

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

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

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

**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 the situation of human rights defenders; and the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment**

REFERENCE: UA G/SO 214 (67-17) G/SO 214 (107-9) G/SO 214 (53-24)  
QAT 1/2013

16 January 2013

Excellency,

We have the honour to address you in our capacity as Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression; Special Rapporteur on the situation of human rights defenders; and Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment pursuant to Human Rights Council resolutions 16/4, 16/5, and 16/23.

In this connection, we would like to draw the attention of your Excellency's Government to information we have received regarding Mr. **Mishal Al Mutiry**, a former diplomat who is allegedly facing immediate risk of extradition to Saudi Arabia, where he would be at grave risk of imprisonment and possible torture or other ill-treatment in relation to his criticism of Saudi Arabian authorities.

According to the information received:

Between 2000 and 2004, Mr. Al Mutiry, a former Saudi diplomat serving in the Embassy of Saudi Arabia in the Netherlands, had reportedly denounced the activities of the Embassy officials allegedly financing and supporting of extremist groups in the Netherlands. It is reported that after these events he was deposed from his office and started facing death threats and persecution in Saudi Arabia.

In 2004, Mr. Mishal Al Mutiry obtained political refugee status in the Netherlands, for him and his family. However, in October 2006, they were allegedly kidnapped in Brussels for a day before having been sent to Saudi Arabia. Mr. Al Mutiry reported that he was a victim of torture in Saudi Arabian prisons, an allegedly common practice regarding those who criticize the State.

In August 2011, Mr. Mishal Al Mutiry managed to flee from Saudi Arabia to Qatar, seeking asylum. On 1 September 2012, the Qatari authorities arrested Mr. Al Mutiry with the apparent intention of returning him to Saudi Arabia. They

released him about a week later allegedly following pressure from human rights NGOs. On 2 January 2013, a senior Qatari police officer called Mr. Al Mutiry and told him that the Ministry of Interior had written to inform that he should leave Qatar within 48 hours. When he responded that he could not afford to leave Qatar, the officer asked him to present himself to the authorities, who would take care of deporting him to Saudi Arabia.

On 14 January 2013, at 8:00 a.m., Mr. Mishal Al Mutiry was allegedly called by the Qatari Police which told him that he was supposed to leave Qatar by 11:00 p.m. the next day. Denying that he was in a position to do so, Mr. Al Mutiry was allegedly threatened to be taken with his family by the Qatar Police and driven to the Qatar-Saudi border to be handed over to the Saudi Arabian authorities.

Serious concern is expressed about the reported forthcoming extradition of Mr. Al Mutiry to Saudi Arabia where there are substantial grounds to believe that he would be in danger of being subjected to torture and harsh sentences.

Without in any way implying any conclusion as to the facts of the case, we should like to appeal to your Excellency's Government to seek clarification of the circumstances regarding the case of Mr. Mishal Al Mutiry. We would like to stress that each Government has the obligation to protect the right to physical and mental integrity of all persons. This right is set forth inter alia in the Universal Declaration of Human Rights (UDHR), and the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT).

In this context, we would like to draw the attention of your Excellency's Government to paragraph 1 of Human Rights Council Resolution 16/23 which "Condemns all forms of torture and other cruel, inhuman or degrading treatment or punishment, including through intimidation, which are and shall remain prohibited at any time and in any place whatsoever and can thus never be justified, and calls upon all States to implement fully the absolute and non-derogable prohibition of torture and other cruel, inhuman or degrading treatment or punishment."

We would also like to draw the attention of your Excellency's Government to article 3 of the CAT, which provides that no State party shall expel, return (refouler), or extradite a person to another State where there are substantial grounds for believing that the person would be in danger of being subjected to torture. In this regard, paragraph 9 of General Comment No. 20 on the prohibition of torture and other cruel, inhuman or degrading treatment or punishment, in which the Human Rights Committee states that State parties "must not expose individuals to the danger of torture or cruel, inhuman or degrading treatment or punishment upon return to another country by way of extradition, expulsion or refoulement."

We would also like to draw the attention of your Excellency's Government to paragraph 16 of the Resolution A/RES/65/205 of the UN General Assembly which urges States "not to expel, return ("refouler"), extradite or in any other way transfer a person to

another State where there are substantial grounds for believing that the person would be in danger of being subjected to torture, and recognizes that diplomatic assurances, where used, do not release States from their obligations under international human rights, humanitarian and refugee law, in particular the principle of non-refoulement.”

Furthermore, paragraph 7d of Human Rights Council Resolution 16/23 urges States “(n)ot to expel, return (refouler), extradite or in any other way transfer a person to another State where there are substantial grounds for believing that the person would be in danger of being subjected to torture, [...]”

We would like to draw the attention of your Excellency’s Government to paragraph 16 of the Resolution A/RES/65/205 of the UN General Assembly which urges States “not to expel, return (“refouler”), extradite or in any other way transfer a person to another State where there are substantial grounds for believing that the person would be in danger of being subjected to torture, and recognizes that diplomatic assurances, where used, do not release States from their obligations under international human rights, humanitarian and refugee law, in particular the principle of non-refoulement.”

We would also like to recall that the Special Rapporteur on Torture, in his report A/60/316, has stated that “diplomatic assurances are unreliable and ineffective in the protection against torture and ill-treatment: such assurances are sought usually from States where the practice of torture is systematic; post-return monitoring mechanisms have proven to be no guarantee against torture; diplomatic assurances are not legally binding, therefore they carry no legal effect and no accountability if breached; and the person whom the assurances aim to protect has no recourse if the assurances are violated. The Special Rapporteur is therefore of the opinion that States cannot resort to diplomatic assurances as a safeguard against torture and ill-treatment where there are substantial grounds for believing that a person would be in danger of being subjected to torture or ill-treatment upon return” and called “on Governments to observe the principle of non-refoulement scrupulously and not expel any person to frontiers or territories where they might run the risk of human rights violations, regardless of whether they have officially been recognized as refugees.” (paras. 51 and 52).

We would further like 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 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.”

In this connection, we would 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”.

Furthermore, we would like to bring to the attention of your Excellency’s Government the following provisions of the Declaration:

- article 6 point a) which provides that everyone has the right, individually and in association with others to know, seek, obtain, receive and hold information about all human rights and fundamental freedoms, including having access to information as to how those rights and freedoms are given effect in domestic legislative, judicial or administrative systems.
- article 12 paras 2 and 3 of the Declaration 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.

In view of the urgency of the matter, we would appreciate a response on the initial steps taken by your Excellency’s Government to safeguard the rights of the Mr. Mishal Al Mutiry in compliance with the forementioned 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 observations on the following matters, when relevant to the case under consideration:

1. Are the facts alleged in the summary accurate?
2. Please indicate if an appeal has been filed on behalf of Mr. Mishal Al Mutiry, and its current status before the court.
3. Please provide the details, and where available the results, of any investigation, medical examinations, and judicial or other inquiries carried out in relation

to this case. If no inquiries have taken place, or if they have been inconclusive, please explain why.

4. Please provide information concerning the legal grounds to forcibly return Mr. Mishal Al Mutiry to Saudi Arabia and how they are compatible with international obligations of Qatar as State Party to the CAT.

5. Please provide details on whether any risk assessment of Mr. Mishal Al Mutiry's return was carried out.

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.

While waiting for your response, we urge your Excellency's Government to take all necessary measures to guarantee that the rights and freedoms of Mr. Mishal Al Mutiry are respected. We also request that your Excellency's Government to adopt effective measures to prevent the recurrence of these acts.

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

Margaret Sekaggya  
Special Rapporteur on the situation of human rights defenders

Juan E. Méndez  
Special Rapporteur on torture and other cruel, inhuman or degrading treatment or  
punishment