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PROCEDURES SPECIALES DU
CONSEIL DES DROITS DE L'HOMME

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OFFICE OF THE UNITED NATIONS
HIGH COMMISSIONER FOR HUMAN RIGHTS

SPECIAL PROCEDURES OF THE
HUMAN RIGHTS COUNCIL

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 situation of human rights defenders; the Special Rapporteur on the independence of judges and lawyers; 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: AL G/SO 218/2 G/SO 214 (67-17) Assembly & Association (2010-1) G/SO 214 (107-9) G/SO 214 (3-3-16) Iran (2011-16) G/SO 214 (53-24)
IRN 10/2013

5 July 2013

Excellency,

We have the honour to address you in our capacity as Chair-Rapporteur 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 situation of human rights defenders; Special Rapporteur on the independence of judges and lawyers; 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 resolutions 15/18, 16/4, 15/21, 16/5, 17/2, 22/23; 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 arrest and detention, which occurred close to the recent presidential election, of Messrs. Khosro Kordpour and Massoud Kordpour, journalists; Ms. Jamileh Karimi and Messrs. Ashkan Zahabian, and Afshin Keshtkari, political and student activists,; and Mr. Mahmoud Beheshti Langroudi, trade unionist.**

According to the information received:

In the run-up to the 14 June 2013 presidential election, authorities have arrested and detained journalists, political and student activists, and trade unionists. At least two journalists have allegedly been arrested and detained. Mr. Khosro Kordpour, editor-in-chief of the Mukrian New Agency, was reportedly arrested by intelligence forces in early March 2013 under an arrest warrant issued by Branch

2 of the Revolutionary Court of Mahabad. He was allegedly transferred to the intelligence office of Mahabad. Authorities, meanwhile, reportedly searched his home and confiscated his computer. Mukrian News Agency reports on human rights violations, including the arrests and prosecutions of Kurdish activists.

Mr. Khosro Kordpour's brother, Mr. Massoud Kordpour, who is a freelance journalist, allegedly went to the Boukan Intelligence Office two days later to inquire about his brother's imprisonment. He was reportedly subsequently arrested, held in solitary confinement, and transferred to Mahabad Prison in the province of Azerbaijan. Authorities allegedly searched his home and confiscated some personal items. Mr. Massoud Kordpour had reported on the human rights situation in the Kurdistan province for RFI Persian, Deutsche Welle Persian, Voice of America Persian, and local Kurdish-language websites.

Both journalists were allegedly transferred to a Revolutionary Guards detention center in Orumiyeh a few weeks after their arrests in March 2013 and held in solitary confinement. Authorities have reportedly not disclosed the charges against them. Their family was allegedly prohibited from visiting them until 2 May 2013. Reportedly, neither of them was initially allowed access to a lawyer. Mr. Khosro Kordpour allegedly went on a hunger strike to protest his lack of access to a lawyer from 19 April to 13 May 2013, at which point he was transferred to a cell with other detainees. On 14 May 2013, the investigative judge reportedly extended the temporary detention order for an additional two months and informed their family that he would not be able to issue bail until the end of the election. Allegedly, the journalists' physical health is good but their mental health is poor.

Several political activists and student activists have also been arrested and detained prior to the election. Ms. Jamileh Karimi, a political activist and member of Central Council of the Reformists Coalition in Fars Province, was allegedly arrested by security forces at her home on 10 April 2013 and is allegedly being held in solitary confinement at a Ministry of Intelligence detention center in Shiraz known as "No. 100". Ms. Karimi worked for the Fars provincial Governor as an advisor on women's and youth affairs during Mohammad Khatami's presidency and was a signatory to a letter urging Mr. Khatami to run for presidency in 2013. Her charges have reportedly not been disclosed.

Mr. Ashkan Zahabian, a student activist, was allegedly arrested by Intelligence Ministry officials at his home on 27 May 2013. In 2011, he was reportedly convicted of "acting against national security" and "spreading propaganda against the system" and sentenced to an eight-month prison term. He allegedly had not received a written summons requiring him to commence serving his sentence but was taken to Babol Prison in Mazandaran province to serve the 2011 sentence.

Mr. Afshin Keshtkari, a student activist and founder of the University of Technology Islamic Student Association in Shiraz, was allegedly summoned to appear before the Revolutionary Court of Shiraz on 18 May 2013 and then

committed to Adel Abad Prison to begin serving six months of a pending three-year prison sentence. Indeed, he had reportedly been arrested following a student protest at the University of Technology in Shiraz on 7 December 2010, and subsequently was reportedly convicted of “forming an illegal group with intent to harm national security.” He was allegedly held at the detention center in Shiraz known as “No. 100” until 1 January 2011, when he was released on bail. The majority of his sentence was reportedly suspended upon appeal.

In addition to journalists and political and student activists, trade unionists have also been arrested and detained in the run-up to the election. Mr. Mahmoud Beheshti Langroudi, a former speaker of the Iran Teachers’ Trade Associations, was allegedly arrested in April 2010. He was reportedly convicted on 28 May 2013 by Branch 15 of the Revolutionary Court in Tehran of “gathering and colluding against the national security,” for which he was sentenced to four years in prison, and of “spreading propaganda against the system,” for which he was sentenced to an additional year in prison.

Without expressing at this stage an opinion on the facts of the case and on whether the detention of the abovementioned persons is arbitrary or not, we would like to appeal to your Excellency's Government to take all necessary measures to guarantee their right not to be deprived arbitrarily of their 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).

We would like to draw your Excellency's Government's attention to paragraph 6 of General Comment 20 of the Human Rights Committee. It states that prolonged solitary confinement of the detained or imprisoned person may amount to acts prohibited by article 7 [on the prohibition of torture and other cruel, inhuman or degrading treatment or punishment] of the International Covenant on Civil and Political Rights. (adopted at the 44th session of the Human Rights Committee, 1992). In this regard, we would also like to draw your attention to article 7 of the Basic Principles for the Treatment of Prisoners, which provides that “efforts addressed to the abolition of solitary confinement as a punishment, or to the restriction of its use, should be undertaken and encouraged”. (Adopted by the General Assembly by resolution 45/111 of 14 December 1990).

Without in any way implying any determination on the facts of the case, we would like to refer your Excellency's Government to the following provisions of the ICCPR:

- article 19 which provides that “[e]veryone 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”;

- article 21 which provides that “[t]he right of peaceful assembly shall be recognized. No restrictions may be placed on the exercise of this right other than those

imposed in conformity with the law and which are necessary in a democratic society in the interest of national security of public safety, public order (ordre public), the protection of public health or morals of the protection of the rights and freedoms of others”; and

- article 22 which provides that “[e]veryone 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 addition, 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.”

We would also 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 point a) which provides that everyone has the right, individually and in association with others to know, seek, obtain, receive and hold information about all human rights and fundamental freedoms, including having access to information as to how those rights and freedoms are given effect in domestic legislative, judicial or administrative systems; 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.

We would also like to refer your Excellency's Government to article 14(3) of the International Covenant on Civil and Political Rights, which states: "In the determination of any criminal charge against him, everyone shall be entitled to the following minimum guarantees, in full equality: (b) To have adequate time and facilities for the preparation of his defense and to communicate with counsel of his own choosing." In its General Comment No. 32, the Human Rights Committee further indicated that: "Adequate facilities' must include access to documents and other evidence; this access must include all materials that the prosecution plans to offer in court against the accused or that are exculpatory."

Furthermore, we would 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 2, which states: "Governments shall ensure that efficient procedures and responsive mechanisms for effective and equal access to lawyers are provided for all persons within their territory and subject to their jurisdiction, without distinction of any kind, such as discrimination based on race, colour, ethnic origin, sex, language, religion, political or other opinion, national or social origin, property, birth, economic or other status"; and

- Principle 8, which states: "All arrested, detained or imprisoned persons shall be provided with adequate opportunities, time and facilities to be visited by and to communicate and consult with a lawyer, without delay, interception or censorship and in full confidentiality. Such consultations may be within sight, but not within the hearing, of law enforcement officials."

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 persons in compliance with the above international instruments.

Moreover, since 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 cooperation and your observations on the following matters, when relevant to the case under consideration:

1. Are the facts alleged in the summary of the case accurate?
2. Has a complaint been lodged by or on behalf of the alleged victims?

3. Please provide information concerning the legal grounds for the arrest and detention of the abovementioned persons and how these measures are compatible with international norms and standards as stated, *inter alia*, in the Universal Declaration of Human Rights and the International Covenant on Civil and Political Rights.

4. Please provide the details, and where available the results, of any investigation, medical examinations, and judicial or other inquiries carried out in relation to this case. If no inquiries have taken place, or if they have been inconclusive, please explain why.

5. Please provide information on the measures taken to ensure the physical integrity of the above mentioned persons in detention.

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 persons 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.

El Hadji Malick Sow
Chair-Rapporteur of the Working Group on Arbitrary Detention

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Maina Kiai
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