

Mandates of the Working Group on Arbitrary Detention; the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression; the Special Rapporteur on the rights to freedom of peaceful assembly and of association; 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 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

Ref.: UA IRN 6/2024
(Please use this reference in your reply)

8 April 2024

Excellency,

We have the honour to address you in our capacity as Working Group on Arbitrary Detention; Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression; Special Rapporteur on the rights to freedom of peaceful assembly and of association; 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 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 51/8, 52/9, 50/17, 51/21, 52/4, 49/24 and 52/7.

In this connection, we would like to bring to the attention of your Excellency's Government information we have received concerning **Mr. Reza Shahabi, Mr. Davood Razavi and Mr. Hassan Saeidi, three imprisoned members of the Syndicate of Workers of Tehran and Suburbs Bus Company who are currently serving a five and six-year sentence in Evin prison for their trade union and labour rights activities.** According to information received their health conditions have deteriorated in prison and they are being denied access to any medical assistance.

Concerns on Mr. Reza Shahabi were raised by Special Procedures mandate holders in a previous communication dated 15 July 2014 (IRN 12/2014). In this regard, we thank your Excellency's Government for your response on 7 January 2015 that clarifies the case of Mr. Reza Shahabi and the reasons behind his arrest and detention. However, concerns remain on the arbitrary detention of Mr. Shahabi and his deteriorating health condition. We appeal to your Excellency's Government to respond to the letter and the concern raised.

According to the information received:

Mr. Reza Shababi

Mr. Reza Shahabi is a human rights defender and a prominent board member of the Syndicate of Workers of Tehran and Suburbs Bus Company. He has been prosecuted in the past for his labour rights advocacy.

On 12 May 2022, Mr. Shahabi was arrested by officers from the intelligence services and received a 6-years prison sentence.

In November 2022, the trial of Mr. Shahabi was conducted *in absentia*, and he was convicted on charges of “gathering and collusion against the national security” and charge of “propaganda against the state” by Branch 26 of Tehran Revolutionary Court.

On 12 January 2023, the court of appeals upheld the six-year prison sentence, two-year travel ban, two-year ban on membership in political parties and a two-year ban on using social media.

Mr. Shahabi has requested compassionate release from prison in order to obtain medical care and undergo a neck surgery that cannot be carried out inside the prison. Doctors have notified the prison administration and the office of the Prosecutor of Tehran that Mr. Shahabi requires the requested medical treatment, and that without it he risks serious complications that may have a significant impact on his health.

Reportedly, the interrogator in charge of Mr. Shahabi’s case has opposed his medical leave. This is even though Mr. Shahabi has served a third of his sentence and is eligible for a conditional release and the fact that he needs urgent surgery.

Mr. Hasan Saeidi

On 18 May 2022, Mr. Hasan Saeedi was arrested by officers from the intelligence services and received a six-year prison sentence for “gathering and collusion against the national security” and charge of “propaganda against the state”.

In November 2022, the trial was conducted *in absentia* of Mr. Saeedi, and he was convicted on charges of “gathering and collusion against the national security” and “propaganda against the state” by Branch 26 of Tehran Revolutionary Court.

On 12 January 2023, the court of appeals upheld the six-year prison sentence, two-year travel ban, two-year ban on membership in political parties and a two-year ban on using social media.

In prison, Mr. Saeedi lost most of his teeth due to gum and mouth disease and for the lack of medical healthcare provided by the prison authorities to treat his teeth. His loss of teeth has caused digestive disorders. He urgently needs to have his teeth treated outside of prison.

Mr. Davood Razavi

Mr. Davood Razavi, 63-year-old, was arrested on 27 September 2022. He was sentenced to five years in prison for charges of “gathering and collusion against the national security” and “propaganda against the state” by Branch 26 of Tehran Revolutionary Court.

Since his arrest, he has been deprived of any medical furlough and continues to suffer from the lack of medical treatment and care despite worsening digestive problems and bleeding, as well as suffering from eyesight degeneration, knee pain, and arthritis. He was supposed to be transferred to a hospital recently for an eye examination, but the Evin prison authorities refused to allow him because he wasn't wearing the prison uniform.

Reportedly, the three imprisoned trade unionists and longtime members of the Syndicate have been kept in solitary confinement and underwent interrogation for months.

Without prejudging the accuracy of the above-mentioned allegations, we reiterate our concern that the arrest and detention of Mr. Reza Shahabi, Mr. Davood Razavi and Mr. Hassan Saeidi, appear to be solely related to the peaceful exercise of their rights to freedom of peaceful assembly and expression in line with their work at the trade union. We further express our concern about the lack of access to medical support for the three men and a possible imminent threat to their health conditions.

The reported allegations, if they prove to be accurate, would be in contravention of the rights of every individual to life, health, physical integrity, the absolute prohibition of torture and other cruel, inhuman or degrading treatments or punishment, and of arbitrary deprivation of liberty, as well as the right to recognition as a person before the law, the rights to freedom of opinion and expression, including through artistic disciplines, to freedom of association and peaceful assembly, to health and cultural rights, as established, *inter alia*, in articles 3, 5, 6, 9,10, 14, 19, 20 and 27 of the Universal Declaration of Human Rights (UDHR), articles 6, 7, 9, 16, 17, 19, 21, 22, 24 and 26 read alone and in conjunction with article 2, para. 3 of the International Covenant on Civil and Political Rights (ICCPR), as well as articles 2.2, 12 and 15 of the International Covenant on Economic, Social and Cultural Rights (ICESCR), both 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 *jus 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, para. 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 law enforcement officials. 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. We make further reference to paragraphs 57 and 58 of the General comment No. 36, which state, *inter alia*, that extreme forms of arbitrary detention that are themselves life-threatening, in particular enforced disappearances, violate the right to personal liberty and personal security and are incompatible with the right to life (para. 57), and that enforced disappearance

constitutes a unique and integrated series of acts and omissions representing a grave threat to life, and States parties must take adequate measures to prevent the enforced disappearance of individuals and conduct an effective and speedy inquiry to establish the fate and whereabouts of persons who may have been subject to enforced disappearance (para. 58).

We further stress that when the State detains an individual, it is held to a heightened level of diligence in protecting that individual's rights. When an individual dies as a consequence of injuries sustained while in State custody, there is a presumption of State responsibility (CCPR/C/GC/36; paragraph 29).

According to the Human Rights Committee, the ICCPR requires States parties to ensure that individuals have accessible and effective remedies to vindicate their rights as provided under the Covenant and that there is a general obligation to investigate allegations of violations promptly, thoroughly and effectively through independent and impartial bodies (see CCPR/C/21/Rev.1/Add.13, para. 15). Where investigations find human rights violations, States parties must ensure that those responsible are brought to justice. Importantly, investigations should explore, *inter alia*, the legal responsibility of superior officials with regard to violations of the right to life committed by their subordinates. They must be aimed at ensuring that those responsible are brought to justice, at promoting accountability and preventing impunity, at avoiding denial of justice and at drawing necessary lessons for revising practices and policies with a view to avoid repeated violations. Also, under international law, States have a duty to investigate acts of torture and other cruel, inhuman or degrading treatment or punishment via prompt, independent, transparent and impartial investigations wherever there is a 'reasonable ground' to believe that an act of torture or other cruel, inhuman or degrading treatment or punishment has been committed even in the absence of a formal complaint. Persons making complaints must likewise be protected from intimidation or other risks to their personal integrity or safety. It is further prohibited to use any form of intimidation or pressure to coerce a person to confess or provide information, against their will and such information or confession shall not be admitted into any proceedings except for proceedings to establish that torture or another form of ill-treatment has been committed. We refer your Excellency's Government to the recent report of the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment to the Human Rights Council, A/HRC52/30, which sets out a state's obligations including under customary international law to investigate all allegations of torture or similar mistreatment and the protection of the rights of victims.

The allegations would also be in breach of the guarantees of a fair trial, provided by article 14 of the ICCPR, which sets out a general guarantee of equality before courts and tribunals and the right of every person to a fair and public hearing by a competent, independent and impartial tribunal established by law. Article 14 of the ICCPR provides a set of procedural guarantees that must be made available to persons charged with a criminal offence, including the right of accused persons to have access to, and communicate with, a counsel of their own choosing.

These guarantees provide that lawyers are entitled to perform their professional functions without any threat, intimidation, harassment or interference, and without suffering, or being threatened with prosecution or any administrative or disciplinary sanctions for actions undertaken in accordance with professional duties and ethical standards.

We would like to further refer your Excellency's Government to articles 12 and 2.2 of the ICESCR, which establish 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 No. 14, para. 34). 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).

Additionally, we would like to refer to the Mandela Rules, adopted unanimously by the UN General Assembly (A/RES/70/175), which recognize the responsibility of States to provide health care for prisoners, free of charge without discrimination (rule 24), paying special attention to those with special healthcare needs or with health issues that hamper their rehabilitation (rule 25) and indicate that prisoners requiring specialized treatment shall be transferred to specialized institutions or to civil hospitals (rule 27). We wish to also remind rule 46 that stresses that health-care personnel shall "pay particular attention to the health of prisoners held under any form of involuntary separation, including by visiting such prisoners on a daily basis and providing prompt medical assistance and treatment at the request of such prisoners or prison staff" and that "[h]ealth-care personnel shall report to the prison director, without delay, any adverse effect of disciplinary sanctions or other restrictive measures on the physical or mental health of a prisoner subjected to such sanctions or measures and shall advise the director if they consider it necessary to terminate or alter them for physical or mental health reasons."

Moreover, we wish to refer to the report of the former Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health, in which he makes reference to the fact that "[i]n contexts of confinement and deprivation of liberty, violations of the right to health interfere with fair trial guarantees, the prohibition of arbitrary detention and of torture and other forms of cruel, inhuman or degrading treatment, and the enjoyment of the right to life" and that "[v]iolations of the right to health emerge as both causes and consequences of confinement and deprivation of liberty". He also stresses that "for the right to health to be enjoyed in detention centres, health-care facilities, goods and services must be available, accessible, acceptable and of good quality". In addition, the Special Rapporteur urges States to "[f]ully abide by, and implement, the Nelson Mandela Rules, in particular as regards the provision of health care in prisons".

We also wish to bring to your Excellency's Government attention General Comment No. 14 adopted by the CESCR, which interprets the right to health as "an inclusive with extending not only to timely and appropriate health care but also to the underlying determinants of health, such as access to safe and potable water and adequate sanitation, an adequate supply of safe food [and] nutrition" among others (CESCR, General Comment No. 14, para. 11).

We would like to remind your Excellency's Government that article 9 of the ICCPR guarantees the right not to be subjected to arbitrary arrest or detention, and that the prohibition of arbitrary detention is absolute. We also recall that the arrest or detention of an individual as punishment for the legitimate exercise of the rights guaranteed by the ICCPR, including the right to freedom of expression and opinion,

including artistic expression (art. 19), the rights to freedom of peaceful assembly (art. 21), and of association (art. 22) is arbitrary (see CCPR/C/GC/35, para. 17 and the jurisprudence of the Working Group on Arbitrary Detention). In addition, 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 also like to appeal to your Excellency's Government to take all necessary steps to secure the right to freedom of opinion and 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. The Human Rights Committee underlined that the freedom of expression includes political expression and commentary on public affairs and cultural and artistic expression. Restrictions on the right to freedom of expression must be compatible with the requirements set out in article 19 (3) ICCPR, that is, they must be provided by law, pursue a legitimate aim, and be necessary and proportionate. The State has the burden of proof to demonstrate that any such restrictions are compatible with the Covenant. We wish to remind your excellency's Government that, as stated by the Human Rights Committee in General Comment 34, 'an attack on a person because of the exercise of his or her freedom of opinion or expression, including arbitrary arrest, torture, threats to life and killing, cannot be compatible with article 19'.

The reported serious human rights violations and impunity for such violations during the ongoing protests indicate a reoccurring pattern of State practice. Past demonstrations have seen similar acts of repression and violence against protesters from the authorities, with the use of excessive force and exacerbated forms of gender-based violence, resulting in deaths and injuries of protesters. This has also been highlighted in the different communications and reports to the Human Rights Council, lately during the 52nd session of the Human Rights Council. In this regard, we are concerned about the lack of measures to hold State actors involved in the excessive lethal use of force and resulting arbitrary killings accountable, which may enable an environment in which the violations outlined may be repeated.

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 articles 1, 2 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.

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

Under these circumstances, we appeal to your Excellency's Government to immediately provide Mr. Reza Shahabi, Mr. Davood Razavi and Mr. Hassan Saeidi with access to adequate medical attention, to adopt adequate measures to prevent any irreparable harm to their life and personal integrity, and to allow for medical leave outside the prison.

We also call on your Excellency's Government to stop criminalising peaceful protesters, including trade union protests for the legitimate exercise of their rights to freedom of opinion and expression, of association and peaceful assembly; to end intimidation and punishment of protesters that cause severe physical or mental pain and suffering; and to investigate all allegations of enforced disappearance, arbitrary detention and torture or ill-treatment.

We also reiterate the long standing call on the Government of the Islamic Republic of Iran to adopt all necessary measures to prevent any irreparable harm to the life and personal integrity of persons deprived of their liberty.

In view of the urgency of the matter, we would appreciate a response regarding the initial steps taken by your Excellency's Government to safeguard the rights of the above-mentioned person in compliance with international instruments.

We are issuing this appeal in order to safeguard the rights of the abovementioned individual from irreparable harm and without prejudicing any eventual legal determination.

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 on the factual and legal basis for the arrests and detention of Mr. Reza Shahabi, Mr. Davood Razavi and Mr. Hassan Saeidi, and how this is compatible with Iran's obligations under international law as stated, including the international norms and standards on the right to freedom of opinion and expression, including the rights to freedom of peaceful assembly and of association.
3. Please provide detailed information on elements relating to the state of health of Mr. Reza Shahabi, Mr. Davood Razavi and Mr. Hassan Saeidi, and the measures taken to provide them the needed medical healthcare in an effective and timely manner.
4. Please also provide information as to what measures have been taken to ensure that the rights of Mr. Reza Shahabi, Mr. Davood Razavi and Mr. Hassan Saeidi, to due process and a fair trial have been respected, and how such measures comply with the obligations of your Excellency's Government under international human rights law.
5. Please provide detailed information on the measures which have been taken, or which are foreseen, to ensure full and impartial investigations, independent medical examinations, and judicial or other inquiries in relation to the allegations of arbitrary arrest and enforced disappearance, torture and other cruel, inhuman, or degrading treatment or punishment. If measures have been undertaken, please make available the results of the investigations. If no such measure has been taken, please explain how this is compatible with the international

human rights obligations of Iran. Please also provide information on the measures that have been taken to protect complainants from any form of intimidation or harassment or other violations for having made such allegations.

6. Please indicate what measures have been taken to ensure that civil society actors in Iran are free to exercise their fundamental rights to freedom of expression, of peaceful assembly and of association in a safe and enabling environment without fear of threats or acts of intimidation and harassment of any sort.

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. We also urge the authorities to publicly condemn violence against peaceful protesters, and immediately remove the military and security units and personnel allegedly involved in the human rights violations from managing the protests.

We would like to inform your Excellency's Government that, after having transmitted the information contained in the present communication to the Government, the Working Group on Arbitrary Detention may also transmit the case through its regular procedure in order to render an opinion on whether the deprivation of liberty was arbitrary or not. The present communication in no way prejudices any opinion the Working Group may render. The Government is required to respond separately to the allegation letter and the regular procedure.

We would appreciate receiving a response within 60 days. Past 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.

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

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Vice-Chair on Communications of the Working Group on Arbitrary Detention

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