الأمم المتحدة

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مجلس حقوق الإنسان

الدورة التاسعة والأربعون

28 شباط/فبراير – 1 نيسان/أبريل 2022

البند 4 من جدول الأعمال

حالات حقوق الإنسان التي تتطلب اهتمام المجلس بها

مذكرة شفوية مؤرخة 17 شباط/فبراير 2022، موجهة من البعثة الدائمة لجمهورية إيران الإسلامية لدى مكتب الأمم المتحدة في جنيف إلى رئيس مجلس حقوق الإنسان

تعرب البعثة الدائمة لجمهورية إيران الإسلامية لدى مكتب الأمم المتحدة والمنظمات الدولية الأخرى في جنيف عن قلقها إزاء طريقة معالجة طلبها الذي قدمته في مذكرتها الشفوية رقم 1069748/2050 المؤرخة 8 شباط/فبراير 2022، لإيراد تعليقات جمهورية إيران الإسلامية في التقرير النهائي للمقرر الخاص المعني بحالة حقوق الإنسان في جمهورية إيران الإسلامية المقدم إلى مجلس حقوق الإنسان في دورته التاسعة والأربعين (A/HRC/49/75). وتطلب البعثة الدائمة، التي تحتفظ بحقوقها في المتابعة مستقبلاً، إلى رئيس مجلس حقوق الإنسان إصدار هذه المذكرة الشفوية والتعليقات المرفقة من جمهورية إيران الإسلامية على مشروع تقرير المقرر الخاص* باعتبارهما وثيقة من وثائق مجلس حقوق الإنسان.

* يُعمَّم المرفق كما ورد، وباللغة التي قُدم بها فقط.

الرجاء إعادة الاستعمال

Annex to the note verbale dated 17 February 2022 from the Permanent Mission of the Islamic Republic of Iran to the United Nations Office at Geneva addressed to the President of the Human Rights Council

Preliminary response to the draft report of the Special Rapporteur to be presented to the 49th Session of the UN Human Rights Council by the Deputy Secretary General of the High Council for Human Rights for Judicial Affairs dated December 2021

A. Introduction

1. Islamic Republic of Iran is committed to its obligations regarding protection and promotion of human rights. In this line, the government has constantly and responsibly reviewed the laws, policies and regulations as deemed necessary. Our positive achievements in the field of human rights in the past four decades, confirm Iran`s seriousness towards respecting, protection and fulfillment of human rights.

2. The Islamic Republic of Iran, as a principled position, has constantly rejected the adoption and Country-Specific resolutions and mandates. The resolution on the "Situation of Human Rights in the Islamic Republic of Iran" is political motivated, unfair and unnecessary, and it is contrary to the promotion of human rights through international cooperation which has been highlighted under Article 3 of the Charter of the United Nations and is also contrary to the philosophy of the Universal Period Review Mechanism.

3. Nevertheless, the Islamic Republic of Iran has pursued a policy of interaction and engagement with the mandate in order to improve the content of reports and reduce to the extent possible, judgments and elaborations based on false information and data. Iran`s comments on the draft reports should be considered in that context. Iranian diplomats at Geneva and New York also engage with the Special rapporteur and meet as requested.

4. The policy of interaction has apparently resulted in reverse outcome. Instead of using reliable sources and diplomatic channels to access reliable information, the Special Rapporteur has deliberately decided to focus only on a series of unsubstantiated and untrue allegations.

5. The Special Rapporteur has gone beyond his mandate by adopting an aggressive and abusive approach, which is in direct contradiction to the Code of Conduct of the Special Procedures, in attacking the Constitution, the structure of government and the principle of separation of powers in the Islamic Republic of Iran in his draft report. We strongly reject and condemn Special Rapporteur's approach and offensive language. On the other hand, this approach shows that instead of pursuing a policy of dialogue and cooperation, in accordance with Article 11 of Annex 5.2 of the Human Rights Council dated 18 June 2007, the Special Rapporteur has adopted a biased and politically motivated approach.

6. Against this backdrop, we will refer the Special Rapporteur to the general comments regarding the draft report with the hope that the he will use the comments and rectify the errors in the draft report and terminate an unconstructive approach which only contributes to further politicization of UN human rights mechanisms. Due to time limitation, only a few allegations are addressed, herewith. Non reference to others does not imply their acceptance. More detailed comments of the Islamic Republic of Iran regarding the draft report will be subsequently submitted.

B. Methodological issues

7. According to the Article 8 (d) and Article 13 (c) of the Annex to the Resolution 5/2 of the Human Rights Council (18 June 2007), "In their information-gathering activities, the mandate-holders shall give representatives of the concerned State the opportunity of commenting on mandate-holders' assessment and of responding to the allegations made against this State and annex the State's written summary responses to their reports". Given the lack of sufficient time to respond to all allegations, this process may as usual ends in

publishing the report without due investigation and verification of dozens of allegations and accusations mentioned in the report. The serious flaws of the report negatively affect the credibility of the report, and seriously undermines the accuracy of its content. The Special Rapporteur's disregard of the Islamic Republic of Iran's responses to his previous reports and the failure to amend the reports, as well as the failure to attach these comments to his reports, has turned to a wrong and unprofessional systematic act, contrary to the annex to Resolution 5/2 of the Human Rights Council. There is no doubt that this one-sided approach seriously undermines the credibility of the UN human rights mechanisms.

8. Although the draft report states that the report contains information collected from June to December 2021, but there are a number of issues which refer to previous years. However, the Government already commented on those issues and there seems no need for further reference as they have been already clarified.

9. The reliance of the draft report on false and forged information received from some fugitive criminals and terrorist groups call into questions the credibility, trustworthiness, good faith, independence and impartiality of the mandate. The Draft Report is completely contrary to the principles, criteria and requirements set out in Resolution 5/2 adopted by the Human Rights Council on 18 June 2007 and its annex entitled " Code of Conduct for Special Procedures Mandate-holders of the Human Rights Council ", in particular Articles 6 and 8 on the "necessity of obtaining facts through objective and reliable information from reliable sources" and " observing the principles of transparency, impartiality and prudence in collecting information ". Out of 140 sources used in this report, only 15 are from Iranian domestic media and the rest are from foreign or Persian language medias abroad which have played a special negative role in fabricating news and producing diversionary and false reports. This is enough to completely undermine the credibility of such a report. This report fails to provide a true assessment of the human rights situation in Iran.

10. Although the title of the mandate is “Situation of human rights in the Islamic Republic of Iran", unfortunately the draft report deliberately ignores the positive measures and policies towards promotion of the human rights in the Islamic Republic of Iran; and focuses on a range of misleading and non-verified targeted information.

11. The Special Rapporteur has made wrong conclusions based on erroneous findings.

C. Thematic issues

12. There are baseless accusations in the draft report about the Constitution and regulations and the government`s performance regarding minorities. Minorities are respected and supported based on law. In paragraph 45 of the draft, it is claimed that at least 53 Christians were arrested for practicing their religious beliefs. It should be reminded again that according to Article 13 of the Constitution, Zoroastrian, Jewish and Christian Iranians are free to perform their religious rites within. The free performance of religious duties by Zoroastrians, Jews, and Christians in their places of worship throughout the country confirms the falsity of the allegation made in the report. Paragraph 47 of the draft report also raises allegation concerning mother tongue education. As mentioned in the previous comments, the aforesaid individuals mentioned in paragraph 47, including Mr. Abbas Lessani, were not charged because of teaching their mother tongue, but due to acts against the national security and territorial integrity and incitement to ethnic and linguistic hatred. In accordance with Article 15 of the Constitution, the use of local and ethnic languages in the press and mass media and the teaching of their literature in schools, in addition to Persian, is permitted. Teaching local languages in a number of private institutions and teaching local languages in universities, such as teaching Kurdish language and literature at the University of Kurdistan province or admission of students in Azeri Turkish at the University of Tabriz or admission of students in Arabic language and literature in the country's universities refute this baseless allegation.

13. Most of the information provided by the Special Rapporteur’s citation sources is either completely incorrect or based on information related to the preliminary stages of court proceedings. For instance, in the case of Mr. Parviz Siyabi (paragraph 47), who was claimed to be sentenced to 16 years of imprisonment, it is worthy to be noted that firstly, duration of his sentence was mentioned incorrectly, and secondly, the case is now under consideration

in the Court of Appeal on the basis of the defendant's appeal; and no final verdict has been issued yet.

14. Considerable parts of accusations are raised by sources affiliated to terrorist groups and fugitive criminals. The draft report is re-mentioning previous allegations which have been already responded and clarified.

15. The individual criminal acts are investigated in accordance to the law. Labeling them as innocent people or as human rights defenders, minorities, journalists, dual nationals, border couriers (Koul'baran) and etc. undermines the law and human rights.

16. The Iranian society is a multi-ethnic society with ancient cultural features and religious fusion. Using the title of minority for different Iranian ethnic groups, which are all a part of country`s population, is inconsistent with the realities. All Iranians from different provinces, no matter of their ethnicity, have high positions in national decision making and in Judicial, Legislative and Executive Branches of the country. Justice shall be applied for all and all are equal against the law. No one can benefit from specific privileges or exception from the law if he/she commits a crime. "Justice" cannot be ignored under the cover of defender of human rights or "Ethnic and Religious Minorities". Discrimination is rejected based on human rights law.

17. The politicization of human rights by the Special Rapporteur in the report violates the most obvious and basic legal and judicial principles, such as the "principle of equality of persons before the law" and the "principle of non-discrimination" and it includes an independent section under the title of "foreign nationals and dual nationals". This approach of the Special Rapporteur only serves for the benefit of Western countries as the main sponsors of the mandate. In addition, it should be reminded that under the laws of the Islamic Republic of Iran, dual citizenship is not recognized, and enjoying the citizenship of another country does not lead to more privileges and it does not serve as a cause for violation of citizens' rights.

18. The words "systematic" "systemic" and "brutal repression" have been used several times in the draft report which is completely irrelevant and misleading. The Islamic Republic of Iran, both in law and in practice, has guaranteed due process of law and access to a fair trial. In the new Code of Criminal Procedure, the observance of the due process of law has been highlighted including through investigation, prosecution, trial, execution of the sentence (before and after the trial), timely access to lawyer or translator, etc. It is necessary to remove all incorrect information regarding impunity and lack of due process of law in the judicial and enforcement system of Islamic Republic of Iran in the draft report.

19. It is advised to refrain from judgment based on false information. Therefore, using phrases such as "victims of human rights violations" instead of saying "individual cases of alleged human rights violations" in paragraph 3 is not accepted. Such an approach only confirms the adoption of a biased and unprofessional approach in drafting the report.

20. The report refers to the responsibility of human rights violators while it refrains from elaborating, even under the heading of "adequate living standards, the negative, destructive, damaging, and deadly impact of illegal, cruel and criminal unilateral coercive measures on the enjoyment of human rights of the Iranian people by the US regime and their international responsibility. This approach only confirms that the mandate is established based on politically motivated intentions. The unilateral coercive measures and its threat towards the lives and property of people and its wide range of negative effects, have unfortunately, no place in the Special Rapporteur's draft report. The draft report which is focused on the situation of human rights in the Islamic Republic of Iran, also disregards the provisional measures of the International Court of Justice in 2018 in the case of Alleged Violations of the 1955 Treaty of Amity, Economic Relations, And Consular Rights (Iran V United States). However, the Special Rapporteur on the negative impact of unilateral coercive measures on the enjoyment of human rights (Ms. Elena Dohan) has repeatedly emphasized, in her reports, on the negative impact of these inhumane unilateral coercive measures on the Iranian nation. The deliberate silence of the Special Rapporteur on the negative effects of unilateral coercive measures and the accountability of perpetrators, in a report which is focused on the situation of human rights in the Islamic republic of Iran is unprecedented.

21. All human rights are equally important for all people. One live matters as all lives matter and the Special Rapporteur shall address human rights of all in a balanced manner. The negative impacts of unilateral coercive measures on the enjoyment of economic and social rights is of equal importance. Failure of the report to address the death of dozens of innocent children and hundreds of innocent patients who lost their lives as a consequence of lack of access medicine and medical equipment, resulting from the imposition and enforcement of unilateral coercive measures by the US regime, which constitutes a blatant and utter violation of the "right to life" "and the" right to health "of thousands of Iranian citizens, may not and cannot be vindicated and justified.

22. The draft report gives immunity to the main perpetrators of crimes against the Iranian nation by imposing unilateral coercive measures. It was expected that the draft would explicitly define unilateral coercive measures as "illegal", "lethal" and "harmful". This deliberate silence shall well be interpreted as a de facto recognition of illegal acts of the perpetrators and their serious crimes which are contrary to international law and human rights law and may be interpreted as an act in line with the policy of “Maximum Pressure” against the Iranian nation.

23. The Special Rapporteur has also failed to address the negative impact of terrorist acts on the enjoyment of human rights of the Iranians and the responsibility of the perpetrators and supporters of such heinous acts which have claimed more than 17,000 lives in the past 4 decades.

24. The verdict for death penalty is only issued for the most serious crimes as recognized also by international human rights law. In Iran it is also approved by the Parliament and is based on law. Therefore, labelling it as arbitrary deprivation of life or illegal use of force is absolutely incorrect. The death penalty verdict is issued in full observance of the due process of law and access of the convict to fair trial.

25. The claim of "the secret execution of most executions in Iran", in paragraph 5 of the draft, is false and unrealistic. It is contrary to the facts and information, including the information which confirms notifying the convict's family and his/her lawyer before the execution of the sentence. This baseless allegation is only made based on fictitious allegations of the opposition media.

26. The allegation regarding deprivation of access to health care in prisons is far from the existing facts of providing extensive services to prisoners, which has led to unprecedented positive results such as the zero-death of prisoners due to Corona Virus. Concerning prevention, monitoring and control of Covid-19, the following activities including preparation of a protocol for prisoners in cooperation with the Ministry of Health, conducting more than 6 million visits and use of rapid tests, hospitalization of more than 2,000 individuals in specialized hospitals, separation of newly arrived prisoners, placement of symptomatic prisoners in recovery sections in accordance with the standards of the World Health Organization, twice-a-day cleaning and sanitation of prisons and etc have been conducted.

27. The Special Rapporteur, by referring to the closed-circuit camera videos released from the public wards of Evin Prison (ward 16) has wrongly concluded that prison officials were continuously abusing prisoners. Such an inference is unfair and unjust and is not in line with the principle of neutrality. The protection and fulfillment of the rights of prisoners is of utmost importance in Iran and the relevant violations had been investigated, months before the images were published.

28. The allegation regarding border couriers (Koul’baran) (paragraph 12) is untrue and rejected. Terrorist groups such as the disbanded Democratic Party of Kurdistan of Iran, Komala and PJAK who claim falsely to support Koulbarans, have established at the border of the country, and force the Koulbars to make payments as so-called customs duties or ransom, for their entry and exit. However, in their medias, they claim to be the defenders of the rights of the working class of the courier people! The claim that the border guards have shot couriers is baseless. The guards differentiate between the couriers and the armed smugglers. The western borders of the country are highly sensitive due to the activities of terrorist groups in neighboring countries and the occasional encroachments on Iran's border areas. Almost every month, several border guards are martyred in defense of the country's

borders in clashes with terrorist groups. Accordingly, the Iranian border guards, while being responsible for providing security for the activities of the couriers, are tackling seriously with destabilizing actions conducted by abusing the name of the couriers. The Islamic Republic of Iran has made extensive efforts to support Koul'barans, despite the negative effects of the cruel Western unilateral coercive measures. We are doing our utmost towards further enhancement of the rate of employment and trade and manufacturing facilities at border areas. Establishing a sustainable employment remains as one of the main priorities.

29. In paragraph 65 of the draft report, the Special Rapporteur has referred to the mismanagement of the government in the face of Corona Virus, but he has deliberately ignored two facts: the cruel and illegal unilateral coercive measures against Iran, which is a major obstacle to access to medical and pharmaceutical items and equipment; and the success of the government in supplying and producing vaccines, as a result of which, so far, more than 110 million doses of vaccine have been injected in three stages. While the percentage of vaccine recipients in the first and second doses in Europe is less than 65%, this figure, in Iran, has reached 83% and 64% in the first and second doses, respectively.

30. Torture and other inhuman or degrading treatments and punishments are prohibited in the Constitution and regulations of the Islamic Republic of Iran. Though Iran is not party to the Convention Against Torture and Other Cruel, Inhumane or Degrading Treatment or Punishment, the government is serious in observing its commitments based on law and has set up an institution called the "Central Supervisory Board for the Protection of Citizenship rights" to monitor the proper implementation of human rights-related legal provisions, including countering torture; and in cooperation with the provincial supervisory boards, it carries out the necessary supervision and inspections, and, thus, any necessary legal action is taken against any violation or commission of a crime in this regard.

31. The marriage in Iran has its roots in culture of the country which has changed in proportion to lifestyle changes in many cities and villages. We do not deny that, among some Iranian ethnicities, there are a few cases of marriage under the age of 18, which of course, is based on the consent of both parties and their parents. However, the Islamic Republic of Iran has established the necessary monitoring system and play its guiding role in order to protect the rights of children, girls and women, including the necessity of provision of family counseling and obtaining a court order. The competent judicial authorities deal with cases of marriage below the legal age and annul the marriage contract. It should be noted that imposition of immediate and inflexible cultural policies would also violate individual cultural rights.

32. The Bar Association with thousands of active members across the country is engaged in its legal duties and are supported by the "Law on Protection of lawyers" and the "Legal Bill on Independence of the Bar Association". No lawyer will be prosecuted or convicted in connection with their legal duties.

33. Every nation has the right to determine its type of government; and on this basis, the Iranian nation has voted on different pillars of the government enshrined in the country's Constitution. In this law, the principle of separation of Powers from each other and the duties of each are clearly described in a manner that the principles related to each and the protection and respect for the rights of the nation is emphasized. In general, the political structure of government in the Islamic Republic of Iran, after the fall of the Shah's dictatorial regime, is based on religious democracy. In this structure, the people play the key role in the important decisions of the country and in electing the main officials of the country through elections.

34. The Judiciary in the Islamic Republic of Iran is a completely independent power. No institution or authority, outside the Judiciary interferes in the appointment and removal of judges or issuing the verdicts. Although the Head of the Judiciary is appointed by the Supreme Leader (which is based on the Constitution), this appointment does not, in any way, call into question the independence of the Judiciary. In any case, the Special Rapporteur should consider that in all countries the highest judicial authorities are appointed in various ways; the most common of which is the appointment by the Executive branch, which in fact raises the question of the Executive's influence in the Judiciary.

35. The Special Rapporteur ignores the fact that all key officials, including the Supreme leader, are elected by direct or indirect popular vote. However, there are still countries that

have a monarchical political structure in which the people have no role, even indirectly, in their appointments. In many of those countries, the head of the Executive branch is elected by the king or the queen. Any effort in the line of presenting those countries as the only good model of democracy for the world and ignoring other model of democracies in countries like Iran, undermined human rights and is not accepted.

36. Contrary to the Rapporteur's misconception of the Courts of Revolution, as has been repeatedly clarified in previous comments that these courts are specialized courts which have jurisdiction over the offenses set forth in the new Code of Criminal Procedure and, after a fair trial, the verdicts are rendered; and, depending on the case, the verdicts of those courts can be appealed in the appellate court of the relevant province or the Supreme Court.

37. The alleged statistics on executions are distorted. As it has been repeatedly explained in previous clarifications, the highest number of executions is related to the enforcement of retribution sentences (Qisas) or armed drug offenses. They are both considered as the most serious crimes. It should be noted that Qisas is the right of victim`s next of kin and it may be revoked and cancelled with their expression of forgiving and consent.

38. Death of individuals in prison due to illness and complications due to drug addiction and the like is probable. Investigations have indicated that some drug addicts who are in detention or prison for committing a crime have died from methadone abuse. In rare cases where a suspicious death is occurred, a judicial case is immediately filed and the investigator of the relevant jurisdiction investigates the matter and obtains a forensic opinion; and if the occurrence of a crime is established, a warrant shall be issued and, subsequently, the case shall be sent to the competent court with the issuance of an indictment; and the offender shall be duly dealt with in accordance with laws and regulations, and appropriate punishment shall be determined by the court of justice.

39. The Special Rapporteur has tried to highlight the issue of impunity and accountability by resorting to some non-verified and unreliable allegations and data in his draft report. The Islamic Republic of Iran believes, firmly, in the protection and promotion of the human rights of its people. In this way, if any institution or authority commits a violation of the rights of the people, it will be investigated in compliance to the relevant rules. Accountability and countering impunity are provided for in various laws of the country as well as in practice of law and justice enforcement institutions. The problem is that the Special Rapporteur, on some issues, in his draft report, has defended the terrorists or rioters who have either assassinated tens of thousands of innocent people or have killed them in riots; or have killed police and civilians while committing the destruction of public and private property. From this perspective, the Rapporteur does not grant any rights to victims of assassination or to those who have lost their property and lives, and considers the government's treatment of lawbreakers, criminals and terrorists as a violation of human rights. It is regrettable that the Special Rapporteur supports such individuals and groups throughout his draft report and does not refer to the violation of human rights of the Iranian people including innocent children, women and girls, elderly and patients affected by the negative impact of unilateral coercive measures and terrorism.

D. Conclusion

40. The cultures, customs and traditions of the ethnic and religious groups of the Iranian nation, as well as the laws and regulations of the Islamic Republic of Iran and its governing structure, which are based on the will of the entire Iranian nation and are based on social, cultural and geographical conditions, shall be respected;

41. The will of the Iranian nation in acceding to international treaties, based on the exercise of the right of reservation, shall be recognized and respected;

42. Resorting to twisted narratives, negative cliché and accusation while addressing the situation of human rights in the Islamic republic of Iran and generalization of a few cases and ignoring the positive human rights achievements of the Islamic Republic of Iran shall be terminated;

43. The heinous act of oppressive powers, especially the United States, in violation of fundamental human rights of the Iranian people, in particular "right to life" and the "right to

health", by imposing illegal and cruel unilateral coercive measures shall be openly condemned;

44. The report shall duly recognize the international responsibility of the sanctioning States, in particular the United States of America and its allies and the need to hold them accountable for their crimes.

45. The most obvious and basic legal and judicial principles such as the "principle of equality of persons before the law" and the "principle of non-discrimination " shall be recognized and respected. The abuse of titles such as "dual citizenship" and etc. is merely an excuse to advance the political goals and interests of some oppressive arrogant countries and shall be avoided;

46. The violation of the "principles of objectivity and impartiality", through relying on fabricated news and reports based on false information of some fugitive criminals and terrorist groups, shall be terminated;

47. The position of the Islamic Republic of Iran regarding the mandate and politically motivated arrangements in the international human rights mechanism shall be reflect in a fair and unbiased approach in the draft report. The final report of the Special Rapporteur shall be amended accordingly and the comment of the Islamic republic of Iran needs to be attached to the final report before its final release;

48. The meetings of the Special Rapporteur with members of terrorist groups under the pretext of engaging with them or gathering information or claiming to defend them under the false labeling of victims of human rights violations, shall be ended.