

Mandates of the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment; the Working Group on Arbitrary Detention; and the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health

REFERENCE:
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Excellency,

We have the honour to address you in our capacities as Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment; Working Group on Arbitrary Detention; and Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health, pursuant to Human Rights Council resolutions 43/20, 42/22 and 42/16.

In this connection, we would like to bring to the attention of your Excellency's Government information we have received concerning **Sheikh Talal Al-Thani**, who has been in detention since February 2013, following judicial proceedings that allegedly did not respect the requirements of a fair trial, and is currently held incommunicado and deprived of adequate healthcare.

Sheikh Talal AbdulAziz A.A. Al-Thani (الشيخ طلال بن عبد العزيز أحمد العبد الله آل ثاني), thereafter Sheikh Talal, born on 22 August 1968, is a member of the Royal family of Qatar. He is the grandson of Emir Ahmad bin Ali bin Abdullah bin Jassim bin Mohammed Al-Thani, who ruled Qatar from 1960 until he was deposed in 1972.

According to the information received:

After his father's death, in 2008, Sheikh Talal filed a lawsuit requesting his inheritance from the Government of Qatar, which appears to be the event triggering the subsequent Government measures against Sheikh Talal and his family.

The Qatari Government refused to settle the inheritance but reportedly promised to pay Sheikh Talal in increments on condition of his return to Qatar. When Sheikh Talal returned to Qatar, from Germany where he was residing with his wife and kids, his inheritance remained withheld, the Government froze his assets, and got him involved in a series of commercial transactions and infrastructure projects that later turned out to be fictitious. On that basis, multiple court proceedings were initiated against Sheikh Talal, reportedly over charges of unpaid security cheques and defaulted debts, according to articles 357 and 358 of the Qatari Penal Code.

Allegations of arbitrary arrest and non-observance of due process requirements

On 21 February 2013, Sheikh Talal was arrested by plain-clothed police at a gas station, without being presented an arrest warrant or informed about the

reasons of his arrest. Shortly after, Sheikh Talal was transferred to the Doha Central Prison, where he appears to be serving several prison sentences. The precise charges against Sheikh Talal remain unclear.

The administration of Reformatory and Penalty Institutions Department of the Ministry of Interior provided conflicting information regarding the sentences against Sheikh Talal. According to two separate documents, dated 13 May 2014 and 2 May 2018, respectively, he appeared to be serving a sentence of 3 years 7 months and two days, effective from 20 February 2013 to September 2016, and another of 22 years 2 months and 9 days of imprisonment, from 21 March 2013 to 30 June 2035.

According to the Qatari Penal Code, articles 257 and 258, the maximum penalty for uncovered cheques and inability to pay debts does not exceed three years of imprisonment and a fine of no more than one hundred thousand riyals. Therefore, the length of sentences against Sheikh Talal seem unjustifiable on that basis.

While in detention, Sheikh Talal has been reportedly subjected to various pressures by the Government, including requesting him to sign papers admitting that he is mentally unfit, which he refused to do, and coercing him into making false confessions stating that he is jailed due to unpaid debts.

Allegations related to the denial of procedural safeguards

Since his arrest, Sheikh Talal was not allowed legal representation of his own choice, and his wife was not allowed to appoint him a lawyer. The Government has reportedly appointed him an ex-officio lawyer, who has not mentioned to Sheikh Talal the detailed charges against him and has not been reachable by his family. In early 2020, two individuals, claiming to be lawyers, approached Sheikh Talal in the Doha Central Prison and offered to provide him with legal advice if he signed a document, which he did. However, those individuals left without providing any legal assistance. When Sheikh Talal's wife received information that helped her identify those persons, she tried to contact them but there was no response to her repeated requests of information on her husband's legal status and health conditions.

On 2 May 2013, Sheikh Talal submitted an objection report to the Supreme Judiciary Council, contesting his inability to defend himself and the flawed judicial proceedings undertaken against him. He received no response to his plea.

Furthermore, since his detention, Sheikh Talal has had limited contact with his wife and children, who could only visit him twice in seven years. Having found prison facilities to be unsafe to bring her children for visits, Sheikh Talal's wife requested to permit visits at a civilian house, which was declined by the Qatari authorities. It is further reported that Sheikh Talal has not received any visits from friends since his detention.

Following threats and intimidation by the Qatari authorities, including her brief detention for one day, Sheikh Talal's wife, holding the German nationality, decided to move to Germany with their children for safety reasons. As a result, the Qatari authorities denied her the right to speak to her husband from a telephone located outside of Qatar.

In these circumstances, the last time Sheikh Talal could see his wife was in May 2018 and the last call they had was in March 2019. Ever since, he is being detained with no contact with the outside world. Those conditions are believed to be utilised to force Sheikh Talal to withdraw the lawsuit claiming his inheritance.

Allegations related to healthcare and detention conditions

According to a document provided on 13 May 2014 by the Reformatory and Penalty Institutions Department, Sheikh Talal was hospitalised on 17 October 2013. It is unclear when he was transferred back to prison. However, on 9 July 2014, Sheikh Talal wrote a letter to the Minister of Interior, to expose the deterioration of his health, including detailed explanation of his medical conditions and the inability to treat these adequately in custody. Sheikh Talal is affected by diabetes and spinal disc conditions, which cause him pain and affect his ability to move, triggering weight gain which exacerbates the spinal pain. In his letter, Sheikh Talal further declared going on a hunger strike to express objection to the decision to transfer him back to prison and requesting to meet with the Minister of Interior. Following his transfer to prison, Sheikh Talal was reportedly put in solitary confinement for at least one week, on several occasions, to force him to end his hunger strike

Moreover, the Qatari authorities have employed grievous measures against Sheikh Talal, including his transfer to the prison wing where terrorism convicts were being held. These convicts made direct threats to Sheikh Talal, including death threats; and denial of medication and appropriate diet and exercise necessary for his diabetic and hypertension conditions, causing teeth loss, fatty deposits in his leg, cataracts and partial loss of eyesight.

In August 2020, the family received information, from a third party, alleging that Sheikh Talal was briefly transferred from prison to house arrest, possibly due to the spread of COVID-9 pandemic in prison. Further information stated that he was later returned back to prison. It is however unclear whether he was transferred to the Doha Central Prison or elsewhere, as his wife was not able to contact him or receive otherwise other information on his place of detention or health condition.

Allegations of defamation and psychological harassment

The Qatari authorities have reportedly sought to undermine Sheikh Talal's reputation through the dissemination of defamatory news. In March 2019, Qatar's newspaper, Al Raya, published an article claiming that Sheikh Talal has been convicted of fraud and drug trade charges. The article also alleged that his wife stole his money and ran away to Germany. This alleged "campaign" by the Qatari authorities has led to severe symptoms of psychological stress, anxiety and depression, in addition to exacerbating Sheikh Talal's fear for his life and safety in detention, and those of his family.

Upon Sheikh Talal's detention, his wife and children were forced to live in squalid conditions, in Doha, as a result of the Government's decision to freeze his assets. Those deplorable living conditions caused skin conditions for Sheikh Talal's children requiring regular hospitalisation. This situation, in addition to the systematic threats and intimidation by the Qatari authorities forced her to leave the country and consequently lose contact with her husband.

While we do not wish to prejudge the accuracy of these allegations, we are expressing our serious concerns about the lack of information on the legal grounds of the arrest and detention of Sheikh Talal, as well as the charges, judicial proceedings and decisions against him. We remind your Excellency's Government of the basic requirements of a fair trial and due process, including the right to be informed of the reasons of arrest and the charges the person is accused of, in addition to the rights to legal representation of own choice, to habeas corpus and to defence. Denial of these safeguards contravenes the most basic requirements of due process, may render his arrest and detention arbitrary and is known to significantly increase the risk of torture and ill-treatment. If confirmed, this will be considered blatant violations of the International Covenant on Civil and Political Rights (ICCPR), ratified by Qatar on 21 May 2018.

We are further concerned by the information received alleging the use of intimidation against Sheikh Talal and his family, in particular denying him contact with his family for prolonged periods, in what seems to be applied as a punitive measure. In that connection, we would like to remind your Excellency's Government that incommunicado detention, as well as prolonged arbitrary detention and inadequate detention conditions, including unwarranted restriction on social and legal visits and medical care, may well amount to a violation of the prohibition of torture and ill-treatment under the ICCPR (article 7) and the Convention against Torture and other cruel, inhuman or degrading treatment or punishment (CAT) article 16.

We would also like to express our concern at the physical and mental integrity of Sheikh Talal due to conditions of detention and the denial of appropriate medical care for underlying and new health conditions that have either exacerbated while, or are caused by, his detention. This would contravene article 6 of the ICCPR, which protects the right to life and imposes the duty on States to protect the life of all detainees through, inter alia, the necessary medical care and the appropriate regular monitoring of their health. This would also represent a violation of the right to health, protected by article 12 of the International Covenant on Economic, Social and Cultural Rights, acceded to by Qatar on 21 March 2018.

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 the factual and legal grounds for the arrest and detention of Sheikh Talal, as well as all formal charges against him, and the legal provisions used to charge him.
3. Please explain the reported increase of the sentence against Sheikh Talal, from three to twenty-two years of imprisonment, without any information to him or his family on the additional charges or judicial proceedings against him.
4. Please provide detailed information on criminal proceedings conducted against Sheikh Talal, and explain how they are fully compliant with the norms of due process recognised by international law, and observant of fundamental safeguards, including unrestricted and confidential access to a lawyer of his own choice and to an independent medical doctor, as well as regular contact with his family.
5. Please provide detailed information on the fate and whereabouts of Sheikh Talal, since his transfer from prison in August 2020, and the conditions in which he is being held, and explain how this is compatible with Qatar's international human rights obligations.
6. Please provide information on the use of punitive measures against Sheikh Talal and his family, in particular the use of incommunicado detention and denial of adequate medical care.
7. Please provide detailed information on the current physical and mental condition of Sheikh Talal and the measures taken to ensure that these do not deteriorate further, including access to adequate health care.

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.

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 would like to inform your Excellency's Government that after having transmitted a joint communication to the Government, the Working Group on Arbitrary Detention may transmit the case through its regular procedure in order to render an opinion on whether the deprivation of liberty was arbitrary or not. Such letters in no way prejudice any opinion the Working Group may render. The Government is required to respond separately to the joint communication and the regular procedure.

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 issue/s in question.

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

Nils Melzer

Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment

Elina Steinerte

Vice-Chair of the Working Group on Arbitrary Detention

Tlaleng Mofokeng

Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health

Annex

Reference to international human rights law

In connection with the above alleged facts and concerns, we would like to refer your Excellency's Government to the relevant international norms and standards that are applicable to the issues brought forth by the situation described above.

In this connection, we would like to remind your Excellency's Government of the absolute and non-derogable prohibition of torture and other cruel, inhuman or degrading treatment or punishment as codified in articles 2 and 16 of the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (CAT), which Qatar ratified on 11 January 2000. We would also like to emphasise that "[A]ll methods of torture are subject to the same prohibition and give rise to the same legal obligations, regardless of whether the inflicted pain or suffering is of a "physical" or "mental" character, or a combination thereof" (A/HRC/43/49).

We would also like to bring to your Excellency's Government's attention the legal and procedural safeguards against torture and ill-treatment, including the right to legal counsel and to contact one's family from the outset of arrest provided in the **UN Body of Principles for the Protection of Persons under Any Form of Detention or Imprisonment** (Body of Principles). According to the Body of Principles, the "Communication of the detained or imprisoned person with the outside world, and in particular his family . . . shall not be denied for more than a matter of days."(**Principle 15**). Notwithstanding, the right to immediately inform a person of his choice of the arrest (**Principle 16.1**) and to further correspond with family "detained or imprisoned person shall have the right to be visited by and to correspond with, in particular, members of his family and shall be given adequate opportunity to communicate with the outside world."(**Principle 19**). We also refer to paragraph 28 of the General Assembly resolution 68/156 (2014) which emphasises that conditions of detention must respect the dignity and human rights of persons deprived of their liberty and calls upon States to address and prevent detention conditions that amount to torture or cruel, inhuman or degrading treatment or punishment.

We would like to further refer to article 9 of the ICCPR, taking into account the Human Rights Committee (HRC) general comment No. 35 (2014) on liberty and security of person. The State should, inter alia, ensure that, in practice, all persons deprived of their liberty are informed promptly of their rights and guaranteed all fundamental legal safeguards from the very outset of detention, including prompt access to counsel of their own choosing and confidential meetings with counsel. The State should also ensure that any failure in that regard constitutes a violation of procedural rights entailing appropriate sanctions and remedies. In addition, holding persons incommunicado violates their right to challenge the lawfulness of detention before a court under article 9(3) and 9(4) of the Covenant. Judicial oversight of detention is a fundamental safeguard of personal liberty and is essential in ensuring the legality of detention and the right to *Habeas Corpus*, consequently the right to an effective remedy as stated under article 8 of the Universal Declaration of Human Rights and article 2(3) of the Covenant. We also recall paragraph 27 of General Assembly Resolution 68/156, which, "[r]eminds all States that prolonged incommunicado detention or detention in secret places can facilitate the perpetration

of torture and other cruel, inhuman or degrading treatment or punishment and can in itself constitute a form of such treatment, and urges all States to respect the safeguards concerning the liberty, security and dignity of the person and to ensure that secret places of detention and interrogation are abolished.”

We also remind your Excellency’s Government that international human rights law prohibits deprivation of liberty due to inability to fulfil a contractual obligation, as is stipulated in article 11 of the ICCPR. This prohibition is non-derogable and is in fact part of customary international law. In the context of its recent country visit to Qatar in November 2019, the Working Group on Arbitrary Detention emphasized that detention due to inability to pay a debt is in itself an arbitrary deprivation of liberty A/HRC/45/16/Add.2, paras. 46-49).

In addition, we draw the attention of your Excellency’s Government to paragraph 8a of Human Rights Council Resolution 16/23, which reminds States that “Intimidation and coercion, as described in article 1 of the Convention against Torture, including serious and credible threats, as well as death threats, to the physical integrity of the victim or of a third person can amount to cruel, inhuman or degrading treatment or to torture;”

We further recall article 6 of the ICCPR which protects the right to life. The Human Rights Committee, in its General Comment No. 36 (CCPR/C/GC/36) establishes that this right concerns the entitlement to be free from acts and omissions that are intended or may be expected to cause unnatural or premature death, as well as to enjoy a life with dignity. This applies to all without any distinction, including persons suspected or convicted for crimes (para 3). States have a duty to protect the life of all detainees including by providing them with the necessary medical care and the appropriate regular monitoring of their health (para 25) and by addressing conditions, such as the prevalence of threatening diseases that may directly threaten life or prevent individuals from enjoying their right to life with dignity. Measures include access without delay to essential goods and services such as food, water, shelter, health-care, electricity and sanitation.

We would also like to bring the attention of your Excellency’s Government to article 12 of the International Covenant on Economic, Social and Cultural Rights, acceded to by Qatar on 21 March 2018, which imposes the obligation on States to refrain from denying or limiting equal access for all persons, including prisoners or detainees, to preventive, curative and palliative health services (E/C.12/2000/4, para. 34). Finally, the UN Standard Minimum Rules for the Treatment of Prisoners (“Mandela Rules”), adopted unanimously by the UN General Assembly (A/RES/70/175), establish States’ responsibility to provide equivalence of care to prisoners i.e. the same standards of health care that are available in the community (Rules 24.1). They require States to ensure that prisons evaluate, promote and protect the physical health of detainees, paying particular attention to prisoners with special health-care needs (Rule 25.1), ensuring continuity of treatment and care (Rule 24.2), and prompt access to medical attention in urgent cases or to specialized treatment where needed (Rule 27.1).