

Mandates of the Special Rapporteur in the field of cultural rights; the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression; the Special Rapporteur on the situation of human rights in the Islamic Republic of Iran and the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment

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(Please use this reference in your reply)

30 November 2022

Excellency,

We have the honour to address you in our capacity as Special Rapporteur in the field of cultural rights; Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression; Special Rapporteur on the situation of human rights in the Islamic Republic of Iran and Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, pursuant to Human Rights Council resolutions 46/9, 43/4, 49/24 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 alleged arbitrary arrest and detention of rapper **Toomaj Salehi**, and the subsequent acts of torture inflicted upon him, in connection with his songs critical of the Iranian authorities. Information has also been received on other artists allegedly arbitrarily arrested in October and November 2022, some of them still detained, for protesting against the Iranian authorities, particularly for the recent death of Mahsa Amini, and for expressing their desire for freedom.

According to the information received:

On 30 October 2022, rapper Toomaj Salehi, born 3 December 1990, was arrested in Gerde Bishe in Chaharmahal and Bakhtiyari province, by 70 security police officers, for posting videos of himself actively asking his followers to participate in demonstrations, and for rapping songs criticizing the Iranian authorities, particularly in relation to the recent events surrounding the death of Mahsa Amini. He is reportedly being held in solitary confinement and is subjected to torture and other cruel, inhuman or degrading treatment or punishment. A few days after his arrest, a video was released where he appeared blindfolded, with marks allegedly caused by torture or other ill-treatment, and made confessions admitting that he was wrong.

According to information received, during a court hearing held behind closed doors, Toomaj Salehi was indicted on charges of "spreading corruption on earth", a charge punishable by death. His attorney was not present.

We express our concern that the arrest and detention of Mr. Toomaj Salehi may be solely related to the peaceful exercise of his right to freedom of artistic expression and creativity, resulting in undue restrictions on the right of all persons in Iran to enjoy and have access to the arts and to take part in cultural life. We are deeply troubled about the allegations of severe acts of torture

being inflicted on him and a possible imminent threat to his life.

While we do not wish to prejudge the accuracy of these allegations, we would like to remind your Excellency's Government of your obligations to protect and preserve every individual's right to life, to physical and mental integrity, of the absolute prohibition of torture and other cruel, inhuman or degrading treatments or punishment, the prohibition of arbitrary deprivation of liberty, and the right to equal recognition before the law, as laid down, *inter alia*, in articles 3, 5 and 9 of the Universal Declaration of Human Rights (UDHR), as well as articles 6, 7, 9 and 19 of the International Covenant on Civil and Political Rights (ICCPR), ratified by your Excellency's Government on 24 June 1975. We remind that the right to life, the right not to be subjected to torture and the prohibition of enforced disappearance are *ius cogens* norms, also enshrined in international customary law, from which no derogation is permitted, regardless of contexts of internal political instability or any other public emergency (Human Rights Committee, General Comment No. 36, paragraph 2). The Islamic Republic of Iran, as a State party to the ICCPR, is required to undertake all necessary measures to prevent arbitrary deprivation of life by all authorities including law enforcement and military officials.

We appeal to your Excellency's Government to take all necessary steps to secure the right of all persons to freedom of expression, including in the form of art, as per article 19 the ICCPR as well as the right of everyone to take part in cultural life and the freedom indispensable for creative activity, in accordance with article 15 of the International Covenant on Economic, Social and Cultural Rights (ICESCR), also ratified by your country on 24 June 1975.

In this connection, we would like to draw the attention of your Excellency's Government to General Comment No. 21 of the Committee on Economic, Social and Cultural Rights, which recalls the right of everyone "to have access to, and to participate in, varied information exchanges, and to have access to cultural goods and services, understood as vectors of identity, values and meaning"; as well as the right to "enjoy the freedom to create, individually, in association with others, or within a community or group, which implies that States parties must abolish censorship of cultural activities in the arts and other forms of expression" (E/C.12/GC/21, paragraphs 44, 48 and 49). As stated in General Comment No. 21, contribution to cultural life is also to be understood as a right to take part in the development of the society to which one belongs, and in the definition, elaboration and implementation of policies and decisions that have an impact on the exercise of a person's cultural rights (para. 15 (c)).

We would also like to appeal to your Excellency's Government to take all necessary steps to secure the right to freedom of opinion and expression, including artistic expression, in accordance with fundamental principles as set forth in article 19 of the ICCPR; this right shall include freedom to seek, receive and impart information and ideas of all kinds either orally, in writing or in print, in the form of art, or through any other media of his choice. In his thematic report on artistic expression A/HRC/44/49/Add.2, the then Special Rapporteur freedom of expression clarified that Article 19(2) must be read to govern expression through any media, including artistic forms, regardless of how art itself is defined or evaluated.

Prolonged solitary confinement, in excess of 15 days, may cause severe mental and physical pain and suffering, and is deemed in breach of the absolute prohibition of torture and other cruel, inhuman or degrading treatment or punishment. Moreover, owing to the prisoner's lack of communication with the outside world and his isolation, solitary confinement increases the risk of other acts of torture or ill-treatment. In this regard, we would like to refer to paragraph 17 of the General Assembly resolution on torture and other cruel, inhuman or degrading treatment or punishment 74/143 (2019), which reminds all States that prolonged incommunicado detention can facilitate other forms of torture or cruel, inhuman or degrading treatment or punishment or can in itself be a form of such treatment. Paragraph 18 of the same resolution emphasizes that conditions of detention must respect the dignity and human rights of persons deprived of their liberty, and calls 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.

In addition, we would like to appeal to your Excellency's Government to take all necessary measures to guarantee the right not to be arbitrarily arrested or detained and to fair proceedings before an independent and impartial tribunal, in accordance with articles 9 and 10 of the Universal Declaration of Human Rights. As reiterated by the Working Group on Arbitrary Detention, a deprivation of liberty is arbitrary when it constitutes a violation of international law on the grounds of discrimination, including discrimination based on gender or political or other opinion. We would moreover like to refer to the principle enunciated in Human Rights Council Resolution 12/16 which calls on states to refrain from imposing restrictions which are not consistent with article 19(3), including on discussion of government policies and political debate and expression of opinion and dissent.

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 persons 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 the details of the legal proceedings against Mr. Toomaj Salhi, and the legal basis upon which he is accused or detained, and explain how these are compatible with the international norms and standards on the right to freedom of opinion and expression, including in the form of art, the right to take part in cultural life and the freedom indispensable for creative activities.

3. Please provide information of any measures taken to ensure the due process and fair trial rights of Mr. Toomaj Salhi as well as other detained artists.
4. Please provide the details, and where available, the results of any investigation, including judicial or medical, carried out into the alleged acts of torture or other cruel, inhuman or degrading treatment or punishment against Mr. Toomaj Salhi. If no inquiries have taken place, or if they have been inconclusive, please explain why.
5. Please provide information of any measures adopted to guarantee the physical and psychological integrity of Mr. Toomaj Salhi and the other detained artists, and the full range of safeguards while in detention.
6. Please indicate if Mr. Toomaj Salhi and the other detained artists have been granted contact with and access to a lawyer of his own choice and to family since arrest. If not, please explain why.

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 particular, we respectfully request that any ongoing solitary confinement or incommunicado detention must end as a matter of immediacy.

We are considering publicly expressing our concerns in the near future as, in our view, the information upon which the press release may 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 would indicate that we have been in contact with your Excellency's Government's to clarify the issue/s in question.

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.

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

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Special Rapporteur in the field of cultural rights

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

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

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