

Mandates of the Special Rapporteur on the situation of human rights in the Islamic Republic of Iran; the Working Group on Arbitrary Detention; the Special Rapporteur on the rights of persons with disabilities; the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health; and the Independent Expert on the enjoyment of all human rights by older persons

REFERENCE:
AL IRN 13/2021

17 May 2021

Excellency,

We have the honour to address you in our capacities as Special Rapporteur on the situation of human rights in the Islamic Republic of Iran; Working Group on Arbitrary Detention; Special Rapporteur on the rights of persons with disabilities; Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health; and Independent Expert on the enjoyment of all human rights by older persons, pursuant to Human Rights Council resolutions 46/18, 42/22, 44/10, 42/16 and 42/12.

In this connection, we would like to bring to the attention of your Excellency's Government information we have received concerning the imprisonment of Mr. Shokrollah Jebeli, for grounds related to lack of payment of debt, and concerning the lack of medical care and treatment for his serious health conditions, leaving him in a critical situation.

According to the information received:

Mr. Shokrollah Jebeli is 82 years old.

On 31 January 2020, local police arrested Mr. Shokrollah Jebeli at his home in Tehran in relation to a civil dispute related to a debt. Iranian law permits imprisonment of debtors. Mr. Jebeli has been in detention ever since his arrest, and is held in section 8 of Evin prison.

Mr. Jebeli has a number of medical conditions, including an umbilical hernia, enlarged kidney stones, a medical history of strokes, sciatica in his legs and blood pressure. His doctor has found that he needs surgery for his umbilical hernia.

In 2020, the authorities on several occasions promised that he would receive medical care but have not authorized his transfer for outside specialized treatment, except on one occasion when he was taken to a hospital outside of prison for treatment after he experienced a stroke. He was returned to prison the same day contrary to medical advice.

In February 2021, Mr. Jebeli was taken to a hospital outside prison for scans and examinations but was not permitted to have the specialist treatment he needs for his conditions following these tests. Since February 2021, he has also been examined on four separate occasions by specialist doctors from the Legal Medicine Organization of Iran. The prosecution authorities, who receive written

opinions of the Legal Medicine Organization, have failed to disclose its findings to Mr. Jebeli. It has furthermore been reported that the head of Evin Prison and the head of the Prisons Organization have visited Mr. Jebeli, and promised to address his critical situation. However, since then, his situation has remained unchanged.

It has been reported that the authorities have furthermore denied Mr. Jebeli's access to his medication in prison. Persons associated with Mr. Jebeli have tried to deliver his medication to him, but prison authorities refused to receive the delivered medication in order to provide it to Mr. Jebeli. Instead, it has been reported that the prison clinic has provided Mr. Jebeli with painkillers and with vitamin D and vitamin B injections, none of which are adequate treatment for his medical conditions.

Mr. Jebeli experiences numbness in his legs and severe pain, which have been exacerbated by his detention conditions. It has been reported that he has not been provided with adequate sleeping accommodation. Prior to being transferred to section 8 of the prison, Mr. Jebeli was held in section 4 where he was initially forced to sleep in the top bunk of a bunk bed. Since his transfer, he is sleeping on a mattress purchased at his family's expenses.

It has been reported that the prison lacks reasonable accommodation for prisoners of old age, such as railings to hold on to. Mr. Jebeli relies solely on the help of other prisoners to get around and to take showers. On several occasions, he has fallen in the shower. He is unable to go to the prison's medical clinic by himself and he is unable to go to the exercise yard, which has had further deteriorating impact on his mental health.

It has been reported that Mr. Jebeli is neither receiving the special low-salt diet he requires for his health condition, nor provided with sufficient potable water. He has been forced to buy food at the prison shop. In addition, it has been reported that he has not been allowed to make direct calls with his family.

We express serious concern at the imprisonment of Mr. Jebeli. Imprisonment on the grounds of inability to fulfil a contractual obligation is expressly prohibited under article 11 of the International Covenant on Civil and Political Rights (ICCPR), ratified by the Islamic Republic of Iran on 24 June 1975. We are furthermore concerned at Mr. Jebeli's critical physical and mental health conditions, which have deteriorated in prison and in the absence of adequate medical treatment and care, as well as the lack of reasonable accommodation provided to him in prison, considering his old age and disabilities. We call on the authorities to ensure his release, as a minimum temporarily, and, as a matter of urgency, to provide him with the medical treatment needed.

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/or comment(s) you may have on the above-mentioned allegations.
2. Please provide detailed information about the legal basis for the arrest and detention of Mr. Jebeli, in particular in view of the obligations of your Excellency's Government under international human rights law not to detain individuals for owing debts.
3. Please provide information on measures taken to provide Mr. Jebeli with guarantees of due process and fair trial prior to his detention.
4. Please provide information on why Mr. Jebeli has not been provided with adequate medical treatment and care in prison, including specialist health care for his serious health conditions.
5. Please provide information about measures taken to ensure that older prisoners and prisoners with disabilities fully enjoy their right to health and receive reasonable accommodation in prison.
6. Please provide information about whether Mr. Jebeli has been considered for temporary release, including in the context of COVID-19.

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.

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.

We would like to inform your Excellency's Government that having transmitted an allegation letter to the Government, the Working Group on Arbitrary Detention 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 communications in no way prejudice any opinion the Working Group may render. The Government is required to respond separately to the allegation letter and the regular procedure.

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

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

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

Gerard Quinn
Special Rapporteur on the rights of persons with disabilities

Tlaleng Mofokeng
Special Rapporteur on the right of everyone to the enjoyment of the highest attainable
standard of physical and mental health

Claudia Mahler
Independent Expert on the enjoyment of all human rights by older persons

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 right not to be arbitrarily deprived of liberty in accordance with articles 9 of the International Covenant on Civil and Political Rights (ICCPR), ratified by the Islamic Republic of Iran on 24 June 1975. We wish to recall that imprisonment on the grounds of debt is expressly prohibited under article 11 of the ICCPR. This prohibition is non-derogable and is in fact part of customary international law.¹ The Working Group has previously stated that detention due to inability to pay a debt is in itself an arbitrary deprivation of liberty. It is also arbitrary as it discriminates against individuals on the basis of their economic status.²

Moreover, article 7 of the ICCPR prohibits torture and other cruel, inhuman or degrading treatment or punishment.

We would like to further refer your Excellency's Government to article 12 of the International 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 (Committee on Economic, Social and Cultural Rights, CESCR General Comment 14, Para. 34). We would also like to specifically highlight article 12(2)(c), which obliges States to take the steps necessary for "the prevention, treatment and control of epidemic, endemic, occupational and other diseases" (see also CESCR General Comment 14, Para. 16). 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 also draw Your attention to the UN Standard Minimum Rules for the Treatment of Prisoners (reviewed on 17 December 2015 and renamed the "Mandela Rules"), in particular to Rule 24 that establishes that the provision of health care for prisoners is a State responsibility and that the state should ensure continuity of medical treatment for chronic conditions; Rule 27(1), which provides that all prisons shall ensure prompt access to medical attention in urgent cases, as well as Rule 58 which establishes that prisoners shall be allowed to communicate with their family and friends at regular intervals.

We further wish to stress that Rule 2(2) provides that "prison administrations shall take account of the individual needs of prisoners, in particular the most vulnerable categories in prison settings" in order to apply the principle of non-discrimination. Older prisoner must benefit from all the human rights guarantees on an equal footing with other prisoners. This requires prison authorities to take specific measures to ensure age-sensitive and adapted detention conditions, including the provision of adequate and

¹ A/HRC/42/39/Add.1, para. 65; and Working Group on Arbitrary Detention opinions No. 31/2001 and No. 38/2013.

² A/HRC/45/16/Add.2, para. 48.

specialised healthcare services. Older prisoners are particularly vulnerable to COVID-19 as many places of detention suffer from overcrowding, making physical distancing and observance of sanitary measures challenging. In this context, a number of United Nations entities as well as the Secretary General in his 2020 Policy Brief on the impact of COVID-19 on older persons called on States to consider options for release and alternatives to detention to mitigate such risks, particularly for older persons and people with underlying health conditions.

We also wish to bring to Your Government's attention the provisions of the Convention on the Rights of Persons with Disabilities (CRPD), to which Iran acceded on 23 October 2009. In particular, Article 17 of the CRPD provides that every person with disabilities has a right to respect for his or her physical and mental integrity on an equal basis with others. Article 25 articulates the right of persons with disabilities to the highest attainable standard of health without discrimination on the basis of disability, and enunciates the obligation of States Parties to, inter alia, (d) require health professionals to provide care of the same quality to persons with disabilities as to others; and (f) prevent discriminatory denial of health care or health services or food and fluids on the basis of disability.

As per the provisions of Article 14 and Article 5, States must ensure that persons with disabilities who are deprived of their liberty are entitled, on an equal basis with others, to the guarantees established by international human rights law, including by providing reasonable accommodation and ensuring conditions of accessibility. Thus, the denial of reasonable accommodation in detention can be considered a form of discrimination and, in some instances, as a form of torture or ill-treatment.

Article 15 of the CRPD complements other human rights instruments on the prohibition of torture or any form of cruel, inhuman or degrading treatment inflicted under any pretext or circumstance. The lack of disability related support, accessibility and reasonable accommodation places persons with disabilities in sub-standard conditions of detention that are incompatible with the prohibition of cruel, inhuman or degrading treatment or punishment, as stated under article 15 (2) of the CRPD.

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