

Mandates of the Special Rapporteur on the situation of human rights defenders; the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression; the Special Rapporteur on the rights to freedom of peaceful assembly and of association; 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

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(Please use this reference in your reply)

23 September 2022

Excellency,

We have the honour to address you in our capacities as Special Rapporteur on the situation of human rights defenders; Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression; Special Rapporteur on the rights to freedom of peaceful assembly and of association; 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 43/16, 43/4, 50/17, 49/24 and 50/18.

In this connection, we would like to bring to the attention of your Excellency's Government information we have received concerning the **detention of four women human rights defenders and members of The Call of the Iranian Women NGO, which focuses on empowering women in disadvantaged situations, such as at times of natural disasters.**

Ms. **Nahid Shaghghi**, Ms. **Akram Nasirian**, Ms. **Maryam Mohammadi** and Ms. **Esrin Derkale** are women human rights defenders and members of The Call of the Iranian Women NGO who have been working on the capacity building and education of women in disadvantaged situations or vulnerability across Iran. They give workshops including on literacy and public advocacy. They have also participated in campaigns that call for the end to the compulsory hijab in Iran.

According to the information received:

On 29 April 2019, Ms. Akram Nasirian was arrested in Tehran and detained at Evin prison. On 26 May 2019, she was released on bail. On 15 May 2019, Ms. Nahid Shaghghi was arrested from her home in Tehran and held at Evin prison. She was released on bail on 22 June 2019. On 8 July 2019, Ms. Maryam Mohammadi was arrested in Garmsar, Semnan province and detained at Evin prison. On 28 July 2019, Ms. Esrin Derkale was similarly arrested in Garmsar, Semnan province and detained at Evin prison. Both were released on bail on 17 December 2019. According to the information received, warrants were presented for the arrests, but the women human rights defenders were denied access to their lawyers during their periods in detention.

On 4 December 2019, Ms. Nahid Shaghghi, Ms. Akram Nasirian, Ms. Maryam Mohammadi and Ms. Esrin Derkale were sentenced by Branch 26 of the Islamic Revolution Court in the province of Tehran to three years imprisonment for "gathering and colluding against national security", eight months imprisonment for "not wearing a hijab in public" and six months imprisonment for "propaganda against the state". According to article 134 of the Penal Code they must serve the longest of the sentences received, which is

three years. Their work for the Call for Iranian Women NGO, including a campaign calling for an end of the compulsory hijab, is reportedly the basis for the charges.

On 9 March 2021, their case was returned to Branch 26 of the Islamic Revolution Court for review and their prison sentence was subsequently reduced to two and a half years. In the meantime, the women continued some of their human rights activities. In July 2022 they helped promote and organise a campaign on Instagram calling for an end to the compulsory hijab.

The women human rights defenders' detention, which was originally due to begin in March 2020, was postponed on medical grounds. However, according to the information received, during the four months prior to August 2022, the persons who had posted bail for the defenders were increasingly threatened with confiscation of their property if the women did not present themselves to prison.

On 21 August 2022, Ms. Akram Nasirian, Ms. Maryam Mohammadi and Ms. Esrin Derkale presented themselves to the Evin court for the implementation of their sentence. Ms Nahid Shaghaghi has not presented herself for medical reasons. Since being detained, the three women human rights defenders have had regular access to their lawyers.

Without wishing to prejudge the accuracy of the information, we express our deep concern regarding the sentencing, arrest and detention of Ms. Nahid Shaghaghi, Ms. Akram Nasirian, Ms. Maryam Mohammadi and Ms. Esrin Derkale in apparent retaliation for their work advocating for the rights of women in vulnerable contexts and for campaigning against the law requiring women to wear a hijab in public. We are concerned in particular by the use of national security legislation to criminalise the women human rights defenders, which would be a grossly disproportionate use of the law against the defence of the rights of women. We are furthermore concerned for the health of Ms. Nahid Shaghaghi who has been called to serve her term in prison when her health remains a concern.

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 information on how the activities of the women amounted to “gathering and colluding against national security” and the corresponding two and a half year prison term.

3. Please provide information on the measures taken and safeguards adopted by the authorities to enable women human rights defenders to exercise their legitimate rights to freedom of expression, peaceful demonstration and association, and to carry out their legitimate work freely and in a safe and supportive environment, free from intimidation and harassment of any kind, in Iran.
4. Please provide information as to the reasons for which the women were reportedly not given access to their lawyers during their initial detention period in 2019.

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.

Mary Lawlor
Special Rapporteur on the situation of human rights defenders

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

Clement Nyaletsossi Voule
Special Rapporteur on the rights to freedom of peaceful assembly and of association

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

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 or "the Covenant"), ratified by the Islamic Republic of Iran on 24 June 1975.

We would like to refer to article 9 of the 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 peaceful assembly (art. 21), freedom of association (art. 22) and freedom of religion (art. 18). This has also been established in consistent jurisprudence of the Working Group on Arbitrary Detention. 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, the right to a fair and public hearing by a competent, independent and impartial tribunal established by law, as well as the right to legal assistance.

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. Legitimate restrictions to freedom of expression may be implemented in accordance with the requirements of Article 19 (3) of the Covenant. However, the use of force or involuntary transfer of individuals in retaliation for legitimately exercising their freedom of expression to criticize the acts of the authorities constitutes acts incompatible with the Covenant, see paragraph 23 of General Comment 34 (CCPR/C/GC/34) of the Human Rights Committee.

Restrictions must meet the standards of *legality*, meaning that they are publicly provided by a law which meets standards of clarity and precision, and are interpreted by independent judicial authorities; *necessity and proportionality*, meaning that they are the least intrusive measure necessary to achieve the legitimate interest at hand, and do not imperil the essence of the right; and *legitimacy*, meaning that they must be in pursuit of an enumerated legitimate interest, namely the protection of rights or reputations of others, national security or public order, or public health or morals. Although article 19(3) recognizes "national security" as a legitimate aim, national security considerations should be "limited in application to situations in which the interest of the whole nation is at stake, which would thereby exclude restrictions in the sole interest of a Government, regime, or power group". States should "demonstrate the risk that specific expression poses to a definite interest in national security or public order, that the measure chosen complies with necessity and proportionality and

is the least restrictive means to protect the interest, and that any restriction is subject to independent oversight” (A/71/373). In this context, we underscore that “It is not compatible with Article 19 (3), for instance, to invoke such laws to suppress or withhold from the public information of legitimate public interest that does not harm national security or to prosecute journalists, researchers, environmental activists, human rights defenders, or others, for having disseminated such information.” (CCPR/C/GC/34 para. 30).

We further would like to refer your Excellency’s Government to article 22 of the ICCPR, which guarantees the right to freedom of association. In particular, we wish to remind your Excellency’s Government that any restrictions to the exercise of this right must be provided by law and be necessary and proportionate to the aim pursued. The Siracusa Principles on the Limitation and Derogation Provisions in the International Covenant on Civil and Political Rights further note in paras. 30 and 31 that “national security” cannot be invoked as a reason for imposing limitations to prevent merely local or relatively isolated threats to law and order, and, where it is invoked, adequate safeguards and effective remedies against abuse must be provided.

We would like to draw your attention to Human Rights Council resolution 31/32, in which States expressed particular concern about systemic and structural discrimination and violence faced by women human rights defenders. States should take all necessary measures to ensure the protection of women human rights defenders and to integrate a gender perspective into their efforts to create a safe and enabling environment for the defense of human rights. This should include the establishment of comprehensive, sustainable and gender-sensitive public policies and programmes that support and protect women defenders. Such policies and programmes should be developed with the participation of women defenders themselves.

We would also like to refer to General Assembly resolution 68/181, adopted on 18 December 2013, on the protection of women human rights defenders. Specifically, we would like to refer to articles 7, 9 and 10, whereby States are called upon to, respectively, publicly acknowledge the important role played by women human rights defenders, take practical steps to prevent threats, harassment and violence against them and to combat impunity for such violations and abuses, and ensure that all legal provisions, administrative measures and policies affecting women human rights defenders are compatible with relevant provisions of international human rights law.

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.

As stressed by the Working Group on discrimination against women and girls in one of its reports to the Human Rights Council (A/HRC/23/50), stigmatization, harassment and outright attacks are used to silence and discredit women who are outspoken as leaders, community workers, human rights defenders and politicians. Women human rights defenders are often the target of gender-specific violence, such as verbal abuse based on their sex, sexual abuse or rape: they may experience intimidation, attacks, death threats and even murder. Violence against women defenders is sometimes condoned or perpetrated by State actors. The Working Group recommended to accelerate efforts to eliminate all forms of violence against women, including through a comprehensive legal framework to combat impunity, in order to fulfil women's human rights and to improve the enabling conditions for women's participation in political and public life.

In a joint declaration, the Working Group on discrimination against women and girls emphasized that women human rights defenders face unique challenges, driven by deep-rooted discrimination against women and stereotypes about their appropriate role in society. Today's rising fundamentalisms of all kinds and political populism, as well as unchecked authoritarian rule further fuel discrimination against women, intensifying the obstacles facing women human rights defenders. In addition to the risks of threats, attacks and violence faced by all human rights defenders, women human rights defenders are exposed to specific risks, such as misogynist attacks, gender-based violence (including sexual violence), lack of protection and access to justice as well as lack of resources.

In its thematic report on women deprived of liberty (A/HRC/41/33), the Working Group underlined the increasing risk faced by women human rights defenders of criminalization and detention as a result of their legitimate work and recommended States to support and protect women's engagement in public and political life, including the work of women human rights defenders. Women who work specifically to combat gender stereotypes and advance women's rights are most likely to be targets for criminal persecution and imprisonment. Certain laws, including "complicity" laws, and "public order" laws or even anti-terrorism laws, may be particularly instrumentalized to target women human rights defenders. The Working Group recommended States to support and protect women's engagement in public and political life, including the work of women human rights defenders, and eliminate any

laws or policy measures designed to criminalize the public roles of women.