

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

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Excellency,

We have the honour to address you in our capacity as the 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; and Special Rapporteur on the situation of human rights in the Islamic Republic of Iran, pursuant to Human Rights Council resolutions 24/7, 25/2, 24/5, 24/6, 25/18 and 28/21.

In this connection, we would like to bring to the attention of your Excellency's Government information we have received concerning allegedly unreasonable and arbitrary new charges imposed on human rights defender, Mr. **Mohammad Sadiq Kaboudvand**.

Mohammad Sadiq Kaboudvand is a leading advocate of Kurdish rights in Iran and a journalist. He was the editor of *Payam-e Mardom* and is also the founder of Kurdistan Human Rights Organization. Mr. Sadiq Kaboudvand is currently in detention and suffering from health problems, and is allegedly being denied adequate medical care.

According to the information received:

On 1 July 2007, Mr. Kaboudvand was arrested and sentenced to 11 years in prison for "acting against national security" and "propaganda against the State." The sentence was reduced to 10 years upon appeal. During his imprisonment, Mr. Kaboudvand has been denied furlough (temporary leave granted to most inmates in Iran), regular visitations and adequate medical treatment. He is currently serving the ninth year of his sentence.

In the winter of 2015, Mr. Kaboudvand was summoned to the judiciary three times and each time additional charges have been brought against him. One charge alleges that Mr. Kaboudvand sent a message to the people of the Kurdish

inhabited city of Kobani and another alleges he wrote an academic paper about human rights situation in prisons.

Mr. Kaboudvand was incapable of sending messages from the prison and his University thesis explores the subject of “Turkey and Minorities” and not the rights of prisoners in Iran. Furthermore, the charges, if they were to be confirmed, and his multiple prison sentences have not been combined under Article 143 of Iran’s New Islamic Penal Code.

In February 2016, the Chief Warden of Evin Prison recommended Mr. Kaboudvand for conditional release but the prosecutor refused to consent.

Mr. Kaboudvand has deteriorating health due to a possible prostate cancer. He was due to undertake tests at Tajrish Hospital on 17 May 2016 but his transfer was denied. Since his imprisonment in 2007, Mr. Kaboudvand has suffered two heart attacks, high blood pressure, neurological difficulties and problems with his prostate. In addition, his health was affected by his 60-day hunger strike in 2012 to protest against the prison’s denial of his request to see his ill son.

Since 8 May 2016 Mr. Kaboudvand started a hunger strike to protest the new and allegedly false charges that will elongate his almost completed sentence.

Concern is expressed at the continued detention and abuse of Mr. Kaboudvand which seems to be directly related to his work as a human rights activist, exercising his right to freedom of expression. Further concerns are expressed about the physical and mental well-being of Mr. Kaboudvand in light of his present health condition, and alleged denial of adequate medical care while in detention.

While we do not wish to prejudge the accuracy of these allegations, we would like to appeal to your Excellency’s Government to take all necessary measures to guarantee the rights of these persons not to be arbitrarily deprived of their liberty to fair proceedings before an independent and impartial tribunal, to freedom of opinion and expression, and to freedom of association, in accordance with articles 9, 14, 19 and 22 of the International Covenant on Civil and Political Rights (ICCPR), ratified by the Islamic Republic of Iran on 24 June 1975.

Regarding the health situation of Mr. Kaboudvand, would like to refer your Excellency’s Government to article 12 of the Covenant on Economic, Social and Cultural Rights, ratified by Iran on 24 June 1975, which establishes that States have 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. (General Comment 14, Para.34) In addition, we would like to refer your Excellency’s Government to the Basic Principles for the Treatment of Prisoners, adopted by General Assembly resolution 45/111, according to which prisoners should have access to the health services available in the country without discrimination on the grounds of their legal situation (Principle 9).

With regard to the allegations that the continued detention is related to the human rights work of Mr. Kaboudvand, exercising his right to freedom of expression, we would reiterate that this right cannot be restricted unless the high threshold of article 19(3) of the ICCPR is met. In this connection we refer to the principle enunciated in Human Rights Council Resolution 12/16 stressing that restrictions on expression of opinion and dissent, including by persons belonging to minorities, are inconsistent with article 19(3). We would in this regard also like to refer your Excellency's Government 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 and 12.

Regarding the hunger strike currently being undertaken by Mr. Kaboudvand as a form of protest for the new charges brought against him, we would like to underline that the best way to try to end a hunger strike is to address the underlying reasons at the basis of the protest. Authorities have a duty to look for solutions to extreme situations created by hunger strikes, including through good faith dialogue about the grievances, always respecting the wishes of those who use this form of protest.

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 Mr. Kaboudvand 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 information concerning the legal grounds for the arrest and detention of the aforementioned person and explain how the arrest and detention of the aforementioned person is compatible with the principles and norms contained in articles 9, 10, 11 and 19 of the Universal Declaration of Human Rights and articles 9, 14 and 19 of the International Covenant on Civil and Political Rights.
3. Please provide information concerning the legal basis and justification for the additional new charges against Mr Kaboudvand, and explain how this is compatible with international human rights law, in particular with articles 9, 14 and 19 of the ICCPR.

4. Please provide information regarding steps taken to guarantee the physical and psychological integrity of Mr. Kaboudvand while in detention.
5. Please provide information relative to the measures taken by your Excellency's Government to ensure the physical and psychological well-being of Mr Kaboudvand, and please provide information regarding current policies and regulations in place, to ensure that prisoners, including Mr Kaboudvand, have access to proper and adequate medical treatment.
6. Please indicate the measures adopted to ensure that human rights defenders are able to carry out their legitimate work in Iran in a safe and enabling environment without fear of reprisals, violence or harassment of any sort.

While waiting for your response, we urge your Excellency's Government to take all necessary measures to halt the alleged violations and prevent their re-occurrence and in the event that investigations support or suggest the allegations to be correct, to ensure the accountability of any person responsible for the alleged violations.

In addition, we would like to draw your Excellency's Government's attention to paragraph 23 of the methods of work of the Working Group on Arbitrary Detention, according to which, "after having transmitted an urgent appeal to the Government, the Working Group 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 appeals — which are of a purely humanitarian nature — in no way prejudice any opinion the Working Group may render. The Government is required to respond separately for the urgent action procedure and the regular procedure.

Your Excellency's Government's response will be made available in a report to be presented to the Human Rights Council for its consideration.

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

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

Michel Forst
Special Rapporteur on the situation of human rights defenders

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

Maina Kiai
Special Rapporteur on the rights to freedom of peaceful assembly and of association

David Kaye
Special Rapporteur on the promotion and protection of the right to freedom of opinion
and expression

José Guevara
First Vice-Chair on behalf of the Working Group on Arbitrary Detention