

Mandates of the Special Rapporteur on extrajudicial, summary or arbitrary executions; the Working Group of Experts on People of African Descent; the Working Group on Arbitrary Detention and the Special Rapporteur on minority issues

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(Please use this reference in your reply)

13 January 2022

Mr. Mehdi Al-Mashat,

We have the honour to address you in our capacity as Special Rapporteur on extrajudicial, summary or arbitrary executions; Working Group of Experts on People of African Descent; Working Group on Arbitrary Detention and Special Rapporteur on minority issues, pursuant to Human Rights Council resolutions 44/5, 45/24, 42/22 and 43/8.

In this connection, we would like to bring to your attention information we have received concerning the alleged imminent execution of Khaled Abdu Al Ramadi, a person of African descent, following an allegedly unfair trial.

According to the information received:

In November 1999, a quarrel took place between Khaled Al Ramadi and another villager. This led to a dispute and violence between tribe members in Khdir district, Taizz governorate. Reportedly, Khaled Al Ramadi killed an individual in self-defense.

Khaled Al Ramadi was arrested together with another individual from the same tribe and held in the central prison of Taizz. The opposing tribe members on the other side of the dispute were not arrested or tried. In April 2002, Khaled Al Ramadi was sentenced to death together with the individual arrested with him. In 2005, the Court of Appeal upheld this decision. In January 2007, the High Court confirmed the Court of Appeal decision. This was ratified by the President in 2008. Reportedly, these legal proceedings were not in compliance with international standards and Mr. Khaled Al Ramadi was denied several necessary judicial or fair trial guarantees, as required under applicable international law, including the Geneva Conventions. For example:

- The right to effective legal representation: He was not allowed access to the services of an experienced lawyer of his choice but was instead appointed one with less experience.
- The right to adequate facilities for the preparation of his defense: The court refused to provide a copy of the case file to Khaled Al Ramadi's family or his lawyer.
- The right to defense: The court did not consider whether Khaled Al Ramadi acted in self-defense.

Mr. Mehdi Al Mashat,
President of the Supreme Political Council of the Ansar Allah movement
Sana'a, Yemen

We also note that Khaled Al Ramadi is of African descent and a member of the Al-Muhamasheen minority, a community which has faced various forms of systemic discrimination, including by administrative structures, local and traditional authorities on account of its low caste and descent-based status in Yemen. Khaled Al Ramadi is reported to have faced systematic discrimination during legal proceedings.

Prior to the sentence being enacted, Khaled Al Ramadi and the other individual escaped prison due to the ongoing armed conflict in Yemen. The other individual convicted alongside Khaled Al Ramadi was reportedly killed by members of the other tribe in revenge. Khaled Al Ramadi was re-arrested in 2016 and is currently being held in Al Saleh prison in Al Hawban area, Taizz governorate, which is under the control of the Ansar Allah movement. Following his re-arrest, he was not re-tried – the only court hearings were with regards to the implementation of his death sentence. It is unclear whether he had legal representation at these hearings.

Reportedly, the ratification of the execution was scheduled for 14 November 2021. However, following protests, this was postponed by two months. This two-month suspension ends on 14 January 2022 and he is therefore at risk of imminent execution.

While we do not wish to prejudge the accuracy of these allegations, we are seriously concerned by the possible imminent execution of Khaled Al Ramadi reportedly following an unfair trial.

We remind that the Ansar Allah movement (also known as the Houthi movement), are bound by common article 3 of the Geneva Conventions, which prohibits “violence to life and person, in particular murder of all kinds” and “the passing of sentences and the carrying out of executions without previous judgment pronounced by a regularly constituted court, affording all the judicial guarantees” necessary to ensure fair treatment.

We further highlight that ratified human rights law treaties continue to bind the state, irrespective of the authorities in office, and that they continue to apply in times of armed conflict. The state of Yemen has ratified several key international treaties, including the International Convention on Civil and Political Rights (ICCPR, 1987), the International Covenant against Racial Discrimination (CERD, 1972), among others. These instruments of international legal protection make it mandatory to uphold the most fundamental norms of fair trial and due process protection, irrespective of the persons or the crimes tried. These safeguards include the right to be promptly presented before a judicial authority, the right to challenge the legality of detention, the right to be promptly informed of any charges, the right to a fair and public hearing by a competent, independent and impartial tribunal established by law, the right to be presumed innocent until proved guilty according to law, the right to be tried without undue delay, the right to be defended by a legal counsel of one’s choice, the right to appeal, and where necessary, the right to interpretation. These guarantees against an unfair trial are set out in Articles 9 and 14 of the ICCPR.

We emphasize that the right to life constitutes peremptory norm (*jus cogens*) and cannot be derogated from (CCPR/C/21/Rev.1/Add.6). We highlight that a sentence of death may only be imposed following a legal process which rigorously complies with fair trial guarantees (CCPR/C/GC/36). The right to life must be respected and ensured without distinction of any kind, including regarding caste or ethnicity (CCPR/C/GC/36). We also note in this regard that the Committee on the Elimination of Racial Discrimination expressed concern in 2011 at persistent and continued social-economic exclusion of descent-based communities, some of whom are understood to be of African descent (CERD/C/YEM/CO/17-18, para 15).

We call on the relevant authorities to promptly intervene **to halt any decision to execute Khaled Al Ramadi; to take all the necessary steps to address any allegation of violation of fair trial and due process guarantees; and to ensure, at a minimum, that he is retried in full compliance with international legal standards.**

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 to safeguard the rights of the above-mentioned person 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 information on the proceedings against Khaled Al Ramadi and the extent to which they complied with fair trial standards.
3. Please provide information on whether reports that Khaled Al Ramadi was acting in self-defense were considered at trial. If not, please explain why.
4. Please provide information on the steps taken to ensure members of the Al-Muhamasheen minority are able to access justice without discrimination of any kind.
5. Please provide any information about steps being taken to consider the abolition of the death penalty, including, as a transitional step, through the declaration and imposition of a moratorium that would suspend all executions.

We also wish to inform you that after having transmitted an urgent appeal, 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. It is required to respond separately to the allegation letter and the regular procedure.

This communication and any response received 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.

Kindly note that a copy of this letter will be transmitted to the authorities of the Republic of Yemen. Please also note that this letter does not in any way imply the expression of any opinion concerning the legal status of any country, territory, city or area, or of its authorities.

Please accept the assurances of our highest consideration.

Morris Tidball-Binz
Special Rapporteur on extrajudicial, summary or arbitrary executions

Dominique Day
Chair-Rapporteur of the Working Group of Experts on People of African Descent

Miriam Estrada-Castillo
Vice-Chair of the Working Group on Arbitrary Detention

Fernand de Varennes
Special Rapporteur on minority issues