

Mandate of the Working Group on Arbitrary Detention; 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 in the Islamic Republic of Iran; and the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment

REFERENCE: UA
IRN 9/2016:

26 April 2016

Excellency,

We have the honour to address you in our capacity as the Vice-Chair on Communications of the Working Group on Arbitrary Detention; 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 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 resolution 24/7, 24/6, 28/21, and 25/13.

In this connection, we would like to bring to the attention of your Excellency's Government information we have received concerning the alleged arbitrary detention and sentencing of Mr. **Omid Kokabee** and refusal to allow him access to adequate medical treatment to.

According to the information received:

On 30 January 2011, Mr. Omid Kokabee, an experimental laser physicist was arrested at Imam Khomeini Airport, Tehran, while waiting for a flight to return to his studies in the United States of America. He also previously pursued his studies in Tehran and Spain.

On 14 May 2012, a Revolutionary Court in Tehran sentenced Mr. Kokabee to 10 years' imprisonment for having "connections with a hostile Government" and "receiving illegitimate funds", both seemingly in relation to his legitimate post-doctorate research in the United States of America. In August 2012, Tehran's

Court of Appeal upheld the sentence, despite the Supreme Court order for a review of his case. No evidence against him was presented in court other than of his connections to well-known educational establishments in the United States of America. It is alleged that before his trial, he was held in solitary confinement without access to a lawyer and without appearing before a judge.

His expertise in physics, and in particular in laser technology, has allegedly resulted in pressure on Mr. Kokabee to work on certain Government programmes, against his wishes. His consistent refusal to participate in such activities is reportedly resulting in his continued allegedly arbitrary detention, notwithstanding his eligibility for parole, evidence of his innocence and severe medical problems.

Allegedly, Mr. Kokabee has had consistently inadequate diagnosis and treatment of his poor health. He has reportedly suffered from serious illnesses, including kidney stones, throughout his detention, which have not been properly treated. Correct diagnosis and treatment of these illnesses would have allegedly prevented the advanced state of his kidney cancer, the severity of which was seriously exacerbated through a failure to identify and treat the illness in its early stages. It is alleged that despite repeated requests for hospital treatment, such visits have been consistently denied by prison officials. Visits to the prison infirmary have resulted in the prescription of painkillers only, with no examination being carried out.

On 20 April 2016, Mr. Kokabee was reportedly urgently taken to hospital, where he lost his right kidney to cancer, inflicting further pain, placing treatment for his other illnesses on hold, and exacerbated by his continued detention away from the full medical treatment.

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 Mr. Kokabee not to be deprived arbitrarily of his 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), the latter having been ratified by Iran on 24 June 1975.

Regarding access to adequate medical treatment in detention, we would like to refer your Excellency's Government to article 12 of the Covenant on Economic, Social and Cultural Rights, ratified by Iran on 24 June 1975, which establishes that an 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 (General Comment 14, Para. 34). In addition, we would like to underline the Basic Principles for the Treatment of Prisoners, adopted by the General

Assembly in resolution 45/111, according to which prisoners should have access to health services available in the country without discrimination on the grounds of their legal situation (Principle 9), and draw the attention of the Government to the UN Standard Minimum Rules for the Treatment of Prisoners (reviewed on 5 November 2015 and renamed the “Mandela Rules”) and in particular Rule 27(1), which provides that all prisons shall ensure prompt access to medical attention in urgent cases. Prisoners who require specialized treatment or surgery shall be transferred to specialized institutions or to civil hospitals. Where a prison service has its own hospital facilities, they shall be adequately staffed and equipped to provide prisoners referred to them with appropriate treatment and care.

We would also like to take this opportunity to refer your Excellency’s Government to article 502 of the Iranian Criminal Code, which states that “[i]f a prisoner is suffering from physical or mental illness and his imprisonment would make his illness worse or delay his recovery, the judge can postpone the sentence being served until the prisoner regains his health after consultation with his physician.”

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 would also like to refer your Excellency’s Government to article 22 of the ICCPR, which guarantees the right to freedom of association.

In addition, we would like to draw your Excellency’s Government’s attention to paragraph 23 of the methods of work of the Working Group on Arbitrary Detention, according to which, “after having transmitted an urgent appeal to the Government, the Working Group 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 appeals — which are of a purely humanitarian nature — in no way prejudice any opinion the Working Group may render. The Government is required to respond separately for the urgent action procedure and the regular procedure.

The full texts of the international 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 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 the details of the proceedings against Mr. Kokabee, and the legal basis and evidence used in court to convict and sentence him, and how these comply with international human rights norms and standards.
3. Please provide detailed information on the measures taken to provide Mr. Kokabee with the guarantees of due process and fair trial, in particular articles 9, 14, 15 and 36 of the ICCPR.
4. Please indicate the measures your Excellency's Government has adopted to respect and protect Mr. Kokabee's rights in detention, including article 7 of the ICCPR, articles 11 and 12 of the ICESCR, the Standard Minimum Rules for the Treatment of Prisoners (reviewed version adopted on 5 November 2015 and renamed the "Mandela Rules"), the Body of Principles for the Protection of All Persons Under Any Form of Detention or Imprisonment, adopted by the General Assembly in its resolution 46/173 of 9 December 1988, and the Basic Principles for the Treatment of Prisoners, adopted by the General Assembly in its resolution 45/111 of 14 December 1990.
5. Please provide information concerning the measures taken by your Excellency's Government to ensure the physical and psychological integrity of Mr. Kokabee and please provide information regarding current policies and regulations in place to ensure that prisoners in similar situations have access to proper and adequate medical treatment, including specialized treatment.
6. Please indicate what measures your Excellency's Government has adopted or is planning to implement in order to protect the human rights of vulnerable prison populations and those convicted of political or national security crimes, including provisions of the State Prisons Organisations related to separating prisoners based on their convictions and sentences.

While waiting for your response, we urge your Excellency's Government to take all necessary measures to guarantee that the rights and freedoms Mr. Kokabee 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.

We are intending to publicly express our concerns in the near future as we are of the view that the information upon which the press release is going to be based is sufficiently reliable to indicate a matter warranting immediate attention.

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.

José Guevara
Vice-Chair on behalf of the Working Group on Arbitrary Detention

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