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UNITED NATIONS
OFFICE OF THE UNITED NATIONS
HIGH COMMISSIONER FOR HUMAN RIGHTS

SPECIAL PROCEDURES OF THE
HUMAN RIGHTS COUNCIL

Mandates of the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression; the Special Rapporteur on freedom of religion or belief; and the Special Rapporteur on extrajudicial, summary or arbitrary executions.

REFERENCE: AL G/SO 214 (67-17) G/SO 214 (56-23) G/SO 214 (33-27)
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2 March 2012

Excellency,

We have the honour to address you in our capacities as Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression; Special Rapporteur on freedom of religion or belief; and Special Rapporteur on extrajudicial, summary or arbitrary executions pursuant to General Assembly resolution 60/251 and to Human Rights Council resolution 16/4, 14/11, and 17/5.

In this connection, we would like to draw the attention of your Excellency's Government to information we have received concerning the alleged deportation of Mr. **Hamza Kashgari**, who is a journalist for *Al-Belad* (The Country), a Saudi Arabian newspaper owned by the Government, and a blogger.

According to the information received:

On 9 February 2012, Mr. Kashgari was arrested by two security officials in civilian clothes at Kuala Lumpur International Airport following the issue of an arrest warrant by the Saudi Arabian authorities. He was allegedly held in detention at the Travel Control Section in the Bukit Aman area of Kuala Lumpur. On 10 February 2012, the Malaysian Minister of Home Affairs reportedly acknowledged that Mr. Kashgari was in detention. Prior to his arrest, Mr. Kashgari had reportedly fled Saudi Arabia after accusations of apostasy were made by prominent clerics in relation to a post he had made on Twitter concerning the Prophet Mohammed. At the time of his arrest, Mr. Kashgari was travelling to another country. On 12 February 2012, Mr. Kashgari was allegedly deported from Malaysia to Saudi Arabia. Since arriving in Saudi Arabia, Mr. Kashgari has remained in detention in a building belonging to the Ministry of the Interior in Riyadh.

According to the information received, Mr. Kashgari has publicly repented for the statements he made on Twitter and declared that he is a Muslim. However, he allegedly remains at serious risk of being charged for blasphemy and, as a consequence, may receive a death sentence.

Concern is expressed that Mr. Hamza Kashgari may have been deported from Malaysia because of his legitimate exercise of his right to freedom of expression, and may face a death sentence for a non-serious crime in Saudi Arabia.

While we do not wish to prejudge the accuracy of these allegations, with regard to the allegation that Mr. Hamza Kashgari may be charged for blasphemy and, as a consequence, may be subjected to a death sentence in Saudi Arabia, we would like to draw the attention of your Excellency's Government to Principle 5 on the Effective Prevention and Investigation of Extra-legal, Arbitrary and Summary Executions. It states that "no one shall be involuntarily returned or extradited to a country where there are substantial grounds for believing that he or she may become victim of extra-legal, arbitrary or summary execution in that country." In this respect, the Special Rapporteur on extrajudicial, summary or arbitrary executions has pointed out that any death sentence undertaken in contravention of a Government's international obligations is tantamount to an arbitrary execution. The Human Rights Committee has consistently rejected the imposition of a death sentence for offences that do not result in the loss of life, even if a State has not abolished the death penalty, and finding only cases involving murder not to raise concerns under the most serious crimes provision.

We also wish to appeal to your Excellency's Government to take all necessary steps to secure the right to freedom of opinion and expression in accordance with fundamental principles as set forth in article 19 of the Universal Declaration of Human Rights (UDHR) which provides that "[e]veryone has the right to freedom of opinion and expression; this right includes freedom to hold opinions without interference and to seek, receive and impart information and ideas through any media and regardless of frontiers."

We would also like to call on your Excellency's Government to ensure the right of freedom of religion or belief in accordance with article 18 of the UDHR. Art. 1 (1) of 1981 Declaration of the General Assembly provides that "Everyone shall have the right to freedom of thought, conscience and religion. This right shall include freedom to have a religion or whatever belief of his choice, and freedom, either individually or in community with others and in public or private, to manifest his religion or belief in worship, observance, practice and teaching." Furthermore, the General Assembly, in its resolution 64/164, urges States to step up their efforts to protect and promote freedom of thought, conscience and religion or belief.

We urge your Excellency's Government to take all necessary measures to guarantee that the rights and freedoms of Mr. Hamza Kashgari are respected and that accountability of any person guilty of the alleged violations is ensured. We also request

that your Excellency's Government adopts effective measures to prevent the recurrence of these acts.

Moreover, 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. Since we are expected to report on these cases to the Human Rights Council, we would be grateful for your cooperation and your observations on the following matters:

1. Are the facts alleged in the summary of the case accurate?
2. Please provide details of why Mr. Kashgari was extradited to Saudi Arabia and how this is compatible with the above-mentioned international norms and standards, including the right to freedom of opinion and expression. Please specify how the risk of imposition of a death sentence on Mr. Kashgari in Saudi Arabia was taken into consideration within the process of deciding on his extradition.

We would appreciate a response within sixty days. We undertake to ensure that your Excellency's Government's response to each of these questions is accurately reflected in the reports we will submit to the Human Rights Council for its consideration.

Finally, we would like to inform the authorities in Malaysia that we have addressed a communication of the same contents to H.E. Mr. Abdulwahab Abdulsalam Attar, Ambassador Extraordinary and Plenipotentiary, Permanent Representative of Saudi Arabia to the United Nations Office at Geneva.

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

Frank La Rue
Special Rapporteur on the promotion and protection of the right to
freedom of opinion and expression

Heiner Bielefeldt
Special Rapporteur on freedom of religion or belief

Christof Heyns
Special Rapporteur on extrajudicial, summary or arbitrary executions