

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 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; and the Special Rapporteur on the situation of human rights in the Islamic Republic of Iran

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Excellency,

We have the honour to address you in our capacity as First Vice-Chair 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 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; and Special Rapporteur on the situation of human rights in the Islamic Republic of Iran pursuant to Human Rights Council resolutions 24/7, 25/2, 24/5, 24/6, and 28/21.

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, denial of due process and fair trial, torture, inhumane and degrading treatment of Mr. **Mohammad Hossein Rafiee Fanood**, a retired professor of polymer chemistry at University of Tehran and member of the banned Melli Mazhabi political party (National Religious Alliance).

According to the information received:

On 25 May 2015, Mr. Mohammad Hossein Rafiee Fanood, a 70 years old retired university professor was sentenced to a six year-prison sentence and a two-year ban on political and journalistic activities, in connection with writings on social and political issues on his website. A Revolutionary Court in Tehran convicted Mr Rafiee to five years in prison for "membership in an illegal and anti-national security group [Melli Mazhabi]", and one year for "spreading propaganda against the system" by giving interviews to media, and for "issuing statements against the state's security". Mr Rafiee has appealed the sentence but no date has yet been set for the hearing.

On 16 June 2015, Mr. Rafiee was reportedly arrested without a warrant by officers from the Ministry of Intelligence in Tehran. Following his arrest, Mr. Rafiee was taken to the Prosecutor's Office in Evin Prison, where the judge on duty was allegedly compelled to issue an arrest warrant upon orders from the Prosecutor General of Tehran. Mr. Rafiee was subsequently transferred to Ward 8 of the Evin Prison, where he has been held since then.

After spending a month in detention, in July 2015, Mr. Rafiee was verbally informed that he was arrested so that he would serve a four-year prison sentence handed down in 2003 on charges of "membership and activity with the illegal group" and for "spreading propaganda against the state through his writings and statements." The verdict issued in 2003 had never been carried out before.

Since his arrest, Mr. Rafiee has been subjected to inhumane and degrading treatment. He reportedly suffers serious health issues including a heart condition, high blood pressure, a thyroid problem, and severe allergies. He is reportedly held in a ward that is severely overcrowded, poorly ventilated, and lacks adequate sleeping and sanitation facilities. Mr. Rafiee is reportedly held with common criminals in Ward 8 and did not have his own bed during the first month of detention, during which time he was forced to sleep on the ground. Mr. Rafiee was also reportedly denied access to a heart specialist for the last seven months and the prison authorities have refused to provide him with medicine provided by his family. The lack of access to adequate and specialized medical treatment along with poor hygienic conditions in the ward has reportedly contributed to the deterioration of his mental and physical health.

While we do not wish to prejudge the accuracy of information made available to us, the above allegations appear to be in contravention with international law, in particular the 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), to which Iran is a State party.

We are seriously concerned that the arrest and detention of Mr. Mohammad Hossein Rafiee Fanood is solely connected to his membership in the political party Melli Mazhabi, as well as writings published on his website on social and political issues and therefore an unlawful restriction on his legitimate right to freedom of association and expression, in contravention of Iranian law and articles 19 and 22 of the ICCPR. We are also concerned about the manner of Mr Rafiee's arrest, particularly in light of recent amendments made to the Criminal Procedures Code that increase protection for the rights of the accused. Finally, we are also seriously concerned about the treatment Mr Rafiee has been subjected to in prison, and the resulting deterioration of his physical and psychological integrity. We further express serious concern at his health condition, and the reported lack of adequate medical attention in prison.

Regarding access to adequate medical treatment in detention by Mr. Rafiee, we would like to refer your Excellency's Government to article 12 of the Covenant on Economic, Social and Cultural Rights, ratified by Iran in 24 June 1975, which establishes that States have 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 General Assembly resolution 45/111, according to which prisoners should have access to the health services available in the country without discrimination on the grounds of their legal situation (Principle 9).

With regard to his sentence for being member of a political party, we would like to refer to article 22 of the International Covenant on Civil and Political Rights, ratified by Iran on 24 June 1975, which establishes that everyone shall have the right to freedom of association. We would like to also refer to the resolution 24/5 adopted by the Human Rights Council on the rights to freedom of peaceful assembly and of association that the States have the “obligation to respect and fully protect the rights of all individuals to [...] associate freely [...] and to take all necessary measures to ensure that any restrictions on the free exercise of the [right] [...] of association are in accordance with their obligations under international human rights law”.

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 Mr. Rafiee 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 detailed information on the measures taken to provide to Mr. Rafiee Fanoood Mohammad Hossein, the guarantees of due process and fair trial, and effective access to a lawyer as established in international human rights law, in particular articles 9, 14, 15 and 36 of the ICCPR.
3. Please indicate which measures your Excellency's Government has adopted to respect and protect the above-mentioned individual's human rights in prison, including: Article 7 of the ICCPR; Articles 11 and 12 of the ICESCR; the Standard Minimum Rules for the Treatment of Prisoners adopted by the First United Nations Congress on the Prevention of Crime and the Treatment of Offenders, approved by the Economic and Social Council in its resolutions 663 C (XXIV) of 31 July 1957 and 2076 (LXII) of 13 May 1977; the Body of

Principles for the Protection of All Persons Under Any Form of Detention or Imprisonment, adopted by the United Nations 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;

4. Please provide information relative to the measures taken by your Excellency's Government to ensure the physical and psychological well-being of Mr. Mohammad Hossein Rafiee Fanoodeh, and please provide information regarding current policies and regulations in place, to ensure that prisoners like Mr Rafiee have access to proper and adequate medical treatment.
5. 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 awaiting a reply, we urge that all necessary interim measures be taken to halt the alleged violations and prevent their re-occurrence and in the event that the investigations support or suggest the allegations to be correct, to ensure the accountability of any person responsible of the alleged violations.

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
First Vice-Chair of the Working Group on Arbitrary Detention

David Kaye
Special Rapporteur on the promotion and protection of the right to
freedom of opinion and expression

Maina Kiai

Special Rapporteur on the rights to freedom of peaceful assembly and
of association

Dainius Puras

Special Rapporteur on the right of everyone to the enjoyment of the
highest attainable standard of physical and mental health

Ahmed Shaheed

Special Rapporteur on the situation of human rights in the Islamic
Republic of Iran