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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 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 the right of everyone to the enjoyment of the highest attainable standard of physical and mental health; and the Special Rapporteur on the situation of human rights in the Islamic Republic of Iran.

REFERENCE: UA G/SO 218/2 G/SO 214 (67-17) Health (2002-7) Iran (2011-16)
IRN 15/2013

11 September 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 the right of everyone to the enjoyment of the highest attainable standard of physical and mental health; and Special Rapporteur on the situation of human rights in the Islamic Republic of Iran pursuant to Human Rights Council resolutions 15/18, 16/4, 15/22, and 22/23.

In this connection we would like to draw the attention of your Excellency's Government to information we have received regarding the deteriorating health of **Mr. Hossein Ronaghi Maleki**, who has reportedly been on hunger strike since 9 August 2013.

We wish to draw the attention of your Excellency's Government to the joint urgent appeal sent on 6 June 2012 by the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression; the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health; and the Special Rapporteur on the situation of human rights in the Islamic Republic of Iran concerning the deteriorating state of health of Mr. Maleki. We regret that to date no response to this communication has been received from your Excellency's Government.

According to information received:

Mr. Hossein Ronaghi Maleki, who is currently serving his 15-year prison sentence, has been on a hunger strike to protest his detention since 9 August 2013.

Mr. Maleki, an internet blogger and political activist, was originally arrested on 13 December 2009, and charged with “spreading propaganda against the system”; “membership in illegal internet group” and “insulting the Supreme Leader and the President”. He was allegedly held in solitary confinement for a year and was subject to torture. On 2 July 2012, Mr. Maleki was released on bail. On 22 August 2012, he was re-arrested along with a number of other activists, who were assisting victims at a relief camp in East Azerbaijan province.

According to information received, Mr. Maleki, suffers from serious kidney illness, bladder inflammation and has heart problems, that he developed during his prolonged solitary confinement and alleged torture. He has undergone several kidney operations. He had previously staged several hunger strikes, after the authorities refused him permission to receive medical treatment outside prison.

In addition, on 20 August 2013, his mother Ms. Zoleikha Mousavi has also gone on a hunger strike to support her son’s request to receive proper medical treatment and to bring attention to his situation. According to various reports, both of them are at risk of suffering severe health problems and possibly even dying.

In light of the deteriorating physical condition, concern is expressed for Mr. Maleki’s physical integrity.

Without expressing at this stage an opinion on the facts of the case, 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).

With regard to Mr. Maleki’s health, we would like to refer your Excellency’s Government to article 12 of the International Covenant on Economic, Social and Cultural Rights – acceded/ratified by your country on 24 June 1975 – on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health. This includes an obligation on the part of all States parties to ensure the right of access to health facilities, goods and services on a non-discriminatory basis, especially the most vulnerable or marginalised sections of the population, without discrimination. Furthermore, article 2 of the Covenant requires States to guarantee that all rights enunciated in the Covenant will be exercised without discrimination of any kind.

We would further like to refer your Excellency’s Government to General Comment 14 of the Committee on Economic, Social and Cultural Rights, which indicates that States are under the obligation to respect the right to health by, inter alia, refraining from denying or limiting equal access for all persons, including prisoners or detainees to preventive, curative and palliative health services.(Para.34).

We would also like to refer your Excellency's Government to the Basic Principles for the Treatment of Prisoners, adopted and proclaimed by General Assembly resolution 45/111, according to which "Prisoners shall have access to the health services available in the country without discrimination on the grounds of their legal situation" (Principles 9).

In addition, we would like to refer your Excellency's Government to the Standard Minimum Rules for the Treatment of Prisoners, which state that "Sick prisoners who require specialist treatment shall be transferred to specialized institutions or to civil hospitals. Where hospital facilities are provided in an institution, their equipment, furnishings and pharmaceutical supplies shall be proper for the medical care and treatment of sick prisoners, and there shall be a staff of suitable trained officers" (Standard Minimum Rules for the Treatment of Prisoners. Rule 22(2)).

Finally, we would like to refer your Excellency's Government to the World Medical Assembly's Declaration of Malta on Hunger Strikes (adopted in November 1991, revised in October 2006), which emphasizes the duty of all physicians to, inter alia, act ethically (Principles 1) and respect individuals' autonomy (Principle 2).

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, that Iran ratified on 24 June 1975, 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 Mr. Hossein Ronaghi Maleki 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 details, and where available the results, of any inquiries, medical examination, and judicial or other inquiries carried out in relation to this case.
4. Please provide information concerning the legal grounds for the arrest and detention of Mr. Maleki and how these measures are compatible with international norms and standards.

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. Maleki 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

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

Anand Grover
Special Rapporteur on the right of everyone to the enjoyment of the highest
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Ahmed Shaheed
Special Rapporteur on the situation of human rights in the Islamic Republic of Iran