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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 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: UA G/SO 218/2 Health (2002-7) G/SO 214 (107-9) Iran (2011-16) IRN 7/2014

17 April 2014

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 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 24/7, 24/6, 25/18, and 25/24.

In this connection, we would like to draw the attention of your Excellency's Government to information we have received regarding the deteriorating health of **Mr. Abdolfattah Soltani, Ms. Maryam Shafipour, and Mr. Shahrokh Zamani** who are in urgent need of medical care.

Mr. Soltani is the co-founder of the Defenders of Human Rights Center; Ms. Maryam Shafipour is a student activist and member of Green Movement leader Mehdi Karroubi's 2009 election campaign; and Mr. Shahrokh Zamani is a member of the Provisional Board for Reopening of House-Painter Workers' Union and the Committee to Set up Free Labor Organizations.

According to the information received:

Mr. Abdolfattah Soltani, who is serving his 13-year sentence inside Evin Prison, is in critical condition due to denial of necessary medical care. Mr. Soltani reportedly lost four kilograms of weight in one month and has also been denied furlough to seek specialized medical care outside prison. He was hospitalized two years ago, but was transferred back to prison before his treatment was completed.

Mr. Soltani was arrested on 10 September 2011 and sentenced to 18 years in prison and a 20 years ban on practicing law on charges of “interviewing with media about his clients’ cases,” and “co-founding the Defenders of Human Rights Center”. An appeals court in June 2012 however reduced his prison sentence to 13 years.

Ms. Maryam Shafipour is denied medical treatment for heart, stomach, and dental problems outside prison despite repeated requests. On 27 July 2013, Ms. Shafipour was arrested after responding to a summon at Evin Prison Court. She reportedly spent 67 days in solitary confinement and in February 2014, she was sentenced to seven year in prison on charges of “propaganda against the system” and “assembly and collusion against national security.” Ms. Shafipour reportedly developed heart, stomach and dental problems in prison.

Mr. Shahrokh Zamani, a 49-year-old worker and painter, has been suffering critical health conditions after going on a hunger strike on 8 March 2014. Due to the ongoing hunger strike, Mr. Zamani reportedly lost 20 kilograms weight.

On 8 June 2011, officials from Ministry of Intelligence reportedly arrested Mr. Zamani, who was visiting his parents in Tabriz. He was held incommunicado for 40 days, where he was reportedly subjected to torture and other ill-treatment, before being sent to the Central Prison of Tabriz. On 18 August 2011, Revolutionary Court of Tabriz sentenced Mr. Zamani to 11-year imprisonment on charges of “propaganda against the system and forming socialist groups.” In October 2013, the prison authorities reportedly added 6 months to Mr. Zamani's existing sentence on charge of “insulting the Supreme Leader.” Mr. Zamani is currently serving his prison term in Ghezel Hesar Prison in Karaj, where only hard-core criminals are held.

Very serious concern is expressed about the physical and psychological integrity of Mr. Abdolfattah Soltani, Ms. Maryam Shafipour, and Mr. Shahrokh Zamani. Grave concern is expressed about allegations received indicating that Mr. Shahrokh Zamani may have been subject to torture and ill-treatment while in detention. Serious concern is expressed about allegations indicating that the three of them are not receiving adequate medical care to address their deteriorating health conditions in detention. Moreover, concern is expressed at allegations received indicating that their situation could be linked to their work for the defence and promotion of human rights and fundamental freedoms.

Without expressing at this stage an opinion on the facts of the case and on whether the detention of Ms. Maryam Shafipou, and Mr. Shahrokh Zamani 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). The Working Group on Arbitrary Detention already declared arbitrary the detention of Mr. Soltani in its Opinion 54/2012.

While we do not wish to prejudge the accuracy of these allegations on whether Mr. Abdolfattah Soltani, Ms. Maryam Shafipour, and Mr. Shahrokh Zamani received adequate health care and attention, we would like to appeal to your Excellency's Government to take all necessary measures to guarantee their fundamental human rights. Of the most importance is the right to adequate health care.

Regarding allegations received indicating that the situation of Mr. Abdolfattah Soltani, Ms. Maryam Shafipour, and Mr. Shahrokh Zamani could be linked to their work for the defence and promotion of human rights and fundamental freedoms, we would 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, also known as the UN Declaration on Human Rights Defenders. In particular, we would like to refer to articles 1 and 2 of the Declaration which state that everyone has the right to promote and to strive for the protection and realization of human rights and fundamental freedoms at the national and international levels and that the State has the primary responsibility and duty to protect, promote and implement all human rights and fundamental freedoms for all, including the rights enshrined in the Declaration.

Furthermore, we would like to bring to the attention of your Excellency's Government article 12, paragraphs 2 and 3, of the Declaration provides that the State shall take all necessary measures to ensure the protection by the competent authorities of everyone 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. Everyone should be protected effectively under National law when peacefully reacting against or opposing 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.

In addition, we would like to refer to Human Rights Council Resolution 22/6, which explicitly indicates that domestic law and administrative provisions, and their application, should facilitate the work of human rights defenders, including by avoiding their criminalization or stigmatization, or by imposing any impediments, obstructions or restrictions to their work. States should take concrete steps to prevent and stop the use of legislation to hinder or unduly limit the ability of human rights defenders to exercise their work, including by reviewing and, where necessary, amending relevant legislation and its implementation in order to ensure compliance with international human rights law. (A/HRC/RES/22/6, PPs 10-13)

We should like to appeal to your Excellency's Government to seek clarification of the circumstances regarding the case of Mr. Abdolfattah Soltani, Ms. Maryam Shafipour, and Mr. Shahrokh Zamani and stress that each Government has the obligation to protect the right to physical and mental integrity of all persons. This right is set forth in the UDHR and the ICCPR, to which the Islamic Republic of Iran is a state party.

With regard to the allegations of the denial of medical care, we would like to recall that this right is reflected, *inter alia*, in article 12 of the International Covenant on Economic, Social and Cultural Rights (ratified on 24 June 1975), 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.

In this connection, we 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 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).

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, 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 summary of the case accurate?
2. Has a complaint been lodged by or on behalf of the alleged victim?
3. Please provide information concerning the legal grounds for the arrest and detention of the above-mentioned persons and how these measures are compatible with international norms and standards as stated, inter alia, in the Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights, and the Declaration on Human Rights Defenders.
4. Please provide details and where possible the result of any medical examinations, and judicial or other inquiries carried out in relation to these cases. If no inquiries have taken place, or if they have been inconclusive, please explain why.
5. Please provide details of any measures taken to ensure adequate living conditions and health standards, access to medical care and availability of essential medicines to alleged victims.
6. Please kindly indicate what measures have been taken to ensure that human rights defenders are able to carry out their legitimate work without fear of threats or acts of intimidation, criminalization and harassment of any sort.

We undertake to ensure that your Excellency’s Government’s response will be available 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.

Mads Andenas
Chair-Rapporteur of the Working Group on Arbitrary Detention

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

Margaret Sekaggya
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