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*Mission Permanente
de la République Islamique d'Iran
auprès des Nations Unies
et des autres Organisations Internationales à Genève*

In the name of God, the Compassionate, the Merciful

Ref: 2050-12744

The Permanent Mission of the Islamic Republic of Iran to the United Nations Office and other International Organizations in Geneva presents its compliments to the Office of the United Nations High Commissioner for Human Rights, and with reference to the joint communication by some of the S.R and working group on arbitrary detention (WGAD) dated 29 May 2017, has the honour to submit herewith the reply of I.R. Iran to the Opinion of the seventy-eighth meeting of the Working Group on Arbitrary Detention (29 May 2017), in connection with a number of Baha'is in the Golestan Province.

The Permanent Mission of the Islamic Republic of Iran to the United Nations Office and other International Organizations in Geneva avails itself of this opportunity to renew to the Office of the United Nations High Commissioner for Human Rights, the assurances of its highest consideration.



Office of the United Nations High Commissioner
for Human Rights (OHCHR)
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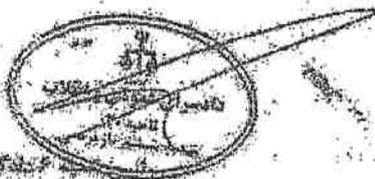


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 آقای: احسن السیر
 متهم: خانم علما، همسر بی نظیران خوراند، خیمه به نشانی تهران: اتوبان ستار و سوار فردوسی، قرن سومان برسانه جنوبی کوچه
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 همکار: در تاریخ یکشنبه ۱۳ شهریور ۱۳۹۶ در خصوص اتهام مطرح برود انسانی به مشورتهای آشکار به این
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در خصوص اتهام خانم علما، همسر بی نظیران خوراند به آفرین طبق

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In the Name of God

the Compassionate, the Merciful

Reply to the 29 May 2017 Opinion of the seventy-eighth meeting of the Working Group on Arbitrary Detention, in connection with a number of Baha'is in the Golestan Province of IR Iran

Introduction

At the outset, there is much to be regretted that despite the official information provided by the Government of the Islamic Republic of Iran in response to the previous communication of the Working Group on Arbitrary Detention, dated June 22, 2016, allegations from the source have been considered as acceptable; and based on the opinion, the present opinion has been issued. Basically, if evidence and documentation was supposed to be provided to the Working group for the earlier information provided by the Government (which was referred to in paragraph 20 of this Communication as a reason for not accepting the information provided), it was naturally expected that the Working Group to avoid haste before the issuance of the opinion, and provide the Government of IR Iran with adequate time or the WG could make a request for submission of relevant documents; or it could make a request for provision of further supporting documents to the Working Group.

* The previous reply of the Islamic Republic of Iran has been sent in brevity and it has been prepared in the same format as other special mandate holders. Given the received opinion and the deadline given in the present communication, more detailed relevant documentation and, information is provided with the expectation to be taken into consideration in accordance with the working group's rules of procedure.

* It is regrettable to see a lack of attention by the working group to the the inhumane and sectarian nature of organization of some Baha'is in Iran and the lodging of allegations of the source in the category (II); according to the earlier provided information, which is repeatedly reflected in international documents, there is a difference between the subject of the Baha'is and the existence of a sectarian organization that has tightly controlled its members and it has deprived

them from their individual liberties and rights. Obviously, the relevant articles and clauses in the International Covenant on Civil and Political Rights does not prescribe or imply the right to freely grant sectarian activities as mentioned; and therefore, legal measures to deal with complaints against several Bahá'ís and legal proceedings against the committed crimes should not be labeled as arbitrary.

* Propagation for attracting young children and adolescents of under the age of 18 to join and work in illegal Baha'i organization through resorting to immoral methods, such as, financial temptation and food distribution, encouragement for immoral behavior and sexual harassment, which have resulted in filing of complaints by parents of those individuals are not supposed to be translated in the framework of a healthy social activity and to be defined as an exercise of the right of freedom. Therefore, legal review in this area is not entirely consistent with the framework of the mandate of the working group and it should not be considered, in any way, a subject of arbitrary detention.

* Unfortunately, the source has maliciously raised several false allegations in his/her communication, which has led the move of the Work Group toward a wrong direction, and the opinion is far from the facts in the case; including the fact that the nature of the criminal actions of the mentioned individuals, in the communication, are not properly reflected.

* According to the existing information, those 24 individuals have been organizing mass meetings, in the form of an organizational group, in obedience of the newly established Baha'i organizations in the Golestan region, used persuasive and immoral methods and instruments to attract people to work with the organization. Since many of the participants in the meetings were children and individuals under the age of 18, and they had no authorization or permission from their parents, and also a number of complaints were filed by those parents, the subject was taken into investigation. The investigations also confirmed existence of a regular organizational activity confirming genuinity of the complaints.

In addition to the unlawful nature of the meetings, the issue of association of the meetings with the Baha'i community, centered in the territory of the hostile regime of Israel, has also raised the security aspects of the illegal activities. Subsequently, the judicial authority investigated the case and on the basis of the

received information and evidences, ordered summoning of a number of suspects and inspection of sites. With the view of the strong probability of cooperating with the outlawed Baha'i community, the required investigation and interrogation proceeding were carried out in conformity with Article 128 of the Criminal Procedure Code of the time. All defendants had the right to legal counsel after completion of the investigation phase, which will be referred, in detail, in the following paragraphs.

It should be noted that the new Code of Criminal Procedure has been implemented since July of the year 2015, and in accordance with Article 48 of this law the accused can apply for the presence of a lawyer. The lawyer could meet with the accused in observation and attention to the confidentiality of the investigations and negotiations.

It should also be noticed that in spite of the existence of private plaintiffs and numerous violations of the law, Islamic affection has been considerably observed for those individuals in general, including the fact that the Court of Appeal, by carefully hearing the defense, and assuming that the individuals under investigation had not have any criminal record, issued leniency lawsuits against them in comparing with the decision of the lower court. Also, according to Article 134 of the Penal Code only the severest punishment was applied to this group and other punishments were ignored; similar to other citizens. Or despite the fact that the association of the Bahá'ís with the hostile state was ascertained by the Court of Appeal and that the crime was committed, their punishment was commuted to a short time conviction and they were released after completion of the conviction period.

* According to the contents of the case and the information provided below, the status of the individuals referred to as the fifth category (v), is not consistent with the characteristics already defined under category (v) for being considered as arbitrary detention. Arrest and judicial investigation of the performance of a limited number of individuals should not be generalized. The majority of Baha'is in Iran are in a good condition in terms of their economic and professional activities and they are enjoying their liberties and conduct their rituals freely. Therefore, all allegations that the case of those 24 individuals has been due to their belief and practice of their teachings are absolutely incorrect. Baha'is, similar to other

Iranians may commit offenses, in different areas, and be sued by law. Any allegation on mistreatment and persecution against Bahá'ís is fabrication of false information.

- Unfortunately, in the released Opinion, unverified allegations have been taken into account, rather than the authentic and real information and documentation. For instance, in paragraphs 21 and 22, the allegations in the communication of the Special Rapporteur are considered as definite; while in observation of the rules of procedure, defined for mandate holders (document no 5/2), Special Rapporteurs are obliged to observe impartiality and make communications without prejudice. The Islamic Republic of Iran has duly responded to communications and provided significant information to reject baseless and unfounded allegations as a result of which many cases and allegations were discontinued. Also, the Working Group, before issuing the Opinion, has not considered or taken into account the earlier detailed replies the Government had provided to the reports of Special Rapporteur on Iran and to the UN Secretary General.

- As for the allegation on arbitrary detention of some Bahá'ís which was communicated through an urgent appeal, dated May 29, the Government of Iran responded expeditiously and sent it to the Office of the High Commissioner. In the reply, extensive information was provided which proved the allegations to be false and fabrication of lies.

- Regarding the recommendations of the UPR, it should be noted that governments are responsible for the accepted recommendations, and Iran accepted about 65 percent of the recommendations in the two previous cycles of its UPRs, which is one of the highest rates of acceptance and cooperation in the PPR system. It should be noted that some countries, because of political considerations, make improper recommendations or inappropriate literature that are not acceptable. In addition, UPR is not a mechanism for verifying unacceptable allegations, and therefore the allegations made by the source in paragraph 24 are principally false.

* As mentioned above, the issue of dealing with Baha'i crimes does not cover the offenses mentioned in this communication, and it has been found out that, for instance, between January 2016 and August 2017, a number of Baha'i citizens were arrested and prosecuted on charges such as the issuance of fake bank checks,

betrayal of trust, seizure of drugs, smuggling, acts contrary to public chastity and etc, after issuance of legal indictments. In several cases also Bahá'í citizens have complained against each other for committing various offenses. During the period, two cases of child abduction and one case of assassination against Bahá'ís were reported for which transparent legal proceedings were conducted, similar to any other case. The kidnapers were arrested and the massive money was returned, and in the case of murderers, the court issued a verdict. Therefore, it is unacceptable to label legal punishment of some Baha'is for the offenses they have committed as systematic abuses against them.

* Unfortunately, the outspoken and extreme support for the Baha'is of Iran, which have been raised by some Western governments with political motives and, in some cases, by repeated statements of some international institutions, has led to the abuse of the situation by some Baha'is. For example, Ms. [REDACTED] has requested her family relatives in Iran to make a fake judicial indictment on the issuance of execution sentence for alleged apostasy so that she can use the fake document in the UN office in Turkey to apply for asylum. (The fake dossier is attached.)

Here, while providing adequate information about the Baha'is, all the allegations in the communication are also replied, and baselessness of the allegations is proved. Therefore, it is necessary for the Working Group to seriously take into consideration the provided replies in issuing the upcoming opinion and clear the case.

A. The General Condition of Baha'is in Iran:

Along with religious minorities, citizens' rights are fully observed in connection with sects, including the Baha'is. Considering that Islamic religious teachings have strictly forbidden investigation on beliefs of people, under Article 23 of the Constitution of the Islamic Republic of Iran, "Investigation into one's ideas is forbidden. No one can be subjected to questioning and aggression for merely holding an opinion". So, despite numerous political and media campaigns, especially from representatives of the Baha'is, no one has been sued or arrested and imprisoned for following a particular belief. It should be noted that the repetition of unfounded allegations cannot be a reason for their acceptance. Based on the

information provided below, the Bahá'ís in Iran have civil rights and have many educational, health, educational and economic facilities. Despite their small population, Bahá'ís have large economic institutions. They are also active in import-export transactions and they do not have a poor community among them.

B. the Bahá'í Economic, Social, and Cultural Situation:

Based on the laws and policies of the Islamic Republic of Iran, all Baha'i people enjoy the rights of citizenship and therefore have a desirable relative situation in cultural, economic, and social issues. Bahá'ís in Iran owe their success in economic activities to the facilities that they receive from government institutions, especially banks and ministries of industry, mining and commerce, agricultural Jihad, as well as the Ministry of Labour and social welfare. The Islamic Republic of Iran has committed itself to the justice of the judiciary and to maintaining of the standards of citizenship of the members of this sect in judicial courts.

Despite their small population, Baha'is are very active in the economic fields, such as production, trade and services. They are also active in various skills, including glasses, cooling and heating equipment, elevators, engineering, construction, agricultural and animal husbandry companies, cosmetics and etc. They are often contractors with government agencies and even in some areas, the Government has been the main customer of some products of companies and factories of Baha'is; while the initial capital for formation of some of those companies and factories and their continued activity has been provided with considerable banking facilities.

In this connection and as an example, we can mention the companies of

[REDACTED] which advertise their products in different Iranian State and private mass media. Bahá'ís have enjoy trade facilities provided to 'Trade Card' holders for business operations. They are also enough wealthy to send annual financial donations to Baha'is in other countries, including in Africa. In addition, the general economic status of Baha'is in Iran is in such a way that, with the consideration of receiving cash subsidies (similar to all eligible Iranian nationals), there is almost no poor person among them, and every one of

them enjoys a relative welfare. As for the employment of Baha'is in government institutions, the ban on work in government centers is aimed at the Baha'is who are involved with the above-mentioned outlawed Baha'i organization. Therefore, anyone who is not a member of the Baha'i dissolved outlawed Baha'i organization is eligible for governmental employment and there is no prohibition. As many of them are working presently in governmental institutions.

C. Bahá'í cultural and religious facilities:

Bahá'ís in Iran enjoy cultural facilities and perform their ceremonies and conduct sectarian education for their children from the age of 4 in their kindergartens and attend all levels of education at various Iranian educational institutes. All Baha'is can freely perform their personal ceremonies, as well as their congregational rituals every 19 days collectively in local gatherings called 'Ziyafat' (Banquet) in all Iranian cities where there are even few local Baha'is. In addition, cultural products of this sect are also put on sale in different Baha'i sites. The Bahá'ís also have several special cemeteries in different parts of the country (while in many European countries, minorities with a population of several million have to bury bodies of their dead in the corners of Christian cemeteries and the dead must be buried in the coffin according to Christian rituals).

D. Social status of the Baha'is:

Although there is a small Bahá'í community in Iran, there is no limits imposed on them to be engaged in important medical spheres such as being a physician, establish a pharmacy, employment in medical centers or lecturing in universities. Also a number of Baha'is are employed in medical centers, and Baha'i doctors, similar to other Iranian eligible individuals have set up medical clinics, laboratories and pharmacies in various cities with permits obtained from the Ministry of Health and medical Education.

E. Baha'is' educational facilities:

According to Paragraph 3 of Article of the Constitution, education and physical education are free of charge for all people, at all levels, and it is a duty upon the State. Baha'is also enjoy this constitutional right. As stated above, their

special sect teachings also begin from kindergarten level. The Higher Education Institutions of the Islamic Republic of Iran, regardless of individuals' religion or religious inclinations should enroll all Iranian nationals in accordance with the law and regulations. According to Iranian law, no one has the right to search and investigate private status and belief of people.

Students and Baha'i graduates: Due to the lack of religious auditing in the Islamic Republic of Iran, there are no accurate data on graduate Baha'is and university students in the country, and they are occasionally recognized; such as Ms. [REDACTED]

[REDACTED] Presence of dozens of Baha'is in Iranian universities at all higher levels (undergraduate, postgraduate, and doctoral) confirms the fact that people are not treated on the basis of one single belief. It is also worth mentioning that presence of even one Baha'i in Iran's educational institutions violates all the false allegations.

As for the scientific contents presented in the mass media's historical programs, one should note that historical facts cannot be changed in light of tendencies of sects and individuals. The raised allegation is like excluding the name of Hitler and his party, as the cause of the beginning of the World War, in order to prevent insulting Nazis in historical books. What has been presented in Iran's media programs is based on viewpoints of historians and scholars and are free of abusive words and they contain completely historical and scientific materials.

Examination of historical events and documents is one of the tools of freedom of expression, and the expression of criticism of ideas can not be in violation of the international standards of freedom of expression, especially when it lacks defamatory words. According to the records of the century-old collaboration of the Baha'i sect with the tyrannical regime of Shah and his intelligence service (SAVAK), the expression of history cannot be limited. In addition, official centers have always tried to criticize the historical past or a diversion of thought and individuals to be excluded. On the other hand, responsibility of expression of viewpoints by non-government individuals remains with them. Parliamentarians, in particular, have broad rights to comment on issues in the country.

F. Sectarian structure of Baha'i members in Iran:

According to Article 19 of the constitution of the Islamic Republic of Iran "The people of Iran enjoy equal rights, regardless of the tribe or ethnic group to which they belong. Color, race, language, and other such considerations shall not be grounds for special privileges". In addition, Article 20 of the Constitution stipulates that "Members of the nation, whether man or woman, are equally protected by the law. They enjoy all the human, political, economic, social, and cultural rights that are in compliance with the Islamic criteria".

On the basis of Articles 12 and 13 the constitution of the Islamic Republic of Iran, the official religion of the country is Islam, and Zoroastrian, Jewish, and Christian Iranians are recognized as the only religious minorities who, in law, are free to perform their ceremonies in the limit of law; and in their personal status and religious teachings, they can act in accordance with their own rituals.

Along with the religious minorities, the rights of the followers of sects, including the Baha'is, are observed. Obviously, observance of the citizenship rights of individuals is subject to the fulfillment of legal duties of each individual in the community. Because the validity of each right depends on fulfillment of a pairing responsibility; and this legal principle, namely, the relation between rights and responsibilities exists in most recognized legal systems.

Considering that Islamic teachings strictly forbid investigation of beliefs and Article 23 of the Constitution of the Islamic Republic of Iran stipulates that "Investigation into one's ideas is forbidden and no one can be subjected to questioning and aggression for merely holding an opinion" nevertheless, despite numerous political and media campaigns, especially by Baha'i representatives, no one is convicted, imprisoned, or expelled from the university for holding of a particular belief.

The illegal political organization of the Bahá'ís is governed by a secularist dynastic structure. The centrality of this organization is based in the Occupied Palestinian Territory and there are two lower levels, named the two main pillars of the "Continental Advisers" and "International Society". Those two pillars have established very close relation with lower pillars, such as "Iran's Fellows" (Yarane Iran). There are further eight delegations and national-provincial interfaces under

the auspices of Iran's Fellows. Each of the eight delegations has direct influence on student-affiliated organizations. Those students are also governed by the instructions of the Baha'i authorities, and municipal authorities, under the instructions of the provincial authorities and provincial authorities, are, in turn, under the control of the national-provincial interfaces; where some of the educational-related hierarchical orders are in conflict with their citizenship rights.

Unfortunately, in the organization of the Baha'i sect, it is a common practice to inspect and impose a belief. If a Bahá'í person chooses Islamic education as a unit in his/her education, he/she would be under organizational pressure and should make a choice between continuing education or deprivation of his sectarian privileges in Baha'ism.

On the other side, it should be noted that Article 18, paragraph 3, of the International Covenant on Civil and Political Rights, reads as follows: "Freedom of expression of religion or beliefs cannot be subject to limitations except as provided for exclusively by law and for protection of security, order, health or general ethics or the rights and fundamental freedoms of others"; and also in accordance with Article 19 of the Covenant, freedom of opinion and expression are conditional on respect for the rights or dignity of others, as well as the maintenance of public order or security or public morals.

Despite the official announcement on the dissolution of the illegal Baha'i institution by the judicial authorities, some Baha'is are still active under the influence of organization, and they carry out propaganda and inciting activities in Iran, including in universities, which is contrary to the rules of the country.

G. International Documentation to Confirm the Suitable Economic Status of Baha'is in Iran

As mentioned earlier above, the economic situation of Baha'is is in complete contradiction with the allegations, and in addition to official reports, some of the relevant international bodies have also confirmed their status, including a report by the Committee on the Implementation of the Standards of the Ninety-seventh International Conference of ILO (page 90, the record of the Committee's negotiations, 19, Part II / 90). The visit was organized by the ILO to address the status of workers' salaries and they visited the headquarters of one of the industrial

units managed by a Baha'i person. The situation by itself contradicted all allegations on violation of Baha'is rights. (The ILO technical assistance mission in 2007 had an opportunity to meet a member of the Baha'i community who was a successful businessperson in the high-tech sector. Many of the circulars regarding the Baha'I that had been mentioned were fabrications; others had been repealed.)

In view of its resolute determination to exercise the legal and human rights of all people, especially in the strict implementation of the provisions of the obligations under the Convention 111, the Government has taken steps, with the help of the experts of the Tripartite Forces, to identify the legal barriers of the measures envisaged for the reform and guarantee of their implementation.

The following replies are presented with the relevant documents, against the allegations made in the May 29th Opinion of the Working Group. (it should be noticed that the anti-security measures taken by some Bahá'is, contained in this communication, and in observance of their privacy rights, it is not possible to provide complete file of information. Also, within the framework of Human Rights Council resolution 38/36 on the subject of the work of the Working Group on Arbitrary Detention, attempts have been made to provide short answers in order to comply with the 20-page limit for replying.

Reply to paragraphs 1 to 3:

Failure to comply with the judicial cases of the individuals mentioned in this communication with cases that are considered arbitrary according to the Working Group's methods of work, especially categories 2, 3 and 5, are detailed in the introduction to the current answer. Therefore, due to the limitation of the pages of the reply, it is avoided to be repeated.

Reply to paragraphs 4 and 5:

As mentioned in the introduction, in addition to the illegality of the meetings held by Baha'is, the issue of association with the illegal Baha'i Community, centered in the hostile regime of Israel, was also taken into account and the security aspect of their activities was put into investigation. Subsequently, the judicial authority, by reviewing the obtained information, summoned and in some cases inspected the relevant sites. Since the possibility of cooperating with the

illegal organization was almost certain, the investigator carried out interrogation proceeding in accordance with the note of Article 128 of the Criminal Procedure Code at the time of processing the case. All defendants enjoyed the right to legal counsel after completion of the investigation phase, which will be referred to in the sections below. Thus, they have had access to lawyers and legal counsel at all stages, and consequently the allegations made by the source are counterproductive and should not be the basis of the work group's Opinion. Also, according to research, the allegations of misconduct and torture were found to be completely baseless, and this allegation was not reflected in the defenses of the individuals mentioned in these Paragraphs.

All of those 18 individuals made appeals after receiving the first sentences. It should be noted that in spite of the existence of a private plaintiff and numerous violations of law, they were dealt on the basis of Islamic affection in general. The Court of Appeal, by carefully hearing the defense and assuming that the named persons had not had any criminal background, issued leniency lawsuits against the lower court. They were treated and prosecuted through normal proceedings, similar to any other Iranian citizen on the basis of Article 134 of the Penal Code and only the one of the severest punishments was enforced (other punishment were waived) and the Court of Appeal, despite the fact that the association of the Bahá'ís with the hostile states was certain, and despite the fact that the crime was committed (but not by every single one of them), ignored the fact and upon enforcement of a part of their punishment, with the exception of two people who had received more serious sentences, they were released after a completion of short period of imprisonment.

Reply to paragraphs 6, 7 and 8:

Unfortunately, the source has made incorrect judgments, including the summoning of Ms. [REDACTED] who were among the accused of illegal activity in attracting children under the age of 18. Due to the situation in the region and the presence of Sunni and Shia people in the region as well as the social sensitivities, the investigator issued an inspection permit of their houses and, given the probability of security offenses, some of the suspicious goods were also seized in accordance with Article 147 of the Criminal Procedure Code. It should be reiterated that contrary to the allegations made in

paragraphs 7 and 8, Ms. [REDACTED] were released upon lodging of the bail and completion of primary initial investigation. Any allegation on their persecution was investigated to be fabrication of lies.

Reply to paragraph 9:

The reply to the allegation of the lack of access to a lawyer was provided above. Also, the allegation on limited one time access to lawyer is absolutely baseless. During the period of release and until the final verdict to be issued and enforcement of the judgment, all defendants enjoy their right of access to defence lawyer. It should also be noted that based on available documentation, at the time of summoning, the family and their lawyers (Mr. [REDACTED]

[REDACTED] were informed of the issued judicial order. They had also access to telephone to contact their families. (The file has been attached).

Reply to paragraph 10:

In the judicial system of the Islamic Republic of Iran, it is anticipated that complaints and violations of citizenship rights could be filed through the "Board of Supervision and Inspection on the citizenship rights" of each province, in accordance with paragraph 15 of the Law on "Respect to the Right to Freedom and the Protection of Citizenship Rights and its Implementing Directives". In the case referred to in paragraph 10, since a complaint had been sent to the Prosecutor's Office of Gorgan Province, the letter of authority was communicated in writing and subsequently upon submission of documents and films related to interrogation hearings, the complaint was found to be unsubstantiated and therefore it was rejected. In the same venue, allegations of pressure on plaintiffs through reprisals measures are also void and unfounded.

Reply to paragraph 11:

As stated in reply to Para 9, all those individuals had access to lawyers. The source's allegation of threats against their lawyers is also groundless and false. According to the available information and as stated for Para 9, the lawyers of