

Mandates of the Special Rapporteur on the situation of human rights in the Islamic Republic of Iran; 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 situation of human rights defenders; the Special Rapporteur on the independence of judges and lawyers and the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment

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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; 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 situation of human rights defenders; Special Rapporteur on the independence of judges and lawyers and Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, pursuant to Human Rights Council resolutions 46/18, 43/4, 42/16, 43/16, 44/8 and 43/20.

In this connection, we would like to bring to the attention of your Excellency's Government information we have received concerning the arrest, detention, torture and ill-treatment, including by forced medical treatment and transfer to psychiatric hospital, of Mr. **Payam Derafshan**, a human rights lawyer and human rights defender, resulting in his critical health condition while in state custody in 2020.

Concerns regarding the harassment of human rights lawyers in different forms including threats, arbitrary detention, and lengthy prison sentences have been raised in several reports of the Special Rapporteur on the situation of human rights in the Islamic Republic of Iran including most recently in his report to the General Assembly (A/76/160).

Concerns regarding the forced treatment and the forced transfer of prisoners to psychiatric hospitals were raised in a joint communication by Special Procedures on 22 February 2021 (ref. no IRN 6/2021). We thank your Excellency's Government for the response dated 26 April 2021, but remain concerned in light of some unanswered concerns and the recent developments.

According to the information received:

Mr. Payam Derafshan is a human rights lawyer and human rights defender. He has represented many high-profile cases including the family of a prisoner who died in state custody under suspicious circumstances. Mr. Derafshan was the chairperson of the Iranian Bar Association's Lawyers' Defense Committee, which provides support to lawyers who face prosecution in connection with their work in defence of human rights.

On 7 June 2020, 17 security agents associated with the intelligence organization of the Islamic Revolutionary Guard Corps (IRGC) raided

Mr. Derafshan's office in Tehran. After a thorough search of the office, the security agents confiscated Mr. Derafshan's computer and his clients' confidential case files. He was then transferred blindfolded to a secret location and was held in a dark room without a window or air conditioning in the intense summer heat.

A day later, Mr. Derafshan was transferred to a cell in Ward 2-Alef (2-A) of Evin prison in Tehran. The Ward 2-Alef is under the supervision of the IRGC. Mr. Derafshan was denied access to a lawyer or contact with his family and was subjected to lengthy and intense interrogations. The interrogators questioned Mr. Derafshan about his activities as a lawyer, including an interview he gave to media about the poor conditions of the Gharchak Women's Prison, the reason he represents cases of other human rights lawyers, and the case of the suspicious death in prison.

Mr. Derafshan was held in a cell designed to inflict maximum physical and psychological pressure including with a twenty-four-hour artificial light, loud sounds of three fans and a dirty toilet in the limited space of the cell. On one occasion, Mr. Derafshan knocked on the cell door in protest to being subjected to sleep deprivation due to the constant light and requested the light to be turned off. In response, three agents went into his cell and one of them threatened him with a taser and reportedly stated that if he knocked on the cell door again he would be treated differently. After a while, the same three agents returned and took Mr. Derafshan to another section of ward 2-Alef. The agents allegedly told Mr. Derafshan in a mocking tone: "We will inject you with an ampule so that you can sleep comfortably." Mr. Derafshan resisted, but the agents forcibly injected him with an unknown substance against his will. He was then transferred back to his cell. Following the injection, Mr. Derafshan experienced a serious convulsion to the point he bit off part of his tongue, had severe bleeding and lost consciousness.

The next day, the authorities transferred Mr. Derafshan by ambulance to Baghiyyatollah al-Azam Military Hospital. He underwent extensive surgery on his tongue and was then admitted to the neurology ward due to having a convulsion and impaired perception of his surroundings. During this time, Mr. Derafshan's family and colleagues who were inquiring about his condition from Evin prison, were denied information.

While Mr. Derafshan was still in hospital and unable to eat or talk properly, IRGC agents told him that the prosecutor had agreed to release him on bail, but it required him to go to the prosecutor's office. The agents told him that the hospital would not discharge him unless he signed the discharge form and accepted the responsibility. Mr. Derafshan signed the consent form. Before Mr. Derafshan had completed his treatment, the authorities transferred him to the Revolution Court, despite telling him he would be taken to the prosecution office to be released. The transfer took place in an ironclad, windowless vehicle, while his tongue was still bleeding.

Despite his critical health situation, Mr. Derafshan was taken before Judge Mohammad Moghiseh at branch 28 of the Revolution Court under the pretext of appealing his detention. Mr. Derafshan was taken to the judge through the back door of the court to avoid other lawyers noticing him in the building. The

Judge reportedly mistreated and offended him and extended his detention order. Mr. Derafshan was not able to respond to the judge and defend himself due to the bleeding and severe swelling of his tongue. The authorities then transferred Mr. Derafshan to ward 4 in the general population section of Evin prison. This is while his health condition required specialized care and treatment and he was not able to chew or eat.

While in Evin prison, Mr. Derafshan experienced further side effects including convulsions. Rather than being transferred to a specialized hospital, he was transferred in anklecuffs and handcuffs to Razi Psychiatric Hospital (known as Aminabad mental hospital). In Razi Psychiatric Hospital he was subjected to electric shocks, which seriously damaged his neurological system and caused him to lose consciousness. Furthermore, soldiers working for the Prisons Organization, having been incited by two paramedics, beat Mr. Derafshan because of his protest against being constantly handcuffed and shackled.

During this period, Mr. Derafshan's family was unaware of his situation. His family only received information on his whereabouts from another political prisoner who had helped care for Mr. Derafshan. With the efforts of people associated with Mr. Derafshan, he was discharged from Razi Psychiatric hospital and was returned to Evin Prison.

The prison officials did not transfer Mr. Derafshan to court to attend his trial session. In July 2020, the Revolution Court acquitted Mr. Derafshan of the charge of "assembly and collusion against national security" but sentenced him in absentia to two-and-a-half years in prison on charges that included "acting against national security", "propaganda against the state", and "carrying an unauthorized taser". He was also banned from practicing law for two years. The Court of Appeals upheld his verdict.

Despite his critical medical condition, Mr. Derafshan was not granted release on bail and was held in prison until his sentence was finalized. In September 2020, after Mr. Derafshan's sentence was finalized, he was granted a medical leave. The Legal Medicine Organization confirmed that he needed specialized medical treatment and requested for the implementation of his sentence to be postponed. Mr. Derafshan was granted a release on parole after the completion of one third of his sentence. He is currently completing the process of his medical treatment.

Without prejudging the accuracy of these allegations, we express serious concern at the reported arrest, detention, and torture and ill-treatment in detention of Mr. Payam Derafshan, which appear to be directly related to the exercise of his profession as a lawyer, his peaceful and legitimate activities as a human rights defender advocating for the protection and promotion of human rights, and the exercise of his right to freedom of expression. We furthermore express serious concern at the critical health situation while in state custody of Mr. Derafshan, after having been subjected to a series of grave violations of his human rights. We are gravely concerned at the forced injection of an unknown substance to him, the forced transfer and treatment at a psychiatric hospital, and repeated denial of specialist medical care in detention. Moreover, we are concerned that these are the latest in a series of reported forced transfer of prisoners to psychiatric hospitals, subjecting them to electric shocks as well as denial of access to medicine to prisoners resulting in

serious harm or death. We are furthermore concerned that the arrest, detention, torture and ill-treatment of Mr. Derafshan is the latest in a series of arrests and targeting of human rights lawyers in the country, in what appears to be an intensified crackdown on civil society.

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 concerning the factual and legal basis for the arrest and detention of Mr. Derafshan. In particular, please provide detailed information about the justification for bringing national security charges against him.
3. Please provide information about why Mr. Derafshan was blindfolded and kept incommunicado detention following his arrest.
4. Please provide detailed information about why Mr. Derafshan has not been provided with the guarantees of due process and fair trial as established in international human rights law, and in particular articles 9 and 14, of the ICCPR. In particular, please explain why he was denied access to a lawyer and why he was brought before the Revolution Court in a trial while he was in a critical health condition and unable to defend himself.
5. Please provide information about whether any investigation has been launched into the forced treatment and physical violence inflicted upon Mr. Derafshan, and if any perpetrators have been brought to justice. If no such investigation has taken place, please explain why.
6. Please provide information about the legal basis for the transfer of Mr. Derafshan to a psychiatric hospital and the basis for subjecting him to electric shocks and forced medical treatment. Please explain how these actions are compatible with the obligations of the Islamic Republic of Iran under international human rights law.
7. Please indicate what measures your Excellency's Government has adopted or is planning to adopt in order to ensure that human rights defenders, including human rights lawyers are able to carry out their legitimate human rights work free of repression or threat.

This communication and any response received from your Excellency's Government will be made public via the communications reporting [website](#) within 60 days. 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 may 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's to clarify the issue/s in question.

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

Irene Khan
Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression

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

Mary Lawlor
Special Rapporteur on the situation of human rights defenders

Diego García-Sayán
Special Rapporteur on the independence of judges and lawyers

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

Annex

Reference to international human rights law

In connection with above alleged facts and concerns, we would like to draw the attention of your Excellency's Government to the relevant international norms and standards that are applicable to the issues brought forth by the situation described above, in particular the right not to be deprived arbitrarily of liberty, to fair proceedings before an independent and impartial tribunal, to freedom of expression, to freedom from torture and cruel, inhuman or degrading treatment and to non-discrimination in accordance with articles 7, 9, 14, 19 and 26 of the International Covenant on Civil and Political Rights (ICCPR), to which Iran is a State party. We would like to remind your Excellency's Government that any limitation to the right to freedom of expression must meet the high standard established under Article 19(3) of the ICCPR. We also reiterate the statement by the Human Rights Committee in General Comment 34 that article 19(3) may never be invoked as a justification for the muzzling of any advocacy of human rights (CCPR/C/G/34).

Likewise, we would like to call your Excellency's Government attention to the duty of all States to ensure that all persons are entitled to call upon the assistance of a lawyer of their choice to protect and establish their rights, and to ensure that lawyers are able to perform all of their professional functions without intimidation, hindrance, harassment or improper interference established in the UN Basic Principles on the Role of Lawyers (Principles 1 and 16).

We recall that Human Rights Committee in General Comment no. 35 affirms 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) and freedom of association (art. 22), freedom of religion (art. 18) and the right to privacy (art. 17).

Moreover, 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 mirrored, 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 Article 7 of the International Covenant on Civil and Political Rights, provides that "[n]o one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment.

With regards to the solitary confinement of Mr. Derafshan, we would like to recall the report by the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment (A/66/268), in which he concluded that 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 recall paragraph 6 of General Comment No. 20 of the Human Rights Committee (1992), which states that prolonged solitary confinement of the detained or imprisoned person, may amount to acts prohibited by article 7 of the ICCPR, as well as Rule 43 of the United Nations Standard Minimum Rules for the Treatment of Prisoners (the Mandela Rules), expressly prohibiting the prolonged solitary confinement.

We would also like to remind your Excellency's Government of its obligations under Article 12 of the International Covenant on Economic, Social and Cultural Rights (ICESCR), ratified by the Islamic Republic of Iran on 24 June 1975, which guarantees all individuals, including prisoners and detainees, the right to the highest attainable standard of physical and mental health. 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 recall that States have a duty to protect the health of prisoners and detainees, in accordance with the UN Standard Minimum Rules for the Treatment of Prisoners, (reviewed on 17 December 2015 and renamed the "Mandela Rules"), in particular Rule 24 that establishes that the provision of health care for prisoners is a State responsibility and rule 27(1), which provides that all prisons shall ensure prompt access to medical attention in urgent cases.

We also remind that states have a heightened duty of care to take any necessary measures to protect the lives of individuals deprived of their liberty by the State, since by arresting, detaining, imprisoning or otherwise depriving individuals of their liberty, States parties assume the responsibility to care for their lives and bodily integrity, and they may not rely on lack of financial resources or other logistical problems to reduce this responsibility. The duty to protect the life of all detained individuals includes providing them with the necessary medical care and appropriate regular monitoring of their health. A heightened duty to protect the right to life also applies to individuals quartered in liberty-restricting State-run facilities, such as mental health facilities (General Comment 36).

With regard to the alleged connection between the apparent violations and Mr. Derafshan's human rights work, we would like to refer to 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 articles 1, 2, 6, 8 and 12.

Furthermore, we would also like to refer to 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:

- article 5 points a), b) which provide for the right to meet or assemble peacefully; to form, join and participate in non-governmental organizations, associations or groups;
- 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 provide 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.