

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 and the Special Rapporteur on the independence of judges and lawyers

Ref.: UA SAU 8/2023
(Please use this reference in your reply)

11 September 2023

Excellency,

We have the honour to address you in our capacity 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 and Special Rapporteur on the independence of judges and lawyers, pursuant to Human Rights Council resolutions 53/4, 51/8, 52/9 and 53/12.

In this connection, we would like to bring to the attention of your Excellency's Government information we have received concerning the arrest, detention, and conviction on charges stemming from online engagement on social media, and the sentencing to death and risk of imminent execution of [REDACTED]. This case is one of a series of cases in which individuals have been prosecuted in Saudi Arabia for supposed crimes associated with the exercise of their right to freedom of opinion and expression.

It is gravely concerning that the death penalty has been imposed on [REDACTED] for the sole crime of expressing his opinions on online, public platforms. We have recently sent communications to your Excellency's Government on matters of grave concern including the implementation of the death penalty in contravention of international law, the curtailment of the freedom of opinion and expression, and the misuse of anti-terrorism laws to curtail the fundamental freedoms of the people of Saudi Arabia. These communications include SAU 2/2022, SAU 5/2022, SAU 1/2023, SAU 2/2023, SAU 4/2023. We regret to note that we have not received substantial responses to these communications, nor do we witness significant changes in policies by Your Excellency's Government pertaining to the serious concerns raised therein.

According to the information received:

[REDACTED] was arrested on 11 June 2022 by Saudi security services. He was initially imprisoned in Dhaban Prison, which is under the authority of State Security in Jeddah. Later, he was transferred to Al-Ha'ir Prison in Riyadh for his trial, where it is understood he continues to be detained.

Prior to his arrest, [REDACTED] lived in Makkah, with his family of seven children. A teacher by profession, he is not a political or human rights activist, but a private citizen who expressed his opinion and concerns on the internet through social media posts on the platform X (formally Twitter) and viewed

and followed YouTube accounts on political and social discourse. The subject of his opinions, expressed through social media posts, included concerns about the government's human rights record, the rights of detainees, allegations of corruption in public funds, unemployment, and the high cost of living in Saudi Arabia. [REDACTED] has had no infringements with the law prior to his arrest.

Following [REDACTED] arrest, on 26 June 2022, reportedly charges were brought against him based on opinions and concerns he expressed on social media, as well as social media accounts he had viewed and followed. [REDACTED] was charged under articles 30, 34, 43, and 44 of the 'Anti-Terrorism Law and its Financing' and the prosecutor sought the maximum penalty of a death sentence for each charge.

The charges against [REDACTED] reportedly state that he used X/Twitter and YouTube to express opinions that constitute "*Undermining the religion and justice of the King and Crown Prince*", "*Spreading false rumours with the intent to disrupt public order, destabilize security of society, and endanger national unity*", "*Betrayal of his religion, country and rulers*" and "*Supporting terrorist ideology and [a] terrorist group.*" It was argued by the prosecution that the social media posts on X/Twitter and the YouTube accounts he viewed and followed expressed sentiments of members of the Muslim Brotherhood.

On 10 July 2023, the Specialised Criminal Court reportedly sentenced [REDACTED] to death having found him guilty of the accused crimes, stating that the court was "*punishing the defendant for the heinous crimes he committed*", and adding that the "*magnitude of his actions is amplified by the fact they occurred through a global media platform, necessitating a strict punishment.*"

[REDACTED] trial was heard before the Specialized Criminal Court, which appears to have been increasingly used to target and prosecute those expressing dissenting, minority or critical opinions. His right to be represented by a lawyer was consistently curtailed during his detention, interrogations and in preparation for his trial. He did not have the services of a lawyer for almost a year following his arrest on 11 June 2022, while his detention continued and the proceedings against him progressed regardless of his lack of legal representation. When allowed to be represented by a lawyer, [REDACTED] access to his lawyer was allegedly severely limited; he was only able to speak or meet with his lawyer immediately prior to his court sessions. During his trial, [REDACTED] lawyer was unable to fully present a case in his defence, as he was denied the ability to summon witnesses, was prohibited from submitting medical reports and was refused requests to refer [REDACTED] to a medical authority to assess his mental and psychological condition.

[REDACTED] was held in solitary confinement at Dhaban Prison for the first four months of his detention, without any reason provided to justify this measure. His solitary confinement also meant that he was incommunicado to his family, as they were prevented from speaking to him, visiting him or

contacting him.

██████████ health while in detention has deteriorated and information received indicates that he was not provided with adequate health care. He had been diagnosed with medical conditions which require regular prescribed medications. These include a childhood diagnosis for epilepsy which he has lived with and treated through medication for 40 years and mental health conditions, including Schizophrenia, bipolar disorder and a delusional disorder for which he had been evaluated and was being treated with medication before his arrest. It is understood that while the authorities have continued to provide ██████████ with his medication for epilepsy, they have refused to provide him with the prescribed medications to effectively manage his diagnosed mental health conditions. This is despite existing medical reports documenting the conditions, which were available to the authorities and the Court.

It is understood that the Specialized Criminal Court has submitted its verdict for review as per the practice. However, this review of the judgment will go ahead without meaningful participation or appearance by the convicted individual or his legal representatives. It is unclear what other domestic remedies are available for ██████████ in the event this review process upholds the verdict of death imposed by the Specialized Criminal Court.

While we do not wish to prejudge the accuracy of these allegations, we are gravely concerned at the risk of execution of ██████████. The above allegations appear to be a blatant violation of the right of every individual to life, liberty and security, and the freedom of opinion and expression, as set out in article 3, 9 and 19 of the Universal Declaration of Human Rights (UDHR) and the guarantee that no one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment in article 5 of the same. We remind that the right to life is a jus cogens, peremptory norm from which no derogation is permitted.

We reiterate that the death penalty has long been regarded as an extreme exception to the fundamental right to life and express our deep concern that in the case of ██████████, the death penalty was not imposed for offenses corresponding to the ‘most serious crimes’ as stipulated in international law. In this context, we strongly emphasise that the supposed crimes associated with the freedoms of opinion and expression by no means constitute a ‘most serious crime’ and under no circumstances would it warrant the imposition of the death penalty.

We would like to refer your Excellency’s Government to the report of the former Special Rapporteur on extrajudicial, summary or arbitrary executions, indicating that “the conclusion to be drawn from a thorough and systematic review of the jurisprudence of all of the principal United Nations bodies charged with interpreting these provisions is that the death penalty can only be imposed in such a way that it complies with the stricture that it must be limited to the most serious crimes, in cases where it can be shown that there was an intention to kill which resulted in the loss of life” (A/HRC/4/20, paragraphs 39-53). As has already been communicated to your Excellency’s Government, the expression of opinion does not meet this internationally recognized threshold.

With reference to paragraphs 4, 5 and 8 of the United Nations Safeguards for the Protection of the Rights of Persons Facing the Death Penalty, adopted by the UN Economic and Social Council in 1984, we would wish to recall that in the case of offenses that in fact reach the threshold of the most serious crimes, which does not appear to be the case in this instance, the death penalty can only be carried out on the basis of a final judgment by a competent court after the completion of all ongoing judicial and other proceedings relating to pardon or commutation of the sentence.

We recall that all defendants facing the imposition of capital punishment must benefit from the services of a competent defence counsel at every stage of the proceedings. Defendants must be presumed innocent until their guilt has been proved beyond a reasonable doubt, in strict application of the highest standards for the gathering and assessment of evidence. (E/CN.4/1997/60, para. 81).

Furthermore, paragraph 7 of the above-mentioned Safeguards establishes that anyone sentenced to death shall have the right to seek pardon or commutation of the sentence and that pardon or commutation may be granted in all cases of capital punishment.

The General Assembly has consistently called upon all States to establish a moratorium on executions with a view to abolishing the death penalty since its resolution 62/149 of 18 December 2007 (para. 7) and most recently, in its resolution A/RES/77/222 of 15 December 2022, called upon all States to respect the safeguards guaranteeing protection of the rights of those facing the death penalty. We reiterate that any measures to abolish the death penalty should be seen as progress towards the realization of the right to life.

We also draw to the attention of Your Excellency's Government that in the 40 years of experience of the Special Procedures mandate an extrajudicial, arbitrary or summary execution, and a careful review of numerous studies and evidence, the death penalty has never been proved to be an effective deterrent for crime (A/HRC/42/28).

We wish to recall that in accordance with article 9 of the Universal Declaration of Human Rights, no one shall be subjected to arbitrary arrest, detention, or exile. In accordance with the jurisprudence of the Working Group on Arbitrary Detention, arrest or detention as punishment for the legitimate exercise of rights such as freedom of opinion and expression is arbitrary.

We wish to note that the freedom of opinion and the freedom of expression are indispensable conditions for the full development of the person. They are essential for any society. They constitute the foundation stone for every free and democratic society. The two freedoms are closely related, with freedom of expression providing the vehicle for the exchange and development of opinions. The arrest, detention and sentencing to death of ██████████, sends a clear and chilling message to all persons wishing to express themselves freely in Saudi Arabia.

We are disturbed to note that punishments for online expression, which in Saudi Arabia can include the death penalty or prison sentences extending multiple

decades under the anti-terrorism law, are inconsistent with international law and standards. Regrettably, we are aware of at least 15 cases in which individuals were sentenced to 10-45 years imprisonment for “peaceful online expression” while the real number of such prosecutions is likely much higher.

We note that we have previously addressed our concerns regarding your Excellency’s counterterrorism legislation in general and the Law on Combating Crimes of Terrorism and its Financing in particular (OL SAU 12/2020) which includes a broad range of severe and often non-human rights compliant punishments, an apparent legal authorization of up to ninety-day incommunicado detention periods, up to one-year pre-trial detention periods (both of which can seemingly be further extended) and serious restrictions to the right of access to counsel and other fair trial standards. We also recall the recommendations of the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism further to his visit to Saudi Arabia in 2017.

In line with the foregoing, we would like to reiterate 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.

Numerous statements by UN human rights mechanisms have highlighted that national counter-terrorism legislation should be limited to the countering of terrorism as properly and precisely defined on the basis of the provisions of international counter-terrorism instruments and is strictly guided by the principles of legality, necessity and proportionality. The definition of terrorism in national legislation should be guided by the definition proposed in Security Council resolution 1566 (2004) and also by the Declaration on Measures to Eliminate International Terrorism and the Declaration to Supplement the 1994 Declaration on Measures to Eliminate International Terrorism, which were approved by the General Assembly. The seriousness of, and punishment for, a criminal conviction must be proportionate to the culpability of the perpetrator.

We are further concerned that ██████████ mental health seems to have seriously deteriorated since his imprisonment aggravated by a lack of satisfactory medical diagnosis and treatment for his various conditions including epilepsy, Schizophrenia, bipolar disorder and a delusional disorder. If confirmed, ██████████ reported declining health, lack of access to adequate medical assistance, and worsening health due to the conditions of his detention - if taken either individually or cumulatively - could amount to torture or other cruel, inhuman or degrading treatment or punishment in violation of article 5 of UDHR, and articles 1, 2 and 16 of Convention against Torture and Other Cruel Inhuman or Degrading Treatment or Punishment (CAT), ratified by Your Excellency’s Government on 23 Sep 1997.

We also wish to stress that victims of torture and other ill-treatment must have a right to lodge a complaint about their treatment while held in custody. Any allegation in this regard must be promptly followed by an impartial and thorough investigation by an independent body. Whenever there are reasonable grounds to believe that an act of torture or ill-treatment has been committed, article 12 of the CAT, imposes an obligation on the State to investigate.

In view of the urgency of the matter and the irreversibility of the death penalty, we call upon the judiciary and all relevant institutions to ensure [REDACTED] is not executed. His execution, based on the facts available to us, would constitute a flagrant violation of applicable international human rights standards and would thus be an arbitrary execution.

We are issuing this appeal in order to safeguard the rights of [REDACTED] from irreparable harm and without prejudicing any eventual legal determination.

In the context of repeated reporting on the imposition of the death penalty and the speedy implementation of executions, we once again call on Saudi Arabia to reconsider its longstanding position on the death penalty, which constitutes a per se violation of international law, in light of mounting evidence of its ineffectiveness as a deterrent. We urge your Excellency's Government to impose a moratorium on all death sentences pending such necessary review.

The full texts of the human rights instruments and standards recalled above are available on www.ohchr.org or can be provided upon request.

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 the extent to which the imposition of the death penalty in the case of [REDACTED] [REDACTED] in light of the alleged irregularities in his trial proceedings and noting that he was solely convicted based on opinions expressed on social media, is consistent with international human rights law.
3. Please provide the detailed quotes and statements attributed to [REDACTED] [REDACTED] that provide the basis for the criminal charges that led to the imposition of the death penalty on him.
4. Please clarify the legal grounds for [REDACTED] arrest and detention and explain how this was in compliance with international human rights law and standards.
5. Please provide detailed information on the terrorism-related charges against [REDACTED], including information on the grounds for his death

sentence. Please explain how this sentence complies with the principles of legality, necessity, proportionality and non-discrimination.

6. Please indicate what is the reason and the legal grounds for the placement of ██████████ in prolonged solitary confinement, way beyond the internationally recognized standards (15 days maximum) and in incommunicado detention for the first four months following his arrest.
7. Please indicate what safeguards were in place during his incommunicado detention and solitary confinement to ensure that he was not tortured or otherwise ill-treated.
8. Please provide the reason and explain why ██████████ was deprived of his legal right to be defended by a lawyer of his choice during his detention, and how this is consistent with the most basic international standards for fair trial?
9. Please provide information on the current conditions of detention of ██████████, including whether he can have contact with his family and lawyers, and whether he has been given access to medication required for all his diagnosed illnesses. Please also explain how these conditions are consistent with the provisions of the Standard Minimum Rules for the Treatment of Prisoners (The Mandela Rules).
10. Please provide information on the existing procedures for persons sentenced to death to seek clemency or a pardon, and also provide detailed information on how ██████████ can access such procedures.

While awaiting a reply, we respectfully recommend that prompt steps be taken to stop the execution of the death penalty against ██████████, and that his case be promptly reviewed from the start in a manner that is consistent with the fundamental international principles of trial fairness. Sentencing a person to death and killing that person for the mere, non-violent expression of one's opinions, through a judicial process the fairness of which appears to be seriously in doubt, is contrary to the most fundamental principles of international human rights law.

We would like to inform your Excellency's Government that having transmitted an urgent appeal to the Government, the Working Group on Arbitrary Detention may also transmit the case through its regular procedure in order to render an opinion on whether the deprivation of liberty was arbitrary or not. The present communication in no way prejudices any opinion the Working Group may render. The Government is required to respond separately to this urgent appeal and the regular procedure.

We may continue to publicly express our concerns in the near future on this case, which in our view merits prompt and undivided attention, as ██████████ life is at stake, and the execution of a death penalty is irreversible. We also believe

that this is a matter of public concern and that the public should be informed about its human rights implications. Any public expression of concern from our part would indicate that we have been in contact with your Excellency's Government to clarify the issue/s in question.

We would appreciate receiving a response within 60 days. Past 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.

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

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

Matthew Gillett
Vice-Chair on Communications of the Working Group on Arbitrary Detention

Irene Khan
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