

**NATIONS UNIES
HAUT COMMISSARIAT DES NATIONS UNIES
AUX DROITS DE L'HOMME**

**PROCEDURES SPECIALES DU
CONSEIL DES DROITS DE L'HOMME**

**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 independence of judges and lawyers; Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression and the Special Rapporteur on the situation of human rights defenders

REFERENCE: UA G/SO 214 (67-17) G/SO 214 (107-9) G/SO 214 (3-3-16)
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Excellency,

We have the honour to address you in our capacity as Special Rapporteur on the independence of judges and lawyers; Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression; and Special Rapporteur on the situation of human rights defenders pursuant to General Assembly resolution 60/251 and to Human Rights Council resolutions 17/2, 16/4 and 16/5.

In this connection, we would like to draw the attention of your Excellency's Government to information we have received regarding the alleged persecution and harassment of **Mr. Radeef Mustafa** for his activities as a human rights lawyer, and for denouncing, in reports and the media, human rights violations in Syrian Arab Republic. Mr. Mustafa is a Syrian national of Kurdish ethnicity, aged 44 and living in Aleppo, with his wife and four children.

Mr. Radeef Mustafa, who is also the head of the Kurdish Committee for Human Rights in Syria (Al Rased), is the author of many reports and articles regarding human rights in Syria and has given many interviews to Syrian media regarding human rights violations in the country. Mr. Mustafa has been playing a primary role in defending activists and others arrested and tried for their work on defending human rights; he has also been defending Syrian prisoners of conscience pro bono.

Mr. Radeef Mustafa was the subject of a previous allegation letter dated 9 November 2007, sent by the then Special Representative of the Secretary-General on the situation of human rights defenders. The Special Rapporteurs acknowledge receipt of the

response transmitted by your Excellency's Government to this communication on 20 December 2010.

According to information received:

On 19 December 2010, following a decision of the Syrian Bar Association's President, Mr. Mustafa was interrogated by the Aleppo branch of the Syrian Bar Association's Council. It is reported that Mr. Mustafa was accused of violating several principles and articles of the Syrian Bar Association Charter, including by provoking the Syrian authorities in his articles, addressing topics with a view to undermine the national unity, and presiding over an organization that has been established without an official license. He was also allegedly accused of threatening the State's security and spreading false news, which is reported to be an accusation usually made against human rights defenders brought before the Syrian Supreme State Security Court.

After the hearing of Mr. Mustafa before the Bar Association's Council on 30 January 2011, the charges against him were dropped and he was issued a warning by the Bar Association.

Since the beginning of the demonstrations and protests for democratic change in the Syrian Arab Republic in mid-March 2011, Mr. Mustafa has regularly defended demonstrators who were arrested and tried for their peaceful calls for change in the country, including those who were brought before the Syrian Supreme State Security Court before it was abolished by Presidential decree in May 2011.

On 2 and 3 September 2011, agents of the Syrian security forces allegedly raided Mr. Mustafa's home in order to arrest him. Mr. Mustafa managed to escape. The Syrian security forces are reportedly also trying to arrest Mr. Mustafa's children, as a reported attempt to force Mr. Mustafa to surrender. Mr. Mustafa and his family are currently in hiding to avoid arrest and other forms of persecution.

It is alleged that if Mr. Mustafa or any other member of his family were to be arrested they would find themselves at high risk of torture and other ill-treatment.

Concern is expressed that the acts of intimidation against Mr. Mustafa and his family may be linked to his activities as a human rights lawyer, in particular by defending the human rights of activists and others arrested and tried after the demonstrations and protests. Further concern is expressed that Mr. Mustafa has also been targeted for his peaceful exercise of the right to freedom of opinion and expression, denouncing alleged human rights violations by the Government through interviews, reports and articles. In

addition, concern is expressed that the acts of intimidation against Mr. Mustafa and his family may also be linked to his activities as the head of the organization “Kurdish Committee for Human Rights in Syria”. In the response transmitted by your Excellency’s Government on 20 December 2010, and mentioned above, it was explained that the “Kurdish Committee for Human Rights in Syria” was not a licensed organization and that it allegedly belonged to a prohibited terrorist group. We therefore wish to request clarifications from your Excellency’s Government regarding the rules regulating the licensing of organizations and how these rules respect the right to freedom of association as enshrined, inter alia, in article 22 of the International Covenant on Civil and Political Rights, as well as the reasons behind the claim that the organization belonged to a terrorist group. Finally, in light of the attempts at arresting Mr. Mustafa and members of his family, concern is expressed about his and his family’s physical and mental integrity, especially due to the allegations that they could be at high risk of torture and other ill-treatment if arrested and detained.

In this context, we should like to appeal to your Excellency’s Government to take all necessary measures to safeguard the rights and freedoms of Mr. Radeef Mustafa and his family and draw to the attention of your Excellency’s Government the international principles and norms applicable to the present case.

According to principle 14 of the Basic Principles on the Role of Lawyers (adopted by the Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders, Havana, Cuba, 27 August to 7 September 1990) “lawyers, in protecting the rights of their clients and in promoting the cause of justice, shall seek to uphold human rights and fundamental freedoms recognized by national and international law and shall at all times act freely and diligently in accordance with the law and recognized standards and ethics of the legal profession.”

In order for lawyers to promote the cause of justice and uphold human rights and fundamental freedoms, it is incumbent upon Governments to ensure that lawyers “(a) are able to perform all of their professional functions without intimidation, hindrance, harassment or improper interference; (b) are able to travel and to consult with their clients freely both within their own country and abroad; and (c) shall not suffer, or be threatened with, prosecution or administrative, economic or other sanctions for any action taken in accordance with recognized professional duties, standards and ethics” (principle 16 of the Basic Principles on the Role of Lawyers). Principle 17 further states that “Where the security of lawyers is threatened as a result of discharging their functions, they shall be adequately safeguarded by the authorities.”

Moreover, given our concern that Mr. Mustafa has been targeted for his denunciation of human rights violations by the Government in the media, we wish to stress that lawyers, like any other citizen, are entitled to freedom of opinion and

expression in accordance with the fundamental principles set forth in article 19 of the International Covenant on Civil and Political Rights, which provides that “Everyone shall have the right to freedom of expression; this right shall include freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art, or through any other media of his choice.” In addition, principle 23 of the Basic Principles on the Role of Lawyers states that lawyers in particular “shall have the right to take part in public discussion of matters concerning the law, the administration of justice and the promotion and protection of human rights and to join or form local, national or international organizations and attend their meetings, without suffering professional restrictions by reason of their lawful action.”

We would also like to refer your Excellency's Government to the fundamental principles set forth in the Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms, and in particular articles 1 and 2 which state that “everyone has the right individually or in association with others, to promote and to strive for the protection and realization of human rights and fundamental freedoms at the national and international levels” and that “each State has a prime responsibility and duty to protect, promote and implement all human rights and fundamental freedoms, inter alia, by adopting such steps as may be necessary to create all conditions necessary in the social, economic, political and other fields, as well as the legal guarantees required to ensure that all persons under its jurisdiction, individually and in association with others, are able to enjoy all those rights and freedoms in practice.”

In addition, we would like to bring to the attention of your Excellency's Government the following provisions of the Declaration:

- article 6, points (b) and (c) which provide that everyone has the right, individually and in association with others as provided for in human rights and other applicable international instruments, freely to publish, impart or disseminate to others views, information and knowledge on all human rights and fundamental freedoms; and to study, discuss, form and hold opinions on the observance, both in law and in practice, of all human rights and fundamental freedoms and, through these and other appropriate means, to draw public attention to those matters;

- article 9, para. 3, point c) which provides that everyone has the right, individually and in association with others to offer and provide professionally qualified legal assistance or other relevant advice and assistance in defending human rights and fundamental freedoms; and

- article 12, paragraphs 2 and 3 which provide that the State shall take all necessary measures to ensure the protection by the competent authorities of everyone,

individually and in association with others, against any violence, threats, retaliation, de facto or de jure adverse discrimination, pressure or any other arbitrary action as a consequence of his or her legitimate exercise of the rights referred to in the Declaration. In this connection, everyone is entitled, individually and in association with others, to be protected effectively under national law in reacting against or opposing, through peaceful means, activities and acts, including those by omission, attributable to States that result in violations of human rights and fundamental freedoms, as well as acts of violence perpetrated by groups or individuals that affect the enjoyment of human rights and fundamental freedoms.

We urge your Excellency's Government to take all necessary measures to guarantee that the rights and freedoms of Mr. Radeef Mustafa are respected. Given the alarming pattern of violations against human rights defenders and lawyers drawn to our attention, we call on your Excellency's Government to immediately adopt effective measures to prevent the recurrence of these acts.

In view of the urgency of the matter, we would appreciate a response on the initial steps taken by your Excellency's Government to safeguards the rights of Mr. Radeef Mustafa and his family in compliance with the above-mentioned international instruments.

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, when relevant to the case under consideration:

1. Are the facts alleged in the above summary accurate?
2. Has a complaint been lodged by or on behalf of Mr. Mustafa or is family?
3. Please indicate what measures have been taken to ensure that Mr. Radeef Mustafa can discharge his functions as a lawyer without improper interference, threats or intimidation including to his family.
4. Please provide detailed information on the reason leading to the attempted arrests of Mr. Mustafa on 2 and 3 September 2011.

We undertake to ensure that your Excellency's Government's response to each of these questions is accurately reflected in the report we will submit to the Human Rights Council for its consideration.

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

Gabriela Knaul
Special Rapporteur on the independence of judges and lawyers

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

Margaret Sekaggya
Special Rapporteur on the situation of human rights defenders