

**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 minority issues and the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment**

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Excellency,

We have the honour to address you in our capacity 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 minority issues and Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, pursuant to Human Rights Council resolutions 43/24, 42/22, 45/3, 43/8 and 43/20.

In this connection, we would like to bring to the attention of your Excellency's Government information we have received concerning the **arrest of at least 110 individuals from the Kurdish minority in several towns and cities of Iran**. It is understood that the majority of the individuals are involved in different forms of civil society activism, as well as individuals without any history of activism. We have serious concerns that the individuals have been arbitrarily arrested and detained, enforcedly disappeared, denied the right to a lawyer and could be at risk of torture. We are also concerned that the arrests are in relation to the exercise of human rights or the imputed political opinion of the individuals and are discriminatory on the basis of their ethnicity.

According to the information received:

*Mass Arrest of Iranians from the Kurdish Minority*

From 6 January 2021 up until the date of this letter, at least 110 individuals from the Kurdish minority have been arrested in at least 19 cities across five provinces in the Islamic Republic of Iran. Of these individuals, 12 women have been arrested. As of 8 February 2021, approximately 12 of these individuals have been released, either on bail or unconditionally, but the rest are reportedly still in detention. Many of the individuals are involved in different forms of activism, including civil society activists, labour rights activists, environmentalists, writers, university student activists and political activists. However, some of the individuals have no history of activism. The majority of those detained appear to be young men and women aged in their twenties. Given the background of the majority of the individuals detained, it is believed that they have been arrested for the peaceful exercise of their rights to freedom of expression, assembly and association through civil society activities or for their real or perceived support of certain political views, including those of Kurdish-based political parties in Iran.

The arrests of these individuals were made by agents of both the intelligence unit of the Islamic Revolutionary Guards Corps (IRGC) and the Ministry of Intelligence. Most of the arrests took place without an arrest warrant being presented by the agents, with some arrests involving violence. Some families of those arrested in West Azerbaijan province were informed by prosecution authorities that no arrest warrants had been issued against their relatives and that they had no information on their whereabouts. At least 55 of the individuals arrested have been subjected to enforced disappearances as their families or legal representatives have not been informed of their whereabouts. The remaining detainees are reportedly being held in Ministry of Intelligence detention centres, IRGC intelligence unit detention centres or general prisons. 68 are detained in Western Azerbaijan province, 31 in Kurdistan province, 7 in Kermanshah, and 4 in Tehran and Karaj.

Some individuals were allowed to make telephone calls to their families after several hours or days in detention, and were allowed to inform their families where they were being held. However, for these individuals and others who have not been able to contact their families, no information has been provided as for the reasons for their arrest. No further contact has been allowed for those who were given permission to call their relatives, subjecting them to incommunicado detention. Legal representation has also not been provided to individuals who have been detained, including for the purpose of challenging the legitimacy of their detention. Reports have been received that agents of both the Ministry of Intelligence and IRGC have threatened individuals who have sought information about their detained relatives and have warned them of negative consequences if they speak to media organisations or international human rights organizations, including the United Nations. There are concerns that the allegations of enforced disappearances and of the refusal to allow access to lawyers increases the risk that the detainees could be subjected to torture or other cruel, inhuman and degrading treatment.

These arrests also indicate an escalation of alleged ongoing violations regarding the arrest, detention and conviction of Kurdish and other individuals from minorities on charges connected to peaceful civic space activism or perceived political views. It is reported that in 2020 over 500 people from Iran's Kurdish minority were arrested for such activities and were subsequently charged with vague national security offences. Over 150 were sentenced to prison terms and four individuals were sentenced to death.

#### *Negative Depictions in Media of the Kurdish Minority and their Culture*

Furthermore, since January 2021 there have been reports of incidents where the Kurdish minority and their culture has been described in an insensitive manner, including on state television and news agencies affiliated with the government or IRGC. On a television programme called *Dar-Entehaye-Alvand* which aired in mid-January on state television's Channel 2, a presenter reportedly insulted the traditional Kurdish dress of an interviewee. 15 Kurdish members of parliament raised objections to how the presenter referred to the traditional dress during the programme in a letter to the Supreme Leader. The

letter also raised there have been “repeated incidents of insults against ethnic minorities on TV programmes” and requested the Supreme Leader to intervene in this matter. It is reported in state media that the presenter later apologized to the interviewee for his remarks. On another television programme entitled *Rooz Haye Abadi (Endless Days)* regarding the 1979 Revolution, the Kurdish minority have reportedly been portrayed as being against Islam and against the Revolution, as well as other insensitive claims.

Outside of these television broadcasts, on 8 January 2021, the tombs of Mamle, a famous Kurdish singer, and Mawlawi, a renowned Kurdish poet, were reportedly destroyed, although it is not clear who was responsible for desecrating their tombs or the motivation behind it.

Without prejudging the accuracy of the received information, we express our alarm at the reported high number of allegedly arbitrary arrests targeting a specific minority community in the Islamic Republic of Iran, namely the Kurdish minority, and reports that in the majority of cases the arrests are due to the individuals’ peaceful participation in civic space activities or for their real or perceived political opinions. If this is correct, the detention of the individuals could be considered arbitrary. We are especially concerned that the whereabouts of almost half of those detained is unknown, which therefore amounts to enforced disappearance, which is an aggravated form of arbitrary detention, and that for those whose whereabouts is known, the authorities are denying contact with families via telephone or in-person visits, which could be considered incommunicado detention. We reiterate that enforced disappearance is a serious violation of human rights and may well amount to the crime of torture or other cruel, inhuman or degrading treatment or punishment, unequivocally prohibited under international law and constitute a violation of the right to life.<sup>1</sup> We are also troubled by allegations of intimidation, harassment and retaliation against relatives who document these practices and demand justice and truth for these human rights violations. We also express our concerns that the individuals are not being provided access to legal representation or their right to challenge the legality of their detention before the courts. We note that the combination of these factors raise legitimate fears that the detainees are at an increased risk of torture or other cruel, inhuman and degrading treatment, a concern that has been raised on multiple occasions with your Excellency’s Government. We are also highly concerned that the arrests against individuals from a particular minority, in this case Iran’s Kurdish community, is indicative of a general trend to target minority communities by the Iranian authorities, including Kurds but also Baluchis, Ahwazi Arabs, Azerbaijani-Turks, Baha’is and converts to Christianity, amongst other minorities.

Without expressing at this stage an opinion on the facts of the case and on whether the 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 the detained person in this case 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

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<sup>1</sup> See, Communication No. 449/1991, *Mojica v Dominican Republic*, Views adopted by the Human Rights Committee on 15 July 1994, para. 5.7 and Human Rights Committee, General Comment 36, paras 57 and 58.

9 and 14 of the ICCPR.

More specifically, article 14.3 of the ICCPR stipulates that in the determination of any criminal charge against an individual, everyone shall be entitled to the minimum guarantees, such as: (a) To be informed promptly and in detail in a language which the individual understands of the nature and cause of the charge against them; (b) To have adequate time and facilities for the preparation of their defence and to communicate with counsel of the individual's own choosing; (c) To be tried without undue delay; (d) To be tried in his presence, and to defend themselves in person or through legal assistance of the individual's own choosing; (e) To examine, or have examined, the witnesses; (f) To have the free assistance of an interpreter if the person cannot understand or speak the language used in court and (g) Not to be compelled to testify against themselves or to confess guilt. The right to have access to a lawyer without delay and in full confidentiality is also enshrined in principle 9 and guideline 8 of the United Nations Basic Principles and Guidelines on Remedies and Procedures on the Right of Anyone Deprived of Their Liberty to Bring Proceedings Before a Court (A/HRC/30/37), and the Basic Principles on the Role of Lawyers (Principles 7 and 8).

Moreover, the United Nations Basic Principles and Guidelines on remedies and procedures on the right of anyone deprived of their liberty to bring proceedings before a court highlight the right to challenge the lawfulness of detention before a court as a self-standing human right, the absence of which constitutes a human rights violation.

We also would like to draw the attention of your Excellency's Government that enforced disappearance violates numerous human rights, among them the right to security of the person and the right to be protected from torture and other ill-treatment. In this respect, the enforced disappearance of over 50 individuals following their arrest contravenes Iran's obligations under the ICCPR, articles 6 and 9, and its obligations under the United Nations Declaration on the Protection of All Persons from Enforced Disappearances. The Declaration establishes the prohibition to practice, permit or tolerate enforced disappearances (article 2); the obligation to take effective legislative, administrative, judicial or other measures to prevent and terminate acts of enforced disappearance (article 3) 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). The Declaration recognizes the right to a prompt and effective judicial remedy as a means of determining the whereabouts or state of health of persons deprived of their liberty (article 9), the right to be held in an officially recognized place of detention, in conformity with national law and to be brought before a judicial authority promptly after detention in order to challenge the legality of the detention (article 10). The same article of the Declaration establishes the obligation of the detaining authorities to make available accurate information on the detention of persons and their place or places of detention, including transfers, to their family, counsel or other persons with a legitimate interest (article 10). The Declaration also establishes the obligation to make the findings of an investigation into the circumstances of the disappearance available upon request to all persons concerned and to ensure that all involved in the investigation are protected against ill-treatment, intimidation or reprisal (article 13).

Furthermore, we would like to stress that the failure to acknowledge deprivation of liberty by state agents and refusal to acknowledge detention constitute an enforced disappearance. Paragraph 27 of General Assembly Resolution 68/156 (February 2014), “[r]eminds all States that prolonged incommunicado detention or detention in secret places can facilitate the perpetration of torture and other cruel, inhuman or degrading treatment or punishment and can in itself constitute a form of such treatment, and urges all States to respect the safeguards concerning the liberty, security and dignity of the person and to ensure that secret places of detention and interrogation are abolished”. We recall that States must establish effective facilities and procedures to investigate thoroughly and promptly, by an appropriate impartial body and if necessary ex officio, cases of disappeared persons for as long as the person’s fate and whereabouts have not been established (A/HRC/16/48, para. 39).<sup>2</sup> We further express our grave concern at allegations of acts of retaliation and intimidation directed against relatives of disappeared persons. Reiterating paragraphs 3 and 5 of article 13 of the Declaration, we highlight that your Excellency’s Government holds the duty to ensure that all persons involved in the investigation of cases of enforced disappearance remain protected against ill-treatment, intimidation or retaliation and that any of such acts or forms of interference on the occasion of reporting enforced disappearances is appropriately punished.

With regard to the alleged violations of due process guarantees, we would like to recall article 14 of the ICCPR, which provides inter alia for the principle of equality before competent, independent and impartial courts and tribunals, the presumption of innocence, provision of adequate time and facilities for the preparation of the defence, and the right of accused persons to communicate with counsel of their own choosing. We also refer to General Comment No. 32 (2007) by the Human Rights Committee (CCPR/C/GC/32), 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 (A/HRC/30/37) and 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, which provide for the right to legal assistance, and for the prompt access and consultation with counsel without intimidation, hindrance, harassment or improper interference.

Furthermore, we would like to recall Principle 17 of the United Nations Basic Principles and Guidelines on remedies and procedures on the right of anyone deprived of their liberty to bring proceedings before a court, which stipulates that the adoption of specific measures are required under international law to ensure meaningful access to the right to bring proceedings before a court to challenge the arbitrariness and lawfulness of detention and receive without delay appropriate remedies by certain groups of detainees. This includes, but is not limited to, persons detained in solitary confinement or other forms of incommunicado detention or restricted regimes of confinement.

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<sup>2</sup> Human Rights Committee, general comment No. 6, para 4;

Article 7 of the ICCPR provides that “[n]o one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment.” The absolute and non-derogable prohibition of torture and other ill-treatment is recognized as an international norm of jus cogens. In this regard, we would like to draw your Excellency’s Government attention to paragraph 1 of General Assembly Resolution 68/156, which “[c]ondemns all forms of torture and other cruel, inhuman or degrading treatment or punishment, including through intimidation, which are and shall remain prohibited at any time and in any place whatsoever and can thus never be justified, and calls upon all States to implement fully the absolute and non-derogable prohibition of torture and other cruel, inhuman or degrading treatment or punishment”. We would further like to recall paragraph 8a of Human Rights Council Resolution 16/23, which reminds States that “Intimidation and coercion, as described in article 1 of the Convention against Torture, including serious and credible threats, as well as death threats, to the physical integrity of the victim or of a third person can amount to cruel, inhuman or degrading treatment or to torture.”

Finally, we wish to refer to article 27 of the ICCPR and the 1992 United Nations Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities, adopted in General Assembly resolution 47/135, which refers to the obligation of States to protect the existence and the identity of minorities within their territories and to adopt measures to that end (article 1) as well as to adopt the required measures to ensure that persons belonging to minorities can exercise their human rights without discrimination (article 4).

The full texts of the human rights instruments and standards recalled above are available on [www.ohchr.org](http://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(s) in compliance with international instruments.

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 detailed information about the legal and factual basis for the arrest and detention of these individuals, including in many cases without an arrest warrant, bearing in mind its incompatibility with international human rights law.
3. Please provide information about the name and place of detention of all those arrested, including those kept in incommunicado detention or subjected to enforced disappearance.

4. Please provide detailed information about whether any investigation or inquiry has been conducted in the above mentioned case into the allegations of enforced disappearance, the use of torture and other cruel, inhuman or degrading treatment or punishment. If no such investigations have taken place and no-one has been held accountable, please explain why.
5. Please provide detailed information about the legal and factual basis for holding a number of these individuals in incommunicado detention or subjecting them to enforced disappearance and as to why their relatives or legal representatives have not been informed of their whereabouts, bearing in mind this practice is incompatible with international human rights law.
6. Please provide detailed information concerning what access the detained individuals have had to legal representation, as well as their ability to challenge the legitimacy of their detention before a court of law. If no access has been provided, please explain why given its incompatibility with international human rights law.
7. Please explain why relatives of those who have been detained or disappeared have been threatened for asking about their relatives' whereabouts and against speaking to media or international human rights organizations about the disappearance of their relatives.
8. Please provide detailed information about the prevention measures that are in place to prevent the individuals being subjected to enforced disappearance or torture or other forms of cruel, inhuman or degrading treatment or punishment. If no such measures are in place, please explain why.
9. Please explain why these individuals have been detained in relation to activities which exercise their rights to freedom of expression, association and assembly, and how their detention is compatible with the protection of these rights.
10. Please provide detailed information as to measures taken to ensure respect for all minority groups that constitute the population, and about the mechanisms that are in place to ensure public officials and media do not denigrate individuals based on their ethnicity, and the disciplinary processes in place to hold individuals or entities accountable who do espouse discriminatory language towards minorities.
11. Please provide information on the conditions in detention for the individuals, including any details about time spent in solitary confinement, family visits and communication with their lawyers, as well as about the state of their physical and psychological well-being.

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 responsible of 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.

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.

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

Elina Steinerte  
Vice-Chair of the Working Group on Arbitrary Detention

Tae-Ung Baik  
Chair-Rapporteur of the Working Group on Enforced or Involuntary Disappearances

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