

Mandates of the Working Group on Arbitrary Detention; the Special Rapporteur in the field of cultural rights; the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression; the Special Rapporteur on the rights to freedom of peaceful assembly and of association and the Special Rapporteur on the situation of human rights in the Islamic Republic of Iran

REFERENCE:
AL IRN 11/2019

21 August 2019

Excellency,

We have the honour to address you in our capacity as Working Group on Arbitrary Detention; Special Rapporteur in the field of cultural rights; Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression; Special Rapporteur on the rights to freedom of peaceful assembly and of association and Special Rapporteur on the situation of human rights in the Islamic Republic of Iran, pursuant to Human Rights Council resolutions 33/30, 37/12, 34/18, 41/12 and 37/30.

In this connection, we would like to bring to the attention of your Excellency's Government information we have received concerning the arrest and charges against **Mr. Mohammad Rasoulof**, an award-winning Iranian filmmaker.

According to the information received:

Mr. Rasoulof was arrested in March 2010, under the charges of "assembly and collusion against national security" and "propaganda against the state", and was sentenced to six years in prison. After an appeal, the sentence was reduced to one year in prison, which has not been enforced.

In 2013, following Mr. Rasoulof's visit to Tehran after the release of his film "Manuscripts don't burn" in Cannes, he was banned from leaving Iran for nine months.

Mr. Rasoulof received international recognition, including at the 2017 Cannes Film Festival, for his film "A Man of Integrity". Since his return from the Cannes Film Festival to Iran in September 2017, he was informed that he was no longer permitted to produce films. His passport was also confiscated by the authorities and he was informed that he was sentenced to a two-year travel ban.

On 20 July 2019, Mr. Rasoulof was sentenced to one year in prison and was banned from "membership in political and social parties and organizations" for two years under the charge of "propaganda against the state". The sentencing followed extensive interrogation of Mr. Rasoulof. Mr. Rasoulof is currently free on bail and was reportedly given twenty days to appeal the recent verdict.

While we do not wish to prejudge the accuracy of these allegations, we are seriously concerned that Mr. Rasoulof could be deprived arbitrarily of his liberty. We are further concerned at the possible infringement upon the legitimate exercise of his rights to freedom of expression and opinion, and to freedom of association, including through the use of criminal law sanctions.

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 any comment you may have on the above-mentioned allegations.
2. Please provide the details of the legal basis of Mr. Rasoulof's convictions and sentencing, especially their consistency with Iran's obligations under international human rights law;
3. Please provide information about how the charges in the case of Mr. Rasoulof meet the standards of international human rights law, in particular with respect to Articles 9, 14, 19 and 22 respectively of the ICCPR.
4. Please provide information on the current legislative and policy framework guaranteeing the enjoyment of freedom of expression, and of cultural rights.

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.

We would like to inform your Excellency's Government that after having transmitted an urgent appeal to the Government, the Working Group on Arbitrary Detention may transmit the case through its regular procedure in order to render an opinion on whether the deprivation of liberty was arbitrary or not. Such appeals in no way prejudice any opinion the Working Group may render. The Government is required to respond separately for the urgent appeal procedure and the regular procedure.

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.

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

Leigh Toomey
Vice-Chair of the Working Group on Arbitrary Detention

Karima Bennoune
Special Rapporteur in the field of cultural rights

David Kaye
Special Rapporteur on the promotion and protection of the right to freedom of opinion
and expression

Clement Nyaletsossi Voule
Special Rapporteur on the rights to freedom of peaceful assembly and of association

Javaid Rehman
Special Rapporteur on the situation of human rights in the Islamic Republic of
Iran

Annex

Reference to international human rights law

In connection with the above alleged facts and allegations, we would like to appeal to your Excellency's Government to take all necessary measures to guarantee Mr. Rasoulof's right not to be deprived arbitrarily of his liberty and to fair proceedings before an independent and impartial tribunal, in accordance with articles 9, 10 and 11 of the Universal Declaration of Human Rights (UDHR) and articles 9 and 14 of the International Covenant on Civil and Political Rights (ICCPR), ratified by the Islamic Republic of Iran on 24 June 1975.

We also would like to underline that the rights to freedom of opinion and expression, and to freedom of association are enshrined in articles 19 and 22 of the ICCPR. The right to freedom of expression covers all forms of expression and the means of their dissemination, including all forms of audio-visual modes of expression such as films, see CCPR/C/GC/34 para. 12. Article 19 (2) protects speech "that may be regarded as deeply offensive", *id.* Para. 11. Any limitation on the right to freedom of expression is justified only if it complies with the requirements of Article 19 (3) of the Covenant. Consequently, it must be provided by law, pursue one of the legitimate objectives enumerated in the provisions, and be necessary and proportionate.

As indicated by the Human Rights Committee, "a norm, to be characterized as a "law", must be formulated with sufficient precision to enable an individual to regulate his or her conduct accordingly and it must be made accessible to the public. A law may not confer unfettered discretion for the restriction of freedom of expression on those charged with its execution", see CCPR/C/GC/34 para. 25. Furthermore, the requirement of proportionality entails that restrictions must be "appropriate to achieve their protective function; they must be the least intrusive instrument amongst those which might achieve their protective function; they must be proportionate to the interest to be protected", *id.* para. 34.

First, the two provisions which formed the basis for the sentencing of Mr. Rasoulof are so broad as to call into question their compatibility with the requirement of being provided by law under Article 19 (3). Second, the criminalization of speech, in particular the sentencing of individuals to imprisonment, is a severe restriction that will be compatible with the covenant only in the most serious cases, compare *id.* para 47. Third, the use of criminal law sanctions to suppress the legitimate exercise of an individual's right to freedom of expression is in all cases incompatible with Article 19, *id.* para. 23.

We would also draw your Excellency's attention to the right of everyone to take part in cultural life, guaranteed by article 27 of the Universal Declaration of Human Rights, and article 15 of the International Covenant on Economic, Social and Cultural Rights (ICESCR), acceded to by Iran in 1975, as well as the requirement that states

“respect the freedom indispensable for ... creative activity” contained in article 15(c)(3) of the ICESCR.

Finally, we would like to reiterate the enforceable right to an effective remedy for persons whose rights or freedoms have been violated, in accordance with article 2(3) of the ICCPR.