

Mandates of the Special Rapporteur on the situation of human rights in the Islamic Republic of Iran; the Working Group on Enforced or Involuntary Disappearances; the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression and the Special Rapporteur on the situation of human rights defenders

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(Please use this reference in your reply)

30 December 2021

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 Enforced or Involuntary Disappearances; Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression and Special Rapporteur on the situation of human rights defenders, pursuant to Human Rights Council resolutions 46/18, 45/3, 43/4 and 43/16.

In this connection, we would like to bring to the attention of your Excellency's Government information we have received concerning the arrest, ill-treatment, enforced disappearance, continued detention and sentencing of student activist Ms. **Leila Hosseinzadeh** and the arrest and continued detention of labor rights defender Mr. **Hirad Pirbodaghi**.

According to the information received:

Leila Hosseinzadeh

Ms. Leila Hosseinzadeh is a 30-year-old student activist. In September 2019, she was summoned to Branch 2 of Evin Prosecutor's Office to answer to the charge of "assembly and collusion to act against national security". In February 2021, she was sentenced to five years of imprisonment by Branch 28 of the Revolution Court in Tehran and a two-year ban on online social activity on the charge of "assembly and collusion to act against national security". On 6 December 2021, Branch 36 of the Court of Appeals upheld the sentence. According to the verdict, Ms. Hosseinzadeh's attending a small birthday gathering on the university campus for an imprisoned student constituted an "act against national security".

On 7 December 2021, Ms. Hosseinzadeh was arrested in the city of Shiraz in Fars province. The house she was staying in was raided by 15 security agents and during the arrest she was reportedly beaten by the agents. Ms. Hosseinzadeh was held incommunicado for 11 days, and her whereabouts were unknown. After 11 days, she made a phone call on 18 December 2021 from ward 209 of Evin prison in the city of Tehran in Tehran province. On 23 December, she was reportedly transferred to Adel Abad prison in the city of Shiraz.

Ms. Hosseinzadeh has intestinal Crohn's disease. Following her arrest, she has been denied the necessary medication for her health condition.

Prior to her most recent arrest, Ms. Hosseinzadeh has previously been arrested on at least two occasions. Ms. Hosseinzadeh was arrested during protests in

December 2017. She was released on bail after spending 16 days in detention. On 7 March 2018, Branch 28 of the Revolution Court in Tehran sentenced Ms. Hosseinzadeh to five years in prison on the charge of “assembly and collusion to act against national security”, as well as one year in prison and a two-year ban on leaving the country on the charge of “propaganda activities against the State”. Branch 36 of the Court of Appeals in Tehran reduced her sentence from five years to two years and six months, the lengthiest enforceable prison sentence according to Article 134 of the Islamic Penal Code.

On 28 July 2019, Ms. Hosseinzadeh was arrested and detained for ten days in a facility at the intelligence unit of the Islamic Revolutionary Guard Corps. Subsequently, she was transferred to Evin prison to serve her sentence. On 11 March 2020, while Ms. Hosseinzadeh was on medical leave, she was pardoned after the Legal Medicine Organization confirmed that she could not withstand imprisonment.

Hirad Pirbodaghi

Mr. Hiran Pirbodaghi is a 29-year-old writer, labor rights defender, and member of the editorial board of the labor magazine Gam.

On 6 November 2021, Mr. Pirbodaghi was arrested at his home by security forces. Several members of the security forces entered his home without a warrant and his house was searched for four hours. He was arrested, during which he was reportedly subjected to violence, and was transferred to Ward 209 of Evin Prison, under the control of the Ministry of Intelligence. The charge brought against Mr. Pirbodaghi is “assembly and collusion to act against national security”. Since his arrest, Mr. Pirbodaghi has reportedly been under pressure by interrogators to make false confessions. Mr. Pirbodaghi has severe hypothyroidism and rheumatoid arthritis. Due to his medical condition, he needs to be exposed to light and be held in warm and dry conditions.

One day before his arrest, Mr. Pirbodaghi accompanied by a number of other civil society actors, had filed a complaint in a judicial office against the use of solitary confinement in detention facilities.

Mr. Pirbodaghi was arrested on several occasions prior to his recent arrest. In August 2019, while he was attending a demonstration in support of the imprisoned workers of Haft Tappeh Sugarcane company, he was arrested in front of the Revolution Court in Tehran. He was released on bail after one month. He was sentenced to six months in prison in February 2021 on the charge of “assembly and collusion to act against national security”. He started serving his prison sentence in June 2021 and was released later.

Without prejudging the accuracy of the allegations, we would like to express our concern with regard to the arrest, ill-treatment, enforced disappearance, continued detention, and sentencing of Ms. Hosseinzadeh, as well as arrest and continued detention of labor rights defender, Mr. Pirbodaghi, which appear to be directly related to the exercise of their rights to freedom of expression, peaceful assembly and association. In particular, we express our concern that the arrest, detention and charges against Ms. Hosseinzadeh and Mr. Pirbodaghi are based on overbroad legal

grounds that have been unduly applied in a way that criminalizes the exercise of the rights to freedom of expression, association and peaceful assembly, and are therefore in clear violation of international human rights law. We also express deep alarm about the physical and psychological integrity of Ms. Hosseinzadeh and Mr. Pirbodaghi while in detention, as well as profound concern that the whereabouts of Ms. Hosseinzadeh was uncertain for 11 days, thus placing her outside the protection of the law.

We are issuing this appeal in order to request that your Excellency's Government safeguard the rights of the abovementioned individuals from irreparable harm and without prejudicing any eventual legal determination.

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 information on the legal and factual grounds invoked for the arrest and detention of Ms. Hosseinzadeh and Mr. Pirbodaghi and explain how these are compatible with international law.
3. Please provide information about how the provision "assembly and collusion to act against national security" is interpreted, and about the conditions which need to be fulfilled for this provision to be applied. Please provide information about measures taken to ensure that the application of this provision does not violate the exercise of the rights to freedom of expression, association and peaceful assembly.
3. Please provide information on the whereabouts of Ms. Hosseinzadeh during the first 11 days following her arrest and explain how denial of information about her whereabouts is compatible with international law.
4. Please provide information on whether any investigation has been launched to clarify the circumstances of the reported events and, with regard to the allegations of ill-treatment and enforced disappearance, identify those responsible, prosecute and, where appropriate, sanction them.
5. Please provide information on the conditions of detention of Ms. Hosseinzadeh and Mr. Pirbodaghi, including their right to regularly communicate with their family and lawyer.
6. Please provide information on Ms. Hosseinzadeh and Mr. Pirbodaghi's access to medical care, as well as about the state of their physical and

psychological health.

7. Please indicate what measures have been taken to ensure that human rights defenders, journalists and other civil society actors are able to carry out their legitimate work in a safe and enabling environment in the Islamic Republic of Iran without fear of threats or acts of intimidation or harassment of any sort, including judicial harassment.

We would appreciate receiving a response within 60 days. Past 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.

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

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

Irene Khan
Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression

Mary Lawlor
Special Rapporteur on the situation of human rights defenders

Annex

Reference to international human rights law

In connection with 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 the Islamic Republic of Iran on 24 June 1975.

We would like to refer to article 9 ICCPR enshrining the right to liberty and security of person and establishing in particular that no one shall be deprived of his or her liberty except on such grounds and in accordance with such procedure as are established by law as well as the right to legal assistance from the moment of detention. Article 9 (4) also entitles everyone detained to challenge the legality of such detention before a judicial authority. In its General Comment No. 35, the Human Rights Committee has found that arrest or detention as punishment for the legitimate exercise of the rights as guaranteed by the Covenant is arbitrary, including freedom of opinion and expression (art. 19), freedom of assembly (art. 21), freedom of association (art. 22) and freedom of religion (art. 18). It has also stated that arrest or detention on discriminatory grounds in violation of article 2, paragraph 1, article 3 or article 26 is also in principle arbitrary. Furthermore, article 14 upholds the right to a fair trial and equality of all persons before the courts and tribunals.

We would also like to refer your Excellency's Government to article 10 of the ICCPR, which guarantees the right of all persons deprived of their liberty to be treated with humanity and with respect for the inherent dignity of the human person. In this connection, we draw your attention to paragraph 3 of the General Comment No. 21 of the Human Rights Committee, which states that article 10 (1) of the ICCPR imposes on States parties a positive obligation towards persons who are particularly vulnerable because of their status as persons deprived of liberty, and complements for them the ban on torture or other cruel, inhuman or degrading treatment or punishment contained in article 7 of the ICCPR. Thus, not only may persons deprived of their liberty not be subjected to treatment that is contrary to article 7, including medical or scientific experimentation, but neither may they be subjected to any hardship or constraint other than that resulting from the deprivation of liberty; respect for the dignity of such persons must be guaranteed under the same conditions as for that of free persons.

We also recall article 19 of the ICCPR, which guarantees that everyone shall have the right to hold opinions without interference, and the right to freedom of expression; which includes freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art, or through any other media of one's choice. Any restrictions to the right to freedom of expression must abide by the strict criteria established under article 19 (3) of the ICCPR.

With specific regard to the enforced disappearance of Ms. Leila Hosseinzadeh, notwithstanding of its duration, according to the jurisprudence of the Human Rights Committee, it amounts to a violation of articles 6, 7, 9 and 16, read alone and in conjunction with art. 2 (3) ICCPR.

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 practice, permit or tolerate enforced disappearance (art.

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 (art.7). Also, articles 10, 12, 13, 16 of the Declaration establish that States must ensure access to a prompt and effective judicial remedy; to ensure competent national authorities have access to all places of detention; to ensure persons deprived of liberty be held in an officially recognized place of detention, and to be brought before a judicial authority promptly after detention; to provide accurate information on the detention of persons and their place of detention to their family, counsel or other persons with a legitimate interest; to ensure maintaining of an official up-to-date registers of all detained persons in every place of detention; and authorities to suspend persons presumed responsible for such acts from any official duties during the investigation and try them only by the competent ordinary courts. Article 19 of the Declaration also provides that victims of acts of enforced disappearance and their families shall obtain redress and shall have the right to adequate compensation, including the means for as complete a rehabilitation as possible. In the event of the death of the victim as a result of an act of enforced disappearance, their dependents shall also be entitled to compensation.

Furthermore, we would like to refer to the general comment on women affected by enforced disappearances (A/HRC/WGEID/98/2), which stresses, *inter alia*, the differentiated effects of enforced disappearances in women and girls. In particular, States must acknowledge disappeared women, and recognize the particular types of harm they suffer based on their gender, including instances of sexual violence and forced impregnation, and the resulting psychological damage and social stigma as well as the disruption of family structures.

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 6 point a), which provides for the right to know, seek, obtain, receive and hold information about all human rights and fundamental freedoms;
- article 6 points b) and c), which provides for the right to freely publish, impart or disseminate information and knowledge on all human rights and fundamental freedoms, and to study, discuss and hold opinions on the observance of these rights;
- 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.

We also remind that States have a heightened duty of care to take any necessary measures to protect the lives of individuals deprived of their liberty by the State, since by arresting, detaining, imprisoning or otherwise depriving individuals of their liberty, States parties assume the responsibility to care for their lives and bodily integrity, and they may not rely on lack of financial resources or other logistical problems to reduce this responsibility. The duty to protect the life of all detained individuals includes providing them with the necessary medical care and appropriate regular monitoring of their health. A heightened duty to protect the right to life also applies to individuals quartered in liberty-restricting State-run facilities, such as mental health facilities (Human Rights Committee, General Comment No. 36, para.25). We would like to further refer your Excellency's Government to article 12 of the International Covenant on Economic, Social and Cultural Rights, ratified by Iran on 24 June 1975, which establishes that 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 (Committee on Economic, Social and Cultural Rights, CESCR General Comment No. 14, para. 34).

We would also like to specifically highlight article 12(2)(c), which obliges States to take the steps necessary for "the prevention, treatment and control of epidemic, endemic, occupational and other diseases" (see also CESCR General Comment 14, Para. 16). In addition, we would like to underline the Basic Principles for the Treatment of Prisoners, adopted by the General Assembly in resolution 45/111, according to which prisoners should have access to health services available in the country without discrimination on the grounds of their legal situation (Principle 9). We also draw your attention to the UN Standard Minimum Rules for the Treatment of Prisoners (reviewed on 17 December 2015 and renamed the "Mandela Rules"), in particular to Rule 24 that establishes that the provision of health care for prisoners is a State responsibility and that the state should ensure continuity of medical treatment for chronic conditions; Rule 27(1), which provides that all prisons shall ensure prompt access to medical attention in urgent cases, as well as Rule 58 which establishes that prisoners shall be allowed to communicate with their family and friends at regular intervals.