

Mandates of the Special Rapporteur in the field of cultural rights; 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 in the Islamic Republic of Iran; and the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment

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Excellency,

We have the honour to address you in our capacity as Special Rapporteur in the field of cultural rights; Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression; Special Rapporteur on the situation of human rights in the Islamic Republic of Iran; and Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment pursuant to Human Rights Council resolutions 28/9, 25/2, 28/21, and 25/13.

In this connection, we would like to bring to the attention of your Excellency's Government's information we have received concerning the alleged imprisonment in 2013 and sentencing in 2015 of musician and founder of Barg Music **Mr. Mehdi Rajabian**, musician **Mr. Yousef Emadi** and filmmaker **Mr. Hossein Rajabian**.

According to the information received:

On 5 October 2013 at 11 a.m., the three artists Mehdi Rajabian, Yousef Emadi and Hossein Rajabian were arrested in front of their office in the northern city of Sari by the intelligence unit of the Revolutionary Guard and taken to an undisclosed location. The three were not informed of the charges against them at the time of arrest. They were detained in Sari for 18 days, kept in solitary confinement and prevented from speaking with their lawyers. Their families were not informed of their whereabouts or the reason for their arrest and detention.

During their detention, all three were put under intense pressure to make self-incriminating televised "confessions". Mehdi Rajabian, musician and founder of Barg Music, an alternative music distributor in Iran, was allegedly subjected to torture during these interrogations. On 6 October, at 4 a.m., his interrogators allegedly used electroshock weapons to force him to confess against his work. Electroshock weapons were used 8 more time during his interrogations sessions

and he was severely beaten on his head and hands. The other two were not physically tortured. All three were forced to confess to the charges of producing prohibited audiovisual materials, to express regret for their productions and to apologize to the martyrs of the Iran-Iraq war and their families for broadcasting the voice of female singers.

After 18 days in Sari, the three artists appeared before the 3rd Branch of the Revolutionary Court. Their lawyer was not allowed to attend the court meeting. They were sentenced and sent to Section 2A of Tehran's Evin Prison, where they were held in solitary confinement and subjected to psychological torture. Yusef Emadi spent more than 40 days in detention; Mehdi Rajabian and Hossein Rajabian, spent more than 2 months in detention before each was released on 200 million tomans bail.

In May 2015, all three were put on trial at Branch 28 of the Revolutionary Court presided over by Judge Moghisseh, who sentenced them to six years in prison and fined them 200 million Tomans each for “insulting the sacred” and “propaganda against the state” through the production and promotion of underground music. Since their lawyer had been allowed in the primary Court, the three artists did not seek judicial assistance.

On 22 December 2015, Mehdi Rajabian, Yusef Emadi and Hossein Rajabian appeared before Branch 54 of the Tehran Appeals Court. During the appeal hearing, presiding Judge Babaei admonished the artists for ignoring repeated warnings that they were operating illegally and were producing female singers and “political and anti-revolutionary” musicians based abroad. At the time of writing this letter, the three were still waiting for the appellate court’s decision.

Mehdi Rajabian, Hossein Rajabian, and Yusef Emadi are distributors of underground music. Their website, Barg Music, created in 2009, was the only medium broadcasting alternative music in Iran and had introduced modern and new styles of music as well as female singers to Iranian audiences. Barg Music has issued more than 100 music albums and thousands of single records by alternative Iranian musicians before being shut down by Revolutionary Guards after the producers were arrested in 2013. There are severe restrictions on producing or broadcasting the voice of female singers in Iran. Since the establishment of the Islamic Republic, Iranian musicians need government authorization in order to hold concerts or produce music albums and videos and are subjected to heavy censorship. Barg Music operated openly and reportedly applied several times for an official permit from the Ministry of Culture and Islamic Guidance. Their requests for permits were never answered by the ministry.

Concern is expressed that the arrest, detention and sentencing of Mehdi Rajabian, Yusef Emadi and Hossein Rajabian may be solely related to the peaceful exercise of their right to freedom of artistic expression and creativity, resulting in undue restrictions on the right of all persons in Iran to enjoy and have access to the arts. Concern is also expressed that the three detainees were subjected to serious due process and fair trial

violations during their detention, including prolonged periods of solitary confinement, lack of access to lawyers or members of their family, coerced confessions, and torture and ill-treatment. Further concern is expressed about the growing number of reports concerning similar cases that are being communicated to us and that seem to point towards a harder line of repression toward artists and professionals from the field of culture in Iran as the country approaches Parliamentary elections in February 2016.

While we do not wish to prejudge the accuracy of these allegations, we would like to appeal to your Excellency's Government to take all necessary measures to guarantee the right of these persons not to be deprived arbitrarily of their liberty and to fair proceedings before an independent and impartial tribunal, in accordance with articles 9, 10 and 11 of the Universal Declaration of Human Rights (UDHR) and articles 9 and 14 of the International Covenant on Civil and Political Rights (ICCPR).

We would also 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 ICCPR, 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."

Furthermore, we would like to refer your Excellency's Government to article 15 of International Covenant on Economic, Social and Cultural Rights (ICESCR), recognizing the right of everyone to take part in cultural life. Under this provision, States Parties have also undertaken to respect inter alia the freedom indispensable for creative activity. The Special Rapporteur in the field of cultural rights stresses that all persons enjoy the right to freedom of artistic expression and creativity, which includes the right to freely experience and contribute to artistic expressions and creations, through individual or joint practice, to have access to and enjoy the arts, and to disseminate their expressions and creations. In particular, decision makers, including judges, when resorting to possible limitations to artistic freedoms, should take into consideration the nature of artistic creativity (as opposed to its value or merit), as well as the right of artists to dissent, to use political, religious and economic symbols as a counter-discourse to dominant powers, and to express their own belief and world vision. (A/HRC/23/34, paras. 85 and 89 d)

We would like to remind the Government of Iran of the absolute and non-derogable prohibition of torture and cruel, inhumane or degrading treatment or punishment, as codified, inter alia, in the ICCPR and, in Human Rights Council Resolution 25/13 and in paragraph 1 of General Assembly Resolution 68/156. We also recall paragraph 7c of Human Rights Council Resolution 16/23 that urges states to ensure that no confession extracted under torture is invoked as evidence in any proceedings, except against a person accused of torture as evidence that the statement was made. Additionally we would like to refer to the report by the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment (A/66/268), in which it is stated that the use of prolonged solitary confinement in itself runs afoul of this absolute

prohibition. Moreover, due to the prisoner's lack of communication, and the lack of witnesses, solitary confinement enhances the risk of other acts of torture or ill-treatment.

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

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 above-mentioned person(s) in compliance with international instruments.

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 information of any measures taken to ensure the physical and psychological integrity of the above-named individuals. In addition please provide information on allegations that the detainees were subjected to coerced confessions and electroshocks, beatings and long periods of solitary confinement during their detention.
3. Please provide the details of the proceedings against Mr. Mehdi Rajabian, Mr. Yousef Emadi and Mr. Hossein Rajabian and the legal basis upon which they are sentenced, and explain how these are compatible with the international norms and standards on the right to freedom of opinion and expression, the right to take part in cultural life and the freedom indispensable for creative activities.
4. Please provide information of any measures taken to ensure the due process and fair trial rights of the above-named individuals, including allegations that the detainees were prevented from accessing a lawyer or contacting their family members for several days and that they were not promptly informed of the charges against them.
5. Please provide information concerning the national legislation related to freedom of opinion and expression, including in the form of arts, and how these are in conformity with the international norms and standards mentioned above.

While waiting for your response, we urge your Excellency's Government to take all necessary measures to guarantee that the rights and freedoms of Mehdi Rajabian, Yousef Emadi and Hossein Rajabian are respected and, in the event that your investigations support or suggest the above allegations to be correct, we request that your Excellency's Government adopt effective measures to prevent the recurrence of these acts.

Your Excellency's Government's response will be made available in a report to be presented to the Human Rights Council for its consideration.

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

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