

Mandates of the Working Group on Arbitrary Detention; the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment and the Special Rapporteur on the situation of human rights in the Islamic Republic of Iran

REFERENCE:
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Excellency,

We have the honour to address you in our capacity as Working Group on Arbitrary Detention; Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment and Special Rapporteur on the situation of human rights in the Islamic Republic of Iran, pursuant to Human Rights Council resolutions 33/30, 25/13 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 arrest and detention, and torture or other cruel, inhumane and degrading treatment of **Dr. Ahmadreza Djalali**, a 45 year old Iranian national and resident of Sweden, medical doctor, lecturer and researcher in disaster medicine.

According to the information received:

On 25 April 2016, Dr. Ahmadreza Djalali was on a business trip to Iran, having been invited to attend workshops about disaster medicine at universities in Tehran and Shiraz, when he was reportedly arrested without a warrant by officials from the Ministry of Intelligence. His family members were not informed about his whereabouts until 10 days following his arrest, when he was allowed to call them briefly.

Dr. Djalali was held in an unknown location for a week before being transferred to Section 209 of Evin prison, under the control of the Ministry of Intelligence, where he was held for seven months, three of which were spent in solitary confinement. During this period, he was prevented from accessing his lawyer, was subjected to intense interrogations and was forced under emotional and psychological pressure to sign statements.

In December 2016, the authorities again put Mr. Ahmadreza Djalali under intense pressure to sign a statement, "confessing" to being a spy for a "hostile government". When he refused, they said they would charge him with "enmity against God" (moharebeh), which carries the death penalty. In protest, he reportedly began a hunger strike on 26 December 2016. Since then, he has lost 20kg in detention and his health has seriously deteriorated. He has collapsed twice and is experiencing drops in his blood pressure and pain around his kidneys.

On 31 January 2017, Dr. Djalali was reportedly taken before Branch 15 of the Revolutionary Court in Tehran, without his lawyer. At the court hearing, he was informed by the presiding judge that he was accused of “espionage” and could face the death penalty. The prosecution authorities reportedly told his lawyer that he could take up this case and refused to share the court files with him. According to his lawyer, the judicial authorities have yet to issue an indictment and schedule a trial.

Serious concern is expressed about the alleged arbitrary arrest and detention of Dr. Djalali and the torture or other cruel, inhumane and degrading treatment he has reportedly been subjected to since his arrest. Further concern is expressed about his reported alarmingly poor health situation which requires urgent and adequate medical attention.

Without making any judgement as to the accuracy of the information made available to us, the above allegations appear to be in contravention with international law, in particular the right not to be deprived arbitrarily of 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), which Iran ratified on 24 June 1975. The right to have access to a lawyer is also enshrined in the UN Basic Principles on the Role of Lawyers.

Moreover, if proven to be accurate, the alleged mistreatment of Dr. Djalali, in particular the forced extracton of a confession, his prolonged solitary confinement, and his initial incommunicado detention, would violate the absolute and non-derogable prohibition of torture and cruel, inhumane or degrading treatment or punishment, as codified, inter alia, in the ICCPR and, in Human Rights Council Resolution 25/13 and in paragraph 1 of General Assembly Resolution 68/156.

Regarding access to adequate medical treatment in detention by Dr. Djalali, we would like to refer your Excellency’s Government to article 12 of the Covenant on Economic, Social, and Cultural Rights, ratified by Iran in 24 June 1975, which establishes that States have 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 General Assembly resolution 45/111, according to which prisoners should have access to the health services available in the country without discrimination on the grounds of their legal situation (Principle 9).

We would also like to recall that article 5 of the United Nations Safeguards Protecting the Rights of those Facing the Death Penalty provides that capital punishment may only be carried out following a legal process which gives all possible safeguards to ensure a fair trial. Only full respect for stringent due process guarantees distinguishes

capital punishment as possibly permitted under international law from an arbitrary execution. In addition, article 4 of the Safeguards provides that capital punishment may be imposed only when the guilt of the person charged is based upon clear and convincing evidence leaving no room for an alternative explanation of the facts.

Furthermore, we would like to refer your Excellency's Government to the Rule 43 of the United Nations Standard Minimum Rules for the Treatment of Prisoners, according to which in no circumstances may restrictions or disciplinary sanctions amount to torture or other cruel, inhuman or degrading treatment or punishment such as indefinite solitary confinement (confinement of prisoners for 22 hours or more a day without meaningful human contact) or prolonged solitary confinement (solitary confinement for a time period in excess of 15 consecutive days.)

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 Mr. Ahmadreza Djalali in compliance with international instruments.

As it is our responsibility, under our mandate 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 information concerning the legal grounds for the arrest, detention of Dr. Djalali as well as proceedings against him. Please explain how these measures are compatible with international norms and standards as stated above.
3. Please provide detailed information on the measures taken to provide to Dr. Djalali, the guarantees of due process and fair trial, including the guarantee to have adequate time and facilities for the preparation of one's defence and to communicate with counsel of one's own choosing as established in international human rights law, and in particular articles 9 and 14, of the ICCPR.
4. Please indicate which measures your Excellency's Government has adopted to respect and protect Dr. Djalali's human rights in prison, including: Article 7 of the ICCPR; Article 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 United Nations 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.

While awaiting a reply, we urge that all necessary interim measures be taken to halt the alleged violations and prevent their re-occurrence and in the event that investigations support or suggest the allegations to be correct, to ensure the accountability of any person responsible for the alleged violations.

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.

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.

José Antonio Guevara Bermúdez
Vice Chair of the Working Group on Arbitrary Detention

Nils Melzer
Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment

Asma Jahangir
Special Rapporteur on the situation of human rights in the Islamic Republic of Iran