



CATHERINE SWEETSER
DIRECTOR, HUMAN RIGHTS LITIGATION CLINIC
DEPUTY DIRECTOR, PROMISE INSTITUTE FOR HUMAN RIGHTS

SCHOOL OF LAW
BOX 951476
LOS ANGELES, CALIFORNIA 90095-1476
Phone: (646)549-6817
Email: sweetser@law.ucla.edu

August 11, 2023

Tania Reneaum Panszi
Executive Secretary
Inter-American Commission on Human Rights Organization of American States
1889 F St NW
Washington, D.C., 20006
United States of America

RE: Request for hearing in *Mirmehdi vs. United States of America* (Case No. 14.543)

Dear Ms. Reneaum Panszi:

We write to request that the Inter-American Commission on Human Rights (“Commission”) grant a hearing regarding the merits in *Mirmehdi et al. v. United States* (Case No. 14.453) during its 188th Period of Sessions. We make this request pursuant to Article 64 of the Commission’s Rules of Procedure (“ROP”).

INTRODUCTION

This case concerns the rights of four brothers: Mostafa Seyed Mirmehdi, Mohsen Seyed Mirmehdi, Mojtaba Seyed Mirmehdi, and Mohammad-Reza Mirmehdi (“Petitioners”). Over a period of several years, the United States government violated Petitioners’ rights under both national law and Articles I, II, IV, V, XVII, XVIII, XXI, XXII, XXV, and XXVI of the American Declaration of the Rights of Man (“Declaration”). The United States arrested Petitioners without cause, convicted them based on false evidence, and arbitrarily detained them for more than three years. Petitioners now seek redress through a hearing at the Commission.

In 2001, Petitioners were asylum seekers who had been released on bond into the United States. In October 2001, United States law enforcement officers arrested Petitioners and demanded that their immigration bond be revoked on the false allegation that Petitioners were members of a terrorist organization, based on Petitioners’ attendance at a rally in Colorado advocating for democracy in Iran. Their arrest and subsequent detention violated Petitioners’ right under Article XXV of the American Declaration of Rights and Duties of Man (“Declaration”), which protects individuals from arbitrary arrest.

At the hearing to revoke their immigration bond, FBI officials falsely characterized a list of attendees at the demonstration as a list of terrorists. FBI officers knew the allegations against Petitioners were false and that the evidence used to convict them was false before testifying against them. Due to this false evidence, Petitioners lost their immigration bond and became arbitrarily detained.

Petitioners remained detained for forty-one months. During their detention, they were subject to humiliation, physical abuse, and degrading treatment, in violation of both nationally and internationally recognized rights.

The Mirmehdis' story garnered national media attention. In February 2005, on the eve of an interview with the television program Nightline, the United States offered to release them. However, their release was conditioned on them agreeing to not speak out about their conditions of confinement or attend political rallies. They refused these terms limiting their rights to freedom of expression and remained in confinement.

Over the next six weeks, their conditions of confinement worsened markedly. Mohammed Mirmehdi was severely beaten. The Attorney General's Office of the Inspector General in the federal Department of Justice was set to open an investigation into the beating when, in March 2005, Petitioners were suddenly released without conditions on their right to expression.

LEGAL HISTORY

Petitioners first sued the United States government in domestic courts in 2006. This ultimately proved unsuccessful. In 2008, the District Court dismissed Petitioners' claim of false imprisonment. In 2012, the Court of Appeals ruled that Petitioners were not entitled to the rights they sought through their lawsuit because immigrants do not have a right to challenge false accusations or seek compensation for wrongful detention under the United States Constitution. The court found that their only remedy was release from detention, which had already been effectuated. Petitioners then asked the United States Supreme Court to hear their case. The Supreme Court discretionarily denied Petitioners' request, exhausting any remedy they had in U.S. courts.

In 2013, Petitioners filed a petition against the United States in this forum, alleging violations of the American Declaration on the Rights and Duties of Man. The Commission transmitted the Petition to the United States in late 2018. The United States filed their Opposition in April 2019, in which they argued that Petitioners had failed to exhaust domestic remedies and that the United States had not violated the Declaration.

In April 2021, Petitioners were notified that the Commission had decided their case was admissible regarding the alleged violations of their rights under Articles I, II, IV, XVII, XVIII, XXI, XXII, XXV, and XVII. Petitioners filed a merits brief in October 2021. The United States failed to respond to the Petitioners' brief within six months, as Article 37 of the ROP requires.

On July 29, 2022, the United States submitted its additional observations regarding Petitioners' merits brief. In their observations, the United States continued to argue that the Mirmehdis' Petition was inadmissible because Petitioners had not exhausted their domestic remedies, despite the Commission's March 2021 finding that the Petitioners had done so.

VIOLATIONS OF RIGHTS

The United States revoked Petitioners' bond based on false evidence, violating their right to liberty under Article I of the Declaration. The presentation and use of falsified testimony and deliberately misconstrued evidence to revoke their bond and detain them also violated their right to liberty under Article I of the Declaration, as well as their rights under Article XVIII of the Declaration, which recognizes that every individual retains basic civil rights, regardless of what country they are in.

The United States' arrest and detention of Petitioners for over three years based on their political activism violated their rights to freedom of opinion and expression under Articles IV and XXII, which protect individuals' rights to freely associate with the groups of their choosing and express their political views. Ironically, their arrest and detention was based on their attendance at a pro-democracy rally where a member of Congress spoke out against state-sponsored terrorism. Their arrest was arbitrary under Article XXV of the Declaration, and they never received the fair hearing to which they were entitled under Article XVIII of the Declaration.

The United States' detention of Petitioners based on false evidence that they were "terrorists" amounted to arbitrary discrimination based on race, religion, and national origin in violation of Article II of the Declaration. Petitioners were detained because of their national origin, as they were detained after Sept. 11, 2001, along with a large number of other Middle Eastern and Muslim people on specious bases.

The United States' use of false and misrepresented evidence to revoke Petitioners' bond and ultimately imprison them was a clear violation of their rights under Article XXVI of the Declaration, which recognizes the right to a fair and impartial hearing regardless of immigration status and that "every person is presumed to be innocent until proven guilty."

The United States courts' failure to hear Petitioners' case on the merits abrogated their rights under Article XVIII of the Declaration, which requires member States to provide a "simple, brief procedure" to protect individuals from acts which may violate their human rights. Moreover, Article XXV of the Declaration states that every individual deprived of his liberty has the right to contest the legality of his detention in court. United States courts violated this right by dismissing Petitioners' case based on their immigration status, rather than the substance of their claims.

The United States Court of Appeals in particular violated Petitioners' rights under Article II of the Declaration on the basis of their national origin when it ruled that they could not bring certain claims in United States courts by virtue of their immigration status. This was a denial of justice and a violation of their right under Article XVIII of the Declaration to seek redress through the courts. Petitioners never received any remedy for their wrongful detention. Petitioners were entitled to recognition as persons with juridical personality and basic civil rights under the United States Constitution and Article XVII of the Declaration.

Finally, pursuant to Article V of the Declaration, "every person has the right to protection [...] against abusive attacks on his honor, his reputation, and his private and family life." The Petitioners' prolonged and arbitrary detention had grave consequences for their professional reputation and

personal lives. Prior to their detention, Petitioners worked as real estate agents, a profession where one's reputation is one of the most important factors of one's success. Although they continue to work in this field, their prolonged detention and public information regarding their alleged association with terrorist groups decimated their client list, as well as their ability to obtain new clients. This ordeal has also resulted in the loss of friends and other personal connections, destroying the brothers' private lives.

Petitioners now request a hearing to provide additional evidence of the United States' violations of their rights enshrined in the Declaration and to seek justice before an impartial, independent adjudicator on the substantive merits of their claims.

REASONS A HEARING SHOULD BE GRANTED

Petitioners respectfully request adequate time to present oral argument and to question witnesses and experts. A 120-minute hearing would afford the Commission sufficient time to hear directly from all relevant witnesses and to examine the complex laws and policies at issue.

A. Petitioners will provide evidence of the United States' responsibility for violations of its international obligations through oral argument and testimony by witnesses and experts.

A hearing on this matter would offer the Commission the opportunity to verify the facts of Petitioners' allegations. This includes, but is not limited to, testimony from Petitioners and other individuals with knowledge of their case, including the conditions of their detention, as well as testimony corroborating that the evidence used to convict them was fabricated and that witness Bahram Tabatabai was prevented from testifying in their favor at their bond revocation hearing. Petitioners also plan to testify regarding the emotional, psychological, and economic harm they suffered as a result of their prolonged detention.

The Commission's March 2021 decision on the admissibility of the Mirmehdis' petition laid to rest any objections the United States has to the admissibility of Petitioners' case. In its decision, the Commission found that Petitioners clearly delineated their allegations regarding the United States' contravention of its duties under the Declaration. Nothing in subsequent briefing or filings has called the Commission's decision on admissibility into question.

Thus, Petitioners now ask the Commission to adjudicate their claims and grant all necessary and appropriate relief, including:

- Declaring that the United States violated Articles I, II, IV, V, XVII, XVIII, XXI, XXII, XXV, and XXVI of the American Declaration with respect to their rights and liberties;
- Requiring the United States to adopt measures aimed at preventing similar violations from taking place, including, *inter alia*, ensuring aliens can obtain compensation when knowingly false testimony is presented to secure their detention, conducting internal investigations when credible claims of malfeasance and fabrication of evidence are used to secure their detention, and educating agents of the State in procedural protections that must be afforded to non-citizens;

- Requesting that the United States provide fair compensation to the Petitioners for violating their rights.

The United States has a duty to provide Petitioners with reparations for the harms they suffered due to the violation of their rights. Full restitution entails truth and justice measures, including carrying out a thorough investigation with public results, an official apology, and compensation. The United States must also allow non-citizens to pursue claims of false accusations and wrongful detention in the courts going forward so that justice is not denied based on national origin.

B. A hearing will provide Petitioners with their first opportunity to be heard on the merits of their claims.

The Commission is the only remaining venue available for Petitioners to seek justice for the false and defamatory accusations made against them, the violation of their rights, and their prolonged arbitrary detention.

United States courts did not address the substantive allegations in Petitioners' claims because their case was dismissed on the basis that they had no right to contest their detention or the false accusations made against them. The Commission is the only judicial forum which will now allow Petitioners to have their case heard on the merits. It is not a "fourth instance court" or alternative appellate court, as the United States has claimed. The Petitioners have not yet had the opportunity to contest the substantive claims against them in a judicial forum. They have exhausted all domestic legal remedies, as is required before filing a petition with the Commission. If granted a hearing, Petitioners will finally have an opportunity to have a legal body hear and rule on the substantive allegations of their case.

REQUEST FOR A HEARING

We respectfully request that the Honorable Commission grant a hearing in this case. The evidence presented at the hearing will demonstrate the United States' violations of the American Declaration. The United States has the obligation to protect the fundamental human rights of those within its borders. Their failure to enforce Petitioners' basic rights and dignity is inexcusable.

The following individuals will attend or participate virtually in the hearing on behalf of Petitioners:

- Mostafa Seyed Mirmehdi, Mohsen Seyed Mirmehdi, Mojtaba Seyed Mirmehdi, and Mohammad-Reza Mirmehdi, the Petitioners
- Mehran Kamrava, an expert for plaintiffs on the evidence presented against them, or if unavailable, another expert on the written evidence presented
- Bahram Tabatabai, the witness who recanted his testimony
- Tessa Baizer, counsel for the Petitioners
- James Degen, student participant in the Human Rights Litigation Clinic at the University of California, Los Angeles School of Law, who assisted in the submission of Petitioners' briefing and hearing request

August 11, 2023

Page 6

Please contact us if you require further information. Thank you in advance for considering this request.

Sincerely,

A handwritten signature in blue ink, appearing to be 'Catherine Sweetser'.

Catherine Sweetser
Tessa Baizer
Human Rights Litigation Clinic, UCLA School of Law

Paul L. Hoffman
Michael Seplow
Schonbrun Seplow Harris Hoffman & Zeldes LLP