

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 adequate housing as a component of the right to an adequate standard of living, and on the right to non-discrimination in this context

REFERENCE:
AL SAU 11/2020

10 August 2020

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; and Special Rapporteur on adequate housing as a component of the right to an adequate standard of living, and on the right to non-discrimination in this context, pursuant to Human Rights Council resolutions 35/15, 34/18 and 34/9.

In this connection, we would like to bring to the attention of your Excellency's Government information we have received concerning the alleged arbitrary killing of Mr. Abdul Rahim bin Ahmed Mahmoud Al Huwaiti, a Saudi national, which reportedly occurred on 13 April 2020, within the context of the evictions carried out in Al Khuraiba village, as part of the Neom construction project.

According to the information received:

Mr. Abdul Rahim bin Ahmed Mahmoud Al Huwaiti, was a national of Saudi Arabia, 43 year-old, employed at the Ministry of Finance in Al Khuraiba village, Tabuk Emirate, member of the Huwaitat Tribe.

In April 2017, the Saudi Public Investment Fund acquired title to land close to the Red Sea, including on the lands of the village of Al Khuraiba.

On 1 January 2020, the Tabuk Emirate informed the residents of Al Khuraiba village that they would be subjected to compulsory eviction as the land was being requisitioned for the so-called Neom construction project, which aims to build a new city in Tabuk, with the first phase due for completion in 2025. During the same day, the residents of the village were asked to report to committees established by the Social Development Department, to identify their holdings on the land registry and to relinquish them.

In March 2020, members of the Saudi Special Forces, sometimes in groups of more than 40 vehicles at a time, began to raid the homes of those residents of the Al Khuraiba village that were opposing the eviction. Mr. Al Huwaiti had been vocal and active in raising concerns on the evictions and had engaged in publicly documenting the actions of the authorities in this context.

On 12 April 2020, Mr. Al Huwaiti refused to allow the land registry committee into his home. According to witnesses, Mr. Al Huwaiti affirmed that he would not leave and took photos of the police when they arrived to measure his land and house without his consent. Following the arrival of the authorities at his home, Mr. Al Huwaiti denounced the events on social media, criticising the forced eviction of his tribe and describing it as State terrorism. He also stated that the authorities would assassinate him, and would place weapons in his home in order to discredit him and make him appear as a terrorist.

On 13 April 2020, Mr. Al Huwaiti was killed by the Saudi Special Forces, who opened fire against his home, during early hours of the morning. Dozens of Special Forces' members reportedly surrounded Mr. Al Huwaiti's house, accompanied by several armoured trucks. At approximately 5:40 am they attacked Mr. Al Huwaiti's house with heavy weapons. Mr. Al Huwaiti returned fire, briefly, before he was killed.

On 16 April 2020, the Saudi authorities published a statement confirming that Mr. Al Huwaiti died "after he barricaded himself in his home" and that the situation required "dealing with him to neutralize his danger". The incident was described as taking place "during the task of arresting the wanted Abdul Rahim Al Huwaiti at his home" and that "the State Security Presidency warned that it would deal firmly with those who attempted to disrupt security in any way".

The Saudi authorities also asserted that Mr. Al Huwaiti had initiated the exchange of fire by shooting at the security forces, he did not respond to any of the requests to surrender and, during the incident, two members of the security forces were injured. It was also reported that a large number of weapons had been found at Mr. Al Huwaiti's home, namely a submachine gun, a pistol, a shotgun, an air knife, 33 live machine guns, 12 live shotguns, and a box containing 13 incendiary bottles.

The authorities held Mr. Al Huwaiti's body for a week after his death, on grounds that the death took place during "criminal circumstances" and that it was therefore necessary to verify them. Mr. Al Huwaiti's body was eventually handed over to the family for burial in Al Khuraiba village.

No investigation into the actions of the Special Forces was reportedly conducted by the Saudi authorities. Instead, they allegedly offered financial incentives to government-appointed tribal sheikhs and other notables of the Huwaitat tribe, provided that they would publicly condemn Mr. Al Huwaiti's resistance to eviction.

While we do not wish to prejudge the accuracy of these allegations, we express our grave concern at the death of Mr. Al Huwaiti which appears to be linked to the legitimate exercise of his right to freedom of opinion and expression. Therefore, if confirmed, they may be in violation of Article 3 of the Universal Declaration of Human

Rights (UDHR) as well as Article 5 of the Arab Charter of Human Rights (ACHR), to which Saudi Arabia is a State Party since 2009, which protect the right of every individual to life, liberty and security; and Article 19 of the UDHR and 26 of the ACHR, which protect the right to freedom of opinion and expression.

We recall that the right to life is a foundational and universally recognized right, applicable at all times and in all circumstances. The use of force by law enforcement officials, including firearms, must always be governed in compliance with international obligations. Whenever law enforcement agencies resort to force, they must continue to abide by the principles of necessity, proportionality and precaution¹.

The principle of necessity requires that law enforcement officials use force only when it is strictly necessary and only to the extent required for the performance of their duties. As far as possible, the use of force and of firearms must therefore be avoided, and non-violent means exhausted before resorting to violent ones. In particular, firearms shall not be used against persons except when in self-defence; in defence of others against the imminent threat of death or serious injury; to prevent a particularly serious crime involving grave threat to life; or to arrest a person presenting such a danger².

The principle of proportionality requires that, when used, force must be proportionate to the legitimate objective to be achieved. Restraint must be exercised at all times and damage and/or injury mitigated, including by giving a clear warning of the intent to use force; by providing sufficient time to heed that warning; and by providing medical assistance, as soon as possible, when it is necessary. Law enforcement officials shall be empowered to put life at risk only for the purpose of saving or protecting other lives. Just as with the principle of necessity, the proportionality principle limits the use of lethal force by law enforcement to situations where the primary aim must be to save life³.

The principle of precaution requires that all reasonable precautions must be adopted to prevent loss of life. These include putting in place appropriate command and control structures; providing for the proper training of law enforcement officials in the use of force, including less lethal techniques; and, where possible, requiring the issuing of a clear warning before using force; and ensuring that medical assistance is available⁴.

Law enforcement officers must also respect the principle of non-discrimination, with no distinction in the exercise of their duties based on race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status⁵.

¹ See, mutatis mutandis, Special Rapporteur on extrajudicial, arbitrary or summary executions, Human Rights Dispatch No. 1: Police use of force and lethal force in a state of emergency: <https://www.ohchr.org/EN/Issues/Executions/Pages/HumanRightsDispatches.aspx>

² Ibid.

³ Ibid.

⁴ Ibid.

⁵ Ibid.

Any loss of life that results from the excessive use of force without strict compliance with the above-mentioned international relevant principles may constitute an arbitrary deprivation of life.

Whenever there is reason to believe that an arbitrary deprivation of life may have taken place, States are under an obligation to conduct an effective investigation. In particular, we wish to recommend that any investigation into the above-mentioned allegations be conducted in conformity with the Minnesota Protocol on the Investigation of Potentially Unlawful Death (United Nations Manual on the Effective Prevention and Investigation of Extra-legal, Arbitrary and Summary Executions) updated in 2016⁶.

Furthermore, liability should extend to officers with command control, where they have failed to exercise effective command and control. Where superior officers knew, or should have known, that law enforcement officials under their command resorted to the unlawful use of force or firearms, and they did not take all measures in their power to prevent, suppress or report such use, they should also be held responsible⁷.

We also wish to recall that States bear an obligation to provide those whose rights have been violated with an adequate, effective and prompt remedy determined by a competent authority having the power to enforce remedies. The right to remedy includes the right to equal and effective access to justice; adequate, effective and prompt reparation for the harm suffered; and access to relevant information concerning violations and reparation mechanisms. Reparation should be proportional to the gravity of the violation and the harm suffered, and should include elements of restitution, compensation, rehabilitation, satisfaction and guarantees of non-repetition⁸.

We further recall that States parties shall ensure, prior to carrying out any evictions, and particularly those involving large groups, that all feasible alternatives are explored in consultation with the affected persons, with a view to avoiding, or at least minimizing, the need to use force.⁹

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:

⁶<https://www.ohchr.org/EN/Issues/Executions/Pages/RevisionoftheUNManualPreventionExtraLegalArbitrarily.aspx>

⁷ See, mutatis mutandis, Special Rapporteur on the rights to freedom of peaceful assembly and of association and Special Rapporteur on extrajudicial, summary or arbitrary executions Joint report on the proper management of assemblies (A/HRC/31/66): <https://www.ohchr.org/EN/Issues/AssemblyAssociation/Pages/SpecialProject.aspx>.

⁸ Ibid.

⁹ CESCR, General Comment No. 7, para. 13.

1. Please provide any additional information and any comment you may have on the above-mentioned allegations.
2. Please provide detailed information on whether any investigation has been conducted in connection with all the circumstances of the death of Mr. Al Huwaiti. If an investigation was launched and/or is ongoing, please provide information on the results, particularly in terms of accountability, including in relation to the chain of command. If no investigation was conducted, please explain the reasons and clarify how this is compatible with Saudi Arabia's international human rights obligations.
3. Please provide details on whether there was a legal land acquisition, and more specifically when and in which form the residents of Al Khuraiba village have been consulted about the planned project or the compulsory eviction. If so, please inform us whether there was compensation offered, and if so whether it was rejected. Further information on whether there was any possibility of legal appeal against that decision would be appreciated. In addition, please inform us whether any social or human rights impact assessment of the planned development have been conducted. If so, please share the respective assessments. Please clarify if any alternative housing was made available before the contemplated eviction and whether such information was discussed with the claimant, as well as others similarly affected by the mass eviction.

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.

Agnes Callamard
Special Rapporteur on extrajudicial, summary or arbitrary executions

Irene Khan
Special Rapporteur on the promotion and protection of the right to freedom of opinion
and expression

Balakrishnan Rajagopal
Special Rapporteur on adequate housing as a component of the right to an adequate
standard of living, and on the right to non-discrimination in this context

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 3 of the Universal Declaration of Human Rights (UDHR) and Article 5 of the Arab Charter of Human Rights (ACHR) which state that "Everyone has the right to life, liberty and security of person".

Article 19 of the UDHR states that "Everyone has the right to freedom of opinion and expression; this right includes freedom to hold opinions without interference and to seek, receive and impart information and ideas through any media and regardless of frontiers"; and Article 26 of the ACHR establishes that "The freedom of thought, conscience and opinion is guaranteed to everyone".

Furthermore, the requirements for a justifiable use of force by State officials are set forth in the Code of Conduct for Law Enforcement Officials, adopted by General Assembly resolution 34/169 of 17 December 1979¹⁰ and the Basic Principles on the Use of Force and Firearms by Law Enforcement Officials, adopted by the Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders, Havana, 27 August to 7 September 1990¹¹). These instruments provide an authoritative interpretation of the limits on the conduct of law enforcement forces. Pursuant to them, intentional lethal use of firearms may be strictly permitted when it is unavoidable to protect life and necessary to carry out law enforcement duties. Should lethal force be used, restraint must be exercised at all times and damage and/or injury mitigated. Medical assistance, when necessary, should be provided as soon as possible.

Under international law, in all suspected cases of extra-legal, arbitrary and summary executions, States have an obligation to conduct "thorough, prompt and impartial investigations" (Principles on Effective Prevention and Investigation of Extralegal, Arbitrary and Summary Executions, Principle 9). Failure to conduct such an investigation may trigger additional violations of the right to life. Furthermore, investigations should explore, inter alia, the legal responsibility of superior officials with regard to violations of the right to life committed by their subordinates.

We wish to refer to General Comment No. 7 of the Committee on Economic, Social and Cultural Rights on forced evictions, which stipulates that forced evictions are only permissible under international human rights law in exceptional circumstances and after all procedural protections have been met. This includes inter alia the exploration of all feasible alternatives to avoid evictions, genuine consultation with the affected residents and tenants, adequate and reasonable notice, adequate compensation for any loss of property, alternative accommodation made available in a reasonable time, and

¹⁰ <https://www.ohchr.org/EN/ProfessionalInterest/Pages/LawEnforcementOfficials.aspx>

¹¹ <https://www.ohchr.org/en/professionalinterest/pages/useofforceandfirearms.aspx>

provision of legal remedies and legal aid. Evictions should not result in individuals being rendered homeless or vulnerable to the violation of other human rights (paragraphs 13, 15 and 16). In the same line, the United Nations Basic Principles and Guidelines on Development-based Evictions and Displacement (A/HRC/4/18, Annex 1) specify that evictions can only take place in 'exceptional circumstances'; that they must be authorized by law, and ensure full and fair compensation and rehabilitation. The Guidelines also state that any settlement agreement must satisfy the criteria of adequacy, accessibility, affordability, habitability, security of tenure, cultural adequacy, suitability of location, and access to essential services such as health and education. Among other safeguards, the Guidelines state that States must ensure that adequate and effective legal or other appropriate remedies are available to all those who undergo, remain vulnerable to, or defend against forced evictions. We would also like to refer your Excellency's Government to the Guidelines for the Implementation of the Right to Adequate Housing (A/HRC/43/43) elaborated by the Special Rapporteur on adequate housing as a component of the right to an adequate standard of living, and on the right to non-discrimination in this context, notably guideline no. 6 "Prohibit forced evictions and prevent evictions whenever possible".

Lastly, we would like to draw your attention to the reports of the Special Rapporteur on the right to housing relating to the human rights obligations of local governments (A/HRC/28/62) as well as her report on the right to housing and access to justice (A/HRC/40/61). The first report highlights the need for local governments to be cognizant of their human rights obligations, including in respect to the right to housing. The second report stresses that individuals must have access to justice and have their right to housing claims adjudicated by relevant judicial or quasi-judicial bodies, including those claims related to forced evictions and demolitions.