

Mandates of the Working Group on Arbitrary Detention; the Special Rapporteur on extrajudicial, summary or arbitrary executions; the Special Rapporteur on freedom of religion or belief; and the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment

REFERENCE:
UA SAU 8/2019

27 May 2019

Excellency,

We have the honour to address you in our capacity as Working Group on Arbitrary Detention; Special Rapporteur on extrajudicial, summary or arbitrary executions; Special Rapporteur on freedom of religion or belief; and Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, pursuant to Human Rights Council resolutions 33/30, 35/15, 40/10 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 risk of execution of Dr. Abbas Alabbad as a result of unfair trial and discrimination based on religion.

According to the information received:

On 17 March 2013, Abbas Alabbad, a Saudi medical doctor, member of the Shia minority, was arrested in Riyadh, reportedly without a warrant, by Saudi security forces. The arrest took place within the context of a broader wave of arrests, occurring during 2013 and 2014, involving 31 other individuals, including several other members of the Shia community.

Dr. Alabbad, and the others, were accused of spying for Iran and charged with a number of offenses, including "high treason". They were all subsequently brought to trial in 2016.

Dr. Alabbad was held incommunicado for the first three months of his detention and repeatedly interrogated without a lawyer. He was threatened with violence and forced to sign false confessions that were later used to convict him. In December 2016, Dr. Alabbad and 14 other defendants were sentenced to death by the Specialized Criminal Court in Riyadh. The decision was appealed before the Court of Appeal of the Specialized Criminal Court which upheld the judgment.

Subsequently, in February 2018, the Supreme Court quashed the sentence and returned the case file to the Specialized Criminal Court.

In early April 2019, the Specialized Criminal Court held a new hearing during which the prosecution again called for the death penalty. The next hearing is now reportedly scheduled to be held on 24 June 2019.

On 23 April 2019, 11 individuals initially convicted alongside Dr. Alabbad were executed. In light of this, it is feared that Dr. Alabbad, who is reportedly being held in Haer Prison, in Riyadh, is at risk of imminent execution.

While we do not wish to prejudge the accuracy of this information, we are concerned at the reported arbitrary arrest and incommunicado detention of Dr. Alabbas and the absence of habeas corpus guarantee, the alleged admission of evidence obtained under torture or other ill-treatment, the apparent restrictions to his right to adequate legal assistance, the stated nature of the charges imposed and the competent jurisdiction as well as the overall reported number of defendants involved in the case, which may have irreversibly affected the fairness of the ensuing trial in contravention with Articles 3, 9 and 10 of the Universal Declaration of Human Rights (UDHR), and Articles 2, 15 and 16 of the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (CAT), which was ratified by Saudi Arabia in 1997.

We are further concerned that Dr. Alabbas, and others involved as above, may have been targeted for belonging to the Shia community and discriminated based on their religion or belief, therefore in violation of Article 7 and 18 of the UDHR, as well as Articles 1, 2, 3 and 4 of the Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief.

We recall that the death penalty may be imposed following compliance with a strict set of substantive and procedural requirements. In particular, capital punishment may only be carried out for the “most serious crimes”, involving intentional killing. Accordingly, the death penalty can never be applied as a sanction against one’s religion or belief. Furthermore, States should also ensure that the death penalty is not applied as a result of discriminatory or arbitrary application of the law, including on the grounds of religion or belief.

Similarly, capital punishment may only be imposed pursuant to a final judgment rendered by a competent court after a 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. Anyone sentenced to death shall have the right to seek pardon or commutation of sentence. Capital punishment shall not be carried out pending any appeal or other recourse procedure or other proceeding relating to pardon or commutation of the sentence.

We stress that the imposition of a death sentence upon the conclusion of a trial in which due process and fair trial standards have not been respected constitutes an arbitrary killing for which the State is responsible.

We therefore urge the Government to review Dr. Alabbas' and all current death penalty cases in order to ensure that international minimum standards are met in each case. We also call on the authorities concerned to immediately establish a moratorium on all executions with a view to abolish the death penalty.

Lastly, we recall that victims of torture and other ill-treatment must have a right to lodge a complaint of ill-treatment in custody. Any allegation in this regard must be promptly followed by an impartial examination by a body that is independent of the alleged perpetrator. Whenever there are reasonable grounds to believe that an act of torture or ill-treatment has been committed, Article 12 of the CAT imposes an obligation on the State to investigate. The Government must ensure that complainants are not subject to reprisals and that victims of torture or ill-treatment receive adequate reparation.

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 above-mentioned person(s) in compliance with international instruments.

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 on the reasons why Dr. Alabbad was arrested and the charges brought against him. Please explain whether he was promptly brought before a judge and/or was afforded the opportunity to challenge the lawfulness of his arrest and detention/deprivation of liberty.
3. Please provide information as to whether any investigation in response to the alleged acts of torture and/or ill-treatment was conducted. Please provide information as to the results of these investigations or, in case no investigation was initiated or conducted, please explain the reasons why.

4. Please explain whether Dr. Alabbad's trial is being conducted in a manner that is consistent with international fair trial and due process standards.
5. Please indicate what measures have been taken to ensure that persons belonging to religious minorities, including members of the Shia community, can freely exercise their right to freedom of religion and belief without discrimination.

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 prejudice any opinion the Working Group may render. The Government is required to respond separately for the urgent appeal procedure and the regular procedure.

We intend to publicly express our concerns in the near future as, in our view, the information upon which the press release will be based is sufficiently reliable to indicate a matter warranting immediate attention. We also believe that the wider public should be alerted to the potential implications of the above-mentioned allegations. The press release will indicate that we have been in contact with your Excellency's Government's to clarify the issue/s in question.

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

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

Leigh Toomey
Vice-Chair of the Working Group on Arbitrary Detention

Agnes Callamard
Special Rapporteur on extrajudicial, summary or arbitrary executions

Ahmed Shaheed
Special Rapporteur on freedom of religion or belief

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