

Mandates of the Special Rapporteur on extrajudicial, summary or arbitrary executions; the Working Group on Arbitrary Detention; 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; the Special Rapporteur on freedom of religion or belief; the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism and the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment

Ref.: AL SAU 5/2022
(Please use this reference in your reply)

28 March 2022

Excellency,

We have the honour to address you in our capacities as Special Rapporteur on extrajudicial, summary or arbitrary executions; Working Group on Arbitrary Detention; 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; Special Rapporteur on freedom of religion or belief; Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism and Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, pursuant to Human Rights Council resolutions 44/5, 42/22, 43/4, 41/12, 40/10, 40/16 and 43/20.

In this connection, we would like to bring to the attention of your Excellency's Government information we have received concerning the execution, on 12 March 2022, of 81 persons, on terrorism-related charges.

According to the information received:

On 12 March 2022, 81 persons were executed in Saudi Arabia on terrorism-related charges. These executions surpass alone the total number of 67 executions that reportedly took place in the whole of 2021. They were reportedly carried out by beheading.

Among those executed, 41 persons belonged to the Shiite minority, and had taken part in anti-government protests in 2011-2012. A further seven were Yemeni nationals and one was a Syrian national.

Furthermore, among the persons executed, were Mr. Aqil bin Hassan Al-Faraj, Mr. Asaad Makki Shubbar and Mr. Mohammed Al-Shakhouri, whose death sentences reportedly followed trials that did not meet fair trial guarantees, including as a result of torture, and for crimes that did not appear to meet the most serious crimes threshold, as required under international law. Their cases were raised by Special Procedures on different occasions.¹

Based on the information available to us, almost all of the 81 men were convicted, sentenced and executed in complete secrecy and the relatives of those

¹ See, for instance: UA SAU 10/2021: <https://spcommreports.ohchr.org/TMResultsBase/DownloadPublicCommunicationFile?gId=26617>; and the Government's reply: <https://spcommreports.ohchr.org/TMResultsBase/DownloadFile?gId=36594>

executed were not informed nor given advance warning about the imminent executions nor about the circumstances of the executions. Also, according to reports, the bodies of those executed have not yet been returned to the bereaved families.

From 15 to 17 March 2022, the Government of Saudi Arabia reportedly executed 8 individuals more.

Without prejudging the accuracy of the information received, we express shock and outrage at the mass execution reported above which, if confirmed, would amount to violations of the right to life, guaranteed by article 3 of the Universal Declaration of Human Rights (UDHR); the right to liberty and security of the person, protected in article 9 of the UDHR; the right to due process and fair trial, set forth in article 10 of the UDHR; as well as the rights to freedom of thought, conscience and religion, the right to freedom of opinion and expression and the right to freedom of peaceful assembly and association, protected in articles 18, 19 and 20 respectively of the UDHR. It could also be in violation of the absolute prohibition of torture and other cruel, inhuman or degrading treatment or punishment, established in articles 2, 15 and 16 of the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (CAT), ratified by Saudi Arabia in 1997.

The fact that the 81 persons were executed on terrorism-related charges is of utmost concern. We have brought to your Excellency's Government's attention, on more than one occasion, the importance of maintaining and upholding the fundamental guarantees of international human rights law, particularly in relation to counter-terrorism efforts. In communication OL SAU 12/2020, we have also drawn your Excellency's Government's attention to the extremely broad definition of terrorism in Saudi legislation and have encouraged review and reconsideration of the law to ensure its compliance with Saudi Arabia's international human rights obligations. We reiterate our concern about several articles of this law and the severe punishments, including the death penalty for ambiguously defined offences. States must ensure that counter-terrorism legislation is limited to criminalizing properly and precisely defined conduct based on the provisions of the international counter-terrorism instruments and is strictly guided by the principles of legality, necessity, and proportionality.

We further remind your Excellency's Government that the UN Safeguards guaranteeing protection of the rights of those facing the death penalty state that capital punishment can only be imposed for the most serious crimes. We emphasize that "most serious crimes" should be understood to refer to cases where it can be shown that there was an intent to kill, resulting in the loss of life (A/HRC/4/20, para. 53). In addition, we note that the Safeguards require that capital punishment should be imposed only after a legal process that provides all the safeguards to ensure a fair trial, including the right to adequate legal assistance at all stages of the proceedings. We reiterate that the imposition and execution of a death sentence at the end of a trial in which the standards of due process and fair trial have not been respected constitutes an arbitrary death for which the state is responsible.

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 on all the circumstances of the 81 executions reported above and please explain, in particular, how they comply with international human rights law obligations and standards.
3. Please provide detailed information on the terrorism-related charges for which these 81 persons were sentenced to death and explain how the principles of legality, necessity and proportionality were respected.
4. Please provide information on the safeguards that were put in place to ensure a fair trial and due process, including access to a lawyer, and explain how they were effectively implemented with respect to the 81 individuals executed.
5. Please explain whether the families of those executed were adequately informed that their relatives had been sentenced to death and executed and, if not, why.
6. Please explain whether the bodies of those executed were returned to their bereaved families and, if not, why.

We reiterate the condemnation of this mass execution, as expressed by the High Commissioner for Human Rights on 14 March 2022² and, while awaiting a reply, we respectfully call once again on the Government of Saudi Arabia to consider establishing an official moratorium on all pending executions with a view to ensuring that all death sentences are properly reviewed. Where convictions are based on unfair trials, individuals must be retried in full compliance with international human rights law and standards.

We also respectfully call on the Government of Saudi Arabia to engage constructively with the Special Procedures system on the many concerns that we have repeatedly expressed in relation to the imposition of the death penalty in the country. We again express our readiness to support any Government effort in this regard and remain available for any assistance we may be able to provide to the authorities concerned.

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.

² <https://www.ohchr.org/en/statements/2022/03/comment-un-high-commissioner-human-rights-michelle-bachelet-execution-81-people?LangID=E&NewsID=28280>

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 issues in question.

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

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

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

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

Ahmed Shaheed
Special Rapporteur on freedom of religion or belief

Fionnuala Ní Aoláin
Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism

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 articles 3, 9, 10, 18, 19 and 20 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"; 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"; that "Everyone has the right to freedom of thought, conscience and religion (...)" ; that "Everyone has the right to freedom of opinion and expression (...)" ; and that "Everyone has the right to freedom of peaceful assembly and association (...)".

We also wish to recall article 1 and 16 of the Convention against Torture and Other Cruel, Inhuman and Degrading Treatment or Punishment (CAT), 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 articles 1 and 5 of the United Nations Safeguards guaranteeing protection of the rights of those facing the death penalty, which provides 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.

We stress that only full respect for stringent due process guarantees distinguishes capital punishment, as possibly permitted under international law, from an arbitrary execution.

Articles 6 and 7 of the Safeguards also provide that anyone sentenced to death shall have the right to appeal to a court of higher jurisdiction and that anyone sentenced to death shall have the right to seek pardon, or commutation of sentence. Pursuant to article 8 of the Safeguards, capital punishment shall not be carried out pending any appeal or other recourse procedure or other proceeding relating to pardon or commutation of the sentence.

We wish to echo the concerns expressed by the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism, in his report on the country-visit to Saudi Arabia, with regard to the conduct of trials before the Specialized Criminal Court, the use of detention for prolonged periods of time, the use of torture, the use of coerced confessions and the lack of

accountability, as well as the failure of Saudi Arabia to provide minimum procedural safeguards during detention and interrogation, and its judicial practice of admitting coerced confessions into evidence, which, in the SR's view, amount to a systematic and flagrant denial of justice (A/HRC/40/52/Add.2).

We would specifically like to underline that the "principle of legal certainty" under international law, enshrined in article 11 of the UDHR, requires that criminal laws are sufficiently precise so it is clear what types of behaviour and conduct constitute a criminal offense and what would be the consequence of committing such an offense. This principle recognizes that ill-defined and/or overly broad laws are open to arbitrary application and abuse. Moreover, the law must be formulated with sufficient precision so that the individual can regulate his or her conduct accordingly. We also respectfully remind your Excellency's Government of the applicable international human rights standards outlined by the Arab Charter on Human Rights (ACHR), specifically to articles 5, 8, 13, 15, 16, 32 which safeguard the rights to life, liberty and security of person, to be brought promptly before a judge, to not be subjected to torture or cruel, inhuman or degrading treatment, to be treated with humanity while in detention and to be compensated in circumstances of unlawful arrest or detention, and the right to information and to freedom of opinion and expression.

We also respectfully remind your Excellency's Government of the relevant provisions of the United Nations Security Council resolutions 1373 (2001), 1456(2003), 1566 (2004), 1624 (2005), 2178 (2014), 2242 (2015), 2341 (2017), 2354 (2017), 2368 (2017), 2370 (2017), 2395 (2017) and 2396 (2017); as well as Human Rights Council resolution 35/34 and General Assembly resolutions 49/60, 51/210, 72/123 and 72/180. All of these resolutions require that States ensure that any measures taken to combat terrorism or violent extremism, including incitement of and support for terrorist acts, must comply with all of their obligations under international law. As the General Assembly noted in the United Nations Global Counter-Terrorism Strategy, effective counter-terrorism measures and the protection of human rights are not conflicting goals, but complementary and mutually reinforcing. We would like to emphasize that any restriction on freedom of expression or information that a government seeks to justify on grounds of national security or counter terrorism, must have the genuine purpose and the demonstrable effect of protecting a legitimate national security interest.

We recall the model definition of terrorism advanced by the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism, which provides clear guidance to States on appropriate conduct to be proscribed and best practice. Those elements include:

- a) Acts, including against civilians, committed with the intention of causing death or serious bodily injury, or the taking of hostages,
- b) Irrespective of whether motivated by considerations of a political, philosophical, ideological, racial, ethnic, religious or other similar nature, also committed for the purpose of provoking a state of terror in the general public or in a group of persons or particular persons, intimidating a population, or compelling a Government or an international organization to do or to abstain from doing any act,

- c) Such acts constituting offences within the scope of and as defined in the international conventions and protocols relating to terrorism.

Moreover, we would like to refer to the 1981 United Nations Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief (A/RES/36/55), which states in its Article 2 (1): “[n]o one shall be subject to discrimination by any State, institution, group of persons, or person on grounds of religion or other belief”. In Article 4 (1), the General Assembly further states that: “All States shall take effective measures to prevent and eliminate discrimination on the grounds of religion or belief in the recognition, exercise and enjoyment of human rights and fundamental freedoms [...]”. Furthermore, we would like to refer your Government to Article 4(2) according to which: “All States shall make all efforts to enact or rescind legislation where necessary to prohibit any such discrimination, and to take all appropriate measures to combat intolerance on the grounds of religion or other beliefs in this matter”.