

Mandates of the Special Rapporteur on the independence of judges and lawyers 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 capacities as Special Rapporteur on the independence of judges and lawyers and Special Rapporteur on the situation of human rights in the Islamic Republic of Iran pursuant to Human Rights Council resolutions 26/7 and 28/21.

In this connection, we would like to bring to your Excellency's Government's attention information we have received concerning **the new Code of Criminal Procedure**, which came into force on 22 June 2015 and includes provisions that seem to be in contravention of the right to a fair trial.

According to information received:

The new Code of Criminal Procedure, adopted by Parliament on 23 February 2014, approved by the Guardian Council on 17 March 2014 and passed into law in April 2014, came into effect on 22 June 2015. The new Code contains 570 articles, 262 more articles than the former Code.

In August 2014, the Legal and Judicial Commission of the Parliament introduced a plan to extend the deadline for the implementation of the new Code of Criminal Procedure. This was aimed at allowing the introduction of additional amendments into the Code already passed in April 2014. In April 2015, the Parliament passed the new amendments introduced into the Code and these were approved by the Guardian Council on 17 June 2015. These new amendments contained several provisions that have reportedly weakened or abrogated some of the positive and protective measures introduced in the April 2014 version of the Code, including defendants' right to access a lawyer in the initial investigation phase upon request.

The new amendments limit the right to have access to the lawyer of one's choice during the primary investigation phase in certain criminal cases, including those related to national security. According to article 4 of the 2015 Code, the right to a lawyer during the investigative phase is limited to choosing counsel from a roster

pre-approved by the Head of the Judiciary. This restriction applies to individuals facing crimes against national or foreign security, political and press crimes as well as crimes punishable by the death sentence and life imprisonment. The amendments also reportedly allow the right to a lawyer to be waived by the judiciary for up to a week in these cases.

Concern is expressed that the new Code of Criminal Procedure appears to weaken or abrogate some of the positive measures introduced in the Code and approved in April 2014, thereby undermining fair trial and due process guarantees.

The new amendments also run contrary to international laws and standards on the right to fair trial, as set forth, inter alia, in the UDHR and the International Covenant on Civil and Political Rights, to which Iran is a State party and which include the right to a lawyer of the defendant's choice at all stages of criminal proceedings regardless of allegations against the defendant. Guarantees of due process and fair trial are also included in the Basic Principles on the role of lawyers.

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. Since we are expected to report on these cases, we would be grateful for your cooperation and 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 explain how the new amendments in the version of the Code of Criminal Procedure of 2014 are in line with the international standards on the right to fair trial, including the right to have access to a lawyer of one's choice at all stages of criminal proceedings, regardless of the allegations against the defendant, as set forth in the ICCPR.
3. Please provide information on current or planned measures to ensure defendants' right to a lawyer during all stages of criminal proceedings since the implementation of the new Criminal Procedure Law on 22 June 2015.
4. Please explain what criteria the Head of the Judiciary will use to determine the pool of lawyers eligible to work on national security and other serious cases and how the principle of independence of lawyers can be upheld.

We would appreciate receiving a response within 60 days.

While waiting for your response, we urge your Excellency's Government to take all necessary measures to guarantee that the right of all persons to fair trial is respected. In the event that your investigations support or suggest the above allegations to be correct, we request that your Excellency's Government adopt effective measures to further guarantee the right to a fair trial, including the right to counsel of defendant's

choosing during all phases of criminal proceedings regardless of allegations against defendant.

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.

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Gabriela Knaul
Special Rapporteur on the independence of judges and lawyers

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