

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

PROCEDURES SPECIALES DU
CONSEIL DES DROITS DE L'HOMME

Mandates of the Working Group on Arbitrary Detention; 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; the Special Rapporteur on the independence of judges and lawyers; 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

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

SPECIAL PROCEDURES OF THE
HUMAN RIGHTS COUNCIL

REFERENCE: UA G/SO 218/2 G/SO 214 (67-17) G/SO 214 (56-23) G/SO 214 (3-3-16) Iran (2011-16) G/SO 214 (53-24)
IRN 13/2013

22 August 2013

Excellency,

We have the honour to address you in our capacity as Chair-Rapporteur of the Working Group on Arbitrary Detention; Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression; Special Rapporteur on freedom of religion or belief; Special Rapporteur on the independence of judges and lawyers; 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 15/18, 16/4, 22/20, 17/2, 22/23, and 16/23.

In this connection, we would like to draw the attention of your Excellency's Government to information we have received regarding the risk of imminent execution of **Dr Mohammad Ali Taheri**.

According to the information received:

Dr Mohammad Ali Taheri, honorary doctor and author of alternative medicine theories diffused both in Iran and internationally, allegedly faces a risk of imminent execution and grave threats to his health. According to the information received, in 2011, fourteen Shia religious authorities (ayatollahs) declared that Dr Taheri was to be considered an apostate and heretic (mortad), thereby calling their followers to kill him (fatwa). Dr Taheri was subsequently arrested on 4 May 2011 under the suspicion of apostasy (irtidad) by the Islamic Republic of Iran's Revolutionary Guard, which allegedly requested a death sentence for him.. On 8 August 2013, Dr Taheri's close family members were reportedly informed by officials of Evin Prison, where he has been detained since, that a death verdict had been rendered against him and that he would soon be executed.

According to the information received, the Iranian Parliament's National Security Committee banned in 2008 any courses relating to alternative medicine theories from Dr Taheri's institute, the Interuniversal Mysticism (Halqeh) Art and Culture Institute. On 18 April 2010, Dr Taheri was reportedly arrested for the first time by the Islamic Republic of Iran's Revolutionary Guard, under suspicion of posing a threat against national security, and was detained in solitary confinement for more than two months. He was also allegedly prevented to access a lawyer. Upon his release, on a security deposit of one billion rials, the Ministry of Intelligence and Security reportedly banned the continuation of research on any of his theories in all national universities.

Dr Taheri was reportedly arrested for a second time by the Islamic Republic of Iran's Revolutionary Guard on 12 April 2011, outside of his house, and detained at Evin Prison for twenty-four hours. On 4 May 2011, Dr Taheri was allegedly arrested again under the suspicion of apostasy (irtidad) and has since been held in solitary confinement at Evin Prison. After three closed court sessions, Dr Taheri was reportedly sentenced in October 2011 by Judge Pir-Abbasi, of Branch 26 of the Revolutionary Court in Tehran, to seven years imprisonment, seventy-four lashes, and a fine of nine billion and one hundred million rials.

Dr Taheri has allegedly been subject to interrogation under torture, punching, kicking, being presented with false death sentences, and subject to mock executions to force him to confess, and deprived of the possibility of contacting a lawyer to prepare his defence. He was also allegedly threatened with harm to his family members. Dr Taheri reportedly suffers from serious physical and mental conditions, among which a mouth and jaw infection, and has been deprived of access to a doctor. He reportedly has attempted to commit suicide on four occasions. On 20 March 2013, Dr Taheri was reportedly given leave for six days from Evin Prison for the Iranian New Year. On this occasion, his family members allegedly observed the sequels of torture, suicide attempts, and eight hunger strikes on his body. On 12 July 2013, Dr Taheri reportedly started a hunger strike for the ninth time, which is still on-going.

Without expressing at this stage an opinion on the facts of the case and on whether the detention of the abovementioned person is arbitrary or not, we would like to appeal to your Excellency's Government to take all necessary measures to guarantee his right not to be deprived arbitrarily of his liberty and to fair proceedings before an independent and impartial tribunal, in accordance with articles 9 and 10 of the Universal Declaration of Human Rights (UDHR) and articles 9 and 14 of the International Covenant on Civil and Political Rights (ICCPR).

Furthermore, we should like to appeal to your Excellency's Government to seek clarification of the circumstances regarding the case of the person named above. 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 UDHR and the ICCPR.

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 your Excellency's Government's attention to paragraph 7b of Human Rights Council Resolution 16/23, which urges States "(t)o take persistent, determined and effective measures to have all allegations of torture or other cruel, inhuman or degrading treatment or punishment investigated promptly, effectively and impartially by an independent, competent domestic authority, as well as whenever there is reasonable ground to believe that such an act has been committed; to hold persons who encourage, order, tolerate or perpetrate such acts responsible, to have them brought to justice and punished in a manner commensurate with the gravity of the offence, including the officials in charge of the place of detention where the prohibited act is found to have been committed; and to take note, in this respect, of the Principles on the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment and the updated set of principles for the protection of human rights through action to combat impunity as a useful tool in efforts to prevent and combat torture."

We would like to remind your Excellency's Government of article 14(1) of the ICCPR, which states: "[...] everyone shall be entitled to a fair and public hearing by a competent, independent and impartial tribunal established by law."

In this connection, we would like to refer Your Excellency's Government to 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, and in particular:

- principle 2, which states: "Governments shall ensure that efficient procedures and responsive mechanisms for effective and equal access to lawyers are provided for all persons within their territory and subject to their jurisdiction, without distinction of any kind, such as discrimination based on race, colour, ethnic origin, sex, language, religion, political or other opinion, national or social origin, property, birth, economic or other status;"

- principle 8, which states: "All arrested, detained or imprisoned persons shall be provided with adequate opportunities, time and facilities to be visited by and to communicate and consult with a lawyer, without delay, interception or censorship and in full confidentiality. Such consultations may be within sight, but not within the hearing, of law enforcement officials;"

- principle 21, which states: "It is the duty of the competent authorities to ensure lawyers access to appropriate information, files and documents in their possession or

control in sufficient time to enable lawyers to provide effective legal assistance to their clients. Such access should be provided at the earliest appropriate time.”

We would also like to remind your Excellency's Government of the Guidelines on the Role of Prosecutors, 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, and in particular:

- guideline 12, which states: “Prosecutors shall, in accordance with the law, perform their duties fairly, consistently and expeditiously, and respect and protect human dignity and uphold human rights, thus contributing to ensuring due process and the smooth functioning of the criminal justice system.”;

- guideline 13, which states: “In the performance of their duties, prosecutors shall: (a) Carry out their functions impartially and avoid all political, social, religious, racial, cultural, sexual or any other kind of discrimination; (b) Protect the public interest, act with objectivity, take proper account of the position of the suspect and the victim, and pay attention to all relevant circumstances, irrespective of whether they are to the advantage or disadvantage of the suspect;”

- guideline 16, which states: “When prosecutors come into possession of evidence against suspects that they know or believe on reasonable grounds was obtained through recourse to unlawful methods, which constitute a grave violation of the suspect's human rights, especially involving torture or cruel, inhuman or degrading treatment or punishment, or other abuses of human rights, they shall refuse to use such evidence against anyone other than those who used such methods, or inform the Court accordingly, and shall take all necessary steps to ensure that those responsible for using such methods are brought to justice.”

Furthermore, we would like to remind your Excellency's Government that article 18(1) of ICCPR stipulates that “everyone shall have the right to freedom of thought, conscience and religion. This right shall include freedom to have or to adopt a religion or 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.”

With regard to allegations of “apostasy” against Dr Taheri, we would like to respectfully remind your Excellency's Government that article 18(2) of the ICCPR provides that “no one shall be subject to coercion which would impair his freedom to have or to adopt a religion or belief of his choice.” Moreover, as the Human Rights Committee has emphasized in paragraph 3 of its General Comment no. 22 (1993), “article 18 does not permit any limitations on whatsoever on the freedom of thought and conscience or the freedom to have or adopt a religion or belief on one's choice.” In paragraph 5 of the same Comment, the Committee further observes that the freedom to “have or to adopt” a religion or belief necessarily entails the freedom to choose a religion or belief, including the right to replace one's current religion or belief with another or to adopt atheistic views, as well as the right to retain one's religion or belief. Article 18(2)

bars coercion that would impair the right to have or adopt a religion or belief, including the use of threat of physical force or penal sanctions to compel believers or non-believers to adhere to their religious beliefs and congregations, to recant their religion or belief or to convert. [...]”

With regard to the decision of the Iranian Parliament’s National Security Committee to ban in 2008 any courses relating to alternative medicine theories from Dr Taheri’s institute, the Interuniversal Mysticism (Halqeh) Art and Culture Institute, we would like to draw the attention of your Excellency’s Government to the General Assembly’s resolution 36/55 (A/RES/36/55) in which the General Assembly asserts in article 6(c) that the right to freedom of thought, conscience, religion or belief includes the freedom, “To make, acquire and use the necessary articles and materials related to the rites or customs of a religion or belief;” and further in (d) “To write, issue and disseminate relevant publications in these areas.” In this context, we would like to draw the attention of your Excellency’s Government to paragraph 4 of the Human Rights Committee’s General Comment 22, which provides that “In addition, the practice and teaching of religion or belief includes acts integral to the conduct by religious groups of their basic affairs, [...] the freedom to establish seminaries or religious schools and the freedom to prepare and distribute religious texts or publications.”

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.”

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 in compliance with the above 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 summary of the case accurate?
2. Has a complaint been lodged by or on behalf of the alleged victim?
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 the full details of any prosecutions which have been undertaken. Have penal, disciplinary or administrative sanctions been imposed on the alleged perpetrators?

5. Please indicate whether compensation has been provided to the victim or the family of the victim.

6. Please provide information concerning the legal grounds for the arrest and detention of Dr Taheri and how these measures are compatible with international norms and standards as stated, inter alia, in the UDHR and the ICCPR.

7. Please provide the full details of how the prosecution, imprisonment and sentencing to death of Dr Taheri are in compliance with international human rights law, in particular with the rights to freedom of religion and belief and to fair trial.

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 the above mentioned person are respected and, in the event that your investigations support or suggest the above allegations to be correct, the accountability of any person responsible of the alleged violations should be ensured. We also request that your Excellency's Government adopt effective measures to prevent the recurrence of these acts.

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

El Hadji Malick Sow
Chair-Rapporteur of the Working Group on Arbitrary Detention

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