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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 Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression; the Special Rapporteur on the rights to freedom of peaceful assembly and of association; the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health; the Special Rapporteur on the situation of human rights defenders; the Special Rapporteur on the independence of judges and lawyers; and the Special Rapporteur on the situation of human rights in the Islamic Republic of Iran.

REFERENCE: UA G/SO 214 (67-17) Assembly & Association (2010-1) Health (2002-7) G/SO 214 (107-9) G/SO 214 (3-3-16) Iran (2011-16)
IRN 22/2013

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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 rights to freedom of peaceful assembly and of association; Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health; Special Rapporteur on the situation of human rights defenders; Special Rapporteur on the independence of judges and lawyers; and Special Rapporteur on the situation of human rights in the Islamic Republic of Iran pursuant to Human Rights Council resolutions 16/4, 24/5, 24/6, 16/5, 17/2, and 22/23.

In this connection, we would like to bring to your Excellency's Government's attention information we have received concerning the sentence against Mr. **Mohammad Seifzadeh**, a human rights lawyer and co-founder of the Defenders of Human Rights Centre (DHRC).

Mr. Mohammad Seifzadeh has been the subject of two urgent appeals dated 30 September 2010 and 12 November 2010, by the Special Rapporteur on the independence of judges and lawyers and the Special Rapporteur on the situation of human rights defenders. We appreciate the reply received from your Excellency's Government on 8 February 2011. However, we are concerned that the questions with regards to the legal basis for the conviction of Mr. Seifzadeh were not properly addressed.

According to the information received:

In late September 2013, a sentence of six years' imprisonment of Mr. Mohammad Seifzadeh was allegedly upheld by Branch 54 of the Appeals Court on charges of "collusion to take action against the national security" and "spreading propaganda against the system". This sentence was previously imposed on Mr. Seifzadeh on 20 February 2013 by Branch 15 of the Islamic Revolution Court.

The sentence on 20 February 2013 was allegedly handed down to Mr. Seifzadeh shortly before he was due to be released on 25 March 2013, after having completed a 2-year sentence on similar charges. The new charges are allegedly based on a letter that Mr. Seifzadeh wrote to the former President on 21 July 2011, as well as other letters which he had co-signed with other persons. According to the sources, in the letter dated 21 July 2011, Mr. Seifzadeh criticized what he claimed was a breach of the law in the judiciary. He further stated that there was no solution but to dissolve illegal authorities such as the Islamic Revolution Courts and the Special Clergy Court and to reform the structure of the judiciary. Furthermore, he stated that due process and citizen rights had not been respected in the case of about 200 political prisoners in Section 350 of Evin prison, where he was held at the time.

According to the sources, Mr. Seifzadeh was transferred to Rajaishahr prison near the city of Karaj, where he is currently being detained since late December 2012. It is alleged that Mr. Seifzadeh's health has deteriorated as a consequence of the conditions of his detention. He is allegedly in dire need of eye surgery, dental treatment and treatment for his knees, neck and back disc. Furthermore, he reportedly suffers from kidney condition and heart ailment, both for which he was transferred to a hospital outside the prison for treatment, in February and October 2013 respectively.

It is alleged that prison authorities have refused Mr. Seifzadeh to be transferred to specialized hospitals outside the prison for medical appointments, which his family makes after receiving prior approval from the prison authorities. Thus, Mr. Seifzadeh's family made an appointment with an eye specialist outside the prison on 11 November 2013, however he was not allowed to attend the appointment. This is despite Mr. Seifzadeh's suffering from cataract in both eyes, which reportedly renders it essential for him to be operated on both eyes to prevent glaucoma. It is also alleged that Mr. Seifzadeh's family have to pay for the specialist medical treatment and hospitalization, as well as for the expenses of three guards for the duration of the treatment or hospitalisation.

Grave concerns are expressed that Mr. Mohammad Seifzadeh has been sentenced due to his legitimate work in defending human rights in Iran, while exercising his rights to freedom of opinion and expression, and freedom of association. Further concerns are expressed at the conditions of Mr. Seifzadeh's detention and his deteriorating health as a consequence of these conditions.

While we do not wish to prejudge the accuracy of these allegations, we would like to draw the attention of your Excellency's Government to the relevant international norms and standards that are applicable to the issues brought forth by the situation described above.

With regard to the allegations of the denial of specialized medical treatment to Mr. Seifzadeh, we would like to recall that this right is reflected, inter alia, in article 12 of the International Covenant on Economic, Social and Cultural Rights (ratified on 24 June 1975), which provides for 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 State parties to ensure that health facilities, goods and services are accessible to everyone, especially the most vulnerable or marginalized sections of the population, without discrimination.

In this connection, we wish to refer your Excellency's Government to General Comment No. 14 of the Committee on Economic, Social and Cultural Rights, which provides that States are under the obligation to respect the right to health by, inter alia, refraining from interfering directly or indirectly with the enjoyment of the right to health, from denying or limiting equal access for all persons, including prisoners or detainees, minorities, asylum seekers and illegal migrants, to preventative, curative and palliative health services, and from enforcing discriminatory practices as a State policy (para.34).

We would also like to draw the attention of your Excellency's Government to the Standard Minimum Rules for the Treatment of Prisoners. Rule 22(2) provides 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. Rule 25(1) provides that, "The medical officer shall have the care of the physical and mental health of the prisoners and should daily see all sick prisoners, all who complain of illness, and any prisoner to whom his attention is specially directed." (Approved by the Economic and Social Council by resolutions 663 C (XXIV) of 31 July 1957 and 2076 (LXII) of 13 May 1977.) We also refer your Excellency's Government to the Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment, adopted by General Assembly resolution 43/173, which states that: "A proper medical examination shall be offered to a detained or imprisoned person as promptly as possible after his admission to the place of detention or imprisonment, and thereafter medical care and treatment shall be provided whenever necessary. This care and treatment shall be provided free of charge" (Principle 24). Furthermore, we wish to refer 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" (Principle 9).

Moreover, we wish 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 International Covenant on Civil and Political Rights, 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."

We would also 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 23, which states: "Lawyers like other citizens are entitled to freedom of expression, belief, association and assembly. In particular, they shall have the right to take part in public discussion of matters concerning the law, the administration of justice and the promotion and protection of human rights and to join or form local, national or international organizations and attend their meetings, without suffering professional restrictions by reason of their lawful action or their membership in a lawful organization. In exercising these rights, lawyers shall always conduct themselves in accordance with the law and the recognized standards and ethics of the legal profession."

We would like to refer to article 22 of the International Covenant on Civil and Political Rights, which provides that "Everyone shall have the right to freedom of association with others, including the right to form and join trade unions for the protection of his interests".

In this connection, we would like to refer to Human Rights Council resolution 21/16, and in particular operative paragraph 1 that "reminds States of their obligation to respect and fully protect the rights of all individuals to assemble peacefully and associate freely, online as well as offline, including in the context of elections, and including persons espousing minority or dissenting views or beliefs, human rights defenders, trade unionists and others, including migrants, seeking to exercise or to promote these rights, and to take all necessary measures to ensure that any restrictions on the free exercise of the rights to freedom of peaceful assembly and of association are in accordance with their obligations under international human rights law."

Regarding allegations indicating the situation of Mr. Mohammad Seifzadeh is linked to his human rights work, 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 points b) and c) which provide that everyone has the right, individually and in association with others as provided for in human rights and other applicable international instruments, freely to publish, impart or disseminate to others views, information and knowledge on all human rights and fundamental freedoms; and to study, discuss, form and hold opinions on the observance, both in law and in practice, of all human rights and fundamental freedoms and, through these and other appropriate means, to draw public attention to those matters; and

- 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 this context, we would like to refer your Excellency’s Government to the Basic Principles on the Role of Lawyers, adopted by the Eight United Nations Congress on the Prevention of Crime and the Treatment of Offenders held at Havana, Cuba, from 27 August to 7 September 1990, and in particular principle 16, which states: “Governments shall ensure that lawyers (a) are able to perform all of their professional functions without intimidation, hindrance, harassment or improper interference; [...] and (c) shall not suffer, or be threatened with, prosecution or administrative, economic or other sanctions for any action taken in accordance with recognized professional duties, standards and ethics.”; and principle 18, which states: “Lawyers shall not be identified with their clients or their clients’ causes as a result of discharging their functions.”

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. Mohammad Seifzadeh 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 above summary of the case accurate?
2. Please indicate the legal basis of the sentence handed down to Mr. Seifzadeh, and how these are compatible with international norms and standards, particularly concerning the rights to freedom of opinion and expression, and freedom of association.
3. Please provide information concerning any steps that have been taken by your Excellency's Government to ensure that Mr. Seifzadeh receives the medical attention and medication that he requires.
4. Please explain which measures have been taken to ensure that all human rights defenders in Iran can carry out their peaceful and legitimate activities without any restrictions.

The response of your Excellency's Government will be made available in a 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. Mohammad Seifzadeh 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.

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

Maina Kiai
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