

Mandates of the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment; 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; and the Special Rapporteur on the situation of human rights in the Islamic Republic of Iran

REFERENCE: AL
IRN 17/2015:

5 October 2015

Excellency,

We have the honour to address you in our capacities as Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment; 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; and Special Rapporteur on the situation of human rights in the Islamic Republic of Iran pursuant to Human Rights Council resolutions 25/13, 24/5, 24/6, 25/18, 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 death of trade unionist and political prisoner **Shahrokh Zamani** while in custody in Raja'i Shahr Prison, Karaj, in the north-west of Tehran. Mr. Zamani was the subject of two urgent appeals sent on 17 April 2014 (see report [A/HRC/27/72](#), case IRN 7/2014) and 15 July 2014 (see report A/HRC/28/85, case IRN 12/2014). We acknowledge receipt of your reply dated 7 January 2015 for the case IRN 12/2014.

According to the communication we received:

On 13 September 2015, Mr. Shahrokh Zamani was found dead in his cell at Raja'i Shahr Prison. He was fifty-one years old. Mr. Zamani had been waiting for nearly a year to receive a MRI (magnetic resonance imaging) test to diagnose persistent neurological symptoms, including headaches and dizziness. Prison medical officials believed Mr. Zamani died of a stroke. An official autopsy report is expected to be complete in mid-October.

Mr. Zamani, a labour activist, was arrested in June 2011. He began serving an eleven year prison sentence for "acting against national security by attempting to form house painters' union" and "propaganda against the state" in January 2012.

It is alleged that the Raja'i Shahr Prison is severely overcrowded .There are also reports of unsanitary conditions, and deficient food for inmates and systemic denials of necessary medical care, as was the case with Mr. Zamani.

As a political prisoner, Mr. Zamani was subject to especially harsh treatment. He was denied any furloughs, including one to attend his mother's funeral and visits with his family. Mr. Zamani was also denied phone access, as political prisoners are also the only detainees without telephone privileges.

We are concerned that Mr. Zamani's death may be due to substandard prison conditions and failure to receive medical care while in prison, in violation of Iranian law and in contravention of international human rights law for Standard Minimum Rules for the Treatment of Prisoners.

In connection with the above alleged facts and concerns, please refer to the **Reference to international law Annex** attached to this letter which cites international human rights instruments and standards relevant to these allegations.

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 therefore be grateful for your observations on the following matters:

1. Please provide any additional information and any comment you may have on the above on the above mentioned allegations.
2. Please provide information relative to the measures taken to ensure the physical and psychological integrity of Mr. Zamani.
3. Please provide information concerning Mr. Zamani's medical treatment or lack thereof, particularly any information regarding why he was denied a MRI and other neurological tests in the year leading up to his death.
4. Please provide the details, and where available the results, of any investigation, medical and forensic examinations, and judicial or other inquiries carried out in relation to the death of Mr. Mr. Zamani. If no inquiries have taken place, or if they have been inconclusive, please explain why.
5. Please provide information regarding current prison conditions and procedures for ensuring access to medical care for prisoners.
6. Please indicate which measures, legislation, and policies your Excellency's Government has adopted to comply with Article 43(1) of the Constitution of the Islamic Republic of Iran, Article 12 of the International Covenant on Economic, Social and Cultural Rights, and the UN Standard Minimum Rules for the Treatment of Prisoners.

7. Please indicate what measures have been taken to ensure that the rights to freedom of expression and opinion, and association of human rights defenders and unionists, including labour activists, are respected and guaranteed in Iran.

We would appreciate receiving a response within 60 days.

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(s) responsible for 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.

Juan E. Méndez

Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment

Maina Kiai

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

Dainius Pūras

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

Michel Forst

Special Rapporteur on the situation of human rights defenders

Ahmed Shaheed

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

Annex

Reference to international human rights law

In connection with above alleged facts and concerns, we would like to stress that Governments have the obligation to protect the right to physical and mental integrity of all persons, as set forth in the Universal Declaration of Human Rights and the International Covenant on Economic, Social and Cultural Rights (ICESCR), ratified by Iran on 24 June 1975. In particular, we would like to refer your Excellency's Government to article 12 of the ICESCR, which establishes the 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 to General Comment No. 14 of the CESCR, which provides that States are under the obligation, according to article 12 of the ICESCR to, inter alia, refrain 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 (Approved by the Economic and Social Council by resolutions 663 C (XXIV) of 31 July 1957 and 2076 (LXII) of 13 May 1977). 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."

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).

We would furthermore like to refer to article 7 of the International Covenant on Civil and Political Rights (ICCPR), which Iran acceded to on 24 June 1975, which states that “no one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment”. This absolute and non-derogable prohibition has been reiterated in paragraph 1 of Human Rights Council Resolution 16/23.

We furthermore would like to stress that unacceptable conditions of detention as described above can amount to inhuman and degrading treatment, as consistently found by, among others, the Human Rights Committee. The Standard Minimum Rules for the Treatment of Prisoners (approved by the Economic and Social Council by resolutions 663 C (XXIV) of 31 July 1957 and 2076 (LXII) of 13 May 1977) provide inter alia for a separation of prisoners taking into account their sex, age, criminal record, the legal reason for their detention and the necessities of their treatment (article 8). Articles 9 to 16 provide inter alia for appropriate accommodation, minimum cubic content of air and floor space, lighting and ventilation as well as requirements to be met regarding the personal hygiene of prisoners.

We would like to draw the attention of your Excellency’s Government to Principle 19 of 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 which states that, “A detained or imprisoned person shall have the right to be visited by and to correspond with, in particular, members of his family and shall be given adequate opportunity to communicate with the outside world [...]”. I would also like to draw your attention to rule 37 of the Standard Minimum Rules for the Treatment of Prisoners adopted on 30 August 1955 by the First United Nations Congress on the Prevention of Crime and the Treatment of Offenders, which provides that “Prisoners shall be allowed under necessary supervision to communicate with their family and reputable friends at regular intervals, both by correspondence and by receiving visits.”

We would like to draw to your Excellency’s Government’s attention that when the State detains an individual, it is held to a heightened level of diligence in protecting that individual’s rights. When an individual dies while in State custody, there is a presumption of State responsibility. In this case, we would like to recall the conclusion of the Human Rights Committee in a custodial death case, *Dermit Barbato v. Uruguay*, communication no. 84/1981 (21/10/1982), paragraph 9.2, where despite uncertainty as to the exact cause of death, state authorities were held responsible for failing to take adequate measures to protect Hugo Dermit’s life, as required by article 6(1) of the ICCPR.

In reference to charges against Mr. Zamani for activities as a labour activist and his eleven year prison sentence for allegedly “acting against national security by attempting to form house painters’ union” and “propaganda against the state”, we draw attention of your Excellency’s Government to Human Rights Council resolution 24/5. In particular, operative paragraph 2 of that resolution “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”.