

Mandates of the Working Group on Arbitrary Detention; the Working Group on Enforced or Involuntary Disappearances; the Special Rapporteur on adequate housing as a component of the right to an adequate standard of living, and on the right to non-discrimination in this context; the Special Rapporteur on the situation of human rights in the Islamic Republic of Iran; the Special Rapporteur on minority issues and the Special Rapporteur on freedom of religion or belief

Ref.: AL IRN 15/2022
(Please use this reference in your reply)

15 August 2022

Excellency,

We have the honour to address you in our capacities as Working Group on Arbitrary Detention; Working Group on Enforced or Involuntary Disappearances; Special Rapporteur on adequate housing as a component of the right to an adequate standard of living, and on the right to non-discrimination in this context; Special Rapporteur on the situation of human rights in the Islamic Republic of Iran; Special Rapporteur on minority issues and Special Rapporteur on freedom of religion or belief, pursuant to Human Rights Council resolutions 42/22, 45/3, 43/14, 49/24, 43/8 and 49/5.

In this connection, we would like to bring to the attention of your Excellency's Government information we have received concerning allegations of **systematic targeting of members of the Baha'i religious minority, including through a series of arrests of individuals, destruction of homes and confiscation of land belonging to members of the Baha'i minority in Iran. The allegations received also refer to the alleged enforced disappearance of one person, Mr. Afif Naemi.**

Concerns at the increased targeting of members of the Baha'i religious minority have been raised by Special Procedures mandate holders in several communications, including most recently on 21 February 2021 (AL IRN 4/2021). We regret that no response has been received to this communication. Allegations about violations of civil, political, economic, social and cultural rights of individuals belonging to the Baha'i religious minority have been raised by the Special Rapporteur on the situation of human rights in the Islamic Republic of Iran in his reports to the Human Rights Council and General Assembly and in several joint communications by Special Procedures, including on 29 May 2017 (IRN 18/2017); 22 July 2016 (IRN 21/2016); 3 June 2016 (IRN 15/2016); and on 19 February 2016 (IRN 5/2016). Concerns at the specific situation of Mr. Afif Naemi were raised in joint communications on 19 May 2008 (IRN 24/2008); 17 October 2008 (IRN 53/2008); 26 January 2009 (IRN 4/2009); 13 August 2010 (IRN 22/2010); 22 February 2011 (IRN 4/2011); and 12 February 2021 (IRN 4/2021). Concerns at the specific situation of Ms. Mahvash Sabet and Ms. Fariba Kamalabadi were raised in joint communications on 19 May 2008 (IRN 24/2008); 26 January 2009 (IRN 4/2009); 13 August 2019 (IRN 22/2010); and 22 February 2011 (IRN 4/2011). We thank your Excellency's Government for the responses sent to these communications, but remain concerned that the violations continue.

General concerns at the patterns of property confiscations, demolitions and lack of security of tenure in Iran and its impact on different groups in society were raised by the Special Rapporteur on the right to housing following his country visit to the Islamic Republic of Iran in 2005 (E/CN.4/2006/41/Add.2). The report highlighted discriminatory laws and practices particularly targeting members of religious and

ethnic minorities, including Baha'is, and noted that at least 640 documented cases of confiscation of Baha'i property had taken place since 1980.

According to the information received:

On 31 July 2022, thirteen Iranians belonging to the Baha'i religious minority were arrested by security forces in various cities across Iran and the homes of 52 other Iranians belonging to the Baha'i minority were searched by security forces. The thirteen individuals arrested during the raid include: Ms. **Mahvash Sabet**; Ms. **Fariba Kamalabadi**; and Mr. **Afif Naemi**. Ms. Sabet and Ms. Kamalabadi remain in solitary confinement in Evin Prison, without access to lawyer, while the whereabouts of Mr. Naemi remain unknown. Security forces also confiscated some of their or their families' personal belongings, including cell phones, laptops and hard disks. The arrests took place in Mashhad, Shiraz, Sari, Gonbad Kavous, Karaj, Gorgan, Tehran and Qazvin. On 1 August 2022, the Ministry of Intelligence announced the arrests in a public statement by alleging that central members of a "Baha'i espionage party" had been arrested. The Ministry also alleged in the same statement that the members of the Baha'i minority "had numerous meetings with the Zionist Party's headquarters abroad" and engaged with "missions of widely propagating the teachings of fabricated Baha'i colonialism and infiltrating educational environments at different levels, especially kindergartens across the country ". Subsequently, the public broadcasting television channel published a video accusing the detained individuals of espionage, infiltration of kindergartens and promotion of unveiling in the country.

On 2 August 2022, the homes of six Baha'i families in Roshankoo village in Sari were destroyed by the authorities. The demolitions started at around 6 a.m., with about 200 police officers, special units and security police blocking the entrance and exit roads of the village and preventing residents from entering and exiting the village. The authorities subsequently proceeded with destroying six houses and farmlands belonging to Baha'is in the village through the use of heavy machinery. It is reported that residents were prevented from publishing photos or videos of the destruction. Residents who resisted demolition of their homes were met with pepper spray and violence. At least one elderly woman was reportedly knocked unconscious due to the violent treatment by officials and was subsequently taken to hospital. On the same day, the authorities confiscated about 20 hectares of farmland owned by other individuals belonging to the Baha'i religious minority. No prior notice had been given nor were the actions accompanied by any warrants.

The arrests and raids took place following similar incidents earlier in June and July 2022, where over 60 Iranians of the Baha'i religious minority were arrested, imprisoned or subjected to home searches and business closures. Twenty-six of these individuals were sentenced to a combined total of 85 years in prison on the charge of "assembly and collusion against national security". A number of these individuals were also sentenced to travel ban, exile, and order to report daily to the provincial intelligence office. Their convictions were reportedly based on the following activities: "holding gatherings in poor neighborhoods or tourist districts under the guise of addressing issues such as water crisis and other social issues with the purpose of causing intellectual and ideological insecurity in Muslim society".

The targeting is reportedly taking place on the basis of a coordinated policy aimed at minorities, including the Baha'i religious minority. On 22 September 2020, released confidential documents from a meeting of the "Commission of Ethnicities, Sects and Religions" between representatives of a number of government agencies, including security agencies in Sari governorate showed that the authorities had made decisions to significantly increase the repression of religious minorities, particularly followers of the Baha'i religious minority and Gonabadi dervishes.

We express serious concern at what appears to be a systematic targeting of Iranians belonging to the Baha'i religious minority throughout the country, including through arrests and raids on their homes, property and land confiscations, as well as judicial harassment. We are particularly concerned at the use of unsubstantiated accusations of espionage against a religious minority. The systematic nature of these violations represent a continuous pattern of targeted discrimination and persecution of this community and its members based on their religious affiliation, as well as a disregard of human rights law, including in the area of economic, social and cultural rights. We also express our deep concern at the information received concerning the enforced disappearance of Mr. Afif Naemi.

We express concerns at the failure to protect the right to adequate housing of Baha'is, their right to return to their place of habitual residence, their rights to land and property as well as the non-recognition of their religious freedom under the Constitution. We reiterate our concerns at decades of violations of property rights of Baha'is in Iran, the lack of protection against their commercial and private interests, and the detrimental impact on the community's ability to exist in the country.

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.

We are issuing this appeal in order to safeguard the rights of the abovementioned individuals from irreparable harm and without prejudicing any eventual legal determination. It is relief *pendente lite*.¹

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 about the legal basis for the arrest of Ms. Sabet and Ms. Kamalabadi and the legal basis for keeping them in solitary confinement.
3. Please provide information on the fate and whereabouts of Mr. Afif Naemi and the legal basis for his deprivation of liberty. Moreover, please provide information on the actions taken to search for him and

¹ Article 41 ICJ Statute 'Interim Protection': Part III, Section D (Incidental Proceedings), Subsection 1.

to investigate the alleged enforced disappearance, identify those responsible, prosecute and sanction them.

4. Please provide information about the factual reasons and legal basis for the arrests and raids conducted on 31 July 2022 and 1 August 2022.
5. Please also provide information on the legal basis for the home searches, destruction and confiscation of property.
6. Please provide information on the measures taken to ensure the rights to a fair trial and to effective legal representation of the individuals arrested, and how such measures are compatible with Iran's international human rights obligations.
7. Please provide statistics on the Baha'i families, whose homes were affected by the confiscation and demolitions carried out on 31 July and 1 August 2022. Please also provide information on any alternative accommodation, other assistance or compensation provided by the State to the persons affected by these operations, in the wake of the demolitions of their homes.
8. Please provide information on measures taken to ensure that Iranians belonging to the Baha'i faith are able to enjoy their right to freedom of religion or belief, including the right to manifest their religion in worship, observance, practice and teaching, and that they can enjoy security of tenure and property rights without discrimination in accordance with their rights under international law, and that as persons belonging to a religious minority they are not denied the right, in community with the other members of their group, to profess and practise their own religion.

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 prevent irreparable damage to the life and personal integrity of the persons concerned, including Ms. Sabet and Ms. Kalamabadi; to establish without delay the fate and whereabouts of Mr. Naemi; 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 would like to inform your Excellency's Government that having transmitted an allegation letter to the Government, the Working Group on Arbitrary Detention may also transmit a 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.

We would also like to bring to the attention of your Excellency's Government that should sources submit the allegations concerning Mr. Afif Naemi for the consideration of the Working Group on Enforced or Involuntary Disappearances under its humanitarian procedure, the case will be examined by the Working Group according to its methods of work, in which case your Excellency's Government will be informed by separate correspondence.

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

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

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

Balakrishnan Rajagopal
Special Rapporteur on adequate housing as a component of the right to an adequate standard of living, and on the right to non-discrimination in this context

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

Fernand de Varennes
Special Rapporteur on minority issues

Nazila Ghanea
Special Rapporteur on freedom of religion or belief

Annex

Reference to international human rights law

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, and in particular articles 2, 17, 18, 26 and 27 guaranteeing the principle of non-discrimination, the right to an effective remedy by the competent national tribunals for acts violating their fundamental rights, the protection from unlawful interference with privacy and home, freedom of thought, conscience, religion or belief, and the right to equality before the law and the right of minorities to enjoy and practice their culture.

With regard to the alleged enforced disappearance, if confirmed, it would amount to violations of articles 6, 7, 9 and 16 of the ICCPR, read alone and in conjunction with article 2(3). Moreover, it would entail a violation of article 7, read alone and in conjunction with article 2(3) of the ICCPR with regard to the relatives of the disappeared person. In this respect, we wish to draw your Excellency's attention to article 9 of the UDHR, prohibiting arbitrary detentions, and article 9 of the ICCPR, enshrining the right to liberty and security of person. The latter establishes, 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 per the jurisprudence of the Working Group on Arbitrary Detention, any detention due to the peaceful exercise of rights, including the right to freedom of thought, conscience and religion, is arbitrary, and enforced disappearances constitute a particularly aggravated form of arbitrary detention. Further, the Working Group on Arbitrary Detention has reiterated that a deprivation of liberty is arbitrary when it constitutes a violation of international law on the grounds of discrimination based on birth, national, ethnic or social origin, language, religion, economic condition, political or other opinion, gender, sexual orientation, disability, or any other status, that aims towards or can result in ignoring the equality of human beings.

We also make reference to General comment No. 36 (2018) on article 6 of the ICCPR, which states, *inter alia*, that extreme forms of arbitrary detention that are themselves life-threatening, in particular enforced disappearances, violate the right to personal liberty and personal security and are incompatible with the right to life (para. 57), and that enforced disappearance constitutes a unique and integrated series of acts and omissions representing a grave threat to life, and States parties must take adequate measures to prevent the enforced disappearance of individuals, and conduct an effective and speedy inquiry to establish the fate and whereabouts of persons who may have been subject to enforced disappearance (para.58).

In addition, we wish to recall that article 5 (1) of the ICCPR reiterates that "Nothing in the present Covenant may be interpreted as implying for any State, group or person any right to engage in any activity or perform any act aimed at the destruction of any of the rights and freedoms recognized herein or at their limitation to a greater extent than is provided for in the present Covenant." Furthermore, article 26 of the ICCPR also provides that "All persons are equal before the law and are entitled without any discrimination to the equal protection of the law. In this respect, the law shall prohibit any discrimination and guarantee to all persons equal and effective protection against discrimination on any ground such as [...] religion [...]."

We would also like to draw your Excellency's attention to article 11(1) of the International Covenant on Economic, Social and Cultural Rights, ratified by the Islamic Republic of Iran on 24 June 1975, which states that "[t]he States Parties to the present Covenant recognize the right of everyone to an adequate standard of living for himself and his family, including adequate food, clothing and housing, and to the continuous improvement of living conditions. The States Parties will take appropriate steps to ensure the realization of this right [...]". It is also the obligation of States Parties to guarantee that such rights will be exercised "without discrimination of any kind as to race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status", pursuant to article 2(2) of the Covenant.

We further recall general comments No. 4 and 7 of the Committee on Economic Social and Cultural Rights (CESCR), which stress the need to provide adequate legal protection from forced eviction, as well as to guarantee due process, alternative accommodation, and access to an effective remedy of those that may be affected by eviction orders. In its General Comment No. 4, the CESCR clarified that the right to housing should be seen as the right to live in security, peace and dignity. It indicates that the right to housing includes, among others, legal security of tenure guaranteeing legal protection against forced evictions, harassment and other threats. States parties should furthermore consequently take immediate measures aimed at conferring legal security of tenure upon those persons and households currently lacking such protection in genuine consultation with affected persons and groups.

Reference is also made to the 2021 report to the General Assembly by the Special Rapporteur on the right to adequate housing (A/76/408) on discrimination in the context of housing, particularly para. 78(a) concerning the prohibition if any form of discrimination in relation to the right to adequate housing by all public and private entities against persons from racial, ethnic or religious groups and minorities.

We also recall the Guiding Principles on Internal Displacement (E/CN.4/1998/53/Add.2), which protect persons from arbitrary displacement from their homes or places of habitual residence (Principle 6). Of particular relevance are Principle 21 regarding the protection of property and possessions left behind by internally displaced persons including the prohibition of destruction or arbitrary and illegal appropriation and use of their property and possessions; Principle 28 concerning the right to return; and Principle 29 concerning their right to appropriate compensation and just reparation.

We would also like to draw your Excellency's attention to Article 18 of the ICCPR, which stresses that "Everyone shall have the right to freedom of thought, conscience and religion. This right shall include freedom to have or to adopt a religion or belief of his choice, and freedom, either individually or in community with others and in public or private, to manifest his religion or belief in worship, observance, practice and teaching." General Comment No. 22 of the Human Rights Committee has clearly stressed that Article 18 "does not permit any limitations whatsoever on the freedom of thought and conscience or on the freedom to have or adopt a religion or belief of one's choice. These freedoms are protected unconditionally [...]" (See CCPR/C/21/Rev.1/Add.4 paragraph 3).

The 1981 United Nations Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief (A/RES/36/55) states in its Article 2 (1): "[n]o one shall be subject to discrimination by any State,

institution, group of persons, or person on grounds of religion or other belief." In Article 4 (1), the General Assembly further states that: "All States shall take effective measures to prevent and eliminate discrimination on the grounds of religion or belief in the recognition, exercise and enjoyment of human rights and fundamental freedoms [...]" Furthermore, we would like to refer your Government to Article 4(2) according to which: "All States shall make all efforts to enact or rescind legislation where necessary to prohibit any such discrimination, and to take all appropriate measures to combat intolerance on the grounds of religion or other beliefs in this matter".

The Human Rights Committee in its General Comment 22, paragraph 2, raised concern over "any tendency to discriminate against any religion or belief for any reason, including the fact that they are newly established, or represent religious minorities that may be the subject of hostility on the part of a predominant religious community".

We would like to alert your Excellency's Government, that deportation or persecution against any identifiable group or collectivity on cultural or religious grounds may amount to an international crime under international law, if such acts are committed as part of a widespread or systemic attack against any civilian population.

We wish to refer to 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). Article 2 further establishes that persons belonging to minorities have the right to enjoy their own culture, to profess and practice their own religion, and to use their own language, in private and in public, freely, without any interference or any form of discrimination and provides for the effective participation of minorities in cultural, religious, social, economic and public life, as well as in decision-making processes on matters affecting them.

Lastly, we draw your Excellency's Government's attention to the United Nations Declaration on the Protection of All Persons from Enforced Disappearances, which establishes that no State shall practice, permit or tolerate enforced disappearances. The Declaration also proclaims that each State shall take effective legislative, administrative, judicial or other measures to prevent and terminate acts of enforced disappearance in any territory under its jurisdiction. We further recall that the Declaration sets out the necessary guarantees to be offered by the State. In particular, articles 9, 10, 11 and 12 relate to the rights to a prompt and effective judicial remedy to determine the whereabouts of persons deprived of their liberty; to access of competent national authorities to all places of detention; to be held in an officially recognized place of detention, and to be brought before a judicial authority promptly after detention; to accurate information on the detention of persons and their place of detention being made available to their family, counsel or other persons with a legitimate interest; and to the maintenance in every place of detention of official up-to-date registers of all detained persons. In this connection, we stress that a failure to acknowledge deprivation of liberty by state agents and refusal to acknowledge detention constitute an enforced disappearance, even if it is of a short duration.

Furthermore, article 7 of the Declaration states 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.