

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 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

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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 rights to freedom of peaceful assembly and of association; 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 24/7, 25/2, 24/5, 24/6, and 28/21.

In this connection, we would like to bring to the attention of your Excellency's Government information we have received concerning the alleged arbitrary detention, denial of due process and fair trial, and authorities' alleged refusal to ensure adequate access to healthcare of Mr. **Mohammad Hossein Rafiee Fanood** and Mr. **Hossein Ronaghi Maleki**.

Mr. Rafiee was the subject of an urgent appeal (case no. IRN 2/2016) sent on 1 February 2016, to which the Government is yet to respond.

According to the information received:

In the case of Mr. Mohammad Hossein Rafiee Fanood

On 22 February 2016, the Appeal Court in Tehran upheld the six-year prison sentence and two-year ban on political and journalistic activities, imposed on Mr.

Mohammad Hossein Rafiee Fanood, a gravely ill 72-year-old, retired professor of polymer chemistry at University of Tehran and alleged member of the banned Melli Mazhabi political group (National Religious Alliance) in connection with writings on social and political issues posted on his website. The decision was upheld during a brief hearing in the absence of Mr. Rafiee because the authorities allegedly revoked the permit allowing him to attend the hearing in his own clothes.

On 16 June 2015, Mr Rafiee was allegedly arrested without a warrant by officers from the Ministry of Intelligence. He was taken to the Evin Prosecution Center, where the prosecutor on duty was allegedly forced to issue an arrest warrant. Upon rejection, the arresting officers sought the order from the Prosecutor General of Tehran. After spending a month in detention, Mr. Rafiee was verbally told that he was arrested in order to serve a four-year prison sentence handed down in 2003. The verdict issued in 2003 had never been carried out before. His trials were held in private without the presence of jury.

Since his arrest, Mr. Rafiee has reportedly been subjected to inhuman and degrading treatment. He suffers from serious health issues, including a heart condition, high blood pressure, a thyroid problem, and severe allergies. He is reportedly held in a ward that is severely overcrowded, poorly ventilated, and lacks adequate sleeping and sanitation facilities. Mr. Rafiee is in Ward 8 of Evin Prison and did not have his own bed during the first month of detention, during which time he was forced to sleep on the ground. Mr. Rafiee is also being denied access to a heart specialist and the prison authorities have refused to give him access to medicine provided by his family. His health situation continues to degrade due to the lack of access to adequate and specialized medical treatment along with poor hygienic conditions in the ward where he is being detained.

He has also been denied compassionate leave to visit his wife in hospital, who is seriously ill and due to undergo urgent surgery.

In the case of Mr. Hossein Ronaghi Maleki

On 13 December 2009, **Mr. Hossein Ronaghi Maleki** was arrested and convicted of membership of Iran Proxy, an Internet group, as well as ‘insulting the Supreme Leader’ and ‘spreading propaganda against the system’. He was sentenced to 15 years in prison, which was reduced to 13 years in June 2015.

He has been on hunger strike since 26 March 2016 and is allegedly being denied access to constant monitoring and regular specialised medical care in a hospital that he requires due to his health problems. He reportedly has kidney disease and has only one functioning kidney, and suffers from gastro-intestinal, bladder, heart and chest problems.

He was reportedly tortured and subject to other forms of ill-treatment while in detention. This allegedly includes severe beatings by those conducting his interrogations. He has been forced to make confessions broadcasted on television and requests from his family for help have allegedly been repeatedly ignored.

While we do not wish to prejudge the accuracy of these allegations, we would like to appeal to your Excellency's Government to take all necessary measures to guarantee the right of these persons not to be deprived arbitrarily of their liberty and to fair proceedings before an independent and impartial tribunal, in accordance with articles 9, 10 and 11 of the Universal Declaration of Human Rights (UDHR) and articles 9 and 14 of the International Covenant on Civil and Political Rights (ICCPR), ratified by Iran on 24 June 1975.

We are seriously concerned that the arrest and detention of Mr. Mohammad Hossein Rafiee Fanood is solely connected to his membership of the political group Melli Mazhabi, as well as his writings of a political nature on the Internet, and that the arrest and detention of Mr. Hossein Ronaghi Maleki is solely connected to writings of a political nature on the Internet. We are also seriously concerned about the treatment both detainees have been subjected to while in prison and the reported lack of adequate medical attention in both cases.

Serious concern is also expressed for the broader effect of the above-mentioned allegations, which may have a "chilling effect" on civil society, particularly those with dissenting opinions, exercising their rights to freedom of association and freedom of expression.

We would in this regard refer your Excellency's Government to articles 19 and 22 of the ICCPR, guaranteeing the rights to freedom of expression and freedom of association. Serious concern is expressed at allegations about the use of criminal law to restrict critical expression, political dissent and opinion and political and public affairs. We would like to remind your Excellency's Government that any restriction to the rights to freedom of expression and association must meet the conditions established by articles 19 and 22 of the ICCPR, hereunder conform to the strict tests of necessity and proportionality. The Human Rights Committee has stated in General Comment No. 34 that restrictions to the right to freedom of expression must never be invoked as a justification for the muzzling of any advocacy of multi-party democracy, democratic tenets and human rights (CCPR/C/GC/34).

We would like to refer your Excellency's Government to article 12 of the Covenant on Economic, Social and Cultural Rights, ratified by Iran on 24 June 1975, which establishes that an obligation to respect the right to health by, inter alia, refraining from denying or limiting equal access for all persons, including prisoners or detainees to preventive, curative and palliative health services (General Comment 14, Para. 34). In

addition, we would like to underline the Basic Principles for the Treatment of Prisoners, adopted by the General Assembly in resolution 45/111, according to which prisoners should have access to health services available in the country without discrimination on the grounds of their legal situation (Principle 9).

In addition, we would like to draw your Excellency's Government's attention to paragraph 23 of the methods of work of the Working Group on Arbitrary Detention, according to which, "after having transmitted an urgent appeal to the Government, the Working Group may transmit the case through its regular procedure in order to render an opinion on whether the deprivation of liberty was arbitrary or not. Such appeals — which are of a purely humanitarian nature — in no way prejudice any opinion the Working Group may render. The Government is required to respond separately for the urgent action procedure and the regular procedure.

The full texts of the human rights instruments and standards recalled above are available on www.ohchr.org or can be provided upon request.

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 international instruments.

As 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 observations on the following matters:

1. Please provide any additional information and any comment you may have on the above mentioned allegations.
2. Please provide detailed information on the measures taken to provide Mr. Mohammad Hossein Rafiee Fanood and Mr. Hossein Ronaghi Maleki with the guarantees of due process and fair trial, in particular articles 9, 14, 15 and 36 of the ICCPR.
3. Please indicate which measures your Excellency's Government has adopted to respect and protect the aforementioned detainees' rights in detention, including article 7 of the ICCPR, articles 11 and 12 of the ICESCR, the Standard Minimum Rules for the Treatment of Prisoners adopted by the First United Nations Congress on the Prevention of Crime and the Treatment of Offenders, approved by the Economic and Social Council in its resolutions 663 C (XXIV) of 31 July 1957 and 2076 (LXII) of 13 May 1977, the Body of Principles for the Protection of All Persons Under Any Form of Detention or Imprisonment, adopted by the General Assembly in its resolution 46/173 of 9 December 1988, and the Basic Principles for the Treatment of Prisoners, adopted by the General Assembly in its resolution 45/111 of 14 December 1990.

4. Please provide information concerning the measures taken by your Excellency's Government to ensure the physical and psychological well-being of Mr. Mohammad Hossein Rafiee Fanood and Mr. Ronaghi Maleki, and please provide information regarding current policies and regulations in place to ensure that prisoners in similar situations have access to proper and adequate medical treatment.

5. Please indicate what measures your Excellency's Government has adopted or is planning to implement in order to protect the human rights of vulnerable prison populations and those convicted of political or national security crimes, including provisions of the State Prisons Organisations related to separating prisoners based on their convictions and sentences.

While waiting for your response, we urge your Excellency's Government to take all necessary measures to guarantee that the rights and freedoms of, in the event that your investigations support or suggest the above allegations to be correct, we request that your Excellency's Government adopt effective measures to prevent the recurrence of these acts.

Your Excellency's Government's response will be made available in a report to be presented to the Human Rights Council for its consideration.

Please accept, Excellency, the assurances of our highest consideration.

David Kaye

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

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