

**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 the rights to freedom of peaceful assembly and of association; and the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment**

REFERENCE:  
AL SAU 9/2021

7 July 2021

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 the rights to freedom of peaceful assembly and of association; and Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, pursuant to Human Rights Council resolutions 44/5, 43/4, 41/12 and 43/20.

We are writing to follow-up on the case of Mr. **Mustafa al Darwish**, a national of Saudi Arabia, whose death sentence was enforced on 15 June 2021.

The case of Mr. al Darwish was raised in an urgent appeal that we sent to your Excellency's Government on 28 May 2021 (UA SAU 8/2021)<sup>1</sup>. We regret that no response was provided to this communication.

On that occasion, concern was expressed that Mr. al Darwish had been sentenced to death for crimes reportedly committed when he was less than eighteen years old, including participating in the shooting at security officers, taking part in protests and demonstrations and allegedly "covering up persons sought by the authorities" and for storing on his phone "material against the security of the State"; that he had been tortured or subjected to other cruel, inhuman or degrading treatment or punishment; and that he had been sentenced to death without due process and fair trial, including admission at trial of evidence extracted under torture or other cruel, inhuman or degrading treatment or punishment.

When the urgent appeal was sent, the death sentence imposed on Mr. al Darwish was pending final confirmation before the Supreme Court. Its aim was therefore to prevent irreparable harm. For this reason, and based on the information available to us, we had called on Your Excellency's Government to annul the death sentence imposed on Mr. al Darwish; to investigate fully the allegations of torture and to ensure that he would be re-tried in conformity with international law and standards.

We now are shocked that, in spite of the seriousness of the allegations brought to the attention of your Excellency's Government in our urgent appeal, Mr. al Darwish was executed, our concerns left unheard and unaddressed.

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<sup>1</sup> The urgent appeal shall become publicly available on 27 July 2021 through the following link: <https://spcommreports.ohchr.org/Tmsearch/TMDocuments>

We have also received additional allegations that the authorities failed to provide any information to the family of Mr. al Darwish about the date, time and location of the execution. The family could not even see Mr. al Darwish one last time and had to learn that he had been executed by reading the news online. It is further reported that Mr. al Darwish's body has thus far not been returned to his family nor has any information been provided to his relatives on the place of burial.

We deeply regret the execution of Mr. al Darwish and reiterate that any death sentence enforced in contravention of a State's obligations under international law is tantamount to arbitrary execution and hence unlawful. The fact that Mr. al Darwish's execution took place in secret is an additional source of concern.

We believe that the unspeakable anguish and acute mental distress that the circumstances of the execution, as well as the lack of information on the whereabouts of their relative, unfairly inflict on Mr. al Darwish's family are an additional, unjustifiable and useless pain.

We therefore respectfully call on your Excellency's Government to ensure that the body of Mr. al Darwish is returned to his family without delay and that they are provided with comprehensive and exhaustive, official information about the execution so that they can hopefully complete their grieving process.

We also respectfully reiterate our calls on your Excellency's Government to adopt and put into effect without delay the legislative measures and necessary reforms to abolish the imposition of the death penalty for children for all crimes, including in relation to offences punished under *qisas* and *hudud*<sup>2</sup>.

Lastly, we call once again on Your Excellency's Government to consider establishing an official moratorium on all executions as a first step towards fully abolishing the death penalty in the country.

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 any comment you may have on the above mentioned allegations.
2. Please provide detailed information on all the circumstances of the execution of Mr. al Darwish and please explain how the enforcement of the death penalty was compatible with international standards and Saudi Arabia's obligations on the matter.

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<sup>2</sup> See urgent appeal sent on 23 February 2021 (UA SAU 4/2021): <https://spcommreports.ohchr.org/TMResultsBase/DownloadPublicCommunicationFile?gId=26054> ; Government's reply: <https://spcommreports.ohchr.org/TMResultsBase/DownloadFile?gId=36149> .

3. Please provide information on whether the body of Mr. al Darwish has been returned to the family. If not, please explain the reasons why and how this is compatible with international standards and Saudi Arabia's obligations on the matter.

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.

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.

Morris Tidball-Binz

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

Clement Nyaletsossi Voule

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

Nils Melzer

Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment

## **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, 9 and 10 of the Universal Declaration of Human Rights which respectively state that "Everyone has the right to life, liberty and security of person"; that "No one shall be subjected to arbitrary arrest, detention or exile"; and that "Everyone is entitled in full equality to a fair and public hearing by an independent and impartial tribunal, in the determination of his rights and obligations and of any criminal charge against him".

We also wish to recall Article 1 and 16 of the Convention against Torture and Other Cruel, Inhuman and Degrading Treatment or Punishment (CAT), acceded by Saudi Arabia in 1997, which establish the absolute right of everyone to be free from torture and other cruel, inhuman and degrading treatment or punishment. In this regard, we wish to point out that Saudi Arabia is obliged to investigate, promptly and ex officio, all allegations of torture and ill-treatment and other serious human rights violations wherever there is reasonable ground to believe that an act of torture has been committed in any territory under its jurisdiction (Article 12). In addition, confessions and other information extracted under torture or ill-treatment are not admissible into any legal proceeding, as their admission violates the rights of due process and a fair trial (Article 15).

Furthermore, we would like to refer to Article 37 of the Convention on the Rights of the Child which state that: (a) No child shall be subjected to torture or other cruel, inhuman or degrading treatment or punishment. Neither capital punishment nor life imprisonment without possibility of release shall be imposed for offences committed by persons below eighteen years of age; (b) No child shall be deprived of his or her liberty unlawfully or arbitrarily. The arrest, detention or imprisonment of a child shall be in conformity with the law and shall be used only as a measure of last resort and for the shortest appropriate period of time; (c) Every child deprived of liberty shall be treated with humanity and respect for the inherent dignity of the human person, and in a manner which takes into account the needs of persons of his or her age. (...); (d) Every child deprived of his or her liberty shall have the right to prompt access to legal and other appropriate assistance, as well as the right to challenge the legality of the deprivation of his or her liberty before a court or other competent, independent and impartial authority, and to a prompt decision on any such action.

In addition, we would like to refer to the United Nations Safeguards guaranteeing protection of the rights of those facing the death penalty, which provide that capital punishment may be imposed only for the most serious crimes, 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. And that persons below 18 years of age at the time of the commission of the crime shall not be sentenced to death.