

Mandates of the Special Rapporteur on the situation of human rights in Afghanistan; the Special Rapporteur on the situation of human rights defenders; the Special Rapporteur on violence against women and girls, its causes and consequences and the Working Group on discrimination against women and girls

Ref.: AL OTH 136/2023
(Please use this reference in your reply)

25 October 2023

Dear Mr. Muttaqi,

We have the honour to address you in our capacities as Special Rapporteur on the situation of human rights in Afghanistan; Special Rapporteur on the situation of human rights defenders; Special Rapporteur on violence against women and girls, its causes and consequences and Working Group on discrimination against women and girls, pursuant to Human Rights Council resolutions 54/1, 52/4, 50/7 and 50/18.

We would like to bring your attention to information we have received concerning the arbitrary deprivation of liberty, followed by acts tantamount to enforced disappearance of woman human rights defender Ms. **Neda Parwan** (official name Bebe Naira Siddiqi) and her husband Mr. **Ghausuddin Arash Parwan**, as well as woman human rights defender Ms. **Zholia Parsi** (official name Nilofar Soyar) and her son, Mr. [REDACTED] in two separate incidents on 22 and 27 September 2023 in Kabul by members of the *de facto* authorities. Ms. Parwan's four-year-old son, also initially deprived of his liberty, was returned to her father.

According to information received, there was no reason given for their deprivation of liberty, and they appear to be arbitrarily detained.

According to the information received:

Ms. Parsi:

On 27 September 2023, at around 7 in the morning Ms. Zholia Parsi, a woman human rights defender, was taken from her home in Kabul by *de facto* intelligence officers. Ms. Parsi's son, Mr. [REDACTED] was arrested at his work around 11 a.m. the same day and ordered to take the authorities to his home, which he shares with Ms. Parsi. At their home, members of the *de facto* authorities searched the place and took the phones of Ms. Parsi and her son. The family was informed of their deprivation of liberty and alleged arbitrary arrest by *de facto* authorities on the same day. The reason for the deprivation of liberty of Ms. Parsi and her son remain unknown.

According to information received, the family petitioned the *de facto* authorities three times to find out where they are held. The first time the petition was made to the General Directorate which was then referred to the Directorates 90 and 40. Both Directorates denied their deprivation of liberty. Subsequently, the family made a petition to Provincial authorities "Maqam-e-Wilayat" which again provided no information on the fate and whereabouts of

Mr. Muttaqi
Kabul, Afghanistan

Ms. Parsi or her son. The family then took the petition to the *de facto* Ministry of Interior, from which it did not receive any information either. According to information received, the daughter on the 16th of October confirmed that the family was finally able to visit the mother Ms. Parsi in detention.

Ms. Parsi is the founder and leader of the Spontaneous Women's Movement, an organization that promotes women's rights. Previously, Ms. Parsi founded a library for women in August 2022, which was forcibly closed in March 2023. As a leading member of the Movement, she has actively and publicly participated in peaceful protests for women's rights in Afghanistan. Ms. Parsi has received threats in relation to her work as a woman human rights defender working on women's rights, which increased in intensity during the months leading up to her deprivation of liberty.

Ms. Parwan:

On 22 September 2023, Ms. Neda Parwan (official name Naira Siddiqi) a woman human rights defender, her husband, Mr. Ghawseddin Parwan (known as Aarash Parwan), and their young underaged four-year-old son, were taken from their home in Khair Khana, Kabul, by members of the *de facto* authorities. The reason for the deprivation of liberty of Ms. Parwan and her family remains unknown.

After 4 or 5 days, Ms. Neda Parwan's father was called by *de facto* authorities by phone, and the boy was handed over to him, where he remains now. Their family members have not been able to contact Ms. Neda Parwan and her husband.

According to information received on 2 October 2023, it is believed that Ms. Parwan and her husband Mr. Parwan are currently held in General Directorate 40.

As a member of the Spontaneous Women's Movement, Ms. Neda Parwan has actively and publicly participated in peaceful protests for women's rights in Afghanistan. Ms. Parwan and Mr. Parwan had visits by their family members on the 10 and 11 of October 2023 respectively. Following these visits, persons associated with Ms. Parwan and her husband expressed concerns regarding their mental health and physical wellbeing.

Without prejudging the accuracy of the above information, we wish to express our grave concern about the alleged arbitrary deprivation of liberty, followed by acts tantamount to the enforced disappearance of Ms. Parwan and Ms. Parsi, as well as Ms. Parwan's husband, Mr. Aarash Parwan, for simply expressing their dissenting views as human rights defenders and for exercising their legitimate rights in accordance with international human rights law.

We are concerned about the lack of information regarding the reason and legal basis for their arrest, the legal reason for their detention, and their lack of access to a lawyer.

The reported outright and consistent failure by the *de facto* authorities to ensure due process guarantees and judicial safeguards, to provide accurate

information to the families, their representatives or persons with a legitimate interest immediately after their deprivation of liberty regarding their well-being, whereabouts and conditions of deprivation of liberty, are constitutive of gross human rights violations under international law.

We also express concern about the lack of information regarding the reason and legal basis for their deprivation of liberty, the legal grounds for their captivity, the absence of alleged charges for a crime, and their lack of access to a lawyer, their families and to medical services. We are concerned that Ms. Parwan, Ms. Parsi and Mr. Parwan have not been brought before a Court. We are alarmed as the *de facto* authorities reportedly failed to immediately inform the families about their whereabouts, their physical and psychological integrity and the conditions of their deprivation of liberty.

We wish to recall also that the failure to acknowledge a deprivation of liberty or the refusal to acknowledge a detention by the *de facto* authorities can be constitutive of acts tantamount to enforced disappearance, regardless of the duration of the deprivation of liberty or concealment concerned. Also, the *de facto* authorities assume responsibility for their lives and physical integrity by apprehending and depriving individuals of their liberty, including women activists and human rights defenders. In this regard, the *de facto* authorities must take the necessary measures to protect the lives of all individuals in captivity.

We wish to recall that the *de facto* authorities should recognize the specific types of harm that women suffer based on their gender, including risks of sexual violence, and the resulting psychological damage and social stigma and the disruption of their family life. Inadequate or substandard conditions of deprivation of liberty can be a factor contributing to deaths and serious bodily injury while being held captive, and when such conditions are wholly inadequate, they can constitute greater risk to life and long-term irreparable damage.

We are issuing this allegation letter in order to 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/or comment(s) you may have on the above-mentioned allegations.
2. Please provide information on the state of health of Ms. Parsi and her son, as well as of Ms. Parwan and her husband Mr. Parwan, detailing the measures undertaken to ensure that they have access to medical assistance and treatment and to prevent any irreparable harm to their life and personal integrity.

3. Please provide information on the factual and legal grounds for the deprivation of liberty of Ms. Parwan, Ms. Parsi and Mr. Parwan.
4. Please indicate whether the four individuals were informed about the reasons for a deprivation of liberty and whether an arrest warrant was presented, and specify any measures taken to ensure their right to effective legal assistance of their choice and to communicate with their families, the right of their lawyer to exercise the legal profession without threats, intimidation, or harassment and how these measures are compatible with international norms and standards and the principles of legality, necessity, proportionality and non-discrimination.
5. Please provide information on the measures taken to effectively remove any undue restrictions to the free communication of the persons deprived of their liberty with their families, legal representatives and persons with a legitimate interest, whether in writing or over the phone.
7. Please provide information on the measures taken to respect the protection needs of Ms. Parwan, Ms. Parsi and Mr. Parwan, and their families, and in particular as regards to their state of health, access to essential medicines, medical treatment and other basic services, and any other measures to prevent serious and irreparable damage to their life and personal integrity and that they have access to special health care, medications and other relevant medical treatment.
8. Please provide information on current measures in place to protect the work of human rights defenders, journalists, and media workers in the country. In this regard, please kindly provide specific details of any measure or public engagement by the *de facto* authorities aimed at ensuring that human rights defenders, journalists, and media workers can freely carry out their work without fearing harassment, threats, or any form of violence by the law enforcement, state institutions or in this case *de facto* authorities or acts of reprisals for cooperating with the United Nations.

We would appreciate receiving a response within 60 days. Past this delay, this communication and any response received from authorities 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 any irreparable harm to the life or personal integrity of Ms. Parsi and her son and Ms. Parwan and her husband, 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 may publicly express our concerns in the near future as, in our view, the information upon which the press release will be based is sufficiently reliable to indicate a matter warranting immediate attention. We also believe that the wider

public should be alerted to the potential implications of the above-mentioned allegations. The press release will indicate that we have been in contact with the *de facto* authorities to clarify the issue/s in question.

Please be informed that a copy of this letter has also been sent to the Permanent Mission of the Islamic Republic of Afghanistan in Geneva.

Please note that communications transmitted to non-State actors do not in any way imply the expression of any opinion concerning the legal status of any territory, city or area, or of its authorities.

Sincerely,

Richard Bennett
Special Rapporteur on the situation of human rights in Afghanistan

Mary Lawlor
Special Rapporteur on the situation of human rights defenders

Reem Alsalem
Special Rapporteur on violence against women and girls, its causes and consequences

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 above alleged facts and concerns, we would like to draw your attention to the obligations of Afghanistan under the International Covenant on Civil and Political Rights (ICCPR), particularly in relation to articles 7, 9, 10, 14 and 19.

We would like to reiterate the obligations of the State through its ratification of the International Convention on the Elimination of Discrimination against Women (CEDAW), in particular article 7 which provides that all appropriate measures shall be taken to eliminate discrimination against women in the political and public life of the country, including the right to participate in non-governmental organizations and associations concerned with the public and political life of the country.

We would like to refer you 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 your attention the following provisions of the UN Declaration on Human Rights Defenders:

- Article 6(a) which provides that everyone has the right, individually and in association with others to know, seek, obtain, receive and hold information about all human rights and fundamental freedoms, including having access to information as to how those rights and freedoms are given effect in domestic legislative, judicial or administrative systems.
- Article 6(b) and c) which provide that everyone has the right, individually and in association with others to freely to publish, impart or disseminate to others views, information and knowledge on all human rights and fundamental freedoms; and to study, discuss, form and hold opinions on the observance, both in law and in practice, of all human rights and fundamental freedoms and to draw public attention to those matters.

We would also like to refer you to the General Assembly resolution 68/181 on the protection of women human rights defenders adopted on 18 December 2013, which reiterates the importance of acknowledging the role of women human rights defenders and taking practical steps to prevent and respond to targeted threats, harassment and violence (A/RES/68/181). The resolution also emphasizes that all legal provisions, administrative measures and policies affecting women human rights defenders should be compatible with relevant provisions of international human rights

law.

In this regard, the Guiding Principles for the Search for Disappeared Persons of the Committee on Enforced Disappearances stipulate that the search for the disappeared should respect human dignity (principle 2), be considered as a continuing obligation (principle 7) and be conducted on the basis of a comprehensive strategy (principle 8). The Guiding Principles further establish that the search should be carried out safely (principle 14) and be independent and impartial (principle 15).

In a report to the Human Rights Council (A/HRC/41/33), the Working Group on discrimination against women and girls stressed that, against the backdrop of unequal power dynamics and systemic discrimination, women are deprived of their liberty, mostly arbitrarily and in a discriminatory fashion, as a practice in violation of the law and human rights standards, and this is often characterized by impunity. Depriving women of liberty also imposes great human costs of missed opportunities and contributions and often intergenerational harm and negative impacts on families and communities. Not only the causes but also the consequences of deprivation of liberty for women are gendered, because they experience their confinement in specific ways and are often at risk of heightened gender-based discrimination, stigma and violence. Women human rights defenders, perceived as challenging traditional notions of family and gender roles in society are increasingly at risk of facing criminalization and detention as a result of their legitimate public activism. In a number of States, women who work specifically to combat gender stereotypes and advance women's rights are most likely to be targets for criminal persecution and imprisonment. The Working Group recommended to support and protect women's engagement in public and political life, including the work of women human rights defenders, and eliminate any measures designed to criminalize the public roles of women.