

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

**PROCEDURES SPECIALES DU  
CONSEIL DES DROITS DE L'HOMME**

**UNITED NATIONS  
OFFICE OF THE UNITED NATIONS  
HIGH COMMISSIONER FOR HUMAN RIGHTS**

**SPECIAL PROCEDURES OF THE  
HUMAN RIGHTS COUNCIL**

**Mandates of 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; and the Special Rapporteur on the independence of judges and lawyers.**

REFERENCE: AL G/SO 214 (67-17) Assembly & Association (2010-1) G/SO 214 (107-9) G/SO 214 (3-3-16)  
UZB 1/2012

31 January 2012

Excellency,

We have the honour to address you in our capacities as 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; and Special Rapporteur on the independence of judges and lawyers pursuant to General Assembly resolution 60/251 and to Human Rights Council resolution 16/4, 15/21, 16/5, and 17/2.

In this connection, we would like to bring to your Excellency's Government's attention information received regarding **allegations of acts of harassment and intimidation against activists and human rights defenders; of forcible and arbitrary dispersal of peaceful protesters in the context of two peaceful assemblies held in Tashkent; and the alleged violation of their right to a fair trial.**

According to the information received:

On 6 December 2010, at approximately 10:00 a.m., a group of protesters gathered peacefully at the Mustaqilik Square to demand resignation of the President, the dismissal of the Parliament and the conduct of new elections. The picket aimed at raising awareness of the human rights situation in the country.

Shortly thereafter, Ministry of Internal Affairs officials allegedly interrupted the assembly requesting protesters to show their identity cards. A copy of the official notification of the protest was reportedly shown to the officials. However, protesters were asked to "roll up their posters and leave the square" if they wished not to be detained.

It is reported that a group of unidentified persons allegedly separated protesters from the square and accompanied them to the Navoy street junction. They

allegedly twisted their hands and forcibly pushed them into vehicles without number plates. More specifically, Mr. A, Ms. B, Mr. C and Mr. D were allegedly sent to the Department of Internal Affairs in Yunusabad district.

While in detention, we are informed that these persons were denied access to a lawyer and to make a phone call, and forced to turn off their mobile phones; prevented from drinking water, eating and using the washroom; placed in a small room with only one chair for four persons; and subjected to acts of harassment and intimidation, which included death threats.

At approximately 7:00 p.m., these four activists were taken to Yunusabad district's Criminal Affairs Court. It is reported that there were no witnesses inside the courtroom; that no evidence was presented against them; that they were denied access to legal representation; and that the court failed to inform them about the charges and the reasons for detention. About 20 minutes later, the Court found violations of article 201 of the Code on Administrative Responsibility that relates to the rules for the organization and conduct of gatherings, meetings, street processions or demonstrations. The Court sentenced each activist for administrative violations and imposed large fines.

More recently, on 31 October 2011, it is reported that three unknown persons allegedly entered the private residence of Mr. D, confiscating personal items and making an inventory of his personal property. Two of these individuals were later identified as court officers from the Tashkent and the Mirabad City Departments of Internal Affairs. The third person is said to be a member of the National Security Service.

We are informed that on 4 April 2011, Mr. A participated in a gathering to raise awareness on human rights with workers from the Hamza district of Tashkent. He was subsequently detained by officials from the Department of Internal Affairs of Hamza district and brought to the district Court. He was accused of organizing an illegal meeting and fined unreasonably for violating the Code on Administrative Responsibility. It is reported that Mr. A was denied access to legal representation during the trial and that the Court failed to provide any evidence to sustain its accusation.

Without prejudging the accuracy of these allegations, serious concerns are expressed regarding the physical and psychological integrity of the aforementioned persons. Grave concern is further expressed that these allegations could form part of a systematic policy to arbitrarily prevent activists and human rights defenders from expressing their dissenting views, including those critical of the actions and policies of the Government.

We would like to appeal your Excellency's Government to ensure that the right to peaceful assembly is effectively guaranteed in line with your obligations stemming from article 21 of the International Covenant on Civil and Political Rights (ICCPR). In this

context, we reiterate General Comment 31 of the Human Rights Committee that provides that, “States must demonstrate their necessity and only take such measures as are proportionate to the pursuance of legitimate aims in order to ensure continuous and effective protection of Covenant rights. In no case may the restrictions be applied or invoked in a manner that would impair the essence of a Covenant right”. Consequently, restrictive measures shall not be arbitrarily imposed to prevent dissenting views from exercising their legitimate rights.

In this regard, we would also 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.”

With regard to the allegations that Messrs. A, C, D and Ms. B were neither informed of the reasons for their arrest nor of the charges against them, we wish to draw the attention of your Excellency’s Government to article 9(2) of the ICCPR, which state that anyone shall be informed promptly of the charges against him or her.

Concerning the allegation that all aforementioned human rights defenders were denied access to legal representation following their arrest, we wish to stress that “Governments shall ... ensure that all persons arrested or detained, with or without criminal charge, shall have prompt access to a lawyer, and in any case not later than forty-eight hours from the time of arrest or detention” in accordance with 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 (principle 5).

In light of these allegations and the information indicating that no evidence was presented against them during their trial, nor witnesses called against them, and that Messrs. A, C, D and Ms. B were found guilty of violating the Code on Administrative Responsibility following a very brief one-session hearing lasting 20 minutes, we are seriously concerned that their trial did not allow a thorough review of the case, and that the defendants were not given a fair trial. In this regard, we wish to refer to article 14(1) of the ICCPR and article 6 of the Basic Principles on the Independence of the Judiciary (endorsed by General Assembly resolutions 40/32 of 29 November 1985 and 40/146 of 13 December 1985), according to which everyone is entitled to fair judicial proceedings.

In this connection, 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, 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, points b) and c) which provide that everyone has the right, individually and in association with others as provided for in human rights and other applicable international instruments, freely to publish, impart or disseminate to others views, information and knowledge on all human rights and fundamental freedoms; and to study, discuss, form and hold opinions on the observance, both in law and in practice, of all human rights and fundamental freedoms and, through these and other appropriate means, to draw public attention to those matters; 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.

In addition, we would like to refer to the 2006 report to the General Assembly (A/61/312) of the Special Representative of the Secretary-General on the situation of human rights defenders and in particular to paragraph 98 which provides that “in conformity with article 15 of the Declaration [on Human Rights Defenders], the Special Representative urges States to ensure that law enforcement agencies and their members are trained in and aware of international human rights standards and international standards for the policing of peaceful assemblies, including the Declaration on Human Rights Defenders, the Code of Conduct for Law Enforcement Officials and other relevant treaties, declarations and guidelines. The Special Representative also advises all States that all allegations of indiscriminate and/or excessive use of force by law enforcement officials should be properly investigated and appropriate action taken against the responsible officials.”

We would appreciate a response on the initial steps taken by your Excellency’s Government’s to safeguard the rights of the aforementioned persons in compliance with the above international instruments.

We urge your Excellency's Government to take all necessary measures to guarantee that the rights and freedoms of the aforementioned persons are respected and that accountability of any person guilty of the alleged violations is ensured. We also request that your Excellency's Government adopts effective measures to prevent the recurrence of these acts.

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 victims?
3. Please indicate whether the aforementioned individuals were informed of the reasons for their arrest and detention as well as of the charges against them. Please provide information concerning the legal grounds for their arrest and detention as well as for the judicial proceedings against them. Please explain how these measures are compatible with international norms and standards as stated, *inter alia*, in the ICCPR.
4. Please indicate whether all detainees had access to their family, legal counsel, and medical personnel.
5. Please provide the details, and where available, the results of any investigation, 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.
6. Please explain any measure taken by your Excellency's Government's to ensure that the rights of the aforementioned persons to freedom of opinion and expression and to peaceful assembly have been protected.

We would appreciate a response within sixty days. We undertake to ensure that your Excellency's Government's response to each of these questions is accurately reflected in the reports we will submit to the Human Rights Council for its consideration.

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

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

Margaret Sekaggya  
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