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PROCEDURES SPECIALES DU
CONSEIL DES DROITS DE L'HOMME

SPECIAL PROCEDURES OF THE
HUMAN RIGHTS COUNCIL

Mandates of 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 contemporary forms of slavery; and the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment

REFERENCE: UA Health (2002-7) Slavery (2007-2) G/SO 214 (53-24) G/SO 214 (67-17)
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Excellency,

We have the honour to address you in our capacity as Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health; Special Rapporteur on contemporary forms of slavery; Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression ; and Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment pursuant to Human Rights Council resolutions 15/22, 15/2, 16/4, 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 conditions of prison work in the correctional colony no. 14, and the specific case of Ms. **Nadezhda A. Tolokonnikova** a woman currently in detention in Russia and former performer with the Pussy Riot group. Ms. Tolokonnikova was the subject of a joint urgent appeal sent to your Excellency's Government on 11 May 2012.

According to information received:

Nadezhda A. Tolokonnikova, a young woman currently in detention in the correctional colony no. 14 (Mordoviya Republic), and other prisoners in the same facility, have been forced to work for up to sixteen hours per day, during which they are not allowed to leave their work stations, including for bathroom breaks. Due to the working hours, they are only able to sleep 4 hours per night, and are not provided the rest days they may be entitled to. The work consists in sewing uniforms for the police. The sewing equipment is reportedly outdated, leading to injuries and the remuneration received for the work does not comply with relevant standards.

It is alleged that complaints to the authorities by Ms. Tolokonnikova led to retaliation and threats against her by the deputy colony governor. In protest against the conditions of work, Ms. Tolokonnikova subsequently went on a hunger strike. Her health reportedly deteriorated and on 29 September, she was

transferred from solitary confinement to a hospital. As of Monday afternoon, 30 September, it is alleged that she was denied access to visitors at the hospital, including her husband, on the basis that she was receiving medical care and could only be seen by doctors.

It is further reported that following various complaints and public statements on behalf of Ms. Tolokonnikova, the correctional colony in question was visited by members of the State Commission on Human Rights attached to the Russian Presidency. Reportedly, findings from that visit found that conditions in the institution such as with regard to: days of rest; salary levels paid; the amount of unpaid voluntary work required; the deductions made from salaries for items such as clothing, food, communal expenses and court expense, may not be in conformity with relevant national legislation and regulations. Additionally, concerns were allegedly also expressed with regard to the level of trauma many women experienced in the sewing workshops, their lack of qualification to do the work, the quality of the equipment being used, and the lack of an effective complaint system within the institution.

While we do not wish to prejudge the accuracy of these allegations, we wish to draw your Excellency's attention to the right to physical and mental integrity of the above-mentioned person.

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 Universal Declaration of Human Rights (UDHR), the International Covenant on Civil and Political Rights (ICCPR) and the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT).

We would also like to draw your Excellency's Government's attention to the Standard Minimum Rules for the Treatment of Prisoners (adopted by the Economic and Social Council by resolutions 663 C (XXIV) of 31 July 1957 and 2076 (LXII) of 13 May 1977). We would also like to draw your attention to the Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment adopted by the General Assembly on 9 December 1988 (adopted by General Assembly resolution 43/173 of 9 December 1988). The Committee against Torture and the Human Rights Committee have consistently found that conditions of detention can amount to inhuman and degrading treatment.

In this context, allow us to recall article 4 of the Universal Declaration of Human Rights which states that "no one shall be held in slavery or servitude". Article 8 (1), (3)(a) of the ICCPR also prohibits slavery and forced or compulsory labour, but specifies particular exceptions. These include, *inter alia*, article 8(3)(b)(c) as follows:

(b) Paragraph 3(a) shall not be held to preclude, in countries where imprisonment with hard labour may be imposed as a punishment for a crime, the performance of hard labour in pursuance of a sentence to such punishment by a competent court;

(c) For the purposes of this paragraph the term ‘forced or compulsory labour’ shall not include: (i) Any work or service, not referred to in a subparagraph (b), normally required of a person who is under detention in consequences of a lawful order of a court, or of a person during conditional release from such detention.

Article 2(2)(c) of the ILO Convention (No. 29) concerning Forced or Compulsory Labour, also provides that forced labour or compulsory labour shall not include “any work or service exacted from any person as a consequence of a conviction in a court of law, provided that the said work or services is carried out under the supervision and control of a public authority and that the said person is not hired to or placed at the disposal of private individuals, companies or associations.”

More particularly, we would like to draw the attention of your Excellency’s Government to articles 71-76 concerning prison labour in the Standard Minimum Rules for the Treatment of Prisoners, adopted in resolutions 663 C and 2076 of the United Nations Economic and Social Council. In this connection, article 71 (1-3) states that “prison labour must not be of an afflictive nature”, that the requirement to work is “subject to their physical and mental fitness determined by the medical officer”, and “sufficient work [is ...] provided to keep prisoners actively employed for a normal working day”. Article 72 provides that “the methods of work [...] shall resemble as closely as possible those of similar work outside institutions”, and article 74(1) that “the precautions laid down to protect the safety and health of free workmen shall be fixed by law or by administrative regulation”. Furthermore, standards relating to conditions of work such as: maximum working hours (which are to be fixed by law or regulation, and to take into account rules of employment of free workmen); rest days; time allotted for other activities and education; and equitable remuneration of work, are also stipulated in articles 75 and 76.

We would also appreciate information from your Excellency’s Government on the steps taken by the competent authorities with a view to ensuring the right to the highest attainable standard of health by Ms. Tolokonnikova. This right is reflected, inter alia, in article 12 of the International Covenant on Economic, Social and Cultural Rights, ratified on 16 October 1973, 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.

We also 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 denying or limiting equal access for all persons, including prisoners or detainees, minorities, asylum seekers and illegal immigrants, to preventive, curative and palliative health services...” (para.34). In the General Comment, the Committee interprets article 12.2(b) of the Covenant to include safe and hygienic working conditions, preventive measures in respect of occupational accidents and diseases and the minimization, so far

as is reasonably practicable, of the causes of health hazards inherent in the working environment (para.15).

We would also like to bring to the attention of your Excellency's Government the report of the Special Rapporteur on the right to health concerning occupational health (A/HRC/20/15), which observes that the right to a safe and healthy working environment and the protection of the worker against sickness, disease and injury arising out of his employment is among fundamental human rights and is an integral component of the right to health. (paras.6-8). The right to occupational health additionally requires States to work towards the minimization of hazards, both physical and psychosocial, in the workplace (paras.43-44). The Special Rapporteur also stresses that in cases of violations States must ensure workers are afforded access to adequate reparation, including restitution, compensation, satisfaction or guarantees of non-repetition (para.57).

We would further 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 above summary of the case accurate?
2. Has a formal complaint been lodged?
3. Please provide information on the current situation of Ms. Tolokonnikova.
4. Please provide the details, and where available the results, of any investigation which may have been carried out in relation to this case, including any gender dimensions of this case, and whether the conditions of work within the prison are in violation or not of relevant national and international standards. If no inquiries have taken place, or if they have been inconclusive, please explain why.
5. Please provide information on relevant and concrete follow-up actions being undertaken as a result of investigations conducted, and in particular, actions to ensure that: working conditions within the concerned correctional facility comply with national and international standards; that effective complaint mechanisms are in place, together

with safeguards against retaliation; and to prevent similar situations from happening in the future, including any oversight mechanisms put in place for this purpose.

6. Please provide information on the measures taken to ensure the enjoyment of the right to the highest attainable standard of health, including occupational health, by Ms. Tolokonnikova.

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.

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

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