

Mandates of the Working Group on Arbitrary Detention; the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health; the Special Rapporteur on the situation of human rights in the Islamic Republic of Iran and the Working Group on discrimination against women and girls

Ref.: AL IRN 12/2022
(Please use this reference in your reply)

10 June 2022

Excellency,

We have the honour to address you in our capacities as Working Group on Arbitrary Detention; Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health; Special Rapporteur on the situation of human rights in the Islamic Republic of Iran and Working Group on discrimination against women and girls, pursuant to Human Rights Council resolutions 42/22, 42/16, 49/24 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 alleged arbitrary detention and denial of adequate health care to Ms. **Soada Khadirzadeh**, a pregnant woman from the Kurdish minority who is held in pretrial detention.

According to the information received:

Ms. Soada Khadirzadeh is a 31-year-old Iranian woman from the Kurdish minority who is currently held in pretrial detention in Urumieh prison in the province of Urumieh.

On 14 October 2021, agents of the Ministry of Intelligence reportedly arrested Ms. Khadirzadeh without presenting a warrant in the city of Piranshahr in the province of West Azerbaijan. Following her arrest, she was held in a detention center controlled by the Ministry of Intelligence, where she was reportedly subjected to intense interrogations, insults, and intimidation. After three weeks, she was transferred to the women's ward in Urumieh prison. The women's ward in Urumieh prison is overcrowded with reportedly at least 40 prisoners in rooms that do not respect the minimum amount of living space, without air conditioning, and with 36 beds in each room. Following new restrictions, female prisoners are reportedly held in rooms for about 22 hours a day.

As of the time of this communication, Ms. Khadirzadeh remained in pretrial detention without being informed of the reason for her arrest. Since her arrest, she has been reportedly denied access to a lawyer.

Ms. Khadirzadeh is eight months pregnant and has a heart condition and kidney problem. In late December 2021, the prison doctor reportedly issued a medical note confirming that she was required specialized medical care outside of prison. Despite the doctor's prescription, prosecution and intelligence officials have halted her release on medical grounds.

On 26 April 2022, Ms. Khadirzadeh commenced a hunger strike in prison and also refused to take medication to protest her lengthy pretrial detention without

any charge and the denial of specialized health care. Since the start of the hunger strike, prison officials reportedly interrogated her and pressured her to end her hunger strike, which she refused at that time. On 7 May, Ms. Khadirzadeh ended her hunger strike following assurances from officials that her requests would be granted. She was told by prison officials that on 9 May she would be transferred from prison to a hospital for the specialized health care she required. Despite these assurances, she has reportedly not been transferred to a hospital to receive the specialized health care she requires.

Without prejudging the accuracy of the received information, we express serious concern regarding the arrest and continuing pre-trial detention of Ms. Khadirzadeh. We are particularly concerned that reportedly no warrant was presented at the time of her arrest and that Ms. Khadirzadeh to date has not been informed of any factual or legal basis for her arrest and detention. We are furthermore concerned at the denial of access to a lawyer, in violation of the right to due process. We equally express concern at the conditions in which Ms. Khadirzadeh is held in Urumieh prison, particularly the overcrowding and the highly restricted right to movement within the prison. We are also concerned at the reported denial of access to specialized healthcare outside prison to Ms. Khadirzadeh despite her pregnancy and her health condition, leading to her hunger strike. We are further concerned at the underlying reasons for Ms. Khadirzadeh's hunger strike and the lack of measures by the authorities to mitigate these.

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.

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 Ms. Khadirzadeh in compliance with international instruments.

We are issuing this appeal in order to safeguard the rights of Ms. Khadirzadeh from irreparable harm and without prejudicing any eventual legal determination.

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 legal and factual grounds for the arrest and detention of Ms. Khadirzadeh and explain how these are compatible with international law.
3. Please provide information about whether any charges have been brought against Ms. Khadirzadeh, including about any factual basis that support the charges. If no charges have been brought, please provide the legal basis for why Ms. Khadirzadeh remains in detention.

4. Please provide information on when has Ms. Khadirzadeh been presented before judicial authority to exercise her right to challenge the legality of detention.
5. Please provide information on the legal basis for denying Ms. Khadirzadeh access to a lawyer, and explain how this is compatible with international human rights law.
6. Please provide information on any measures taken to ensure the physical and mental health of Ms. Khadirzadeh, in particular considering her pregnancy.
7. Please provide detailed explanation of measures taken to ensure that Ms. Khadirzadeh was provided with appropriate medical care and reproductive health services including antenatal care; that conditions of detention do not jeopardize the health of the pregnant woman and rights to services in connection with pregnancy and the post-natal period.
8. Please provide detailed explanation of measures taken to ensure that Ms. Khadirzadeh was provided with appropriate medical care and reproductive health services including antenatal care; that conditions of detention do not jeopardize the health of the pregnant woman and rights to services in connection with pregnancy and the post-natal period.

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.

Further, we would like to inform your Excellency's Government that after having transmitted the information contained in the present communication to the Government, the Working Group on Arbitrary Detention may also transmit the case 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.

Mumba Malila
Vice-Chair of the Working Group on Arbitrary Detention

Tlaleng Mofokeng
Special Rapporteur on the right of everyone to the enjoyment of the highest attainable
standard of physical and mental health

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

Melissa Upreti
Chair-Rapporteur of the Working Group on discrimination against women and girls

Annex

Reference to international human rights law

The above allegations appear to be in contravention of provisions of international law, in particular Ms. Khadirzadeh's right to life, to not be deprived arbitrarily of liberty, to fair proceedings before an independent and impartial tribunal, to freedom from torture and cruel, inhuman or degrading treatment in accordance with articles 6, 7, 9, and 14 of 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 the reported detention is arbitrary or not, we would like to appeal to your Excellency's Government to take all necessary measures to guarantee the right of Ms. Khadirzadeh not to be deprived arbitrarily of her liberty and to fair proceedings before an independent and impartial tribunal, in accordance with articles 9 and 14 of the ICCPR.

In particular, article 9 of the ICCPR enshrines 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. 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 state that the right to challenge the lawfulness of detention before a court is a self-standing human right, the absence of which constitutes a human rights violation.

In relation to the allegations of inadequate access to health care, we would like to remind your Excellency's Government of article 12, coupled with article 2.2 of the International Covenant on Economic, Social and Cultural Rights (ICESCR), ratified by Iran on 24 June 1975, which enshrines the right of everyone, including people prisoners and detainees, to the enjoyment of the highest attainable standard of physical and mental health. Accordingly, States have the obligation to refrain from denying or limiting equal access for all persons, including prisoners or detainees, to health preventive, curative and palliative services (Committee on Economic, Social and Cultural Rights, General Comment No. 14, para. 34). The Committee stresses that reproductive health is an integral part of the right to health and that States have the obligation to fulfil the right of everyone to reproductive health, and "should aim to ensure universal access without discrimination for all individuals [...] to a full range of quality sexual and reproductive health care, including maternal health care" (Committee on Economic, Social and Cultural Rights, General Comment No. 22, paras. 1 and 45).

Furthermore, the UN Standard Minimum Rules for the Treatment of Prisoners ("Mandela Rules") adopted unanimously by the UN General Assembly (A/RES/70/175) establish States' responsibility to provide health care for prisoners (Rules 24 to 35). In particular, prisoners are entitled to the same standards of health care that are available in the community, free of charge and without discrimination (Rule 24.1); Prisoners who require specialized treatment or surgery shall be transferred to specialized institutions or to civil hospitals (Rule 27.1); women shall have access to special accommodation for all necessary prenatal and postnatal care

and treatment and arrangements shall be made wherever practicable for children to be born in a hospital outside the prison (Rule 28).

Furthermore, we would like to remind your Excellency's Government of the report of the Working Group on discrimination against women and girls on Women deprived of liberty (A/HRC/41/33) noting that minority women may face higher rates of violence and greater exposure to incarceration. Similarly, violence has been found to play a significant role in the lives of indigenous women, contributing to the likelihood of their involvement with the criminal justice system. In many jurisdictions, indigenous and racial minority women are not only more likely to be poorer than other women owing to intergenerational cycles of systemic oppression, but are also more likely to experience detention of issues such as the inability to pay off debts or petty offences. Deeply embedded systemic racism leads to racial minority women being subjected to socioeconomic exclusion and poverty (see A/HRC/35/10) with a heightened risk of incarceration, including inter alia, for increased involvement in drug trafficking, mostly at the lower levels of drug networks. The Working Group recalled that disproportionate criminalization of indigenous women and those from racial minorities remains a significant problem.

The Working Group has further raised its concerns that poverty shapes not only the crimes of which women are accused, but also their interactions with the criminal justice system, which also have an effect on the likelihood of their incarceration and its length. In particular, lack of income and wealth limits women's access to quality legal representations, negatively impacting their ability to obtain favourable outcomes in the court system. It also limits their ability to post bail, which not only subjects them to pretrial detention, but has also been found to dramatically increase the likelihood of their eventual conviction.

With specific regard to Ms. Khadirzadeh's pregnancy status, we would like to draw your Excellency's Government's attention to the Working Group's recommendation that States must ensure timely access to maternal health services and emergency obstetric care, including treatment for pregnancy-related morbidities, to all women without discrimination (A/HRC/47/38, para 77, c.).

Specifically in relation to detained pregnant women, Rule 64 of the United Nations Rules for the Treatment of Women Prisoners and Non-custodial Measures for Women Offenders (the "Bangkok Rules") by the General Assembly in resolution 65/229, which states that a preference for non-custodial treatment for pregnant women, and which also require adequate hygienic conditions and physical and psychological health services for pregnant women.