

Mandates of the the Special Rapporteur on the rights of persons with disabilities; 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 in the Islamic Republic of Iran; the Special Rapporteur on minority issues; the Independent Expert on the enjoyment of all human rights by older persons and the Special Rapporteur on freedom of religion or belief

REFERENCE:
AL IRN 9/2019

19 August 2019

Excellency,

We have the honour to address you in our capacities as Special Rapporteur on the rights of persons with disabilities; 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 in the Islamic Republic of Iran; Special Rapporteur on minority issues; Independent Expert on the enjoyment of all human rights by older persons and Special Rapporteur on freedom of religion or belief, pursuant to Human Rights Council resolutions 35/6, 33/9, 37/30, 34/6, 33/5 and 40/10.

In this connection, we would like to bring to the attention of your Excellency's Government information we have received concerning the **risk of forcible closure of two homes for older persons and persons with disabilities operated and managed by the Bahá'í community for the past 20 years**. Your Excellency's Government is allegedly involved in attempts to forcibly evict the residents in an attempt to close the nursing home in ways contrary to international human rights law. We are concerned that such intentions to close the two homes is connected to their Bahá'í faith, and may constitute a violation of the right to freedom of religion.

Concerns at the the systematic persecution and discriminatory policies against members of the Bahá'í minority in Iran have been the subject of several communications by UN Special Procedures, including communication sent on 29 May 2017 (ref. no IRN 18/2017); 3 June 2016 (ref. no IRN 15/2016); 19 February 2016 (ref. no IRN 5/2016); 20 August 2016 (ref. no IRN 17/2014); and 8 May 2016 (ref. no IRN 8/2014). We thank your Excellency's Government for its replies, but regret that these did not address the substance of the concerns.

According to the information received:

On 27 June 2019, a number of officials from the Amaken (Public Places Supervision Office) in Karaj went to two homes for older persons and persons with disabilities of the Bahá'í minority, the Metro Nursing Home and the Katouizadeh Nursing Home, both in Karaj, Golshahr, and attempted to seal the homes. Both homes have been running for approximately 20 years with tacit approval from the Welfare Organization in the Province of Tehran and conditions at the homes are no different from other centers run by the government.

A total of 31 older persons (7 men and 24 women) of the Bahá'í faith live in the two homes. Fifteen of them are persons with disabilities. Both establishments have received notifications of transfer of the residents to other unspecified welfare centres. Such a move would break community ties of the residents. The authorities have reportedly not discussed the issue of transfer with any of the residents, but they have contacted some of the family members by telephone, none of whom consented to the transfer of their relatives to another location and have expressed their disapproval.

As a result of encountering serious objections by the residents and staff, the authorities demanded that the owner of the two establishments appear at the Public Prosecutor's Office on 30 June. The owner reportedly went to the Prosecutor's Office on the appointed day, but was told in a brief meeting that the case was taken up by the Department of Health and Welfare, and that the matter would be followed up by them.

On 3 July 2019, officials from the Department of Health and Welfare visited the homes with a warrant from the Prosecutor's Office with the intention of transferring the older persons and persons with disabilities to other welfare centres and closing the two establishments. However, owing to the resistance of the residents and staff, the forced transfer was halted. It is alleged that efforts by the authorities to seal the homes is based on the fact that they are managed by Bahá'ís.

The Department of Health and Welfare requested the owner to provide the names of the residents and the contact numbers for their families. The authorities have reportedly decided to gradually contact the families of the residents with the intention to move them to other welfare centres. Some of the relatives of these residents live abroad.

While we do not wish to prejudge the accuracy of these allegations, we are expressing grave concern at the physical and mental integrity of these 31 residents that may be forcibly evicted with neither valid reasons nor prior consultation and adequate financial support provided in contravention of national and international law.

Moreover, we are concerned that the State has targeted specific individuals and discriminated them on the grounds of religion or belief in the recognition, exercise and enjoyment of human rights and fundamental freedoms in all fields of civil, economic, political, social and cultural life.

We also wish to express concern about the risk of transferring or discharging the residents, which include persons with disabilities, to other welfare centers against their will, which may result in grave human rights violations, including violations of the right to physical and mental integrity, highest attainable standard of health, living

independently and being included in the community, and adequate standard of living, including housing.

In connection with the above alleged facts and concerns, please refer to the **Annex on Reference to international human rights law** attached to this letter which cites international human rights instruments and standards relevant to these allegations.

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/or comment(s) you may have on the above-mentioned allegations.
2. Please indicate the legal grounds for the decision to close the two homes in Karaj. Please also illustrate that such decision was not discriminatory against a certain religious minority.
3. Have assessments been carried out about the manner in which the eviction will impact on the physical and mental integrity of the residents? If so, kindly provide their results and alternatives identified to remedying the situation.
4. Please explain why the two homes have to be closed and if all alternatives to the eviction and relocation of their residents have been explored as required under international human rights law?
5. Please also indicate if it is envisaged to provide alternative adequate housing in close proximity for the residents of the two homes under threat of eviction, and if persons with disabilities have the opportunity to choose their place of residence, and where and with whom to live
6. Please explain in which manner the affected residents have been consulted and their right to participation in decisions affecting them has been respected.
7. Please explain how the planned eviction of the residents is compatible with international human rights standards, including the principle of non-discrimination, and the rights to adequate housing, to participation in cultural life, to live independently and be included in the community, and the rights of persons with disabilities.
8. Please indicate what legal procedures and remedies are available, including notice periods, and access to legal aid and to adjudicative bodies, for the residents to challenge the planned eviction and relocation.

This communication and any response received from your Excellency's Government will be made public via the communications reporting [website](#) within 60 days. They will also subsequently be made available in the usual report to be presented to the Human Rights Council.

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

We may publicly express our concerns in the near future as, in our view, the information upon which the press release will be based is sufficiently reliable to indicate a matter warranting immediate attention. We also believe that the wider public should be alerted to the potential implications of the above-mentioned allegations. The press release will indicate that we have been in contact with your Excellency's Government's to clarify the issue/s in question.

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

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Special Rapporteur on the rights of persons with disabilities

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

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Rosa Kornfeld-Matte
Independent Expert on the enjoyment of all human rights by older persons

Ahmed Shaheed
Special Rapporteur on freedom of religion or belief

Annex

Reference to international human rights law

In connection with above alleged facts and concerns, we would like to remind your Excellency's Government of its obligations under the International Covenant on Economic, Social and Cultural Rights to which Iran is a party since 24 June 1975 upon ratification. More specifically, we would refer to Article 11(1) and 12 of the Covenant, which recognizes the rights of everyone to i) an adequate standard of living for themselves and their families, including food and housing, and to the continuous improvement of living conditions, as well as, ii) to the highest attainable standard of physical and mental health. These articles must be read in conjunction with article 2(2) which provides for the exercise of any right under the Covenant without discrimination of any kind.

The Committee on Economic, Social and Cultural Rights in its General Comment No.4 has stressed that the right to adequate housing should not be interpreted in a narrow restrictive sense such as merely having a roof over one's head; rather, it should be seen as the right to live somewhere in security, peace and dignity. This General Comment outlines the following aspects of the right to housing: (a) legal security of tenure; (b) availability of services, materials and infrastructure; (c) affordability; (d) habitability; (e) accessibility; (f) location; (g) cultural adequacy.

According to the Committee's General Comment No. 7, paragraphs 13 and 14, States parties shall ensure, prior to carrying out any evictions, and particularly those involving large groups, that all feasible alternatives are explored in consultation with the affected persons, with a view to avoiding, or at least minimizing, the need to use force. Legal remedies or procedures should be provided to those who are affected by eviction orders. States parties shall also see to it that all the individuals concerned have a right to adequate compensation for any property, both personal and real, which is affected. Moreover, in cases where eviction is considered to be justified, it should be carried out in strict compliance with the relevant provisions of international human rights law and in accordance with general principles of reasonableness and proportionality.

Furthermore, according to the Committee's General Comment No. 7 on forced evictions, paragraph 15 and 16, procedural protections are essential in relation to forced evictions, including among others, genuine consultation, adequate and reasonable notice, alternative accommodation made available in a reasonable time and provision of legal remedies and legal aid. In paragraph 17, the Committee further emphasizes that where those affected are unable to provide for themselves, the State party must take all appropriate measures, to the maximum of their available resources, to ensure that adequate alternative housing, resettlement or access to productive land, as the case may be, is available to them.

We wish to further recall the Committee's General Comments No. 3 and 9 on obligations of States and the nature of their responsibilities at all levels of government, including at the city level.

We wish to also call your attention to the work of our predecessor Ms. Raquel Rolnik, Guiding Principles on the security of tenure for the urban poor (A/HRC/25/54). As well as the Basic Principles and Guidelines on Development Based Evictions and Displacements, which reiterate the notion that under international human rights law the obligations of States include the respect, protection and fulfilment of all human rights and fundamental freedoms, and therefore must refrain from violating human rights, including the right to adequate housing which includes, inter alia, the right to protection against arbitrary or unlawful interference with privacy, family and home.

Regarding article 12 of the Covenant, which enshrines the right to health, General Comment 14 of the Committee on Economic, Social and Cultural Rights states that the right to health is an inclusive right extending not only to timely and appropriate health care but also to its underlying determinants, including access to adequate housing. While the right to health is of progressive realization, the Committee identifies core obligations which States must fulfill as a matter of immediate effect. The first of them is to ensure access to health facilities, goods and services on a non-discriminatory basis (para 43(a)), especially for groups in vulnerable situation (para 43(a)). Among the groups recognized by the Committee in a particular vulnerable situation there is the group of older persons (para 12(b)). As part of its obligations to fulfill the right to health, States have to ensure the provision of a sufficient number of health-related facilities, and the promotion and support of the establishment of institutions providing counselling and mental health services, with due regard to equitable distribution throughout the country.

In terms of the right to health of older persons, the Committee indicates that States have the obligation to fulfil (facilitate) it by ensuring that health services and health-care staff recognize and respond to the specific needs of older persons. The Committee further reaffirms the importance of an integrated healthcare approach for older persons which combines elements of preventive, curative and rehabilitative health treatment. Such measures should be based on periodical check-ups for both sexes; physical as well as psychological rehabilitative measures aimed at maintaining the functionality and autonomy of older persons; and attention and care for chronically and terminally ill persons, sparing them avoidable pain and enabling them to die with dignity (para 25).

We would also like to refer to the Convention on the Rights of Persons with Disabilities, which the Islamic Republic of Iran acceded on 23 October 2009, and particularly to its articles 3(c) (full and effective participation and inclusion in society), 19 (living independently and being included in the community), 25 (health) and 28 (adequate standard of living). We would like to stress in particular the right of all persons with disabilities, as enshrined in article 19, to live independently and be included in the community, regardless of age and impairment. This right includes the “right of persons with disabilities to choose their place of residence and where and with whom they live on an equal basis with others and are not obliged to live in a particular living arrangement”; “access to a range of in-home, residential and other community support services, including personal assistance necessary to support living and inclusion in the

community, and to prevent isolation and segregation from the community”, as well as “access to general community services and facilities which are accessible and inclusive for persons with disabilities.” We would also like to draw your Excellency’s attention to the United Nations Principles on Older Persons and the comprehensive report of the Independent Expert on Older Persons (A/HRC/33/44), in which the mandate-holder stressed that housing is an essential aspect of the ability of older persons to live an autonomous life (para. 71). In a subsequent report, the Independent Expert further noted the equal right of older persons to decide where to live and with whom, and not to be forced into a particular living arrangement (A/HRC/39/50, para. 67).

In addition, article 27 of the International Covenant on Civil and Political Rights (hereafter ICCPR), ratified by Iran on 24 June 1975. Article 27 of the Covenant states that: “In those States in which ethnic, religious or linguistic minorities exist, persons belonging to such minorities shall not be denied the right, in community with the other members of their group, to enjoy their own culture, to profess and practise their own religion, or to use their own language”. Article 26 of ICCPR also prohibits any discrimination and guarantee to all persons equal and effective protection against discrimination on any grounds, including race, language, religion, national or social origin, property, birth or other status.

The 1992 United Nations Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic minorities, adopted by the UN General Assembly, requires under article 1.1 that States “shall protect the existence and the national or ethnic, cultural, religious and linguistic identity of minorities within its respective territories and shall encourage conditions for the promotion of that identity”. Article 2.1 establishes that persons belonging to minorities have the right to enjoy their own culture, to profess and practice their own religion, and to use their own language, in private and in public, freely, without any interference or any form of discrimination. Article 4.1 establishes that “States will take measures where required, to ensure that persons belonging to minorities may exercise fully and effectively all their human rights and fundamental freedoms without any discrimination and in full equality before the law”. States are required, according to article 4.2, to create favourable conditions to enable persons belonging to minorities to express their characteristics and to develop their culture, language, religion, traditions and customs, and article 4.3 requires States to take appropriate measures so that they may have adequate opportunities to learn their mother tongue or to have instruction in their mother tongue.

Furthermore, International Convention on the Elimination of All Forms of Racial Discrimination (ICERD), ratified by Iran on 29 August 1968, provided in its Article 5 that States Parties must undertake to prohibit and to eliminate racial discrimination in all its forms and to guarantee the right of everyone, without distinction as to race, colour, or national or ethnic origin, to equality before the law, notably in the enjoyment of the following rights: [...] (d) Other civil rights, in particular: [...] (vii) The right to freedom of thought, conscience and religion. While ICCPR Article 2 (1) reiterated that each State Party to the ICCPR must undertake to respect and to ensure to all individuals within its territory and subject to its jurisdiction the rights recognized in the present Covenant, without distinction of any kind, such as [...] religion [...].