

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 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 right of everyone to the enjoyment of the highest attainable standard of physical and mental health; 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 torture and other cruel, inhuman or degrading treatment or punishment.

REFERENCE: UA G/SO 218/2 G/SO 214 (67-17) Assembly & Association (2010-1) Health (2002-7) G/SO 214 (107-9) G/SO 214 (53-24)
IRN 9/2011

8 July 2011

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 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; 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 torture and other cruel, inhuman or degrading treatment or punishment pursuant to General Assembly resolution 60/251 and to Human Rights Council resolutions 15/18, 16/4, 15/22, 15/21, 16/5, and 16/23.

In this connection, we would like to draw the attention of your Excellency's Government to information we have received regarding **the recent arrests and detention of human rights activists, students and members of political opposition in the Islamic Republic of Iran, in particular Ms. Massumeh Dehghan, Ms. Mahnaz Mohammadi, Ms. Mansoureh Behkish, Mr. Farzad Haghshenas, Ms. Maryam Bahreman, Mr. Ashkan Zahabian and Mr. Mohammed Reza Fakhravar.**

According to the information received:

On 5 July 2011, it is reported that Ms. Massumeh Dehghan, the wife of Mr. Abdolfattah Soltani, a well-known Iranian human rights lawyer and a founding member of the Defenders of Human Rights Centre (DHRC), was placed in detention in Evin Prison. Ms. Dehghan was not able to have access to her lawyer before the court, and there is no information about charges or reasons of her detention. It is believed that her detention could be related to the human rights activities carried out by her husband.

On 26 June 2011, Ms. Mahnaz Mohammadi, a film maker, human rights defender and women's rights activist, was arrested at her home in Tehran by unidentified officials, believed to be Iranian security forces, and detained by the 2nd Department A of the Revolutionary Guards in Evin Prison. There are serious concerns for Ms. Mohammadi's physical and mental well-being as she suffers from a very serious spine condition which requires cortisone injections on a regular basis. Without the required medication, Ms. Mohammadi suffers from severe pain and is unable to move. There are also concerns that she has been denied access to her family.

On 12 June 2011 at 8:00 p.m., Ms. Mansoureh Behkish was arrested by the security agents in a street of Tehran and subsequently transferred to section 209 of Evin Prison, where she allegedly remains to date. Ms. Mansoureh Behkish is an Iranian human rights activist fighting against the execution of prisoners and member of the Madaran-e Azardar ("Mourning Mothers"), a group formed by women whose children have been killed, executed, detained or disappeared since 1981. Although allowed twice to make a telephone call to her mother, Ms. Mansoureh Behkish could not speak about the conditions of her detention. We are informed that Ms. Mansoureh Behkish suffers from a neurodegenerative disease called diffuse myelinoclastic sclerosis.

On 18 May 2011, Mr. Farzad Haghshenas, an environmental activist and member of NGO Sabzchia ("The Green Mountain Society"), was arrested by members of the Ministry of Intelligence in front of his shop in Marivan, Kurdistan Province. He was taken to the Marivan Intelligence detention facility without being informed of the reasons for his arrest. It is reported that Mr. Haghshenas was allowed a visit by his mother on 13 June 2011, during which he informed her that he was being held in solitary confinement in absence of any knowledge regarding charges or reasons for his arrest and detention.

On the morning of 11 May 2011, Ms. Maryam Bahreman, a member of the One Million Signatures Campaign, also known as the Campaign for Equality and founding member and General Secretary of Sazman-e Zanan Pars ("Pars Women's Association"), was arrested by security officers believed to belong to the Ministry of Justice. She was allegedly presented with an arrest warrant issued by the Revolutionary Court of Shiraz on the charge of "action against national

security”. After a three-hour home search, the security officers confiscated her personal items including her laptop, mobile phone and books. She was then taken to an undisclosed location. Only 14 days after her arrest, was Ms. Bahreman’s family authorized to visit her at the detention centre of Shiraz where she is currently being held. Reportedly, she has been interrogated with regard to her participation in the 55th Session of the UN Commission on the Status of Women, held in New York in February-March 2011, where she had spoken publicly on “Information and Communications Technologies in Iran from a gender perspective”. We are further informed that Ms. Maryam Bahreman’s lawyer continues to not have access to her file.

Reportedly, other members involved in the One Million Signatures Campaign are currently serving sentences for their activities related to the promotion and protection of human rights. These include Mmes. Mahboubeh Karami, Alieh Aghdam-Doust, Fatemeh Masjedi, Zeynad Bayezidi, Ronak Safazadeh, Behareh Hedayat and Hengameh Shahidi.

On 2 May 2011, Mr. Ashkan Zahabian, a student activist and member of Mehdi Karroubi’s election campaign in the 2009 presidential election, was arrested after having been summoned by the Office of Ministry of Intelligence in Sari. Allegedly he faces a six-month prison term for disturbing public order and inciting protests. He is believed to be held at the Shahid Kachoui detention facility run by the Ministry of Intelligence. It is reported that Mr. Ashkan Zahabian has been allowed to contact his family by telephone on at least three occasions. However, his family and lawyer have been denied access to visit him.

It is also reported that on 29 April 2011, Mr. Mohammed Reza Fakhravar (also known as Arash), a member of the Confederation of Iranian Students, was arrested at Tehran Airport after returning from France where he sought asylum. He had first been arrested on 31 December 2010, after having participated in demonstrations held in Iran during the Ashoura religious commemorations. In March and April 2011, Mr. Mohammed Reza Fakhravar allegedly took part in demonstrations against the Iranian Government in France. The circumstances of his return from France remain unclear. He is currently being held at Section 209 of Evin Prison.

Concern is expressed at the allegations that the arrests and detention of the above-mentioned persons may be solely based on their peaceful exercise of the right to freedom of opinion and expression as well as the right to peaceful assembly and association. Concern is also expressed that the denial of the necessary medical treatment to Ms. Mahnaz Mohammadi could cause such severe pain as to constitute cruel, inhuman or degrading treatment or even torture.

Without expressing at this stage an opinion on the facts of the cases and on whether the detention of the above-mentioned persons 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).

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."

We would 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 interest of national security of public safety, public order (ordre public), the protection of public health or morals of the protection of the rights and freedoms of others."

We would also 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 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;

- 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 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; and

- article 9, para. 1 which establishes that in the exercise of human rights and fundamental freedoms, including the promotion and protection of human rights as referred to in the present Declaration, everyone has the right, individually and in association with others, to benefit from an effective remedy and to be protected in the event of the violation of those rights.

Furthermore, in the Convention on the Elimination of all Forms of Discrimination against Women, States agreed to take all appropriate measures to eliminate discrimination against women in the political and public life of the country and, in particular, to ensure to women, on equal terms with men, the right (..) to participate in non-governmental organizations and associations concerned with the public and political life of the country (art.7(c)).

In addition, regarding the allegations received indicating that Ms. Maryam Bahreman has been arrested and interrogated in connection to her participation in the 55th session of the UN Commission on the Status of Women, we wish to recall the provisions of resolution 12/2 of the Human Rights Council (A/HRC/RES/12/2), which, inter alia, “condemns all acts of intimidation on reprisal by Governments and non-State actors against individuals and groups who seek to cooperate or have cooperated with the United Nations, its representatives and mechanisms in the field of human rights”(OP 2) and “calls upon all States to ensure adequate protection from intimidation or reprisals for individuals and groups who seek to cooperate or have cooperated with the United Nations, its representatives and mechanisms in the field of human rights (...)” (OP 3).

With regard to Mr. Zahabian, we would like to refer to the 2007 report to the General Assembly (of the Special Representative of the Secretary-General on the situation on human rights defenders) in which she recommends to “take steps to create a conducive environment that allows children and young adults to associate and express views on matters affecting them as well as on broader human rights issues. Student protests have a high educational value as they are among the first experiences of public

participation and human rights defense of students. Ensuring a conducive environment for student protests is a social investment in addition to a legal obligation (A/62/225, para. 101 b).

Without in any way implying any conclusion as to the facts of the cases, we should like to appeal to your Excellency's Government to seek clarification of the circumstances regarding the case of Ms. Mahnaz Mohammadi. We would like to stress that each Government has the obligation to protect the right to physical and mental integrity of all persons. This right is set forth inter alia in the UDHR and the ICCPR.

We would appreciate information from your Excellency's Government on the steps taken by the competent authorities with a view to ensuring the enjoyment of the right to the highest attainable standard of health of Ms. Mahnaz Mohammadi. This right is reflected, inter alia, in article 12 of the International Covenant on Economic, Social and Cultural Rights (ratified on 24 Jun 1975), 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. In addition, we would like to draw your attention to General Comment No. 14 of the Committee on Economic, Social and Cultural Rights (E/C.12/2000/4), which holds 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 and to refrain from denying or limiting equal access for all persons to preventative, curative and palliative health services.

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 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." Furthermore, 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." (approved by the Economic and Social Council by resolutions 663 C (XXIV) of 31 July 1957 and 2076 (LXII) of 13 May 1977.)

We would like to draw your Excellency's Government's attention to principle 19 of the Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment adopted by the General Assembly on 9 December 1988 which states that, "A detained or imprisoned person shall have the right to be visited by and to correspond with, in particular, members of his family and shall be given adequate opportunity to communicate with the outside world [...]". We would also like to draw your Excellency's Government's attention to rule 37 of the Standard Minimum Rules for the Treatment of Prisoners adopted on 30 August 1955 by the First United Nations Congress on the Prevention of Crime and the Treatment of Offenders, which provides

that “Prisoners shall be allowed under necessary supervision to communicate with their family and reputable friends at regular intervals, both by correspondence and by receiving visits.”

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.

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 above summary of the case accurate?
2. Has a complaint been lodged by or on behalf of the alleged victims?
3. Please provide information on the legal basis for the detention the above-mentioned persons and how it is compatible with the norms and standards contained inter alia in the UDHR and ICCPR.
4. Please provide the details, and where available the results, of any investigation, 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 the full details of any prosecutions which have been undertaken. Have penal, disciplinary or administrative sanctions been imposed on the alleged perpetrators?
6. Please provide information on the measures taken to ensure the safety of above-mentioned persons.
7. Please provide information on measures taken to ensure the enjoyment of the right to health of Ms. Mahnaz Mohammadi.

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.

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

El Hadji Malick Sow
Chair-Rapporteur of the Working Group on Arbitrary Detention

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

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

Margaret Sekaggya
Special Rapporteur on the situation of human rights defenders

Juan E. Méndez
Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment