

Mandates of the Special Rapporteur on the situation of human rights defenders; 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; and the Special Rapporteur on the rights to freedom of peaceful assembly and of association

REFERENCE:
AL AFG 2/2020

23 July 2020

Excellency,

We have the honour to address you in our capacities as Special Rapporteur on the situation of human rights defenders; Special Rapporteur on extrajudicial, summary or arbitrary executions; Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression; and Special Rapporteur on the rights to freedom of peaceful assembly and of association, pursuant to Human Rights Council resolutions 34/5, 35/15, 34/18 and 41/12.

In this connection, we would like to bring to the attention of your Excellency's Government information we have received concerning numerous killings of human rights defenders in Afghanistan, including members of the national human rights institution.

Mr. **Abdul Samad Ameri** was a human rights defender and former Acting Head of the Ghor Provincial Office of the Afghanistan Independent Human Rights Commission (AIHRC). In this role, he focused on promoting women's rights, the rights of religious minorities and carried out investigations of killings allegedly perpetrated by the Taliban.

Ms. **Fatima Natasha Khalil** was a 24-year-old woman human rights defender who worked as Donor Coordinator at the Afghanistan Independent Human Rights Commission. Born a refugee in Pakistan, she was a recent graduate of human rights in Kyrgyzstan, after which she returned to Afghanistan to begin working in defence of human rights.

Mr. **Ahmad Jawed Folad** was a driver who had worked for the AIHRC since 2003.

Mr. **Ibrahim Ebrat** was a human rights defender and a representative of the Afghan Civil Society Joint Working Group in the province of Zabul. With the Working Group he monitored and documented alleged human rights violations, arranging advocacy and support for the victims. He also defended the right to education for girls and the right to livelihood of vulnerable groups in the Zabul province.

According to the information received:

On 20 January 2020, the Government of Afghanistan publicly announced its commitment to create a national protection mechanism for human rights

defenders. The announcement came in recognition of the threats and intimidations that human rights defenders face in Afghanistan, particularly after at least four human rights defenders were killed in the country in 2019.

AIHRC Staff

On 3 September 2019, Mr. Abdul Samad Ameri was abducted as he travelled in his car on the Kabul-Ghor highway in the Jalrez district of the Maidan Wardak Province. On 4 September, he was shot dead. His body was found on the following day along the highway.

On 27 June 2020, a vehicle of the AIHRC was targeted by an improvised explosive device in Butkhak Square, Kabul. Ms. Fatima Natasha Khalil and Mr. Ahmad Jawed Folad were both killed as they made their way to work in the early morning. No group has claimed responsibility for either the attack on Mr. Samad Ameri nor Ms. Khalil and Mr. Jawed Folad.

Mr. Ibrahim Ebrat

In the months leading up to May 2020, Mr. Ibrahim Ebrat had been receiving warnings that his life was in danger. Since early April 2020, he had allegedly received numerous threats from the Taliban, who urged him to cease his human rights work.

On 20 May 2020, Mr. Ebrat was attacked by two unidentified individuals on a motorcycle as he made his way home from Ramadan prayers in the city of Qalat, Zabul. He sustained a gunshot to the head and was taken immediately to Mirwais hospital in the city of Kandahar. He remained in intensive care until 28 May 2020, when he passed away as a result of his injuries. Although no group has publicly claimed responsibility for the killing, the National Directorate of Security announced that the attack was perpetrated by members of the Taliban.

Without prejudging the accuracy of the allegations, we wish to express our concern for the killing of Mr. Abdul Samad Ameri, Ms. Fatima Natasha Khalil, Mr. Ahmad Jawed Folad and Mr. Ebrat who lost their lives as they courageously carried out their human rights work. While mindful of the complexity of the situation in regions of conflict and post-conflict in Afghanistan, we request your Excellency's Government to ensure that the killings are the subject of full, impartial investigations in line with the commitment made by your Excellency's Government to create a national protection mechanism for human rights defenders in the country. In this regard, we would like to recall a report made by the former Special Rapporteur on the situation of human rights defender to the 43rd Session of the Human Rights Council on human rights defenders operating in situations of conflict and post-conflict, in which he reminded States that they have an obligation to protect defenders against armed groups, and remain directly responsible for the actions of such groups, even in situations of de facto devolution of State authority.

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 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 detailed information about, and where available results of, any investigation underway into the killings of Abdul Samad Ameri, Ms. Fatima Natasha Khalil, Mr. Ahmad Jawed Folad and Mr. Ibrahim Ebrat. If no inquiries have taken place, or if they have been inconclusive, please explain why.
3. Please indicate the timeline for completion of the national protection mechanism for human rights defenders announced in January this year, including the results of any consultation process undertaken with civil society, human rights defenders and other actors.
4. Please provide information on what legal and practical measures are in place in Afghanistan to ensure that human rights defenders can carry out their work in a safe and enabling environment, as well as the procedures in place that ensure that human rights defenders are afforded the proper protection and/or remedy in the event that their life or work is under threat.

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.

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.

We may 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.

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

Mary Lawlor
Special Rapporteur on the situation of human rights defenders

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
and expression

Clement Nyaletsossi Voule
Special Rapporteur on the rights to freedom of peaceful assembly and of association

Annex

Reference to international human rights law

In connection with above alleged facts and concerns, we would like to refer your Excellency's Government to article 9 of the International Covenant on Civil and Political which states that "Everyone has the right to liberty and security of person"; and to article 6 (1), which states that "Every human being has the inherent right to life. This right shall be protected by law. No one shall be arbitrarily deprived of his life."

States parties must respect the right to life and must exercise due diligence to protect the lives of individuals against deprivations caused by persons or entities, whose conduct is not attributable to the State, such as non-government militias and armed groups. Furthermore, States must "organize all State organs and governance structures through which public authority is exercised in a manner consistent with the need to respect and ensure the right to life, including establishing by law adequate institutions and procedures for preventing deprivation of life, investigating and prosecuting potential cases of unlawful deprivation of life, meting out punishment and providing full reparation." (General Comment No. 36 (2018) on article 6 of the International Covenant on Civil and Political Rights, on the Right to Life).

We would furthermore like to remind your Excellency's Government of articles 19 and 22 of the ICCPR, which guarantee the right to freedom of expression and opinion and freedom of association.

The right to freedom of association under article 22 of the ICCPR requires States parties to take positive measures to establish an enabling environment for associations. It is crucial that individuals exercising this right are able to operate freely without fear that they may be subjected to, for example, any threats, acts of intimidation or violence. States additionally have a negative obligation not to unduly obstruct the exercise of the exercise of the right. Associations, pursuing objectives and employing means in accordance with international human rights law should benefit from international legal protection (A/HRC/20/27, paras. 63 & 64).

We would also like to refer to Human Rights Council resolution 13/13, which urges States to put an end to and take concrete steps to prevent threats, harassment, violence and attacks by States and non-State actors against all those engaged in the promotion and protection of human rights and fundamental freedoms.

We would also like to refer your Excellency's Government to the duty to respect, protect, and fulfil the rights of individuals to engage in human rights work without fear of reprisal or harassment, as set forth in the Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms, also known as the UN Declaration on Human Rights Defenders. In particular, we would like to refer to article 12, paragraphs 2 and 3 of the Declaration, which provides that States shall take all

necessary measures to ensure the protection of everyone against any violence, threats, retaliation, de facto or de jure adverse discrimination, pressure or any other arbitrary action as a consequence of his or her legitimate exercise of the rights referred to in the Declaration.