we would like to bring to the attention of your Excellency's Government information we have received concerning **the imminent execution of Mr. Abbas Haiji A. al-Hassan and fourteen other individuals, following trials that do not seem to meet fair trial and due process guarantees, including allegations of confessions obtained under torture, and for charges which do not meet the "most serious crimes" threshold.**

A related communication was transmitted to your Excellency's Government by several special procedures mandates of the Human Rights Council on 28 July 2017 (case no. UA SAU 7/2017) raising concerns over the imminent executions of 17 individuals convicted on protest-related charges and on the basis of trials that allegedly did not meet fair trial and due process guarantees, including allegations of confessions obtained under torture. We thank you for the response received on 13 December 2017.

According to the information received:

Mr. Abbas Haiji A. Al-Hassan, date of birth 31 July 1973

On 2 June 2013, Mr. Al-Hassan was arrested without a warrant in Al-Ahsa and detained along with 31 other men. He was charged with committing treason by engaging with Iranian intelligence contacts, recruiting others for espionage for Iran, supporting the spread of Shia doctrine, organizing propaganda events, financing terrorism, storing photos of an official speech on his laptop, recruiting individuals to hinder the reputation of the Kingdom, and supporting riots and protests to jeopardize the security of the Kingdom. Some of the other 31 individuals were also charged with supporting protests” and “spreading the Shia faith.”

On 12 January 2016, the Bureau of Investigation and Prosecution referred the men to the Specialized Criminal Court in Riyadh for their first hearing. From the time of their arrests in June 2013 until their trials in 2016, they were held in pretrial detention. During this period they were held incommunicado for up to three months and interrogated without the presence of a lawyer. Mr. Al-Hassan was subjected to beatings, forced standing overnight, forced marching and intimidation in order to extract a confession. Some of the others were threatened with solitary confinement or the arrest of their family members if they did not sign confessions admitting their guilt. Mr. Al-Hasan suffers from a permanent [REDACTED] an ailment that was neglected by the prison authorities.

On 6 December 2016, the Specialized Criminal Court in Riyadh charged and tried the 32 individuals in the same case. Their lawyers were not provided with the documents necessary to prepare a defense and pieces of evidence used by the prosecution, such as USB drives, computers, confessions, and statements to investigators, were not shared with them. The Prosecution spent three years preparing the case, but reportedly demanded that the defense be prepared in three weeks. In some cases the defendants were not able to meet their lawyers before the trial.

The Specialized Criminal Court in Riyadh acquitted two of the individuals. 15 others were given sentences ranging between six months and 25 years. Mr. al-Hassan and 14 others were sentenced to death.

In July 2017, the Court of Appeal upheld all of the sentences, including the 15 death penalties.

In January 2018, the Supreme Court upheld Mr. Al-Hassan’s death sentence. A request for a Royal pardon was rejected. His lawyer filed for a second examination of this request.

Mr. Al-Hassan’s case was transferred to the Presidency of State Security. The sentence is subject to ratification by the King after which the execution could take

place at any time. It is feared that he will be imminently executed. His family has not been able to contact the Presidency of State Security.

While we do not wish to prejudge the accuracy of these allegations, we express grave concern Mr. Abbas Haiji A. Al-Hassan and his fourteen co-defendants, were sentenced to death following trials that do not seem to have met fair trial and due process guarantees provided for by international human rights law. Our concerns include allegations that they were detained incommunicado, that they were interrogated and subjected to torture to obtain confessions, that the death sentences may be based on evidence obtained under these conditions, that not all evidence against them was shared with their defence lawyers, and that they were not afforded sufficient time to prepare their defence. We are also concerned that they were sentenced to death for offences that do not seem to meet the threshold of “most serious crime” as required by international law for crimes carrying capital punishment. We are further concerned that Mr. Al-Hasan’s chronic medical condition does not seem to have received adequate medical attention by the prison authorities and for the physical and mental integrity of his fourteen co-defendants.

In view of the irreversibility of the punishment of the death penalty, we respectfully urge your Excellency’s Government to **halt the executions of Mr. Abbas Haiji A. Al-Hassan as well as of the fourteen other men sentenced to death** in the same trial and to ensure that, if credible evidence exists that they were involved in serious offences, they be retried in proceedings which fulfil fair trial and due process guarantees as required under international human rights law. Given the allegations described above, the implementation of their death sentences may constitute arbitrary execution under international law. We further recommend that the Government of the Kingdom of Saudi Arabia establish a moratorium on the death penalty, and consider its complete abolition.

The above allegations, if confirmed, appear to be in contravention of the rights of every individual to life, to physical and mental integrity, not to be arbitrarily deprived of his or her liberty, and to fair proceedings before an independent and impartial tribunal established by law, the rights to freedom of conscience, thought and religion, freedom of opinion and expression, and freedom of peaceful assembly and association, in accordance with articles 3, 5, 9, 10, 11, 18, 19 and 20 of the Universal Declaration of Human Rights (UDHR) and as well as articles 5, 6, 13, 14, 16,24 and 26 of the Arab Charter on Human Rights (ACHR), to which Saudi Arabia is a State Party since 15 April 2009.

These allegations would further contravene the absolute prohibition of torture and other cruel, inhuman or degrading treatment or punishment as codified in articles 2 and 16 of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT), which Saudi Arabia acceded on 23 September 1997. Article 12 of the CAT requires the competent authorities to undertake a prompt and impartial

investigation whenever there are reasonable grounds to believe that torture has been committed, and article 7 requires that States parties prosecute suspected perpetrators of torture. The

The right to have access to a lawyer is enshrined in the UN Basic Principles on the Role of Lawyers, which provide that 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 (principle 1). The Basic principles also recognise that 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 (principle 8).

We would like to bring to the attention of your Excellency's Government the United Nations Safeguards Protecting the Rights of those facing the Death Penalty (UN Safeguards), including article 5 which stresses capital punishment may only be carried out pursuant to legal procedures which give all possible safeguards to ensure a fair trial. Only full respect for stringent due process guarantees distinguishes capital punishment as possibly permitted under international law from an arbitrary execution.

We also recall that under article 1 of the UN Safeguards, countries that have not abolished the death penalty may only impose it for the *most serious crimes*, it being understood that their scope should not go beyond intentional crimes with lethal or other extremely grave consequences. It was submitted in a report by the mandate on extrajudicial, summary or arbitrary executions to the Human Rights Council that a death sentence can only be imposed in cases where it can be shown that there was an intention to kill which resulted in the loss of life (A/HRC/4/20, para. 53).

In addition, we would like to refer to the Standard Minimum Rules for the Treatment of Prisoners (the Nelson Mandela Rules), unanimously adopted by the UN General Assembly in 1957 and revisited in 2015. In particular, rules 24 to 35 establish that the provision of healthcare for prisoners is a State responsibility.

Lastly, United Nations Security Council resolutions 1373 (2001), 1456(2003), 1566 (2004), 1624 (2005), 2178 (2014), 2341 (2017), 2354 (2017), 2368 (2017), 2370 (2017), 2395 (2017) and 2396 (2017); as well as Human Rights Council resolution 35/34 and General Assembly resolutions 49/60, 51/210, 72/123 and 72/180 require that States ensure that any measures taken to combat terrorism and violent extremism, including incitement of and support for terrorist acts, comply with all of their obligations under international law, in particular international human rights law, refugee law, and humanitarian law.

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, we would appreciate a response on the initial steps taken by your Excellency's Government to safeguard the rights of the abovementioned persons in compliance with the Kingdom of Saudi Arabia's international human rights obligations and other relevant norms.

As 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 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 provide detailed information concerning the legal grounds for the arrest, detention (in particular the length of their pre-trial detention), prosecution, and sentencing to death of Mr. Abbas Haiji A. Al-Hassan and his fourteen co-defendants; as well as for the conviction and sentences ranging between six months and 25 years for the 15 other individuals tried in the same case. Please also explain how these measures are compatible with the international human rights law obligations of Saudi Arabia.
3. Please provide detailed information and, where available, the results, of any investigation, and judicial or other inquiries carried out in relation to the allegations of torture and that confessions extracted from the detainees under duress may have been used as incriminating evidence during their trial and led to their sentencing to death. If no inquiries have taken place, or if they have been inconclusive, please explain why.
4. Please provide information on the options available to Mr. Abbas Haiji A. Al-Hassan and his fourteen co-defendants to request review of their sentences.
5. Please explain why Mr. Abbas Haiji A. Al-Hassan and some of his co-defendants, were allegedly held incommunicado for up to three months, and how this is compatible with the Kingdom of Saudi Arabia's international human rights obligations.
6. Please provide information about the current physical and mental integrity of Mr. Abbas Haiji A. Al-Hassan and of his fourteen co-defendants and details of the measures taken by your Excellency's Government to ensure that Mr. Abbas Haiji A. Al-Hassan and other detainees have access to the

adequate healthcare in detention, particularly in view of chronic medical conditions.

7. Please provide information on safeguards in place to guarantee fair trial and due process including access to a lawyer, in particular in death penalty cases, and how they were effectively enforced in the above-mentioned trials, including vis-à-vis its collective nature.
8. Please provide detailed information about measures taken to revise counter terrorism and security related legislation, to ensure it is compatible with the international law obligations of the Kingdom of Saudi Arabia including those mentioned above.

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.

We would like to inform your Excellency's Government that after having transmitted an urgent appeal to the Government, the Working Group on Arbitrary Detention may transmit the case through its regular procedure in order to render an opinion on whether the deprivation of liberty was arbitrary or not. Such appeals in no way prejudge any opinion the Working Group may render. The Government is required to respond separately for the urgent appeal procedure and the regular procedure.

Given the seriousness of the case, and the concerns over the numerous violations of international human rights law, we may choose to publicly express our concerns in the near future as, in our view, the information upon which our concerns is based appears to be sufficiently reliable to indicate a matter warranting immediate attention. We also believe that the wider public should be informed about these concerns, and the human rights implications in these cases. Any public expression of concern on our part will indicate that we have been in contact with your Excellency's Government's to clarify the issues in question.

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.

Agnes Callamard
Special Rapporteur on extrajudicial, summary or arbitrary executions

Elina Steinerte
Vice-Chair of the Working Group on Arbitrary Detention

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

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

Diego García-Sayán
Special Rapporteur on the independence of judges and lawyers

Ahmed Shaheed
Special Rapporteur on freedom of religion or belief

Fionnuala Ní Aoláin
Special Rapporteur on the promotion and protection of human rights and fundamental
freedoms while countering terrorism

Nils Melzer
Special Rapporteur on torture and other cruel, inhuman or degrading treatment or
punishment