

Mandates of the Working Group on Arbitrary Detention; the Special Rapporteur on the situation of human rights defenders; the Special Rapporteur on the situation of human rights in the Islamic Republic of Iran and the Special Rapporteur on freedom of religion or belief

REFERENCE:
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Excellency,

We have the honour to address you in our capacities as Working Group on Arbitrary Detention; Special Rapporteur on the situation of human rights defenders; Special Rapporteur on the situation of human rights in the Islamic Republic of Iran and Special Rapporteur on freedom of religion or belief, pursuant to Human Rights Council resolutions 42/22, 43/16, 43/24 and 40/10.

In this connection, we would like to bring to the attention of your Excellency's Government information we have received concerning the **continued detention of human rights defender Mr. Soheil Arabi and the targeting of his mother, woman human rights defender Ms. Farangis Mazloun.**

Mr. **Soheil Arabi** is a human rights defender, a journalist and social media activist. In 2017, he was awarded the Reporters Without Borders prize for Press Freedom as a "citizen journalist". On Facebook, he was outspoken against the imprisonment of human rights defenders, prisoners of conscience, the political situation in the Islamic Republic of Iran and some of the teachings of Islam. He has been kept in detention since 2013 and on 30 August 2014, Mr. Arabi was sentenced to death by Branch 76 of the Criminal Court of Tehran for "insulting the Prophet of Islam" for posts made on Facebook pages he managed, which criticized the Supreme Leader, other government officials and hadiths of the Prophet Mohammad. While in detention, Mr. Arabi has become a vocal advocate for prisoner's rights.

Ms. **Farangis Mazloun** is a woman human rights defender and the mother of Mr. Arabi. Since her son was imprisoned in 2013, Ms. Mazloun has protested the charges against him and campaigned against the mistreatment of prisoners in Iran by prison authorities. As a result of her work, she too has faced prosecution on criminal charges. She has previously organised demonstrations against the violation of prisoner's rights and is active on social media, denouncing the conditions to which her son and other prisoners are subjected.

Mr. Arabi was the subject of a previous communication sent to your Excellency's Government, IRN 29/2014, sent on 2 December 2014, in which Special Procedures mandate holders raised concerns regarding the death sentence issued against him. We regret that a response was not received. Concerns regarding the continued detention of human rights defenders were most recently raised with your Excellency's Government in the communications IRN 21/2020, sent 8 September 2020, and IRN 14/2020, sent on 22 June 2020. We thank your Excellency's Government for its reply to IRN 21/2020, but we regret that the response only referred to one of the five cases of human rights defenders mentioned in the communication.

According to the information received:

Concerning Mr. Soheil Arabi

In November 2013, Mr. Arabi was arrested at his home in Tehran by security officers of the Islamic Revolutionary Guard Corps (IRGC), allegedly in response to posts that had been made on some of the Facebook pages he managed. The posts believed to have led to his arrest, included criticism of the hadiths of the Prophet Mohammed, and a photo of the Supreme Leader talking with a public prosecutor, under which a comment with a caricature of the Supreme Leader was made. Allegedly, no arrest warrant provided by the IRGC officers upon his arrest, nor was he informed of the reason for his arrest. He was then placed in pre-trial detention in Ward 2-A in Evin prison in Tehran, reportedly in solitary confinement.

On 30 August 2014, Mr. Arabi was sentenced to death by Branch 76 of the Criminal Court of Tehran for “insulting the Prophet of Islam” under Article 262 of the Islamic Penal Code, which states: “anyone who curses the Prophet of Islam or other Prophets or accuses them of adultery is (considered) *sabbo al-nabi* and will be sentenced to death”. The charge was reportedly brought against him in connection with posts and comments made by Mr. Arabi, as well as other members of the Facebook pages.

On 3 September 2014, Mr. Arabi was sentenced to an additional three years’ imprisonment by Branch 15 of the Revolutionary Court, on charges of “spreading propaganda against the system” and “insulting the leader”. These charges were part of a separate case, reportedly in response to his denunciation of the ill treatment of prisoners in Iran, whilst imprisoned himself.

On 24 November 2014, the Supreme Court upheld the death sentence against Mr. Arabi, and referred the case to Branch 76 of the Tehran Criminal Court for implementation.

On 27 June 2015, following a protracted appeals process, the death sentence of Mr. Arabi was commuted by Branch 34 of the Supreme Court, and the case was transferred to 81 of the Tehran Provincial Court for review. In September 2015, the Court sentenced Mr. Arabi to seven years and six months’ imprisonment on the charge of “insulting the sacred”. This sentence was reduced once again in November 2015, to six years and six months.

Whilst in prison, Mr. Arabi has engaged in advocacy for prisoner’s rights, criticising the ill-treatment of prisoners by penitentiary authorities, and drawing attention to the inadequate living conditions they are subjected to in prisons in Iran. This advocacy has been conducted by issuing letters and sending audio files, in which he describes the conditions, including the lack of adequate hygiene provisions in prisons in response to the COVID-19 pandemic. Mr. Arabi has also gone on hunger strike on a number of occasions, protesting the treatment of individual prisoners of conscience and human rights defenders, as well as the ill-treatment to which he has personally been subjected. Mr. Arabi has reportedly been targeted by prison authorities in retaliation for his advocacy, and endured further ill-treatment as a result, including physical assault by prison staff.

On 31 July 2017, Mr. Arabi was informed that his wife had been arrested, leading him to go on hunger strike in protest. He was then transferred to Section 2A of Evin Prison, where he was held for eight days and reportedly subjected to physical abuse by IRGC agents responsible for the operation of the Section. After the eight days, Mr. Arabi's wife was released from prison upon the payment of her bail, and he ended his hunger strike.

In late August 2017, upon hearing that his wife had continued to receive threats from security officials since being released from prison, Mr. Arabi went on hunger strike again. He issued a letter from prison in which he demanded an end to the harassment of his family. On the seventh day of his hunger strike, he was transferred to the prison medical clinic on two occasions, due to his deteriorating health. In December that year, Mr. Arabi was allegedly beaten by prison officials, and his books and other personal belongings were either destroyed or confiscated.

In June and September 2018, Mr. Arabi was convicted of "insulting the religious beliefs", "propaganda against the state" and "insulting the Supreme Leader" by Branch 28 and Branch 26 of the Revolutionary Court, in two separate cases. He received a sentence of seven and a half years of imprisonment for these charges, reportedly in retaliation for sending audio files from prison, in particular for likening the Greater Tehran Central Penitentiary to a "torture chamber".

On 29 April 2019, Mr. Arabi was physically assaulted whilst being interrogated by prison authorities following a letter he released from prison, which criticized the conditions in Greater Tehran Central Penitentiary. He was admitted to Firouz Abadi hospital for treatment for the injuries he incurred, and sustains an inflammatory condition as a result.

On 16 March 2020, Mr Arabi began a hunger and thirst strike to protest the denial of medical treatment to him and other prisoners, for his detention in Greater Tehran Central Penitentiary rather than Evin Prison, where prisoners of conscience are usually held, and the poor conditions inside the prison.

After initiating his hunger and thirst strike, Mr. Arabi received an intestine-related operation on either 26 or 27 April 2020, due to the effects of previous hunger and thirst strikes on his intestine. He was reportedly handcuffed and blindfolded when taken for the operation, and as a result, did not know where the operation took place. When he woke up after the operation, he was in a clinic at the east Sarollah Detention Centre in Tehran, which is run by the IRGC. He does not know if the operation took place in the Sarollah Detention Centre or somewhere else. The operations performed were reportedly an adhesion intestine operation and a colostomy.

He was reportedly returned to Greater Tehran Central Penitentiary prematurely on 29 April 2020. At around the same time, Mr. Arabi was also regularly being taken to the Sarollah Detention Centre for further interrogations by IRGC agents on new accusations, although the agents did not make clear what these new accusations concerned. The agents reportedly said he was being taken to the centre for interrogations in order to sever his connections with the outside world.

On 18 September 2020, Mr. Arabi was summoned by the director of the Greater Tehran Central Penitentiary, who interrogated him about audio recordings published by a Farsi-language media organization based outside Iran, in which he criticized the conditions in the prison for detainees during COVID-19. The director reportedly threatened to place Mr. Arabi in solitary confinement and bring new charges against him.

The following day, under the false impression that he was being transferred to the prison's health clinic, Mr. Arabi was transferred to Raja'i Shahr prison. Here, he was reportedly placed in a particular cell, referred to as a "suite", which is usually reserved for prisoners facing death sentences. He was allegedly held in this cell for 31 days, during which he was denied access to phone calls and medication required for an inflammatory condition he has been suffering from since April 2019. Prison officials also reportedly shaved his head and beard.

On 20 October 2020, Mr. Arabi was transferred to ward 2A of Evin prison, which is operated by the IRGC intelligence service. Here, he was allegedly interrogated about sending the audio files to BBC Persian. His family were permitted to visit him here.

On 7 November 2020, Mr. Arabi was informed that he would be transferred from Evin prison, but was not made aware of the reasoning for this decision or where he was due to be transferred. The following day, he was transferred back to Raja'i Shahr prison, where he remains at the time of the present communication. His family fear that the recent transfers may be indicative of new charges being filed against him.

Concerning Ms. Farangis Mazloun

On 22 July 2019, Ms. Mazloun was arrested at the home of a relative by plainclothes Ministry of Intelligence agents, who reportedly did not present an arrest warrant at the time of the arrest. She was taken to Evin prison, and informed she was being charged with "propaganda against the system on interest of groups and organisations against the system" and "assembly and collusion with the intention to act against national security", reportedly in response to her continued criticism of the ill-treatment of her son by prison authorities. She remained in pre-trial detention until 8 October 2019, when she was released on a bail of 2,500 million IRR (approximately USD 60,000). Whilst in detention, Ms Mazloun was reportedly not permitted to meet with her lawyer, and her contacts were restricted to phone calls with her daughter lasting only a few minutes.

In July 2020, Ms. Mazloun was reportedly tried in absentia due to COVID-19 restrictions by Branch 29 of the Revolutionary Court in Tehran and was sentenced to a total of six years in prison on the above charges. She appealed against this verdict, and a new trial was held on 25 August and 28 September 2020 by the same court.

On 19 October 2020, the court sentenced her to 18 months of imprisonment on the charges brought against her in 2019. One year of this sentence is reportedly

implementable. Ms. Mazloum, who suffers from a heart condition, has yet to be summoned to serve the sentence.

Without prejudging the accuracy of the allegations, we would like to express our concern with regard to the continued detention of Mr. Arabi for expressing dissenting views with regard to the human rights situation in Iran and criticism against the leadership, and the ill-treatment he has been subjected to in prison, seemingly in reprisal for advocating, while in detention, for the rights of prisoners and denouncing the ill-treatment they are subjected to. The apparent pattern of interrogating, threatening, physically assaulting and involuntarily transferring Mr. Arabi without explanation, in pursuance of his criticism of prison conditions or the degrading treatment of prisoners, would indicate that these actions are in direct reprisal for his human rights activities and an attempt to deter him from engaging in such activities. We are concerned that the above mentioned retaliatory measures against Mr. Arabi for exercising his right to freedom of expression and opinion, may amount to cruel, inhuman and degrading treatment and would be in violation of his right to be treated with dignity and to have his human rights respected, as a person deprived of their liberty.

We would also like to reiterate our concern regarding the factual and legal basis for the charges and sentences against Mr. Arabi and his mother Ms. Mazloum, which appear to criminalise the act of defending the rights of others and exercising the right to freedom of opinion and expression. We also express our concern with regard to the charges of “insulting the Prophet of Islam” and “insulting religious beliefs”, which effectively criminalise Mr. Arabi for exercising his right to freedom of thought, conscience and religion, as stipulated in article 18 of the International Covenant on Civil and Political Rights (ICCPR), to which the Islamic Republic of Iran is a State party.

In connection with the above alleged facts and concerns, please refer to the **Annex on Reference to international human rights law** attached to this letter, which cites international human rights instruments and standards relevant to these allegations.

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 about the legal and factual basis for the charges against and imprisonment of Mr. Arabi, with particular reference to those charges brought against him whilst imprisoned, and how they are compatible with international human rights law.
3. Please provide information on the condition of Mr. Arabi’s detention, including details about time spent in solitary confinement, family visits and communication with his lawyer, his access to medical care, as well as about the state of his physical and psychological well-being.

4. Please provide information on any investigations carried out into the allegations of torture and cruel, inhuman and degrading treatment against Mr. Arabi during his detention and their outcome, including if any perpetrators were held accountable. If no such investigations have been carried out, please explain why.
5. Please provide information about the legal and factual basis for the detention of and charges against Ms. Mazloum.
6. Please indicate what measures have been taken to ensure that human rights defenders, journalists and other civil society actors have been able to carry out their legitimate work in a safe and enabling environment in the Islamic Republic of Iran without fear of threats or acts of intimidation or harassment of any sort.

We would appreciate receiving a response within 60 days. Passed this delay, this communication and any response received from your Excellency's Government will be made public via the communications reporting [website](#). They will also subsequently be made available in the usual report to be presented to the Human Rights Council.

Moreover, we would like to inform your Excellency's Government that after having transmitted an allegation letter to the Government, the Working Group on Arbitrary Detention may transmit the cases through its regular procedure in order to render an opinion on whether the deprivation of liberty was arbitrary or not. Such appeals in no way prejudice any opinion the Working Group may render. The Government is required to respond separately for the allegation letter procedure and the regular procedure.

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(s) responsible for the alleged violations.

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

Elina Steinerte
Vice-Chair of the Working Group on Arbitrary Detention

Mary Lawlor
Special Rapporteur on the situation of human rights defenders

Javaid Rehman
Special Rapporteur on the situation of human rights in the Islamic Republic of Iran

Ahmed Shaheed
Special Rapporteur on freedom of religion or belief

Annex

Reference to international human rights law

In connection with above alleged facts and concerns, we would like to refer your Excellency's Government to the International Covenant on Civil and Political Rights (ICCPR), ratified by the Islamic Republic of Iran on 24 June 1975.

We would like to refer to article 9 ICCPR enshrining the right to liberty and security of person and establishing in particular that no one shall be deprived of his or her liberty except on such grounds and in accordance with such procedure as are established by law as well as the right to legal assistance from the moment of detention. Article 9 (4) also entitles everyone detained to challenge the legality of such detention before a judicial authority. In its General Comment No 35, the Human Rights Committee has found that arrest or detention as punishment for the legitimate exercise of the rights as guaranteed by the Covenant is arbitrary, including freedom of opinion and expression (art. 19), freedom of assembly (art. 21), freedom of association (art. 22) and freedom of religion (art. 18). It has also stated that arrest or detention on discriminatory grounds in violation of article 2, paragraph 1, article 3 or article 26 is also in principle arbitrary. Furthermore, article 14 upholds the right to a fair trial and equality of all persons before the courts and tribunals.

We would furthermore like to remind your Excellency's Government of the absolute and non-derogable prohibition of torture or to cruel, inhuman or degrading treatment or punishment, as stipulated in article 7 of the ICCPR, and set forth in article 5 of the Universal Declaration of Human Rights (UDHR),.

We would also like to refer your Excellency's Government to article 10 of the ICCPR, which guarantees the right of all persons deprived of their liberty to be treated with humanity and with respect for the inherent dignity of the human person. In this connection, we draw your attention to paragraph 3 of the General Comment 21 of the Human Rights Committee, which states that article 10 (1) of the ICCPR imposes on States parties a positive obligation towards persons who are particularly vulnerable because of their status as persons deprived of liberty, and complements for them the ban on torture or other cruel, inhuman or degrading treatment or punishment contained in article 7 of the ICCPR. Thus, not only may persons deprived of their liberty not be subjected to treatment that is contrary to article 7, including medical or scientific experimentation, but neither may they be subjected to any hardship or constraint other than that resulting from the deprivation of liberty; respect for the dignity of such persons must be guaranteed under the same conditions as for that of free persons.

We would also like to refer your Excellency's Government to article 18 of the ICCPR, which stipulates that everyone shall have the right to freedom of thought, conscience, religion or belief. This right shall include freedom to have or adopt a religion or belief of his choice and freedom, either individually or in community with others and in public or private, to manifest his religion or belief in worship, observance, practice and teaching. Furthermore, article 18 also protects the right not to hold any religious beliefs. In this regard, we would like to stress that the right to freedom of religion protects primarily the individual, but it does not protect religious beliefs per se.

The Human Rights Committee has further stated in paragraph 48 of its General Comments 34 that prohibitions of displays of lack of respect for a religion or other

belief system, including blasphemy laws, are incompatible with the Covenant, except in the specific circumstances envisaged in article 20, paragraph 2, of the Covenant. Such prohibitions must also comply with the strict requirements of article 19, paragraph 3, as well as such articles as 2, 5, 17, 18 and 26. The Committee observed that nor would it be permissible for such prohibitions to be used to prevent or punish criticism of religious leaders or commentary on religious doctrine and tenets of faith (CCPR/C/GC/34).

We also recall article 19 of the ICCPR, which guarantees that everyone shall have the right to hold opinions without interference, and the right to freedom of expression; which includes 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 one's choice. We note with concern the apparent retaliatory measures taken against prisoners, in this case Mr. Arabi, for exercising their right to freedom of expression. Legitimate restrictions to freedom of expression may be implemented in accordance with the requirements of Article 19 (3) of the Covenant, also in the context of the management of the prison population. However, the use of force or involuntary transfer of individuals in retaliation for legitimately exercising their freedom of expression to criticize the acts of the authorities constitutes acts incompatible with the Covenant, see paragraph 23 of General Comment 34 (CCPR/C/GC/34) of the Human Rights Committee.

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, also known as the UN Declaration on Human Rights Defenders. In particular, we would like to refer to articles 1 and 2 of the Declaration which state that everyone has the right 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.

Furthermore, we would like to bring to the attention of your Excellency's Government the following provisions of the UN Declaration on Human Rights Defenders:

- article 6 point a), which provides for the right to know, seek, obtain, receive and hold information about all human rights and fundamental freedoms;
- article 6 points b) and c), which provides for the right to freely publish, impart or disseminate information and knowledge on all human rights and fundamental freedoms, and to study, discuss and hold opinions on the observance of these rights;
- article 12, paragraphs 2 and 3, which provides that the State shall take all necessary measures to ensure the protection of everyone 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.