

Mandates of the Working Group on Arbitrary Detention; 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 freedom of religion or belief; 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:
UA IRN 24/2017

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Excellency,

We have the honour to address you in our capacity as Working Group on Arbitrary Detention; Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health; Special Rapporteur on freedom of religion or belief; 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, 33/9, 31/16, 34/19 and 34/23.

In this connection, we would like to bring to the attention of your Excellency's Government information we have received concerning **53 prisoners, including over fifteen Baha'is, who have been on hunger strike to protest their transfer to a high-security hall within Rajai-Shahr Prison of Karaj, West of Tehran. Up to 14 of these prisoners were transferred to solitary confinement.**

One of the detainees, **Saeed Masouri**, has been the subject of a previous communication, sent by several Special Procedure mandate holders on 22 February 2006 (see case IRN 7/2006). We thank your Excellency's Government for its reply dated 15 March 2006.

According to the information received:

On 30 July, the authorities of Rajai Shahr Prison of Karaj asked all 53 prisoners of Hall 12 of Ward 4, including over fifteen Baha'is, to go to the yard, reportedly under the pretext that a prisoner had escaped and certain checks needed to be made. The prisoners were then reportedly beaten and transferred to Hall 10 of the same ward. They were not given prior notice and were not allowed to take their personal belongings with them, including their medicine. They have reportedly been deprived of hygiene products and adequate clothing.

Hall 10 is a high-security hall with closed-circuit cameras, listening equipment and numerous surveillances systems. The windows have reportedly been covered with two layers of metal with small holes, which restricts the airflow in the hall, and there is no air conditioner.

On the same day that the detainees were transferred, they all went on a joint hunger strike, some of whom are still striking. The authorities have reportedly placed them under pressure to end the strike. Up to 14 of these prisoners were transferred to solitary confinement, including Hassan Sadeghi and Saeed Masouri. On 2 August 2017, the prisoners were reportedly not allowed to have any family visits, forcing many families who had travelled to Karaj from other cities to return home. However, on 9 August 2017, the prisoners inside Hall 10 were eventually allowed visits from their families while none of the prisoners in solitary confinement were permitted visits.

The Case of Hassan Sadeghi

Mr. Hassan Sadeghi, who was sentenced together with his wife to 15 years in prison and sent to jail two years ago, had already been jailed between 1981 and 1988 for his alleged sympathy with the Mujahidin. As a result of this first incarceration and the torture to which he was reportedly subjected, one of his eyes was badly damaged. Mr. Sadeghi still requires medical care for his eye and may not be receiving it. Since his transfer within the prison, his family has not been able to contact him.

The Case of Saeed Masouri

Saeed Masouri was arrested in January 2001 by Iranian intelligence officials on the charge of waging war against God (“Muharebeh”) and acting against national security. While he was initially sentenced to death, his sentence was commuted to life imprisonment. Saeed has been deprived of access to a lawyer since his arrest.

He has spent almost two years in total in solitary confinement over the course of his detention. He suffers from back pain, severe pain in his neck and mouth, and teeth problems.

While we do not prejudge the accuracy of the information received, we would like to express concern about the alleged torture and ill-treatment of the detainees, some of whom are also discriminated based on their religion, and in particular their transfer to a high security ward without apparent justification for such measures, the health condition of those on hunger strike, and the use of solitary confinement and the denial of family visits as possible means of pressure to end the hunger strike. We are particularly concerned about the physical conditions of Mr. Sadeghi and Mr. Masouri in detention.

Without expressing at this stage an opinion on the facts of the case 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 14 of the International Covenant on Civil and Political Rights (ICCPR).

ICCPR Article 2 (1) also provides that “ Each State Party to the present Covenant undertakes to respect and to ensure to all individuals within its territory and subject to its jurisdiction the rights recognized in the present Covenant, without distinction of any kind, such as [...] religion [...].”

Furthermore, while we do not wish to prejudge the accuracy of the allegations, 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 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 preventative, curative and palliative health services (General Comment 14, Para. 34).

We would like to remind your Excellency’s Government of the absolute and non-derogable prohibition of torture and other cruel, inhuman or degrading treatment or punishment, as an **international norm of *jus cogens***, and as expressed, inter alia, in **Human Rights Council Resolution 25/13 and General Assembly Resolution 68/156**. In this context, we would also like to draw the attention of your Excellency’s Government to paragraph 1 of **General Assembly Resolution 68/156**, which “[c]ondemns all forms of torture and other cruel, inhuman or degrading treatment or punishment, including through intimidation, which are and shall remain prohibited at any time and in any place whatsoever and can thus never be justified, and calls upon all States to implement fully the absolute and non-derogable prohibition of torture and other cruel, inhuman or degrading treatment or punishment”.

We would like to also recall Article 7 of the International Covenant on Civil and Political Rights, which Iran ratified on 24 June 1975 to which Iran is a party since , provides that “[n]o one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment.”

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). We draw the attention of the Government to the UN Standard Minimum Rules for the Treatment of Prisoners (reviewed on 5 November 2015 and renamed the “Mandela Rules”) and in particular Rule 27(1), which provides that all prisons shall ensure prompt access to medical attention in urgent cases.

We also would like to recall Principle 4 of the UN Basic Principles on the Use of Force and Firearms by Law Officials, which provides that “[l]aw enforcement officials, in carrying out their duty, shall, as far as possible, apply non-violent means before resorting to the use of force [...]. They may use force and firearms only if other means remain ineffective or without any promise of achieving the intended result.” Principle 15 further stipulates that law enforcement officials shall not use force on persons in custody or detention “except when strictly necessary for the maintenance of security and order within the institution or when person safety is threatened.”

In addition, with regards to the solitary confinement, we would like to recall **the report by the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment to the General Assembly of 5 August 2011 (A/66/268)**, in which solitary confinement, in accordance with the Istanbul Statement on the Use and Effects of Solitary Confinement, is defined as the physical and social isolation of individuals who are confined in their cells for 22 to 24 hours a day. It is observed that while solitary confinement for short periods of time may be justified under certain circumstances, with adequate and effective safeguards in place, the use of prolonged (in excess of 15 days under conditions of total or almost total isolation) or indefinite solitary confinement may never constitute a legitimate instrument of the State, as it may cause severe mental and physical pain or suffering.

Prolonged or indefinite solitary confinement runs afoul of the absolute prohibition of torture and other cruel, inhuman or degrading treatment or punishment. Furthermore, due to the prisoner’s lack of communication, as well as the lack of witnesses inside the prison, solitary confinement may also give rise to other acts of torture or ill-treatment.

We would also like to refer to **paragraph 28 of the General Assembly resolution 68/156 (2014)** which emphasized that that conditions of detention must respect the dignity and human rights of persons deprived of their liberty, and called upon States to address and prevent detention conditions that amount to torture or cruel, inhuman or degrading treatment or punishment, while noting in this regard concerns about solitary confinement, which may amount to torture or other cruel, inhuman or degrading treatment or punishment.

Finally, we would like to recall that the best way to try to end a hunger strike is to address the underlying human rights violations that are the basis of the protest. Authorities have a duty to look for solutions to extreme situations created by a hunger strike, including through good faith dialogue about the grievances, and always respecting the wishes of those who use this form of protest.

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 person 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 information concerning the legal grounds for the arrest and detention of the aforementioned persons and explain how this is compatible with articles 9, 14 and 19 of the ICCPR.
3. Please explain the reasons why the prisoners were transferred to a high security jail, placed in solitary confinement and denied family visits.
4. Please provide detailed information on the measures taken to ensure the enjoyment of the right to health, including physical and psychological well-being, of the aforementioned persons while in detention.
5. Please indicate what measures have been taken to guarantee the physical and psychological integrity of all persons who are deprived of liberty by State authorities, so as to ensure that they are protected against any form of abuse of power that may amount to torture or other cruel, inhumane, degrading treatment or punishment
6. Please indicate what measures have been taken to investigate the allegations of torture and other cruel inhuman, or degrading treatment or punishment to which the prisoners have been subjected to and if proved true; the measures taken to stop them and ensure that they do not recur; and prosecute or punish any public official or person acting on their behalf found to be responsible.

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 the investigations support or suggest the allegations to be correct, to ensure the accountability of any person responsible of 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.

We intend to publicly express our concerns in the near future as, in our view, the information upon which the press release will be based is sufficiently reliable to indicate a matter warranting immediate attention. We also believe that the wider public should be alerted to the potential implications of the above-mentioned allegations. The press release will indicate that we have been in contact with your Excellency's Government to clarify the issue(s) in question.

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.

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