

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)

9 August 2023

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 52/4, 52/9, 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 re-arrest and detention of women human rights defenders **Jina Modares Gorji** and **Sepideh Gholian**.

Ms. Jina Modares Gorji is a woman human rights defender, bookseller, feminist podcaster and blogger in Sanandaj, in the Kurdistan province of Iran. Her human rights work includes advocating for the rights of women in the Kurdish community, girls' rights, and socio-cultural rights through holding book clubs and writing blogs. She has been arrested twice since September 2022 in the context of the nationwide protests against systematic discrimination exercised by the Iranian government, which took place under the motto of "Woman, Life, Freedom" following the death of Mahsa (Jina) Amini in the custody of the Iranian morality police.

Ms. Sepideh Gholian is a woman human rights defender and freelance journalist, with her human rights work focusing primarily on labour rights. She has worked closely with the Syndicate of Workers of Haft Tappeh Cane Sugar Company, a trade union established in 1974 for the workers of the Haft Tappeh Sugarcane Agro-industrial Complex. She has been reporting on the situation of women prisoners, including by publishing illustrations and prison diaries.

Ms. Modares Gorji and Ms. Sepideh Gholian were the subjects of one previous communication sent by Special Procedures mandate holders, IRN 1/2023, sent on 30 January 2023. We regret that, as of the time of preparing this communication, no response has been received by your Excellency's Government.

According to the information received:

The case of Jina Modares Gorji

On 18 September 2022, Ms. Modares Gorji was threatened by the state security forces who appeared at her workplace. They explicitly demanded that she ceases her activism and refrain from participating in protests following the death of

Mahsa Amini in the custody of the Iranian morality police. These threats were related to Ms. Modares Gorji's Instagram post about the death of Mahsa Amini, where she vowed to protest against the killing while tirelessly advocating for women's rights.

On 21 September 2022, Ms. Modares Gorji was forcefully arrested in Sanandaj by plainclothes security forces. They pulled her over into an unmarked car during the late hours of the evening, without displaying any identification signs and without providing a warrant or a clear explanation for her arrest. Following her arrest, she was transferred to a youth detention center in Sanandaj. Subsequently, she began a hunger strike to protest against the alleged assault by security forces, the violation of her rights, and the conditions within the detention center.

On 30 October 2022, Ms. Modares Gorji was granted release on bail while awaiting trial. The charges against her were "assembly and collusion against national security" under Article 610 of the Iranian Penal Code (IPC), which carries a sentence of two to five years in prison, and "propaganda against the state," under Article 500 IPC punishable by three months to one year in prison.

On 12 February 2023, Ms. Modares Gorji appeared before Branch one of the Sanandaj Revolutionary Court together with her lawyer. She refused to sign a pardon agreement offered to her, as she stated this would constitute an acknowledgement that the charges against her human rights work were legitimate. A scheme for such pardons was announced by the Iranian judiciary in February 2023, on the occasion of the 44th anniversary of the Islamic Revolution.

In mid-February 2023, Ms. Modares Gorji received notification that additional charges had been added to her case. These charges included "spreading false information" under Article 698 of the IPC, which is punishable by two months to two years of imprisonment or up to 74 lashes. Additionally, she was charged with the "formation of groups with the intention of subversion" related to the Islamic State in Iran, as stated in articles 498 and 499 of the IPC. This offence carries a potential prison sentence ranging from two to ten years.

On 10 April 2023, Ms. Modares Gorji was subjected to a forceful re-arrest in Sanandaj by plainclothes security forces, without a warrant or a clear explanation for her detention. After her arrest, she was once again transferred to a youth detention center in Sanandaj, where she was placed in solitary confinement for 21 days. Furthermore, she was denied the right to visit her family for one month; however, she was allowed to contact them by phone three times in the presence of security forces during this period.

On 29 April 2023, the first investigation branch of the Sanandaj rejected Ms. Modares Gorji's complaint against the security forces of the Kurdistan Intelligence Agency. The complaint included allegations of deprivation of freedom, violation of constitutional rights, kidnapping, intentional assault, and an insult to ordinary people. The prosecutor's office stated that there was insufficient evidence and reasons to support the women human rights defender's

claims and therefore dismissed the case. Ms. Modares Gorji's lawyers objected to this decision, citing the lack of a thorough judicial investigation and neglect of evidence. They requested that the criminal court in Sanandaj overturn the verdict and address the deficiencies in the investigation.

On 21 May 2023, Ms. Modares Gorji was charged with “collaborating with a hostile government” under Article 508 of Iran's criminal law, which carries a punishment of 1-10 years in prison. If convicted of the aforementioned charges, she could potentially face up to 10 years of imprisonment.

On 3 July 2023, Ms. Modares Gorji was temporarily released from Kurdistan prison after posting a bail of 50 billion Iranian rials.

While in detention, Ms. Modares Gorji was denied permission by the prison authorities to participate in the final exams for her bachelor's degree in sociology at Islamic Azad University, Sanandaj Branch.

The case of Sepideh Gholian

In December 2019, Ms. Sepideh Gholian was sentenced to five years imprisonment by Branch 36 of the Appeals Court on the charge of “assembly and collusion against national security”. On 21 June 2020, after refusing to request a pardon from the Supreme Leader of the Islamic Republic of Iran, the labour rights defender began serving her sentence in Evin prison, alongside nine other labour rights defenders.

On 15 March 2023, Ms. Gholian was released from Evin prison after serving three years of her five-year sentence. Her release came after the ratification of a law on 11 May 2020 which reduced prison sentences for prisoners who had served one-third of their term. Prior to her release, she had been transferred several times to other prisons, including Bushehr Prison in the south of Iran on 10 March 2021, more than 600 km from Dezful where Sepideh Gholian's parents live.

On 15 March 2023, a few hours after her release, Ms. Gholian was forcefully re-arrested in Arak, Markazi province while on her way to Dezful, Khuzestan province with her family. The authorities did not present an arrest warrant and confiscated her family members' mobile devices. Upon her being taken to ward 209 of Evin Prison, she was physically assaulted by security forces and faced rape threats. She remained in ward 209 for three days without being given a bed, having to sleep on the cold corridor floor without a blanket or mattress. Eventually, she was transferred to Evin Prison's women's ward.

On 6 May 2023, Ms. Gholian was convicted by Branch 26 of the Tehran Revolutionary Court and sentenced to two years in prison, along with a ban on joining political or social groups, restrictions on cell phone usage, and a two-year prohibition from entering Tehran and adjacent provinces. The charges against her were related to “insulting the supreme leader”. The Court of Appeals upheld the two-year sentence and additional penalties in July.

In early July 2023, Ms. Gholian received a summons to appear in the second-class criminal court in Tehran on July 19, 2023, based on a complaint filed against her by Ameneh Sadat Zabih Pour Ahmadi, an Islamic Republic of Iran Broadcasting reporter. The accusation against Ms. Gholian was "disturbing public opinion through the dissemination of false information on the internet" and "propaganda against the state". Previously, Ms Gholian was sentenced to eight months in prison by the 24th branch of the Tehran Revolutionary Court for these allegations.

On July 18 2023, Ms. Gholian expressed her readiness to appear before the court on July 19, despite her earlier decision not to attend given her belief in the lack of fair trials in the Iranian judiciary. This change of decision was influenced by the court's decision to allow public sessions. However, the following day, during the trial, Ms. Gholian was removed from the courtroom because she refused to comply with the judge's order to wear a "chador," a full-body cloak, even though she had initially worn a scarf. Consequently, the hearing was postponed, and Ms. Gholian expressed extreme stress and anxiety about the event. Furthermore, the court only permitted representatives of Islamic Republic of Iran Broadcasting to attend, a decision strongly contested by Ms. Gholian's lawyers.

Without prejudging the accuracy of the received information, concerning the case of Ms. Modares Gorji, we express serious concern at the accusations against the women human rights defender, which appear to be directly related to her advocacy for the protection and promotion of human rights, and the exercise of her rights to freedom of peaceful assembly, freedom of association, and freedom of opinion and expression. We express concern at the use of repressive legislation to criminalize the exercise of the rights to freedom of opinion and expression and of peaceful assembly in ways that are incompatible with the Islamic Republic of Iran's obligations under international human rights law. We stress our additional concern as to the detention conditions of human rights defenders in the country, as in the case of Ms. Modares Gorji, given the alleged denial of her access to a lawyer and to sit university entrance examinations. We express deep alarm at the alleged lack of due process in investigating the alleged crimes committed by the intelligence agents against Ms. Modares Gorji, given the blatant breach of her rights that such a failure to investigate would constitute.

Equally, we express grave concern at the re-arrest and detention of Ms. Gholian shortly after her release from prison. It is deeply troubling that the woman human rights defender has been incarcerated once again, seemingly due to her human rights work, particularly her advocacy for prisoners' rights in Iran and her peaceful expression of opinions and dissent. This sentence appears to be part of a wider crackdown on human rights defenders during the protests in Iran. Since September 2022, numerous human rights defenders have faced arbitrary arrests, charges, and disproportionately heavy prison sentences without due process or the guarantee of fair trial rights. Additionally, we are deeply concerned about the allegations that Ms. Gholian was violently and illegally arrested, as well as the reported ill-treatment.

Should the allegations be confirmed, they would violate Article 9 of the ICCPR enshrining protecting the right to liberty and security of a 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 arrest. Article 9 (4) also entitles everyone detained to challenge the legality of such detention before an independent and competent judicial authority. The allegations also constitute a violation of Article 19 of the ICCPR which guarantees the right to freedom of expression, which can only subject to limited restrictions. In this regard we wish to reiterate that the Human Rights Committee has held that an attack on a person because of the exercise of his or her freedom of opinion or expression, including arbitrary arrest, torture, threats to life and killing, cannot be compatible with Article 19. We are also worried about the negative implications these violations have on the freedom of expression in general, including through the chilling effect on individuals, in particular women and girls, who wish to express themselves, demonstrate peacefully, and participate in public and political life in Iran.

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 precise information about the charges that Ms. Modares Gorji is alleged to be facing, including how the activities she is accused of constitute criminal activity in particular in light of Iran's obligations under international law.
2. Please provide information regarding the factual and legal grounds for sentencing Ms. Gholian to a two-year prison term and how this aligns with Iran's obligations under international human rights law. Please also provide additional information on the reasons behind the immediate arrest of Ms. Gholian, despite the fact that the severity of the alleged crime typically warrants a summons-based process under Iranian law.
3. Please provide precise information regarding the newly brought charge against Ms. Gholian by Ms. Zabih Pour Ahmadi, especially considering the previous ruling from the revolutionary court. In addition, please explain how fair trial standards were upheld during her trial on July 19, 2023.
4. Please provide information regarding the alleged crimes committed by intelligence agents and prison officials in relation to the arrest of Ms. Modares Gorji and Ms. Gholian in particular regarding the alleged sexual assault. Additionally, explain how the requirement of due process was respected in considering their complaints by the courts and prison authorities.

5. Please provide information on the measures in place to guarantee the welfare of Ms. Modares Gorji and Ms. Gholian, in compliance with the United Nations Standard Minimum Rules for the Treatment of Prisoners (also known as the Mandela Rules) in particular regarding the right of prisoners to education, contact with a lawyer as well as measures to prevent and investigate alleged instances of torture and ill-treatment.
6. Please provide information on the measures taken by the Iran authorities to prevent the alleged re-occurrence of excessive use of force, torture and other cruel, inhuman or degrading treatment or punishment and unlawful killings in the context of human rights defenders exercising their fundamental human rights to freedom of peaceful assembly, association, opinion and expression.
7. Please indicate what measures have been taken to ensure that human rights defenders and civil society actors in general, and women and minorities human rights defenders in particular, in Iran are able to carry out their legitimate work in a safe and enabling environment without fear of threats or acts of intimidation and harassment of any sort.

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

Dorothy Estrada-Tanck
Chair-Rapporteur of the Working Group on discrimination against women and girls

Annex

Reference to international human rights law

In connection with the 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. 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. Furthermore, 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. We note with concern the apparent retaliatory measures taken against prisoners, including Ms. Gholian and Ms. Gorji, for exercising their right to freedom of expression. Legitimate restrictions to freedom of expression may be implemented in accordance with the requirements of Article 19 (3) of the Covenant.

Restrictions must meet the standards of legality, meaning that they are publicly provided by a law which meets standards of clarity and precision, and is 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 [...]". 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 the Human Rights Committee has found 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). The Human Rights Committee also held that an attack on a person because of the exercise of his or her freedom of opinion or expression, including arbitrary arrest, torture, threats to life and killing, cannot be compatible with Article 19. (CCPR/C/GC/34 para. 23).

We also recall article 21 of the ICCPR, which protects the fundamental human right of peaceful assembly, enabling individuals to express themselves collectively and to participate in shaping their societies, and article 22 of the ICCPR, which protects the right to freedom of association with others. Everyone has the right to freely associate with others to pursue common interests. This right includes the right of individuals to form and join associations and the collective right of an existing association to pursue its lawful activities, without unlawful interference. Freedom of association is closely linked to the rights to freedom of expression and to peaceful assembly and is of fundamental importance to the functioning of democratic societies. These rights can only be restricted in very specific circumstances, where the restrictions serve a legitimate public purpose as recognized by international standards and the restrictions must be a necessary and proportionate means of achieving that purpose within a democratic society, with a strong and objective justification.

We also remind your Excellency’s Government of the legal obligations of States under international human rights law to respect, protect and fulfil women’s rights and fundamental freedoms, including the rights to non-discrimination and equality set out in Article 3 and 26 of the ICCPR and Article 3 of the International Covenant on Economic, Social and Cultural Rights.

We further 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 should be developed with the participation of women defenders themselves.

We would also like to recall to your Excellency’s Government that the Working Group on Discrimination against Women and Girls, in its report on participation in public life (A/HRC/23/50) stated that women human rights defenders are often the target of gender-specific violence such as intimidation, attacks, and death threats which are sometimes condoned or perpetrated by State actors. The Working Group has further called upon States to eliminate all forms of violence against women in order to fulfil women’s human rights and to improve the enabling condition for women’s participation in political and public life. In addition to these provisions, we would like to remind your Excellency’s Government of the General Assembly

resolution 68/181, 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 further recall your Excellency's Government that the Working Group on Discrimination against Women and Girls, in its report on girls' activism (A/HRC/50/25) expressed that young women are mobilizing worldwide to demand and catalyse change on critical global issues. They are at the forefront of initiatives aimed at transforming societies towards social justice, gender equality and sustainability. The realization of girls' and young women's human right to participate in public and political life, including organizing and engaging actively with a variety of State and non-State actors, is essential for the protection of their human rights. The Working Group has called on States to ensure that mechanisms are in place to solicit the views of girls in all matters of public interest affecting them directly or indirectly and to give due weight to those views.

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 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.