

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 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 situation of human rights in the Islamic Republic of Iran

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

SPECIAL PROCEDURES OF THE
HUMAN RIGHTS COUNCIL

REFERENCE: UA G/SO 214 (67-17) Assembly & Association (2010-1) G/SO 214 (107-9) Iran (2011-16)
IRN 3/2013

21 January 2013

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 rights to freedom of peaceful assembly and of association; 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 16/4, 15/21, 16/5, and 19/12.

In this connection, we would like to draw the attention of your Excellency's Government to information we have received regarding the continued harassment of Ms. **Mansoureh Behkish**, a netizen, and founder and spokesperson of the Mourning Mothers (Madaran-e Azardar) movement. Mourning Mothers is an alliance formed by women whose children and relatives have been killed, executed, detained or disappeared since 1981. The group demands justice for those who were executed or disappeared in mass graves from the 1980s. She has been repeatedly harassed and detained due to her activities. Ms. Mansoureh Behkish has already been the subject of a joint urgent appeal dated 8 July 2011, sent by the Chair-Rapporteur 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 situation of human rights defenders, the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment and the Special Rapporteur on the rights to freedoms of peaceful assembly and of association. We acknowledge the receipt of your Excellency's Government's reply sent on 3 September 2012, but regret that the concerns expressed with regard to Ms. Mansoureh Behkish have not been addressed therein.

According to the information received:

Ms. Behkish has been ordered to report to Tehran's Evin prison on 29 January 2013, to begin serving a six-month prison sentence. She had been sentenced by a

Tehran revolutionary court in December 2011 to four-and-a half years in prison on charges of ‘propaganda against the system’ and ‘gathering and colluding with intent to harm national security’. The sentence was reduced on appeal to six months regarding the anti-government propaganda charge and Ms. Behkish received a suspended sentence of three-and-a-half years for activities threatening national security.

On 12 June 2011 at 8:00 p.m., Ms. Mansoureh Behkish was arrested by security agents in a street of Tehran and subsequently transferred to section 209 of Evin Prison, where she had been detained for a month. Previously, Ms Behkish had been arrested along with 33 other members of Mourning Mothers on 9 January 2010 while demonstrating in Laleh Park.

It is reported that Ms. Behkish was first arrested during the Mourning Mothers group’s weekly gatherings in Laleh Park, Tehran on 5 December 2009. On 9 January 2010, several members of the group were reportedly beaten on the occasion of a peaceful protest and 10 had to be taken to hospital.

Concern is expressed that the harassment and recent summons of Ms. Mansoureh Behkish to start serving her prison sentence on 29 January 2013 is solely related to her peaceful activities in defence of human rights, in particular her attempts to seek justice for those executed or disappeared since the 1980s.

Without in any way implying any determination on the facts of the case, 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 5 points b) and c) which provide that for the purpose of promoting and protecting human rights and fundamental freedoms, everyone has the right to form, join and participate in non-governmental organizations, associations or groups, and to communicate with non-governmental or intergovernmental organizations.

- 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.
- 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 also deem it appropriate to reiterate the principle reiterated in Resolution 2005/38 of the Commission on Human Rights which calls on states to facilitate the full, equal and effective participation and free communication of women at all levels of decision making in their societies and in national, regional and international institutions, including in mechanisms for the prevention, management and resolution of conflicts.

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 International Covenant on Civil and Political Rights (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."

We would also like to appeal to your Excellency's Government to take all necessary steps to ensure the right to freedom of association, as recognized in article 22 of the ICCPR, which provides that "Everyone 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".

We would further like to appeal to your Excellency's Government to take all necessary steps to ensure the right of peaceful assembly as recognized in article 21 of the ICCPR, which provides that "The 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 interests of national security or public safety, public order (ordre public), the protection of public health or morals or the protection of the rights and freedoms of others.

In this connection, 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.”

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 Ms. Mansoureh Behkish 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 been lodged by Ms. Mansoureh Behkish or on her behalf?
3. Please provide information concerning the national legislation related to freedom of opinion and expression, including freedom of the press, its conformity with article 19 of the International Covenant on Civil and Political Rights and with other relevant provisions included in international treaties.
4. Please provide the details of the prosecution against the Ms. Mansoureh Behkish, and how it is compatible with the international norms and standards of the right to freedom of opinion and expression and the right to freedom of peaceful assembly and of association.
5. Please provide legal basis upon which Ms. Mansoureh Behkish was sentenced to six months imprisonment and how that is compatible with the international norms and standards on the right to freedom of opinion and expression and the right to freedom of peaceful assembly and of association.

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 Ms. Mansoureh Behkish 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

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

Margaret Sekaggya
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Ahmed Shaheed
Special Rapporteur on the situation of human rights in the Islamic Republic of Iran