

Mandates of the Special Rapporteur on the situation of human rights in the Islamic Republic of Iran; the Working Group on Arbitrary Detention; the Working Group on Enforced or Involuntary Disappearances; the Special Rapporteur on extrajudicial, summary or arbitrary executions; 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; the Special Rapporteur on the situation of human rights defenders; the Special Rapporteur on the independence of judges and lawyers and the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment

REFERENCE:
AL IRN 17/2019

18 December 2019

Excellency,

We have the honour to address you in our capacities as Special Rapporteur on the situation of human rights in the Islamic Republic of Iran; Working Group on Arbitrary Detention; Working Group on Enforced or Involuntary Disappearances; Special Rapporteur on extrajudicial, summary or arbitrary executions; 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; Special Rapporteur on the situation of human rights defenders; Special Rapporteur on the independence of judges and lawyers and Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, pursuant to Human Rights Council resolutions 40/18, 42/22, 36/6, 35/15, 34/18, 41/12, 34/5, 35/11 and 34/19.

In this connection, we would like to bring to the attention of your Excellency's Government information we have received concerning the **protests in Iran between 15 and 19 November 2019 and their aftermath, including the alleged arbitrary killing, injury, and arrest of individuals participating in the protests by the Iranian authorities, and the lack of access of detainees to legal representation.**

Concerns regarding the excessive use of force and other issues related to the authorities' response to the protests was the subject of a previous communication sent by Special Procedures dated 20 November 2019 (case IRN 16/2019). These concerns have also been the subject of a press release issued by Special Procedures on 22 November 2019.

According to the information received:

Since the previous communication, new information has been received concerning the excessive use of force by the security forces and its consequences. According to official sources, up to 200,000 people participated in mostly peaceful protests instigated by a rise in fuel prices from 15 to 19 November 2019. Protests occurred in 29 of Iran's 31 provinces, with protestors gathering in public places, blocking highways and holding other demonstrations in several cities. While most of the protests were peaceful, some individuals also reportedly damaged banks, police stations and other buildings. However, some reports claim these more violent acts

were instigated by security forces to discredit the protests and justify a harsh reaction from the authorities.

Security forces reportedly used water cannons, tear gas and gunfire to disperse protesters. Reports and footage indicate security forces used live ammunition to shoot directly at unarmed protestors who posed no threat to life, including shooting protestors in the back as they ran away, and at the head and vital organs. For example, footage has shown security forces shooting protestors from the justice building in Javanroud in Kermanshah and from a helicopter in Sadra in Fars Province. On 1 December 2019, in an interview with the *Iran Daily*, the Governor of Quds City (Qal'eh Hassan Khan) Ms. Layla Vaseqi, admitted that she had ordered security guards of the Governorate building to shoot anyone who enters the building. Furthermore, she declared this had been communicated in the morning via two text messages distributed from the governor's office to the people. The actions of the security forces have reportedly caused hundreds of deaths and injuries across Iran. Credible reports claim verification of at least 304 deaths, including 12 children and 14 women. Unconfirmed estimates suggest the death toll could reach as high as 430.

Government sources, including Supreme Leader Ayatollah Khamenei on 17 November 2019, have confirmed that people have died, although no official figure has been released. Measures have reportedly been taken by the authorities to hide the number of deaths, with reports of bodies being moved to hospitals in different locations. Families of victims have also reportedly been threatened by the authorities not to speak about their relatives' deaths, not to hold funerals, and have been asked to pay a fine or compensate the authorities for the ammunition used to kill their relatives. Some families were reportedly forced to pay authorities to have the bodies of their relatives returned to them.

Official sources have stated that over 7,000 people were arrested during the protests, thousands of whom remain in detention. Dozens of activists and participants who had not been arrested during the protests have reportedly been arrested after the fact, including in the provinces of Tehran, Isfahan, Fars, Khuzestan, Kermanshah, West Azerbaijan, Orumiyeh, and Kerman.

Detained protestors have reportedly suffered ill-treatment in detention, including for the purpose of extracting forced confessions. State television has broadcasted the so-called "confessions" of some detainees, who are alleged to be protest leaders and affiliated with anti-government groups and states. The Ministry of Interior and President Hassan Rouhani have requested confessions to be broadcast, with the Deputy Chief of the Islamic Revolutionary Guards Corps stating that those who openly confess will receive severe punishment. Detention centres holding arrested protestors are reportedly overcrowded. The head of the local council of Rey has stated that the high number of detainees in Greater Tehran Central Penitentiary is causing extremely harsh conditions for both prisoners and staff. Injured protestors have reportedly been taken out of hospital

and transferred to detention centres, and have also reportedly been denied medical treatment. Detainees have also reportedly been denied access to legal representation; and some have reportedly been held incommunicado or subjected to short-term enforced disappearance.

Restrictions and intimidation have been reported against journalists covering the protests, both inside and outside of Iran. Prior to the announcement of the new fuel policy, Government entities reportedly instructed Iranian media on how to cover any potential unrest and the Government reportedly barred journalists from covering the protests in a manner that criticised the response. Families of journalists working for multiple Persian-language news channels based outside Iran have reportedly experienced increased levels of harassment since the protests. Since 23 November 2019, relatives of journalists of these news organisations in Iran have reportedly been summoned for many hours of interrogation by intelligence officials. During the interrogations, threats were made that the authorities “know where their relatives live” and that they should stop working for these news organisations or they would “suffer the consequences”. Iranian authorities have partially blamed media outlets outside of Iran for the protests. Internet connectivity is reportedly restored in Iran after seven days of blockage from 15 to 21 November 2019.

Since the protests, statements from authorities in Iran have suggested the possibility of continued serious repercussions for protestors, with warnings that decisive action will be taken.

Without prejudice to the accuracy of the information made available to us, we express our most serious concern in relation to the alleged excessive use of force resulting in the deaths of hundreds of people, as well as the mass arrests of demonstrators; reports suggesting the ill-treatment of persons detained, including the forced transfer of injured persons from medical care to detention facilities and the denial of medical care of detainees, and ill-treatment for the purpose of extracting confessions; reports on overcrowded and harsh conditions at the detention centres; the blatant denial of fair trial guarantees, including of the presumption of innocence, through the forced and televised confessions of those charged with criminal offences, and the denial of access to legal representation and contact with their family members; the reported intimidation of journalists and their families; reports suggesting systematic patterns of repression of dissent through the exercise of the rights to freedom of expression and of peaceful assembly; and the reported failure by the authorities to investigate, for the purposes of prosecuting and punishing, the alleged human rights violations committed by the authorities.

The actions by the authorities seem to be in contravention of the rights of every individual to life, liberty and security, the absolute and non-derogable prohibition of torture and other cruel, inhuman or degrading treatment or punishment, to a fair trial, to freedom of opinion and expression, and to freedom of peaceful assembly, as established respectively by articles 6, 7, 9, 10, 14, 19 and 21 of the International Covenant on Civil

and Political Rights (ICCPR), ratified by Iran on 24 June 1975. Furthermore, they seem to be in contravention of the duty to provide effective remedies to victims, including through the duty to investigate alleged violations of human rights law under Article 2 of the ICCPR.

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 the observations of your Excellency's Government on the following matters:

1. Please provide any additional information and any comment you may have on the above-mentioned allegations.
2. Please provide information on the number of deaths and injuries caused by excessive force used by security forces during the protests.
3. Please provide details, and where available, the results of any investigation and judicial or other inquiry undertaken in relation to the allegations of excessive use of force and unlawful killings in the context of the above-mentioned demonstrations.
4. Please provide details of the investigations into allegations of ill-treatment of persons deprived of their liberty. If no inquiries have taken place, or if they have been inconclusive, please explain the reasons for this.
5. Please provide the results of autopsy reports of the alleged victims of arbitrary killings and indicate whether these were conducted by an independent forensic pathologist, or in the presence of an independent observer.
6. Please provide information on the regulations and operational procedures for law enforcement agents concerning the use of force in the context of law enforcement during assemblies and arrests and whether it is compatible with international standards in particular on the use of force and firearms.
7. Please provide information on the number of people arrested and detained during the protests.
8. Please provide information on where detained protestors are being held, including the names of the facilities, the number of detained protestors in each facility and the number of detainees held in each facility vis a vis its official capacity.

9. Please provide information on the transfer of persons from hospitals to detention facilities, the measures taken to ensure that the transfer is compatible and the measures taken to ensure that detainees that require medical assistance receive such assistance.
10. Please provide information on what measures are being taken to ensure the fair trial guarantees of individuals faced with a criminal charge, including their right not to be compelled to testify against themselves, and their right to access legal counsel, as well as other due process measures.
11. Please provide information about the basis for denying detainees contact with their families, and explain how this is compatible with Iran's obligations under international human rights law.
12. Please explain how broadcasting so-called confessions of protestors prior to court proceedings is in compliance with international human rights law.
13. Please provide information on the compatibility of the disruption of internet and telecommunication services with the requirements under Articles 19 and 21 of the ICCPR. In particular, please provide information on the legal basis and the necessity and proportionality of the measure.
14. Please provide information on the legal basis for interrogations of relatives of journalists based outside of Iran and how this complies with international human rights law.
15. Please indicate what measures have been taken to ensure that human rights defenders and other civil society actors in Iran are able to carry out their legitimate work in a safe and enabling environment without fear of threats or acts of intimidation and harassment of any sort.

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 to clarify the issue/s in question.

We would like to inform your Excellency's Government that having transmitted the information contained in the present communication to the Government, the Working Group on Arbitrary Detention may also transmit specific cases relating to the circumstances outlined in this communication through its regular procedure in order to render an opinion on whether the deprivation of liberty was arbitrary or not. The present communication in no way prejudices any opinion the Working Group may render. The Government is required to respond separately to the allegation letter and the regular procedure.

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

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

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

Luciano Hazan
Chair-Rapporteur of the Working Group on Enforced or Involuntary Disappearances

Agnes Callamard
Special Rapporteur on extrajudicial, summary or arbitrary executions

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

Michel Forst
Special Rapporteur on the situation of human rights defenders

Diego García-Sayán
Special Rapporteur on the independence of judges and lawyers

Nils Melzer
Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment

Annex
Reference to international human rights law

In connection with the above alleged facts and concerns, we would like to refer your Excellency's Government to the International Covenant on Civil and Political Rights (ICCPR), ratified by Iran on 24 June 1975.

Without expressing at this stage an opinion on the facts of the case and on whether reported detentions were arbitrary or not, we would like to appeal to your Excellency's Government to take all necessary measures to guarantee the right of all detained persons in this case not to be deprived arbitrarily of their 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 ICCPR.

Use of force

We would like to draw the attention of your Excellency's Government to the Code of Conduct for Law Enforcement Officials and the UN Basic Principles on the Use of Force and Firearms by Law Enforcement Officials. In particular, principle 12 of the Basic Principles provides that "everyone is allowed to participate in lawful and peaceful assemblies, in accordance with the principles embodied in the Universal Declaration of Human Rights and the ICCPR. Governments and law enforcement agencies and officials shall recognize that force and firearms may be used only in accordance with principles 13 and 14." These provisions restrict the use of firearms to situations of violent assemblies and provide that force and firearms may only be used as a last resort when unavoidable and require exercising the utmost restraint. In addition, pursuant to principle 5(c), law enforcement officials should ensure the provision of timely medical assistance to anyone injured as a result of the use of force or firearms.

Moreover, the Principles on Effective Prevention and Investigation of Extra-legal, Arbitrary and Summary Executions, in particular principle 9, recall the duty to conduct thorough, prompt and impartial investigations of all suspected cases of extra-legal, arbitrary and summary executions. As also confirmed by the Human Rights Committee in its General Comment No. 31, a failure to investigate and bring perpetrators of such violations to justice could in and of itself give rise to a separate breach of the ICCPR.

Freedom of assembly

With regard to freedom of assembly, we would also like to refer to Human Rights Council resolution 24/5 (operative paragraph 2), in which the Council "reminds States of their obligation to respect and fully protect the rights of all individuals to assemble peacefully and associate freely, online as well as offline, including in the context of elections, and including persons espousing minority or dissenting views or beliefs, human rights defenders, trade unionists and others, including migrants, seeking to exercise or to promote these rights, and to take all necessary measures to ensure that any restrictions on

the free exercise of the rights to freedom of peaceful assembly and of association are in accordance with their obligations under international human rights law.”

We also recall that according to Article 21 of the ICCPR, “The right of peaceful assembly shall be recognized. No restrictions may be placed on the exercise of this right other than those imposed in conformity with the law and which are necessary in a democratic society in the interests of national security or public safety, public order (ordre public), the protection of public health or morals or the protection of the rights and freedoms of others.” The ‘provided by law’ requirement means that any restriction ‘must be made accessible to the public’ and ‘formulated with sufficient precision to enable an individual to regulate his or her conduct accordingly’ (CCPR/C/GC/34). Moreover, it ‘must not confer unfettered discretion for the restriction of freedom of expression on those charged with its execution’. The requirement of necessity implies an assessment of the proportionality of restrictions, with the aim of ensuring that restrictions ‘target a specific objective and do not unduly intrude upon the rights of targeted persons. The ensuing interference with third parties’ rights must also be limited and justified in the interest supported by the intrusion. Finally, the restriction must be ‘the least intrusive instrument among those which might achieve the desired result’.

We would also like to recall that states do not only have a negative obligation to abstain from unduly interfering with the rights of peaceful assembly and of association but also have a positive obligation to facilitate and protect these rights in accordance with international human rights standards (A/HRC/41/41).

Human Rights Defenders

We would like to refer your Excellency’s Government to the fundamental principles set forth in the Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms, also known as the UN Declaration on Human Rights Defenders. In particular, we would like to refer to articles 1 and 2 of the Declaration which state that everyone has the right to promote and to strive for the protection and realization of human rights and fundamental freedoms at the national and international levels and that each State has a prime responsibility and duty to protect, promote and implement all human rights and fundamental freedoms.

Furthermore, we would like to bring to the attention of your Excellency’s Government the following provisions of the UN Declaration on Human Rights Defenders:

- article 5 (a), which establishes that for the purpose of promoting and protecting human rights and fundamental freedoms, everyone has the right, individually and in association with others, at the national and international levels, to meet or assemble peacefully;
- article 6 (a) which provides that everyone has the right, individually and in association with others to know, seek, obtain, receive and hold information about

- all human rights and fundamental freedoms, including having access to information as to how those rights and freedoms are given effect in domestic legislative, judicial or administrative systems;
- article 6 (b) and (c) which provide that everyone has the right, individually and in association with others to freely publish, impart or disseminate to others views, information and knowledge on all human rights and fundamental freedoms; and to study, discuss, form and hold opinions on the observance, both in law and in practice, of all human rights and fundamental freedoms and to draw public attention to those matters;
 - article 12, paragraphs 2 and 3, which provides that the State shall take all necessary measures to ensure the protection of everyone against any violence, threats, retaliation, de facto or de jure adverse discrimination, pressure or any other arbitrary action as a consequence of his or her legitimate exercise of the rights referred to in the Declaration.

Human Rights Council Resolution 22/6 calls upon States to ensure that defenders can perform their important role in the context of peaceful assemblies, in accordance with national legislation consistent with the Charter of the United Nations and international human rights law. States should ensure that no one is subject to excessive or indiscriminate use of force, arbitrary arrest or detention, torture or other cruel, inhuman or degrading treatment or punishment, enforced disappearance, abuse of criminal and civil proceedings or threats of such acts.

Access to lawyers

We would also like to draw your attention to article 14 of the ICCPR, which provides a set of procedural guarantees that must be made available to persons charged with a criminal offence, including the right of accused persons to communicate with counsel of their own choosing.

In its General Comment No. 32 (2007), the Human Rights Committee explained that the right to communicate with counsel enshrined in article 14(3) (b) requires that the accused is granted prompt access to counsel. Counsel should be able to meet their clients in private and to communicate with the accused in conditions that fully respect the confidentiality of their communications. S/he should also be able “to advise and to represent persons charged with a criminal offence in accordance with generally recognised professional ethics without restrictions, influence, pressure or undue interference from any quarter” (CCPR/C/GC/32, para. 34).

We would also like to refer your Excellency’s Government to the UN Basic Principles on the Role of Lawyers, adopted by the Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders, held in Havana (Cuba) from 27 August to 7 September 1990. Principle one establishes that “All persons are entitled to call upon the assistance of a lawyer of their choice to protect and establish their rights and to defend them in all stages of criminal proceedings. Principle two states that “Governments shall ensure that efficient procedures and responsive mechanisms for

effective and equal access to lawyers are provided for all persons within their territory and subject to their jurisdiction”. Principle seven establishes that “Governments shall further ensure that all persons arrested or detained, with or without criminal charge, shall have prompt access to a lawyer, and in any case not later than forty-eight hours from the time of arrest or detention. Finally, principle sixteen requires governments to take all appropriate measures to ensure that lawyers “are able to perform all of their professional functions without intimidation, hindrance, harassment or improper interference”.

In addition, Principle 9 of the UN Basic Principles and Guidelines on Remedies and Procedures on the Right of Anyone Deprived of Their Liberty to Bring Proceedings Before a Court states that those “deprived of their liberty shall have the right to legal assistance (...) at any time during their detention, including immediately after the moment of apprehension.” Moreover, Guideline 8 stresses that such access to legal counsel shall be provided “at the latest prior to any questioning by an authority.” (A/HRC/30/37)

Freedom of expression

Article 19 of the ICCPR provides for the rights to freedom of expression. Paragraph 3 of article 19 sets out the requirement that any restrictions to the right to freedom of expression must be necessary, proportionate and prescribed by law. While national security, under Article 19 (3), is a legitimate basis for restricting the right to freedom of expression, any such restriction must be strictly construed and necessary for the protection of the national security of the State. Furthermore, the restriction must be proportionate. It must be appropriate to achieve its protective function and be the least restrictive means to achieve the protective function, and be proportionate to the interest to be protected, see CCPR/C/GC/34 para. 34.

As expressed by the Human Rights Committee, “A free, uncensored and unhindered press or other media is essential in any society to ensure freedom of opinion and expression and the enjoyment of other Covenant rights”, *id.* para. 13. “States parties should ensure that public broadcasting services operate in an independent manner. In this regard, States parties should guarantee their independence and editorial freedom”, see *id.* para 16. The interference in the freedom of the press is therefore a particularly serious restriction of the rights under Article 19 of the ICCPR. As further expressed by the Committee, “the penalization of a media outlet, publishers or journalist solely for being critical of the government or the political social system espoused by the government can never be considered to be a necessary restriction of freedom of expression, *id.* para. 42. Furthermore, and as generally held, attacks against individuals for the exercise of their right to freedom of expression is incompatible with the Covenant, see CCPR/C/GC/34 para 23. Any such attacks should be subject to independent and impartial investigations, *id.*

Torture and ill-treatment

In addition, we would like to draw the attention of your Excellency’s Government to Principle 4 of the UN Basic Principles on the Use of Force and Firearms by Law

Officials, which provides that, “[l]aw enforcement officials, in carrying out their duty, shall, as far as possible, apply non-violent means before resorting to the use of force and firearms. They may use force and firearms only if other means remain ineffective or without any promise of achieving the intended result.” This also applied to persons in custody or detention as stated in Principle 15.

Furthermore, Principle 5 provides that, “[w]henver the use of force and firearms is unavoidable law enforcement officials shall, (a) Exercise restraint in such use and act in proportion to the seriousness of the offence and the legitimate object to be achieved; (b) Minimize damage and injury, and respect and preserve human life; (c) Ensure that assistance and medical aid are rendered to any injured or affected persons at the earliest possible moment and (d) Ensure that relatives or close friends of the injured or affected person are notified at the earliest possible moment” (adopted by the Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders, Havana, Cuba, 27 August to 7 September 1990).

We would also like to bring to your Excellency’s attention that the right to the enjoyment of the highest attainable standard of physical and mental health is reflected, inter alia, in article 12 of the International Covenant on Economic, Social and Cultural Rights (ICESCR), which Iran ratified on 24 June 1975. This includes an obligation on the part of all State Parties to ensure that health facilities, goods and services are accessible to everyone, especially the most vulnerable or marginalized sections of the population, without discrimination. According to Article 12, States have an obligation to respect the right to health by, inter alia, refraining from denying or limiting equal access for all persons, including prisoners or detainees to preventive, curative and palliative health services (General Comment CESCR 14, para. 34). In addition, Principle 9 of the Basic Principles for the Treatment of Prisoners, adopted and proclaimed by General Assembly resolution 45/111, indicates that all prisoners should have access to the health services available in the country without discrimination on the grounds of their legal situation. Rule 27(1) furthermore provides that all prisons shall ensure prompt access to medical attention in urgent cases. Prisoners who require specialized treatment or surgery shall be transferred to specialized institutions or to civil hospitals. Where a prison service has its own hospital facilities, they shall be adequately staffed and equipped to provide prisoners referred to them with appropriate treatment and care.

In conclusion, we would like to recall that paragraph 7c of Human Rights Council Resolution 16/23 urges States “To ensure that no statement established to have been made as a result of torture is invoked as evidence in any proceedings, except against a person accused of torture as evidence that the statement was made, and calls upon States to consider extending that prohibition to statements made as a result of cruel, inhuman or degrading treatment or punishment, recognizing that adequate corroboration of statements, including confessions, used as evidence in any proceedings constitutes one safeguard for the prevention of torture and other cruel, inhuman or degrading treatment or punishment.”

Incommunicado detention

We would also like to refer your Excellency's Government to the 1992 Declaration on the Protection of all Persons from Enforced Disappearance, in particular that no State shall practise, permit or tolerate enforced disappearance (Article 2.1) and that no circumstances whatsoever, whether a threat of war, a state of war, internal political instability or any other public emergency, may be invoked to justify enforced disappearances (Article 7).