

Mandate of the Special Rapporteur on extrajudicial, summary or arbitrary executions

REFERENCE:
AL USA 14/2021

25 February 2021

Excellency,

I have the honour to address you in my capacity as Special Rapporteur on extrajudicial, summary or arbitrary executions, pursuant to Human Rights Council resolution 44/5.

I am writing to express my support for the adoption of the “Jamal Khashoggi Way Designation Act of 2021”, currently tabled, awaiting approval, before the Council of the District of Columbia (DC).

According to the information received, on 14 January 2021, the “Jamal Khashoggi Way Designation Act of 2021” was introduced before the Council of the District of Columbia (DC). If approved, the legislation would symbolically designate New Hampshire Avenue N.W., between Virginia Avenue N.W. and F Street, N.W., in Ward 2, as “Jamal Khashoggi Way”.

This portion of New Hampshire Avenue N.W. was chosen for the designation as this is where the Royal Embassy of Saudi Arabia in Washington, D.C. is located.

As you are aware, in 2019, I conducted a human rights investigation into the killing of Mr. Jamal Khashoggi. On 26 June 2019, I presented the final report of the inquiry to the 41st regular session of the Human Rights Council.

The investigation found that Mr. Khashoggi was the victim of a brutal and premeditated killing, planned and perpetrated by officials of the State of Saudi Arabia. The extrajudicial killing of Mr. Khashoggi amounted to multiple violations of international human rights law, of the Vienna Convention on consular relations and of the UN Charter prohibiting the use of force extra territorially in time of peace¹. The inquiry found credible evidence, warranting further investigation, of high-level Saudi officials’ individual liability, including that of the Crown Prince of Saudi Arabia.

The report argued that the killing of Mr. Khashoggi also constituted an undue interference in the conduct of the affairs of the United States of America and with the fundamental liberties enshrined in the United States Constitution.

The report explained how the killing of Mr. Khashoggi was not an isolated case. Instead, it was emblematic of a global pattern of physical attacks against journalists and media workers, as well as prominent dissidents and human rights defenders, around the world, which remained largely unpunished, particularly insofar as the masterminds of these attacks were concerned.

¹ Annex to the Report of the Special Rapporteur on extrajudicial, summary or arbitrary executions: Investigation into the unlawful death of Mr. Jamal Khashoggi (A/HRC/41/36): https://www.ohchr.org/EN/HRBodies/HRC/RegularSessions/Session41/Documents/A_HRC_41_CRP.1.pdf

The report stressed the need for governments, corporate actors, civil society organisations and international organizations to adequately respond to the killing of Mr. Khashoggi, including by supporting the establishment of symbolic tributes to his memory.

Within this context, the report referred to various initiatives within the United States, particularly in Washington DC and, based on them, recommended, in relation to the city of Istanbul, that the street where the consulate of Saudi Arabia is located be renamed in honour of Mr. Khashoggi.

It is my view that the “Jamal Khashoggi Way Designation Act of 2021” builds on the spirit of the recommendations formulated in the report. Renaming a symbolic street such as New Hampshire Avenue, N.W., to honor the memory of Jamal Khashoggi would help to keep his memory alive and highlight the universal value of his work in favour of freedom of expression, tolerance and democracy. It would therefore also be an important step towards promoting accountability and justice, which do include moral and symbolic reparations, not only for him but for all journalists, media workers and those who are victims of abuses, everywhere, because of their opinions or their legitimate work.

I therefore applaud the “Jamal Khashoggi Way Designation Act of 2021” and encourage the Council of the District of Columbia to adopt the draft Bill as expeditiously as possible. The significance of this initiative goes far beyond Washington DC and could set an example to be followed throughout the world.

On this occasion, I would also like to refer to the recommendations formulated in my report specifically addressed to the United States and call on Your Excellency’s Government to fully implement them. I stand ready to provide assistance and support efforts made in this regards.

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 my responsibility, under the mandate provided to me by the Human Rights Council, to seek to clarify all cases brought to my attention, I 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.
2. Please provide information on the status of the “Jamal Khashoggi Way Designation Act of 2021”.
3. Please provide information on steps taken, or envisaged to be undertaken, to implement the recommendations addressed to the Government of the United States of America in the report of the Special Rapporteur on extrajudicial, summary or arbitrary executions A/HRC/41/36.

I 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.

I may consider to publicly express the position I have indicated above as I believe this reflects a matter of public interest with wide ranging implications for the exercise of human rights and fundamental freedoms. Any public expression on my part will indicate that I have been in contact with your Excellency's Government's on the issue/s in question.

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

Agnes Callamard
Special Rapporteur on extrajudicial, summary or arbitrary executions

Annex

Reference to international human rights law

The right to life is a foundational and universally recognized right, applicable at all times and in all circumstances, including during armed conflict or other public emergencies. It is a norm of jus cogens, and is protected by international and regional treaties, customary international law and national legal systems. The “preservation of this right is one of the essential functions of the State and numerous provisions of national legislation ... establish guarantees to ensure the enjoyment of this right”.

The responsibility to respect the right to life applies extraterritorially, at a minimum to those under the effective control of the State. Irrespective of the applicability of treaty provisions recognizing the right to life, States are bound to ensure the realization of the right to life when they use force, whether inside or outside their borders.

The right to life has two components. The first and material component is that every person has a right to be free from the arbitrary deprivation of life: it places certain limitations on the use of force. The second and more procedural component is the requirement of proper investigation and accountability where there is reason to believe that an arbitrary deprivation of life may have taken place.

States are required to respect and to protect the right to life “by law”. “Deprivation of life is, as a rule, arbitrary if it is inconsistent with international law or domestic law.” Arbitrary deprivation of life includes targeted, intentional killing by States, also referred to as extrajudicial execution. A State is obligated to take all necessary steps to ensure that its officials do not perpetrate an attack causing an extrajudicial killing or arbitrary deprivation of life. In particular, a State must take all necessary steps to prevent killings, including by ensuring “strict control, including a clear chain of command over all officials responsible for apprehension, arrest, detention, custody and imprisonment” and prohibiting orders from superior officers or public authorities authorizing or inciting other persons to carry out any such killings. In other words, State officials have an obligation both to control and adequately supervise their officers and to ensure that their own statements cannot be construed, correctly or incorrectly, as encouraging the deprivation of life.

The Special Rapporteur considers that the responsibility of a State to protect the right to life may be invoked extraterritorially in circumstances where that particular State has the capacity to protect the right to life of an individual against an immediate or foreseeable threat to his or her life. Such understanding of the scope of the responsibility to protect is particularly relevant when applied to agencies whose mandate may have an extraterritorial scope. To the extent that such agencies perform their functions outside national borders, or that their functions concern other States, such functions should include, wherever they may reasonably do so, the protection of those whose lives are under a foreseeable threat.