

Mandates of the Working Group on Arbitrary Detention and the Special Rapporteur on the situation of human rights in the Islamic Republic of Iran

REFERENCE:
UA IRN 4/2017

27 January 2017

Excellency,

We have the honour to address you in our capacity as the Working Group on Arbitrary Detention and Special Rapporteur on the situation of human rights in the Islamic Republic of Iran, pursuant to Human Rights Council resolutions 33/30 and 28/21.

In this connection, we would like to bring to the attention of your Excellency's Government new information we have received concerning Ms. **Nazanin Zaghari-Ratcliffe**.

Ms. Nazanin Zaghari-Ratcliffe is a dual British and Iranian citizen who was born in Iran. In September 2007, Ms. Ratcliffe moved to the United Kingdom to pursue a Master's degree. In 2009, she married a British citizen and, in late 2011, became a British citizen. Their two-year-old daughter was born in London and is also a British citizen. She does not hold any other nationality. Since 2011, Ms. Ratcliffe has been working as a Project Manager for the Thomson Reuters Foundation and is still employed in that role. On 3 April 2016, Ms. Ratcliffe was arrested at Khomeini Airport in Tehran by the Iranian Revolutionary Guards just before she was boarding a flight home to the United Kingdom.

Ms. Ratcliffe was tried in secret on 14 August 2016 in Revolutionary Court 15 and the trial lasted three hours. Ms. Ratcliffe had no access to a lawyer until day 130 of her detention and only three days before her trial. The verdict was announced on 6 September 2016, when she was sentenced to five years imprisonment for unspecified national security related crimes.

Ms. Ratcliffe is the subject of the Working Group's Opinion No. 28/2016 (Islamic Republic of Iran), adopted on 23 August 2016. The Working Group found that the deprivation of liberty of Ms. Ratcliffe was arbitrary, in contravention of articles 9, 10 and 11 of the Universal Declaration of Human Rights (UDHR) and articles 9, 10 and 14 of the International Covenant on Civil and Political Rights (ICCPR), and falls within categories I, III and V of the categories applied by the Working Group. The Working Group requested the Government to take the necessary steps to remedy the situation of Ms. Ratcliffe without delay and bring it into conformity with the standards and principles in the UDHR and ICCPR. The Working Group considered that, taking into account all the circumstances of the case, especially the risk of harm to Ms. Ratcliffe's health and physical integrity and to the well-being of her child, the adequate remedy would be to release Ms. Ratcliffe immediately, and accord her enforceable right to compensation in accordance with article 9(5) of the ICCPR.

Ms. Ratcliffe was also the subject of two joint communications sent on 1 July 2016 (case IRN 20/2016) and on 6 October 2016 (case IRN 26/2016). We thank your Excellency's Government for its reply dated 25 August 2016.

According to the information received:

Since the adoption of the Opinion No. 28/2016 (Islamic Republic of Iran), there have been further developments concerning the legal process against Ms. Ratcliffe. Ms. Ratcliffe remains in detention and the concerns about her welfare continue, as do concerns over the arbitrary nature of her detention and the lack of due process and fair trial guarantees.

Appeal hearing:

Ms. Ratcliffe's appeal papers were filed with the Revolutionary Court on 14 September 2016. Under Iranian law, her appeal should have been heard within 30 days, but only took place on 4 January 2017, in Court 54, heard by a panel of three judges. The appeal was held in secret, in the presence of a large number of Revolutionary Guards from the Kerman and Tehran branches and judiciary officials. It lasted three hours. Neither Ms. Ratcliffe nor her lawyer was allowed to tell her family what happened at the appeal in the 18 days following the appeal.

On 22 January 2017, at the Judiciary's weekly press conference, it was announced that the appeal court had upheld Ms. Ratcliffe's sentence of five years' imprisonment for crimes related to national security. Her family discovered this verdict via the media. Ms. Ratcliffe's parents were visiting her in Evin Prison at the time of the press conference. At this visit, Ms. Ratcliffe did not know anything about the judgment. Ms. Ratcliffe's lawyer subsequently confirmed that he was informed that her appeal had failed. He has subsequently also clarified that her crime relates to "membership of organizations acting against national security."

At the appeal hearing, there were two new accusations raised against Ms. Ratcliffe by prosecutors from the Kerman branch of the Revolutionary Guards. Firstly, Ms. Ratcliffe was accused of being the Head of Recruitment for BBC Farsi at the time of its founding in 2009. However, according to the source, at that time, Ms. Ratcliffe was working as a Project Assistant for BBC Media Action (the development charity of the BBC), on a training project for youth in Afghanistan and Iran. She has never worked for BBC Farsi. Ms. Ratcliffe has travelled to Iran on holidays many times since she left that position without having ever been questioned by the Iranian authorities. Secondly, Ms. Ratcliffe was accused of knowingly being married to a British spy. The source stated that Ms. Ratcliffe's

husband is an accountant, who has been actively involved in campaigning for her release through the media.

During Ms. Ratcliffe's first trial, a significant part of the file against her (i.e. about 150 pages of the whole file) was the coverage by international media of her case, which was used as an indication of her importance and guilt. At the appeal hearing, this had become a file of 500 pages – the majority of evidence against her was her family and others calling for her release. The appeal court rejected all aspects of Ms. Ratcliffe's defense. The judge did, however, rule that this was Ms. Ratcliffe's trial, and not her husband's, and therefore dismissed on a technicality the second charge of marriage to a spy.

Prosecution of Ms. Ratcliffe's lawyer

Prior to the appeal coming to court, Ms. Ratcliffe's lawyer had been prosecuted for his role in defending her. The appeal papers were filed on 14 September 2016 and were based on Ms. Ratcliffe's testimony. There was no action taken following filing of the appeal for approximately two months, despite the lawyer repeatedly following up the case.

In late October 2016 Ms. Ratcliffe's lawyer was prosecuted for the 'unprofessionalism' with which the appeal was drafted, because they made reference in official court papers to the link between charges against Ms. Ratcliffe and her British nationality. The Revolutionary Court prosecuted Ms. Ratcliffe's lawyer for including such reference in the appeal documents. At the lawyer's court hearing, Ms. Ratcliffe's family had to testify that the appeal papers were based entirely on Ms. Ratcliffe's personal testimony, and reflected the truth of what was told to the family on 21 June and then 13 July 2016. Since his prosecution the lawyer has refused to speak to anyone outside Iran about Ms. Ratcliffe's case. It is unknown if the prosecution of the lawyer has been closed or has had any outcome.

In November 2016, subsequent to this prosecution being initiated, Ms. Ratcliffe was encouraged by her interrogators to remove her lawyer in November 2016, and she made a number of attempts while in solitary confinement to persuade her family that she did not need a lawyer.

Health concerns

In October 2016, Ms. Ratcliffe relayed to her family that she was feeling very depressed. She complained of a number of health problems – blurring eyesight, back pains, dental problems and uncontrollable palpitations. In November 2016,

Ms. Ratcliffe commenced a hunger strike over her treatment, which she only broke when her family came to prison to plead with her to eat.

Communications

On 26 December 2016, Ms. Ratcliffe was moved from the high security ward 2a of Evin Prison, which is under the control of the Revolutionary Guards, to the general cells of women political prisoners under the control of the Iranian prison services. Under Iranian law she should have been transferred to the general cells six months previously, on 11 July 2016, when she was indicted. Since being moved, Ms. Ratcliffe has not been in solitary confinement, and has a bed.

Despite her transfer to the general cells, Ms. Ratcliffe's communications with the outside world remain tightly controlled. The Revolutionary Guard regularly disrupt Ms. Ratcliffe's family visits (a weekly right), either preventing them, making them happen only in a special secure area, and then arbitrarily making her two-year old child and other family members wait hours before being allowed in, and preventing them from giving her food they had brought, or preventing her from handing over craftwork she had made for her daughter. They have also continued denying her access to mail, and are sending back all the letters received at Evin Prison for Ms. Ratcliffe.

Continued retention of passport of Ms. Ratcliffe's child

The Revolutionary Guard continues to hold the passport of Ms. Ratcliffe's two-year old child. Since the British Government has formally requested the return of the passport, the Iranian authorities are currently pressuring Ms. Ratcliffe to sign a document asking them to retain her child's passport and hold it in their safekeeping.

In addition, in December 2016, Ms. Ratcliffe was pressured by Revolutionary Guard officials to take her two-year-old daughter into prison with her or give up her custody.

We express serious concern about the continued deprivation of liberty of Ms. Ratcliffe, in violation of international law, in particular the right not to be deprived arbitrarily of liberty and the right to fair proceedings before an independent and impartial tribunal, in accordance with articles 9,10 and 11 of the UDHR and articles 9 and 14 of the ICCPR, which Iran ratified on 24 June 1975. The Appeal procedure was a continuation of the initial trial that was considered as not meeting the requirements of fairness and is therefore also flawed. This turn of events only aggravates the violation with an impact on the extent of compensation.

We reiterate the disposition of the Working Group on Arbitrary Detention Opinion 28/2016 (Islamic Republic of Iran) to release Ms. Ratcliffe immediately, and accord her an enforceable right to compensation in accordance with article 9(5) of the ICCPR. In view of the urgency of the matter in light of the risk of harm to Ms. Ratcliffe's health and physical integrity and to the well-being of her child, we call upon Your Excellency's Government as a matter of urgency to proceed with the immediate release of Ms. Ratcliffe.

We also express serious concern at the continued retention the passport of Ms. Ratcliffe's daughter and the impossibility for her to join her father in the United Kingdom. We recall that the Islamic Republic of Iran is a party to the Convention on the Rights of the Child and should therefore ensure that Ms. Ratcliffe's daughter is not separated from his or her parents against their will (article 9).

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 the above-mentioned person in compliance with international instruments.

As it is our responsibility, under our mandate 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 the details of the legal basis for Ms. Ratcliffe's continued imprisonment.
3. Please provide information of any measures taken to ensure the physical and psychological integrity of Ms. Ratcliffe.
4. Please provide information on the measures undertaken for Mrs. Ratcliffe's daughter to be promptly reunited with her father.

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 investigations support or suggest the allegations to be correct, to ensure the accountability of any person responsible for the alleged violations.

We would like to inform your Excellency's Government that we may publicly express our concerns regarding Ms. Ratcliffe's situation in the future, as we believe the wider public should be alerted to her situation. The press release will indicate that we have been in contact with Your Excellency's Government to clarify the issues in question.

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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Working Group on Arbitrary Detention

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