

**Mandates of the Special Rapporteur on extrajudicial, summary or arbitrary executions; the Special Rapporteur on the situation of human rights in the Islamic Republic of Iran; the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment; the Special Rapporteur on violence against women, its causes and consequences and the Working Group on discrimination against women and girls**

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Excellency,

We have the honour to address you in our capacities as Special Rapporteur on extrajudicial, summary or arbitrary executions; Special Rapporteur on the situation of human rights in the Islamic Republic of Iran; Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment; Special Rapporteur on violence against women, its causes and consequences and Working Group on discrimination against women and girls, pursuant to Human Rights Council resolutions 44/5, 43/24, 43/20, 41/17 and 41/6.

In this connection, we would like to bring to the attention of your Excellency's Government information we have received concerning the **practice of honour killings in Iran which most recently led to the killing of Ms. ██████████, a 14-year-old girl, by her father in Talesh county, Gilan Province**. We would also like to raise our concerns about the **draft bill for the Protection of Women against Violence**, currently under discussion in the Government's Bill Committee, whose provisions are incompatible with the Islamic Republic of Iran's international human rights obligations and would fail to remove existing provisions that reduce penalties and/or exculpate perpetrators in cases of honour killings.

According to the information received:

*The killing of Ms. ██████████*

It is reported that nearly 30 per cent of all murder cases in Iran in 2019 were honour killings of women and girls. In most honour killings, there are no complaints by the plaintiff or guardian and the murderer is quickly released with the agreement of both parties. Consequently, honour killings are often underreported. The killing of ██████████, a 14-year-old student from Talesh county, is the latest incident of an honour killing.

Ms. ██████████ was being courted by a 28-year-old man who resided in her hometown. At the beginning of May 2020, he came to her family house and asked her father for permission to marry Ms. ██████████. Her father refused and allegedly threatened Ms. ██████████'s life and encouraged her to commit suicide.

In mid-May, Ms. ██████████ reportedly escaped with her partner. A few days later, she was found by the police and returned home, despite reportedly telling them that she feared for her life.

After Ms. ██████ was returned home, her father allegedly inquired from a lawyer, who was also a relative, about the punishment a father would receive for killing his daughter. The lawyer allegedly confirmed that a guardian of a daughter would not be sentenced to capital punishment for killing her, but at most would serve between three and ten years of imprisonment. During the trial sessions, Ms. ██████'s father stated that he had chosen to murder his daughter because he was aware that it carried a less severe punishment compared to the punishment he would have received for killing Ms. ██████'s partner.

On 21 May 2020, Ms. ██████'s father beheaded his daughter in her sleep with a farming sickle. A few days later, the Prosecutor reported that the investigation and trial would be expedited and that he would seek from the judiciary that they sentence Ms. ██████'s father to the maximum sentence allowed under legislation of ten years of imprisonment. He was later sentenced to nine years of imprisonment under article 301 of Iran's Penal Code, according to which the killing of a child (or descendant) by a father, or any ascendant, is a mitigating circumstance for the crime of homicide, excluding the maximum sentence, which is the death sentence. The man with whom Ms. ██████ escaped was sentenced to two years of imprisonment, although it is not known for which crime he was convicted.

#### *Proposed legislation on violence against women*

The Islamic Republic of Iran currently does not have any law aimed at preventing domestic violence and protecting women victims of violence. Neither do the current provisions in the Iranian Civil Code and Penal Code provide adequate protection for women against domestic violence. It is further reported that certain provisions exacerbate the vulnerabilities of women to domestic abuse. In particular, the Civil Code provides that the husband is the head of the family and a wife who refuses to fulfil her duties without a legitimate reason is not entitled to receive maintenance costs from her husband. The wife must also stay in the dwelling her husband allots for her unless doing so causes the risk of bodily or financial injury or loss of dignity, in which case she must be able and willing to go to court to prove she is endangered.

In 2011, the Supreme Leader Ali Khamenei called for the protection of women from domestic violence. This represented an opportunity for the Vice Presidency for Women and Family Affairs to start drafting a bill. After various reviews over the years, in early 2017, the draft bill was sent to the judiciary by the executive branch for review. The bill would be the first legal instrument to criminalize violence against women and impose jail time for violators. The judiciary removed 40 of the original 91 articles, and decided to submit it for review by Shi'a religious leaders in Qom, although the legislative process under Iranian law does not prescribe that legislation should or can be reviewed in this manner. Moreover, it is reported that the title of the bill was changed from "Bill for the Protection of Women against Violence" to the "Bill for the Protection, Dignity and Security of Ladies against Violence". The revised draft bill was submitted to the Government by the judiciary on 16 September 2019.

Following the public outcry over the killing of Ms. ██████, President Hassan Rouhani asked the Government's Bill Committee to fast-track the finalization and adoption of the bill. Nevertheless, it is reported that the draft bill does not provide effective and sufficient guarantees to protect women against violence. Article 66 of the draft bill provides that, before filing a lawsuit in the prosecutor's office and the court, a woman who claims to have been abused by her husband or father must pass through a reconciliation period before the Dispute Settlement Council and, if an agreement is not reached within a month, the case must be referred to the competent Court. The requirement of compulsory reconciliation would remove cases from judicial scrutiny, presuming that both parties have equal bargaining power, without taking into account the pressure on women to prioritize family unity. It would reduce and/or replace offender accountability, such as prosecution and punishment of perpetrators, and fail to guarantee a woman's access to remedies. Moreover, a compulsory reconciliation period of one month would expose victims to an avoidable risk of violence and abuse.

Article 77 requires that a husband must be definitively convicted three times for committing violence against his wife before she can obtain a divorce on the grounds of abuse. This provision would put on women an unbearable and avoidable burden of proof to demonstrate violence in three different proceedings and presents significant limitations to exercising the right to equality between men and women in marriage and its dissolution. Moreover, this provision does not take into account the difficulty of proving marital violence in court, and does not take into account the numerous obstacles and the long period involved in obtaining a final criminal court verdict. The provision would also represent a serious barrier to access to justice.

The bill introduces mitigating circumstances for crimes against life committed against women. Under the proposed Article 31, in cases where a woman is killed, and the maximum penalty would not be applicable in the particular case, the punishment would instead be between five and ten years of imprisonment. Under Iranian law, one situation where the maximum penalty does not apply in cases of intentional killing is when a father or an ascendant is responsible for killing their child or descendant. Another circumstance where it is not applicable is when a husband kills his wife upon witnessing her having sexual intercourse with another man. Moreover, the draft bill should remove existing provisions that reduce penalties and/or exculpate perpetrators in cases of so-called honour crimes.

Article 71 of the bill introduces insufficient and ineffective measures to institute protection orders that would fail to keep the abuser away from the victim's home or workplace. This provision lacks clear directives on the distance abusers should keep from the victims. Effective protection orders should require a perpetrator of domestic violence to leave a shared home and to keep at a certain distance from the victim's house or work place (barring orders). When a protection order fails to guarantee a safe distance between the victims and the abusers, it increases the level of danger to which a woman is exposed.

Moreover, article 71 limits a wife's separation from her abusive husband to three months, after which, if she refuses to return home, she loses her subsistence support. This provision undermines the equality of women with men before the law and subjects a woman's right to subsistence to the requirement of going back home to an abusive partner.

While we do not wish to prejudge the accuracy of these allegations, we express grave concern regarding the killing of Ms. [REDACTED] and the persisting practice of so-called honour killings, which constitutes a serious violation of the International Convention on Civil and Political Rights, which the Islamic Republic of Iran ratified on 24 June 1975, and in particular of articles 6, 7, 14 and 26. We are particularly concerned about the accountability mechanisms available for honour killings which do not reflect the severity of the crime.

Honour killings should be treated as homicides, such as aggravated or first-degree murder, which reflect the perpetrator's intent behind such crimes and take into account any premeditation in the commission of the crime. The safeguards against arbitrary deprivation of life apply to killings by non-State actors. Iran incurs international responsibility when it fails to act with due diligence to prevent, investigate, sanction and offer reparations for honour killings. In this regard, the mitigating effect of article 301 of Iran's Penal Code may be seen as a failure to act with due diligence, including by sanctioning honour killings.

We are furthermore concerned that practices such as honour killings are undermining the value of the girl child within the family and put women and girls in more vulnerable positions. As expressed by the Working Group on Discrimination against Women and Girls, the Committee on the Elimination of Discrimination against Women, and the Committee on the Rights of the Child, harmful practices affecting women and girls are deeply rooted in social attitudes according to which women and girls are regarded as inferior to men and boys based on stereotyped roles. They highlight the gender dimension to violence and indicate that sex- and gender-based attitudes and stereotypes, power imbalances, inequalities and discrimination perpetuate the widespread existence of practices that often involve violence or coercion.

While the drafting of a Bill for the Protection, Dignity and Security of Ladies against Violence represents a step forward in promoting the right of women to live a life free from violence, we express deep concerns regarding most of its provisions, which fail to provide effective protection and fail to ensure access to remedies. The draft Bill perpetuates the idea that domestic violence is a private matter that should be resolved within the family, and continues the promotion of harmful gender stereotypes such as those that designate women as inferior to men in marriage and before the law. The draft bill imposes a compulsory reconciliation process before seeking justice for domestic violence and represents a significant burden of proof on a woman who wants to dissolve a marriage due to physical and psychological violence. The draft bill does not provide effective protection orders which guarantee the safety of victims. It also contains subordinate access to economic subsistence which is based on the requirement of coming back to the home of the abuser.

The bill also fails to explicitly criminalize marital rape. As the Special Rapporteur on violence against women has previously noted, this omission reflects the persistence of the public-private dichotomy, which shields certain types of violence from the legal system. Alongside passing legislation criminalizing domestic and intimate-partner violence, the Special Rapporteur has recommended that States introduce legislation to explicitly recognize marital rape as a crime (E/CN.4/1996/53).

Furthermore, we express concern on the legal age for a girl to enter marriage in the Islamic Republic of Iran, which is 13 years old. We are deeply concerned that the law allows girls even younger than 13 years old to marry with the consent of their father and a judge. Girls who marry as children are more likely to experience domestic violence; in that sense, failure to criminalise child marriage would undermine any measure aimed at protecting women and girls from domestic violence.

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 provide a detailed description of protection measures currently available to women and girls who receive threats to their life or other forms of physical, sexual or psychological violence from a member/s of their households, measures to prevent the re-occurrence of the threats and access to remedies.
3. Please provide detailed information on how your Excellency's Government intends to proceed with regard to the aforementioned bill, as well as how its provisions comply with Iran's obligations under the international legal framework of human rights law and standards including, among others, the ICCPR, ICESCR, and CRC.
4. Please provide information on whether the drafting process of the aforementioned bill has included or intend to include a consultative process, which includes, among others, the participation of complainant/survivors, lawyers, health care professionals and NGOs.
5. Please provide information on what does the process of compulsory reconciliation before the Dispute Settlement Council consists of and what is the role of the Council in situations of domestic violence.
6. Please provide information on the measures envisaged or undertaken to train law enforcement officers, as well as the judiciary, to respond to allegations of domestic violence.

7. In the case of Ms. ██████████, please provide information as to why she was sent back into the care of her father by a member of the police despite expressing fear for her safety under his guardianship. Please also provide information concerning other measures taken, if any, to ensure Ms. ██████████'s protection, the legal process currently underway to prosecute Ms. Ashrafi's father, and any accountability mechanisms that are currently investigating failures by officials to protect Ms. ██████████.

We would appreciate receiving a response within 60 days. Passed this delay, this communication and any response received from your Excellency's Government will be made public via the communications reporting website. 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 also urge your Excellency's Government to review the Bill for the Protection, Dignity and Security of Ladies against Violence, amending it in line with applicable human rights standards.

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

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Special Rapporteur on extrajudicial, summary or arbitrary executions

Javaid Rehman

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

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Elizabeth Broderick

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## **Annex**

### **Reference to international human rights law**

In connection with the above alleged facts and concerns, we would like to draw the attention of your Excellency's Government to the relevant international norms and standards that are applicable to the issues brought forth by the situation described above.

We call to the attention of your Excellency's Government the international standards regarding the right to life, as enshrined in article 6(1) of the International Covenant on Civil and Political Rights (ICCPR) and a preemptory norm of international law. The Human Rights Committee highlights that the right to life should not be interpreted narrowly. To protect this integral right, States are required to adopt positive measures (General Comment No. 36, para 5) and refrain from acts and omissions that are intended or may be expected to cause unnatural or premature death. Article 6(2) states that the death penalty, which is the current punishment for murder in the Islamic Republic of Iran, may not be imposed when doing so would be contrary to the provisions of the ICCPR.

We additionally remind your Excellency's Government that the death penalty cannot be reconciled with full respect for the right to life, and the abolition of the death penalty is both desirable and necessary for the enhancement of human dignity and progressive development of human rights.<sup>1</sup> While the Covenant permits retentionist States to continue applying the death penalty, the Special Rapporteur on extrajudicial, summary or arbitrary executions is of the view that such 'dispensation' does not make the execution of a death sentence strictly speaking legal. There are exemptions for retentionist States parties, provided that the death penalty is applied within stringent parameters, that is, it is carried out only for the most serious crimes and by a method causing the least possible suffering. Any death sentence carried out on the basis of confessions extracted under torture, following an unfair trial or on the basis of an ambiguous law, amounts to an arbitrary deprivation of life.

Moreover, we would like to remind your Excellency's Government that the freedom from torture and other cruel, inhuman or degrading treatment or punishment is a non-derogable right under international law that must be respected and protected under all circumstances. Article 7 of the ICCPR provides that "[n]o one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment." In reference to this the Human Rights Committee has repeatedly condemned the failure of States to prevent and redress domestic violence (e.g. CCPR/C/JAM/CO/4, para. 23; and CCPR/C/LKA/CO/5, para. 9). In his report on strengthening the protection of women from torture (A/HRC/7/3), the Special Rapporteur on torture highlighted States' due diligence obligations to protect persons within its jurisdiction from torture and ill-treatment committed by private individuals, including by enacting legislation to provide protection to women from domestic violence and any form of torture and ill-treatment in the home.

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<sup>1</sup> [CCPR/C/GC/36](#), para. 50.

Furthermore, we remind your Excellency's Government that the Special Rapporteur on Torture confirmed that, "in terms of the intentionality, purposefulness and severity of the inflicted pain and suffering, domestic violence often falls nothing short of torture and other cruel, inhuman or degrading treatment or punishment violence against women cannot be regarded as a private matter... it gives rise to a wide range of human rights obligations including of the State to prevent acts of torture and ill-treatment within their jurisdictions, and including at the hands of private actors" (A/74/148, para 2 and 11).

Article 19(1) of the Convention on the Rights of the Child provides applicable standards. It requires states parties to "take all appropriate legislative, administrative, social and educational measures to protect the child from all forms of physical or mental violence, injury or abuse, neglect or negligent treatment, maltreatment or exploitation, including sexual abuse, while in the care of parent(s), legal guardian(s) or any other person who has the care of the child." Article 19(2) elaborates on such protective measures, noting that they should "include effective procedures for the establishment of social programmes to provide necessary support for the child and for those who have the care of the child, as well as for other forms of prevention and for identification, reporting, referral, investigation, treatment and follow-up of instances of child maltreatment described heretofore, and, as appropriate, for judicial involvement."

The Declaration on the Elimination of Violence against Women (A/RES/48/104) places upon the State the duty to develop penal, civil, labour and administrative sanctions in domestic legislation to punish and redress the wrongs caused to women who are subjected to violence. The Declaration states that women who are subjected to violence should be provided with access to the mechanisms of justice and, as provided for by national legislation, to just and effective remedies for the harm that they have suffered, and that States should inform women of their rights in seeking redress through such mechanisms (art. 4 (d)). The Declaration also calls on states to "condemn violence against women" and notes that states "should not invoke any custom, tradition or religious consideration to avoid their obligations with respect to [the elimination of violence against women]" (Art. 4). DEVAW also exhorts states to "exercise due diligence to prevent, investigate and, in accordance with national legislation, punish acts of violence against women, whether those acts are perpetrated by the State or by private persons" (Art. 4(c)). Further, DEVAW urges states to "adopt all appropriate measures, especially in the field of education, to modify the social and cultural patterns of conduct of men and women and to eliminate prejudices, customary practices and all other practices based on the idea of the inferiority or superiority of either of the sexes and on stereotyped roles for men and women" (Art. 4(j)).

According to the joint General Recommendation No. 31 of the Committee on the Elimination of Discrimination against Women/General Comment No. 18 of the Committee on the Rights of the Child on harmful practices, a child marriage occurs when at least one of the parties is under the age of 18. As a matter of respecting the child's evolving capacities and autonomy in making decisions that affect her or his life, a marriage of a mature, capable child below 18 years of age may be allowed in exceptional circumstances, provided that the child is at least 16 years of age and that such decisions are made by a judge based on legitimate exceptional grounds defined



by law and on evidence of maturity, without deference to culture and tradition (CEDAW/C/GC/31-CRC/C/GC/18, para. 20). A child marriage is considered to be a form of forced marriage, given that one and/or both parties have not expressed full, free and informed consent. Girls who marry before 18 are more likely to experience domestic violence and less likely to remain in school.

As expressed by the Working Group on Discrimination against Women and Girls in its thematic report on Family and cultural life (A/HRC/29/40), harmful practices against women and girls cause serious harm in all aspects of the lives of the women and girls who fall victim to them and include incest, female genital mutilation, early and forced marriage, so-called “honour-crimes”, dowry-related violence, neglect of girls, extreme dietary restrictions, virginity tests, servitude, stoning, violent initiation rites, widowhood practices and female infanticide. States should elaborate a global strategy to eliminate harmful practices, which should be well defined, rights-based, have local relevance and comprise legal, economic and social support measures combined with proportional political engagement and State responsibility at all levels.

Furthermore, the Working Group reiterated in the above mentioned report its concerns about the considerable increase in laws and public policies developed to protect culture and religion that threaten the universally established standards on the rights of women. Gender-based stereotypes, often strengthened and legitimized in national constitutions, laws and policies, are justified in the name of cultural norms or religious beliefs. Failure to eliminate these stereotypes leads to the generalization of practices that are harmful to women and girls.

The Beijing Platform for Action from the United Nations 1995 Fourth World Conference on Women calls upon states to “[t]ake urgent action to combat and eliminate violence against women, which is a human rights violation, resulting from harmful traditional or customary practices, cultural prejudices and extremism” (para. 232(g)).

We would also like to bring to your Excellency’s Government’s attention paragraph 30 of the 2013 report of the Special Rapporteur on freedom of religion or belief to the General Assembly (A/68/290), in which he emphasizes that “... as a human right, freedom of religion or belief can never serve as a justification for violations of the human rights of women and girls.” Furthermore, in paragraph 69 of the 2011 interim report to the General Assembly (A/65/207), the Special Rapporteur on freedom of religion or belief stresses that “... the mandate needs to continue highlighting discriminatory practices that women have had to suffer over centuries and continue to do so, sometimes in the name of religion or within their religious community. It can no longer be taboo to demand that women’s rights take priority over intolerant beliefs used to justify gender discrimination.”

The Human Rights Committee, in paragraph 23 of its General Comment No. 28 (2000) on the equality of rights between men and women, has also specified that “States are required to treat men and women equally in regard to marriage in accordance with article 23, which has been elaborated further by General Comment No. 19 (1990). Men and women have the right to enter into marriage only with their free and full consent, and States have an obligation to protect the enjoyment of this right on an equal basis.”