

NATIONS UNIES
HAUT COMMISSARIAT DES NATIONS UNIES
AUX DROITS DE L'HOMME

PROCEDURES SPECIALES DU
CONSEIL DES DROITS DE L'HOMME

Mandates of the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression; 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

UNITED NATIONS
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HIGH COMMISSIONER FOR HUMAN RIGHTS

SPECIAL PROCEDURES OF THE
HUMAN RIGHTS COUNCIL

REFERENCE: UA G/SO 214 (67-17) Health (2002-7) Iran (2011-16)
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Excellency,

We have the honour to address you in our capacity as Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression; 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 16/4, 15/22, and 19/12.

In this connection we would like to bring to the attention of your Excellency's Government information we have received concerning the deteriorating state of health of Mr **Hossein Ronaghi Maleki**, a blogger.

According to information received:

Mr Maleki was arrested on 13 December 2009 for discussing politics in a series of critical blogs that were blocked by the government. After spending 10 months in temporary detention, on 15 October 2010, he was sentenced to 15 years in prison on charges of "membership in the Iran Proxy internet group," "propagating against the regime," "insulting the Supreme Leader," and "the President." The sentence was upheld by the appeal court. He has been on hunger strike since 26 May 2012 in protest at the authorities' refusal to grant him medical leave.

Mr Maleki's state of health has reportedly deteriorated since his arrest. Mr Maleki has undergone at least four surgeries and his left kidney has failed, while his right kidney is also reportedly at risk of failure. Despite the deteriorating condition of Mr. Maliki's health and the need for an immediate medical attention, including special post-operation medical leave, Mr Maleki is allegedly denied medical leave.

In light of the urgent need for medical attention, concern is expressed for Mr. Maliki's physical integrity.

While we do not wish to prejudge the accuracy of these allegations, we should like to appeal to your Excellency's Government to seek clarification of the circumstances regarding the case of Mr Maleki. We would like to stress that each Government has the obligation to protect the right of physical integrity of all persons. This right is set forth inter alia in the UDHR and ICCPR.

Furthermore, we would 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 of Mr. Maleki. This right is reflected, inter alia, in article 12 of the International Covenant on Economic, Social and Cultural Rights, which was ratified by the Islamic Republic of Iran on 24 Jun 1975 and which provides for the right of everyone to the enjoyment of the highest attainable standard of mental and physical health. This includes an obligation on the part of all States 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 Government to General Comment No. 14 of the Committee on Economic, Social and Cultural Rights, which holds 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).

We would also like to draw the attention of your Excellency's Government to the Standard Minimum Rules for the Treatment of Prisoners. Rule 22 (2) provides that "Sick prisoners who require specialist treatment shall be transferred to specialised institutions or to civil hospitals, where hospital facilities are provided in an institution, their equipment, furnishing and pharmaceutical supplies shall be proper for the medical care and treatment of sick prisoners, and there shall be a staff suitable trained officers. Furthermore, Rule 25(1) provides that "The medical officer shall have the care of the physical and mental health of prisoners and should daily see all sick prisoners, all who complain of illness, and any prisoner to whom his attention is specially directed. (approved by the Economic and Social Council by resolution 663 C (XXIV) of 31 July 1957 and 2076 (LXII) of May 1977)

We also wish) to reiterate the principle enunciated in Human Rights Council Resolution 12/16, which calls on States, while noting that article 19, paragraph 3 of the International Covenant on Civil and Political Rights provides that the exercise of the right to freedom of opinion and expression carries with it special duties and responsibilities, to refrain from imposing restrictions which are not consistent with paragraph 3 of that article, including on (i) discussion of government policies and political debate; reporting on human rights, government activities and corruption in government; engaging in election campaigns, peaceful demonstrations or political activities, including for peace or democracy; and expression of opinion and dissent, religion or belief, including by persons belonging to minorities or vulnerable groups.

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 International Covenant on Civil and Political Rights, 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.”

We would also like to refer your Excellency’s Government to the World Medical Assembly’s Declaration of Malta on Hunger Strikes (adopted in November 1991, revised in October 2006), which emphasizes the duty of all physicians to, inter alia, act ethically (Principles 1) and respect individuals’ autonomy (Principle 2). The Declaration further states that: “Forcible treatment is never acceptable. Even if intended to benefit, feeding accompanied by threats, coercion, force or use of physical restraints is a form of inhuman and degrading treatment” (Guideline 13).

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 complaint/request for medical furlough been lodged by or on behalf of Mr Maleki?
3. Please provide the details, and where available the results, of any medical examinations or inquiries carried out in relation to this case.
4. Please provide the details on the measures taken to ensure the enjoyment of the right to the highest attainable standard of health by Mr. Maleki.

We undertake to ensure that your Excellency’s Government’s response to each of these questions is included 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.

Frank La Rue
Special Rapporteur on the promotion and protection of the right to freedom of
opinion and expression

Anand Grover

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

Ahmed Shaheed

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