

Mandates of the Special Rapporteur on extrajudicial, summary or arbitrary executions; the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression; the Special Rapporteur on minority issues; and the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance

REFERENCE:
AL SOM 2/2018

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Excellency,

We have the honour to address you in our capacities as Special Rapporteur on extrajudicial, summary or arbitrary executions; Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression; Special Rapporteur on minority issues; and Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance, pursuant to Human Rights Council resolutions 35/15, 34/18, 34/6 and 34/35.

In this connection, we would like to bring to the attention of your Excellency's Government information we have received concerning allegations of the ethnically motivated killing of Mr. Ahmed Mukhtar Salah, a member of the Bantu minority, in alleged retaliation for the marriage of his nephew to a Hawiye woman. Allegations further indicate that the family of the victim have continued to receive threats from unknown persons, including death threats, as well as threats and insults on social media.

According to the information received:

On 20 September 2018, a group of approximately seventy people, all reportedly from the Hawiye sub-clans of Murusade, Abgaal and Habargir, armed with machetes and spears, attacked and severely injured Mr. Ahmed Mukhtar Salah, a Somali Bantu civilian male. They then poured petrol over his body and burned him to death. The incident occurred in Towfiiq neighborhood of Yaaqshiid district of Mogadishu. The victim was a mechanic in his early forties.

The incident occurred after the victim's nephew, Mr. Mohamed Abdulahi Mukhtar, a Somali Bantu man, married a Hawiye woman, without the full consent of the family of the bride, in July 2018. The couple eloped after the mother of the bride, from the Murusade/Hawiye clan, refused to give her blessing for her daughter to marry Mr. Mohamed Abdulahi Mukhta because of his Bantu ethnicity. Reportedly, the bride's paternal uncles approved the marriage, which was not accepted by the mother of the bride, who reportedly vowed to annul the marriage and take her daughter back.

In mid-August 2018, the paternal uncles of the bride took the married couple to Yaaqshiid district Police station and requested protection for them, as the mother of the bride was reportedly threatening them. It is reported that on 16 September 2018, the police arrested the mother of the bride due to attacks and threats of

violence against the groom and his family. In one incident on the night of 20 August 2018, a petrol bomb was thrown at the garage of the victim Mr. Salah, which caused a fire damage to one vehicle inside the garage.

On 20 September 2018, the day of the attack, the mother of the bride was brought before the Banadir Regional Court for allegedly threatening to commit violence against the members of the groom's Bantu family. The killing of Mr. Salah occurred as the court hearing was taking place.

On 21 September, the Police arrested five people, including four women and a man, for the attack and subsequent murder of Mr. Salah. Some of the arrestees were members of the brides' mothers' family, and all belonged to Hawiye sub-clans of Murusade and Abgaal. On 16 October 2018, the police arrested a further three male civilians suspected of being involved in the killing of Mr. Salah. The total number of people arrested in connection with the case is reported to be eight (four males and four females), including the mother of the bride.

The victim, Mr. Salah, was buried in Mogadishu on 23 September 2018. The killing, which appears to be ethnically motivated and caused widespread outrage among Somalis, has been highlighted on Somali social media since 20 September 2018.

The bride and groom remain in hiding since the day of the murder in an unspecified location in Mogadishu, out of fear for their lives. However, they have appeared on at least two TV networks on 23 September 2018, during which the bride blamed tribalism for the bloodshed. The groom also alleged in the same interview that the mother of the bride had told him and his family that "*Jareer [Somali Bantu] should not marry her daughter*".

Furthermore, on 29 September 2018, a Somali journalist allegedly received death threats by unknown men for reporting on the case, in a video posted online. According to reports, the death threats received by the journalist were reported to security agencies.

Reportedly, the Federal Government of Somalia has not yet commented on the case. However, the Mayor of Mogadishu (who is also the Governor of the Banadir region) visited the family of Mr. Salah on 24 September 2018 and told media representatives that justice would be done in this case.

On 24 September 2018, the Federal Parliament debated the murder of Mr. Salah and individual MPs condemned the killing, called for a thorough investigation and requested justice for Mr. Salah and his family. Members of Parliament also raised the need to enact legislation addressing ethnic/clan based discrimination in Somalia.

The former Transitional Federal Government President Sheikh Sharif Sheikh Ahmed posted a video online on 23 September 2018, in which he condemned the murder of Mr. Ahmed Salah, called it an ugly crime, and sent condolences to Mr. Salah's family. Sheikh Sharif stated that it was unacceptable to murder someone because of their marriage choices and called upon Somalis to take a united stand on the issue.

The family of the victim have continued to receive threats from unknown persons, including death threats. The family have also received threats and insults in social media. The family remain in a situation of fear that is affecting all aspects of their lives. They have reported the threats to the Police but have continually received the response that the Police forces are aware of the issue and are monitoring the situation.

Taking note that the Provisional Constitution of Somalia protects in its Article 13 the right to life, and in its Article 11 guarantees that "*all citizens, regardless of sex, religion, social or economic status, political opinion, clan, disability, occupation, birth or dialect shall have equal rights and duties before the law*" and "*discrimination is deemed to occur if the effect of an action impairs or restricts a person's rights, even if the actor did not intend this effect.*" Without prejudging the accuracy of the information made available to us, we herewith express serious concern over the killing of Mr. Ahmed Mukhtar Salah, reportedly following death threats and in connection with this inter-ethnic marriage. We also express serious concern over the continued death threats being made against the bride and groom, other members of the family of the victim and that effective protection does not appear to be provided to the family.

Equal concern is expressed at the continued discrimination against Somali Bantu (Jareer) who are traditionally discriminated among Somalis because of their origin, physical features and occupation. Members of these minority groups, as well as others outside of so-called "noble clans" are often considered inferior and are given a low status among Somalis, and marriages between these minorities and other so-called noble Somali clans are not often accepted.

In connection with the above alleged facts and concerns, please refer to the **Annex on Reference to international human rights law** attached to this letter which cites international human rights instruments and standards relevant to these allegations.

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 therefore be grateful for your observations on the following matters:

1. Please provide any additional information and/or comment(s) you may have on the above-mentioned allegations.

2. Please provide information about all steps taken by Somali authorities to investigate threats and petrol bomb attack which occurred prior to the killing of Mr. Salah, as well as steps taken to prevent his murder.
3. Please also provide information regarding the status of the investigations that have been or are being conducted and any legal proceedings in this case concerning the reported killing. Please include details of any arrests in relation to the killings, the charges brought against them and the status of any prosecutions.
4. Please provide details regarding any effective protection offered to the concerned couple and family members of the deceased? Please also provide information on the steps taken to investigate the threats.
5. Please provide details regarding steps taken by the Somali authorities to investigate the alleged death threats against the journalist after they were reported to the authorities?
6. What steps are taken by the Somali authorities to ensure that journalists reporting on cases affecting minorities are able to do so freely and in security?
7. Please indicate what concrete measures have been taken to ensure that persons belonging to ethnic minorities enjoy the rights to equality before the law, without any discrimination, and the right to equal protection of the law? In this regard, please indicate if any concrete measures have been taken to enact legislation prohibiting or punishing ethnic/clan-based discrimination in Somalia.
8. Please indicate what concrete measures have been taken by the Federal Republic of Somalia to implement measures envisioned in Article 11 (4) and 27 (5) of the provisional Constitution of Somalia.

We would appreciate receiving a response within 60 days. Passed this delay, this communication and any response received from your Excellency's Government will be made public via the communications reporting [website](#). They will also subsequently be made available in the usual report to be presented to the Human Rights Council.

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.

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

Agnes Callamard
Special Rapporteur on extrajudicial, summary or arbitrary executions

David Kaye
Special Rapporteur on the promotion and protection of the right to freedom of opinion
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Annex
Reference to international human rights law

In connection with above alleged facts and concerns, we would like to appeal to your Excellency's Government to take all necessary steps to secure the fundamental rights in accordance with the principles as set forth in article 2, 6, 18, 19, 23, 26 and 27 of the International Covenant on Civil and Political Rights, ratified by the Government of Somalia in 1990, guaranteeing the right to life, and the protection and promotion of the rights of persons belonging to ethnic, religious or linguistic minorities, respectively.

Somalia is also a State Party to the International Convention on the Elimination of All Forms of Racial Discrimination which it ratified on 26 Aug 1975, and which requires States Parties to prohibit and eliminate racial discrimination in all its forms and to guarantee the right of everyone, without distinction as to race, colour, or national or ethnic origin, to equality before the law. The ICERD, also covers in its Article 5 the right to marriage and choice of spouse of choice, and the right to security of person and protection by the State against violence or bodily harm, whether inflicted by government officials or by any individual group or institution.

We would like to further refer to your Excellency's Government to the international standards in relation to the protection of the rights to persons belonging to minorities. Article 27 of the ICCPR establishes that in those States in which ethnic, religious or linguistic minorities exist, persons belonging to such minorities have the right, in community with the other members of their group, "to enjoy their own culture, to profess and practice their own religion, or to use their own language".

Furthermore, the 1992 Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities (Declaration on the Rights of Minorities), establishes in article 1 the obligation of States to protect the existence and identity of minorities within their territories and to adopt the appropriate measures to achieve this end. Moreover, States are required to ensure that persons belonging to minorities, may exercise their human rights without discrimination and in full equality before the law (article 4.1).

We would also like to recall that the Principles on the Effective Prevention and Investigation of Extra-legal, Arbitrary and Summary Executions establish the obligation of States to ensure effective protection to those who receive death threats and are in danger of extra-legal, arbitrary or summary executions (principle 4). States parties may be in violation of article 6 of the ICCPR even if such threats and situations do not result in loss of life (Human Rights Committee, General Comment 36).

Additionally, there must be thorough, prompt and impartial investigations of all suspected cases of extra-legal, arbitrary and summary executions (principle 9). Investigations into allegations of violation of article 6 must always be independent, impartial, prompt, thorough, effective, credible and transparent, and in the event that a violation is found, full reparation must be provided, including, in view of the particular

circumstances of the case, adequate measures of compensation, rehabilitation and satisfaction. States parties are also under an obligation to take steps to prevent the occurrence of similar violations in the future.