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Human Rights Council Working Group on Arbitrary Detention

Opinions adopted by the Working Group on Arbitrary Detention at its seventy-fourth session, 30 November-4 December 2015

Opinion No. 44/2015 concerning Jason Rezaian (Islamic Republic of Iran)

1. The Working Group on Arbitrary Detention was established in resolution 1991/42 of the Commission on Human Rights, which extended and clarified the Working Group's mandate in its resolution 1997/50. The Human Rights Council assumed the mandate in its decision 1/102 and extended it for a three-year period in its resolution 15/18 of 30 September 2010. The mandate was extended for a further three years in resolution 24/7 of 26 September 2013.

2. In accordance with its methods of work (A/HRC/30/69), on 5 August 2015 the Working Group transmitted a communication to the Government of the Islamic Republic of Iran concerning Jason Rezaian. The Government has not replied to the communication. The State is a party to the International Covenant on Civil and Political Rights.

3. The Working Group regards deprivation of liberty as arbitrary in the following cases:

(a) When it is clearly impossible to invoke any legal basis justifying the deprivation of liberty (as when a person is kept in detention after the completion of his sentence or despite an amnesty law applicable to him) (category I);

(b) When the deprivation of liberty results from the exercise of the rights or freedoms guaranteed by articles 7, 13, 14, 18, 19, 20 and 21 of the Universal Declaration of Human Rights and, insofar as States parties are concerned, by articles 12, 18, 19, 21, 22, 25, 26 and 27 of the International Covenant on Civil and Political Rights (category II);

(c) When the total or partial non-observance of the international norms relating to the right to a fair trial, established in the Universal Declaration of Human Rights and in the relevant international instruments accepted by the States concerned, is of such gravity as to give the deprivation of liberty an arbitrary character (category III);

(d) When asylum seekers, immigrants or refugees are subjected to prolonged administrative custody without the possibility of administrative or judicial review or remedy (category IV);



(e) When the deprivation of liberty constitutes a violation of international law on the grounds of discrimination based on birth, national, ethnic or social origin, language, religion, economic condition, political or other opinion, gender, sexual orientation, disability, or any other status, that aims towards or can result in ignoring the equality of human beings (category V).

Submissions

Communication from the source

4. Jason Rezaian is a 39-year-old dual national of the Islamic Republic of Iran and the United States. He was born in the United States of America to an Iranian father and an American mother, and is married to an Iranian citizen.

5. Mr. Rezaian is a well-known and respected journalist, both in the United States and in the Islamic Republic of Iran. In 2008, he moved to the Islamic Republic of Iran to work as a freelance journalist. Since then, he has reported for several news outlets, including *Bloomberg News*, *The New York Times*, *Le Monde*, *GlobalPost* and the *Public Broadcasting Service*. In April 2012, Mr. Rezaian was hired by *The Washington Post* as its Tehran correspondent.

6. According to the source, Mr. Rezaian has provided fair and accurate reporting on international and domestic events, including the presidential elections in the Islamic Republic of Iran in 2013, international negotiations regarding the nuclear programme of the Islamic Republic of Iran, and the arrest of fellow journalists in the Islamic Republic of Iran. The source notes that Mr. Rezaian is one of the few American journalists to be granted reporting accreditation in the Islamic Republic of Iran, and has scrupulously followed Iranian laws and regulations applicable to journalists. In his work as a journalist, Mr. Rezaian has reportedly sought to bridge the informational and cultural divide between the Islamic Republic of Iran and Western States, particularly the United States, and facilitate a greater understanding of the culture and people of the Islamic Republic of Iran.

7. On 22 July 2014, Mr. Rezaian and his wife, who is also a reporter, were arrested at their home in Tehran by agents of the Iranian Revolutionary Guard Corps. The agents produced an arrest warrant issued by the Revolutionary Court, which hears cases involving alleged crimes against national security. According to the source, the agents broke down the front door, ransacked Mr. Rezaian's home, and confiscated personal belongings including computers, books, notes and passports. Mr. Rezaian and his wife were then taken into custody without being informed of the legal basis for their arrest.

8. The source reports that an Iranian-American photojournalist (and her husband) who had worked with Mr. Rezaian and his wife were arrested the same evening. All four were detained without charges or access to counsel. The photojournalist and her husband were released without explanation within a month of their arrest, and Mr. Rezaian's wife was also released on bail after approximately 60 days in detention and after extensive interrogation. Mr. Rezaian's wife is not permitted to leave Tehran and remains subject to prosecution. However, Mr. Rezaian was not released and has now been in detention for 16 months which, according to the source, is the longest period of detention of any Western journalist in the Islamic Republic of Iran.

Detention and trial of Mr. Rezaian

9. According to the source, Mr. Rezaian has been kept for long periods in solitary confinement (up to 90 days or more). During the initial weeks of his detention (approximately 45 days), he was not allowed to have any contact with individuals inside or outside the prison, including his wife. When Mr. Rezaian and his wife were allowed to

speak to each other, they were permitted only a four-minute conversation. Since then, Mr. Rezaian has only been allowed tightly controlled contact with his wife and only two visits from his mother.

10. Further, the source reports that Mr. Rezaian was harshly interrogated for days and weeks at a time, which caused significant physical and psychological strain. During the interrogations, he was typically hooded when transported between his cell and the interrogation room, and his interrogators used isolation and threats of physical harm to Mr. Rezaian's wife in unsuccessful attempts to force him to confess to crimes which he did not commit. The source states that Mr. Rezaian has been humiliated, mistreated, and deprived of the most basic facilities, including access to a bathroom, at various points during his detention.

11. The source claims that Mr. Rezaian was prohibited from meeting with the lawyer hired by his family, and his legal representatives based in the United States have not had access to Mr. Rezaian since his arrest. He has also been denied consular assistance, as a diplomatic envoy from Switzerland, acting as the protecting power and designated intermediary for the United States in the Islamic Republic of Iran, was denied access to Mr. Rezaian in August 2014. According to the source, the Government has refused to recognize Mr. Rezaian's status as a United States citizen, and maintains that the United States has no interest in his arrest and detention. As a result, Iranian officials have reportedly refused to provide information to Switzerland and the United States about the basis for Mr. Rezaian's detention.

12. The source alleges that, for the first five months after Mr. Rezaian's arrest, the Government issued no formal charges against him and provided no explanation of the basis for his detention. On 7 December 2014, Mr. Rezaian was formally charged after a 10-hour court hearing that was closed to the public. Mr. Rezaian was denied legal representation during this initial hearing, and was accompanied only by a government-appointed translator whose English was not sufficient for Mr. Rezaian to fully understand the proceedings. Mr. Rezaian was denied bail.

13. On 1 February 2015, Mr. Rezaian's case was assigned to a judge of the Revolutionary Court who, according to the source, is one of six Iranian judges accused in recent years of leading a politically motivated crackdown against journalists and political activists in the Islamic Republic of Iran. In 2011, the judge was sanctioned by the European Union for human rights violations, including sentencing more than 100 political and human rights activists and journalists to lengthy terms of imprisonment.

14. According to the source, the judge rejected the lawyer chosen by Mr. Rezaian and his family to act in the matter, offering no explanation or justification for this decision. In late February 2015, the judge also imposed a one-week deadline for Mr. Rezaian to select a legal representative that the Court deemed "acceptable". Mr. Rezaian asked to be represented by at least one lawyer who spoke English, but ultimately agreed to be represented by the same lawyer who represented his wife. The source reports that Mr. Rezaian was only allowed to meet with his lawyer once before his trial, but that meeting on 20 April 2015 lasted only 90 minutes and was held in the presence of two government interrogators and a translator. Since then, Mr. Rezaian was permitted only two brief meetings with his lawyer.

15. Mr. Rezaian's trial commenced on 26 May 2015 in Branch 15 of the Revolutionary Court, more than 10 months after he was arrested. However, the trial was adjourned without explanation after the first day. The trial resumed on 8 June and on 13 July 2015, with little notice, and each time was adjourned after one day and further delayed without explanation. A fourth and final hearing was held on 10 August 2015. During this final hearing, Mr. Rezaian's lawyer was, for the first time, able to submit oral and written submissions in Mr.

Rezaian's defence, and to reiterate his plea of not guilty. The trial proceedings were closed to the public, and details of the hearings have not been publicly disclosed.

16. The Court has never publicly disclosed the charges against Mr. Rezaian. However, statements from Mr. Rezaian's lawyer in the Islamic Republic of Iran indicate that he has been charged with espionage; collecting information regarding the domestic and foreign policy of the Islamic Republic of Iran, and providing it to individuals with malicious intent; collaborating with hostile Governments; and conducting propaganda against the establishment of the Islamic Republic of Iran. The source reports that these charges carry a sentence of up to 10 to 20 years' imprisonment.

17. The source reports that Mr. Rezaian's ability to prepare a defence was extremely limited. He was not permitted to consult his lawyer prior to or following his first two trial hearings. Mr. Rezaian's only interactions with his lawyer during the trial took place in court in the presence of the judge and other government officials. Further, Mr. Rezaian has had no opportunity to present witnesses or evidence in his defence, or to examine and challenge witnesses and evidence against him. Instead, the judge asked "yes" or "no" questions of Mr. Rezaian's lawyer, and then described evidence that was intended to support the prosecution case but was irrelevant to the charges. The source asserts that the prosecution has presented no live witnesses, and no evidence to justify the charges or prove that Mr. Rezaian is guilty of any crime.

18. Mr. Rezaian continues to be held at Evin Prison in Tehran. The source informs that the conditions under which Mr. Rezaian is being detained have resulted in his dramatic weight loss, respiratory problems, and chronic infections of the eye and urinary tract. Mr. Rezaian has been deprived of medical treatment, of prescribed blood pressure medication, and of adequate nutrition. His condition reportedly continues to deteriorate.

19. According to the source, the Court is required under Iranian law to deliver its verdict within one week of the conclusion of Mr. Rezaian's trial. On 5 August 2015, Mr. Rezaian's lawyer was informed that a verdict would be issued within one week, but no verdict was formally announced. In mid-October 2015, Iranian and international news outlets reported that officials from the Iranian judiciary had stated that a verdict in the trial of Mr. Rezaian had been issued, and suggested that Mr. Rezaian had been found guilty of the charges against him, including espionage. The statements from the officials reportedly included a reference to Mr. Rezaian being able to appeal his conviction within 20 days. However, again, no verdict was formally announced. There were further conflicting reports in November 2015 as to the outcome of Mr. Rezaian's trial, including that Mr. Rezaian had been sentenced to an unspecified term of imprisonment, but no conviction or sentence has been announced.

20. Mr. Rezaian, his lawyer and his family have no information on Mr. Rezaian's conviction or sentence or their basis. Mr. Rezaian is therefore not able to submit an appeal in relation to his case. According to the source, the uncertainty surrounding the proceedings is causing severe mental and emotional anguish to Mr. Rezaian.

Submissions regarding arbitrary detention

21. The source submits that the detention of Mr. Rezaian is arbitrary in accordance with categories I, II and III of the categories applied by the Working Group.

22. The source is of the view that Mr. Rezaian's detention is arbitrary under category I because the Government has provided no evidence in support of the charges and no legal basis for the detention. The source argues that no evidence exists to show that Mr. Rezaian committed any of the crimes for which he has been prosecuted, and the Government has refused to make public the charges against Mr. Rezaian and the legal basis for the proceedings. The source refers to two pieces of evidence which it states the Government

has relied on, but not produced at trial, which do not support the alleged crimes. The first is an unsuccessful online job application by Mr. Rezaian for the Obama-Biden transition team in 2008 in which Mr. Rezaian offered to help “break down barriers” between the United States and the Islamic Republic of Iran. The second is correspondence between Mr. Rezaian and United States officials in Dubai in which Mr. Rezaian requested an expedited visa for his wife in light of the upcoming Iranian parliamentary elections because the Islamic Republic of Iran is “sometimes not the best place to be a journalist”. The source submits that prosecuting Mr. Rezaian for vague and ambiguous crimes relating to threats to national security and propaganda against the system is itself indicative of the arbitrariness of his detention.

23. The source further argues that Mr. Rezaian has been detained as a result of the exercise of his rights to freedom of opinion and expression, freedom of association, and right to participation in public affairs, contrary to articles 19, 20 and 21 of the Universal Declaration of Human Rights and articles 19, 22 and 25 of the International Covenant on Civil and Political Rights.¹ The source submits that the detention is therefore arbitrary under category II. The source points to the lack of evidence of criminal activity, which indicates that Mr. Rezaian was detained for no other reason than his lawful practice of journalism. The source also refers to the fact that the Government arrested one of the only other American journalists accredited in the Islamic Republic of Iran on the same day that it arrested Mr. Rezaian, suggesting that his detention is part of an effort to intimidate or silence foreign journalists in the Islamic Republic of Iran.

24. In addition, the source states that Mr. Rezaian’s detention appears to have occurred as a direct result of his association with news sources which, by necessity, included some individuals working for, or having connections to, the Governments of the United States and the Islamic Republic of Iran. Mr. Rezaian was the foreign correspondent in the Islamic Republic of Iran for a major American newspaper, and developed contacts within both Governments in order to support his understanding of United States–Iranian relations. According to the source, nothing about those contacts supports the Government’s allegations that Mr. Rezaian was acting illegally. The source notes that – even after ransacking Mr. Rezaian’s home and confiscating his notes, laptop and other personal belongings – the Government has been unable to identify any evidence of criminal conduct. The source argues that a journalist’s efforts to maintain open communications with sources in both the private and the public sectors cannot alone constitute a basis for arrest and detention.

25. The source submits that Mr. Rezaian has been detained for having exercised his right to participate in public affairs. According to the source, Mr. Rezaian was detained as a result of reporting on his own and others’ political and cultural opinions as a means of contributing to public discourse, and his detention will deter others working in the media from exercising this right. As a foreign correspondent in the Islamic Republic of Iran, Mr. Rezaian’s success depended upon being a relevant voice among the communities he reported to and on, both domestically and globally. His ability to develop relationships with sources of news about public affairs and to report on the information he learned is a crucial part of his job, but was the very activity that resulted in his arrest and detention.

¹ The source asserts that the permissible limitations on the freedom of opinion and expression and association in articles 19 and 22 of the Covenant (i.e. based on national security, public safety and public order) do not apply to Mr. Rezaian’s case because the Government cannot demonstrate that any restrictions were necessary and proportionate.

26. Finally, the source claims that numerous violations of due process occurred during Mr. Rezaian's arrest, detention and trial, rendering his detention arbitrary according to category III.

27. According to the source, these include:

(a) Failure to inform Mr. Rezaian of the charges against him, contrary to articles 9 (2) and 14 (3) of the Covenant. Mr. Rezaian was not informed of the reasons for his arrest or the charges against him for almost five months following his arrest. When he was informed of the charges in December 2014, this occurred in a closed court proceeding held in Farsi, a language which Mr. Rezaian does not speak with proficiency. Mr. Rezaian could not fully understand the translation of the charges by a government-appointed translator, and he had no access to a lawyer who could explain the charges and counsel him accordingly;

(b) Depriving Mr. Rezaian of his right to counsel, contrary to article 14 (3)(d) of the Covenant and principle 18 (1) and (3) of the Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment (see General Assembly resolution 43/173). After his arrest, Mr. Rezaian was interrogated for months without any access to a lawyer, and he did not have a lawyer when the charges against him were first announced in December 2014. He was only allowed to speak briefly with a lawyer on 20 April 2015, nearly nine months after his arrest, and was prohibited, without reasons being given, from retaining a lawyer of his choosing. He has not been provided with any meaningful opportunity to consult confidentially with his lawyer;

(c) Denial of Mr. Rezaian's right to prepare a defence, contrary to article 14 (3) of the Covenant. Mr. Rezaian has been unable to view the case file containing the evidence against him. His lawyer was notified of the initial trial date only a week before the trial, and subsequent hearings have been scheduled at short notice, leaving no opportunity to prepare. Mr. Rezaian's ability to challenge the evidence, confront witnesses against him, and present his case in defence, has been severely limited;

(d) Violation of Mr. Rezaian's right to be presumed innocent, contrary to article 11 (1) of the Universal Declaration of Human Rights and article 14(2) of the Covenant. The Revolutionary Court's treatment of the prosecution evidence reflects its failure to afford Mr. Rezaian a presumption of innocence. The course and nature of the trial indicate that the Court predetermined the outcome well before the proceedings began;

(e) Failure to try Mr. Rezaian without undue delay, contrary to articles 9 (3) and 14 (3)(c) of the Covenant. Mr. Rezaian was detained without bail for more than 10 months before his trial began;

(f) Failure to provide an independent and impartial tribunal, contrary to article 10 of the Universal Declaration of Human Rights and article 14 (1) of the Covenant. Mr. Rezaian's trial was assigned to a judge who has been accused of leading a politically motivated crackdown against journalists, and who has been sanctioned by the European Union for human rights violations. The judge issued several temporary detention orders authorizing Mr. Rezaian's incarceration without weighing the evidence against him, effectively acting as both a judge and prosecutor;

(g) Failure to provide a public trial, contrary to article 10 of the Universal Declaration of Human Rights, article 14 (1) of the Covenant, and principle 36 of the Body of Principles. All of the court proceedings in Mr. Rezaian's case have been closed to the public. Mr. Rezaian's family members, as well as other independent observers, were prohibited from attending the trial. His employer sought a visa for a senior editor to travel to the Islamic Republic of Iran to attend the trial, but the request was ignored by the Iranian authorities. Mr. Rezaian's lawyer was informed that she would be violating the law if she

publicly revealed any details regarding the proceedings. No formal verdict has been issued by the Court, in violation of article 14 of the Covenant.

Response from the Government

28. On 5 August 2015, the Working Group transmitted the allegations from the source to the Government of the Islamic Republic of Iran under its regular communication procedure. The Working Group requested the Government to provide detailed information by 5 October 2015 in relation to the allegations made by the source and the current situation of Mr. Rezaian. The Working Group also requested the Government to clarify the legal provisions justifying Mr. Rezaian's arrest and continued detention.

29. The Working Group regrets that it has not received a response from the Government to this communication. The Government did not request an extension of the time limit for its reply, as provided for in the Working Group's revised methods of work.

Discussion

30. In the absence of a response from the Government, the Working Group has decided to render this opinion in conformity with paragraph 15 of its methods of work.

31. The Working Group has in its jurisprudence established the ways in which it deals with evidentiary issues. If the source has established a *prima facie* case for breach of international requirements constituting arbitrary detention, the burden of proof should be understood to rest upon the Government if it wishes to refute the allegations (see, for example, the 2011 report of the Working Group, A/HRC/19/57, para. 68; and opinion No. 52/2014). In this case, the Government has chosen not to challenge the *prima facie* credible allegations made by the source.

32. The Working Group has had regard to other reliable information which supports the source's claims. In particular, the Working Group refers to its previous opinions concerning individual communications received from various sources on arbitrary arrests and detention in the Islamic Republic of Iran (see, for example, opinions No. 16/2015, No. 55/2013, No. 52/2013, No. 48/2012, No. 58/2011, No. 8/2010, No. 19/2006, No. 8/2003 and No. 30/2001). In these cases, findings have been made about the arbitrary deprivation of the liberty of journalists and bloggers who peacefully exercised their rights under the Universal Declaration of Human Rights and the Covenant, demonstrating that this is a systemic problem in the administration of criminal justice in the Islamic Republic of Iran. In his October 2015 report, the Special Rapporteur on the situation of human rights in the Islamic Republic of Iran noted that at least 46 journalists and social media activists were either in detention or sentenced for their peaceful activities as at April 2015.² The judiciary reportedly continues to impose heavy sentences on individuals who peacefully exercise their freedom of expression, including through charges involving national security (see A/70/411, para. 23). On 11 November 2015, two United Nations special rapporteurs called on the authorities in the Islamic Republic of Iran to stop arresting, prosecuting and harassing journalists and online activists, following the reported arrest of five journalists in

² See A/70/411, para. 22. See also the 2014 report of the Secretary-General on the situation of human rights in the Islamic Republic of Iran (A/69/306, para. 29), in which the Secretary-General states that the number of journalists detained in the Islamic Republic of Iran as of May 2014 could have been as high as 60; and the 2015 report of the Secretary-General on the situation of human rights in the Islamic Republic of Iran (A/70/352, para. 20), in which the Secretary-General specifically refers to Mr. Rezaian's case, noting that it appeared that his arrest and prosecution were linked to his profession as a journalist and his legitimate exercise of the right to freedom of expression.

what appeared to be a new crackdown on freedom of expression and the media.³ Finally, as recently as 17 December 2015, the General Assembly adopted resolution 70/173, calling upon the Government, including the judicial and security branches, to end widespread and serious restrictions, in law and in practice, on the right to freedom of expression, opinion, association and peaceful assembly, including through the ongoing harassment, intimidation, arbitrary detention and prosecution of journalists, bloggers and social media users.

33. The resolution also urged the Government to release persons arbitrarily detained for the legitimate exercise of these rights.

34. The Government has not offered any explanation of the legal provisions justifying Mr. Rezaian's arrest and continued detention, as requested when the communication from the source was forwarded to it. The Government has also not clarified the charges against Mr. Rezaian, nor has it demonstrated how Mr. Rezaian's activities could have amounted to the crimes for which he was prosecuted. Thus, the deprivation of liberty of Mr. Rezaian falls within category I of the categories applied by the Working Group.

35. Further, the Government has provided no evidence to rebut the source's assertion that Mr. Rezaian was detained solely for having peacefully exercised his rights under the Universal Declaration of Human Rights and the Covenant in the lawful practice of journalism. The Working Group concludes that Mr. Rezaian has been deprived of liberty in violation of his rights to freedom of opinion and expression, and freedom of association, under articles 19 and 20 of the Declaration and articles 19 and 22 of the Covenant.⁴ The deprivation of liberty of Mr. Rezaian therefore falls within category II of the categories applied by the Working Group.

36. In the absence of any information from the Government to the contrary,⁵ the Working Group considers that the source's allegations disclose violations of Mr. Rezaian's right to a fair trial. Specifically, Mr. Rezaian has been deprived of the right to be informed of the charges against him, the right to counsel of his choosing, the right to adequate time and facilities to prepare a defence, the right to be presumed innocent, the right to be tried

³ OHCHR, "UN experts call on Iran to stop intimidating journalists ahead of parliamentary elections", news release, Geneva, 11 November 2015. The statement was made by the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression and the Special Rapporteur on the situation of human rights in the Islamic Republic of Iran. It is available from www.ohchr.org/en/NewsEvents/Pages/DisplayNews.aspx?NewsID=16736&LangID=E.

⁴ The Working Group does not consider that Mr. Rezaian has been detained in violation of his right to participation in public affairs under art. 25 of the Covenant. The source appears to argue that Mr. Rezaian's activities as a journalist involve participation in public affairs and are therefore protected under art. 25. However, the right in art. 25 is explicitly limited to citizens (unlike the freedom of opinion and expression and freedom of association which is available to "everyone" under the Covenant). If this argument were accepted, it would mean that foreign journalists without citizenship would not enjoy the same right.

⁵ See the Working Group opinion No. 41/2013 (Libya) which recalls that, where it is alleged that a person has not been afforded, by a public authority, certain procedural guarantees to which he was entitled, the burden to prove the negative fact asserted by the applicant is on the public authority, because the latter is "generally able to demonstrate that it has followed the appropriate procedures and applied the guarantees required by law ... by producing documentary evidence of the actions that were carried out" (*Ahmadou Sadio Diallo (Republic of Guinea v. Democratic Republic of the Congo)*, *Merits, Judgment*, I.C.J. Reports 2010, p. 661, para. 55).

without undue delay, the right to an independent and impartial tribunal, and the right to a public trial.⁶

37. The Working Group concludes that the breaches of articles 9, 10 and 11 of the Universal Declaration of Human Rights and articles 9 and 14 of the Covenant in the case of Mr. Rezaian are of such gravity as to give his deprivation of liberty an arbitrary character, falling within category III of the categories applied by the Working Group.

38. The Working Group wishes to record its concern about Mr. Rezaian's physical and psychological integrity since his detention in July 2014. In particular, the Working Group refers to the allegations made by the source that Mr. Rezaian has been subjected to harsh interrogation, held in solitary confinement for prolonged periods, and deprived of adequate medical treatment, prescribed medication and nutrition, contrary to his right under article 10 (1) of the Covenant to be treated with humanity and with respect for his inherent dignity. The Working Group considers that the treatment of Mr. Rezaian during his detention may also have violated the prohibition of torture or other cruel, inhuman or degrading treatment under article 5 of the Universal Declaration of Human Rights and article 7 of the Covenant. The Working Group will therefore refer the matter to the relevant special rapporteur for further consideration of the circumstances of this case and, if necessary, appropriate action.

39. Finally, the Working Group notes with concern the silence on the part of the Government in not availing itself of the opportunity to respond to serious allegations made in recent communications to the Working Group (see e.g. the Working Group's opinions on the Islamic Republic of Iran No. 16/2015, No. 55/2013, No. 52/2013, No. 28/2013, No. 18/2013, No. 54/2012, No. 48/2012, No. 30/2012, No. 8/2010, No. 2/2010, No. 6/2009, No. 39/2008, No. 34/2008, No. 39/2000, No. 14/1996, No. 28/1994 and No. 1/1992).⁷

Disposition

40. In the light of the foregoing, the Working Group renders the following opinion:

The deprivation of liberty of Mr. Rezaian is arbitrary, being in contravention of articles 9, 10, 11, 19 and 20 of the Universal Declaration of Human Rights and articles 9, 10, 14, 19 and 22 of the International Covenant on Civil and Political Rights, and falls within categories I, II and III of the categories applicable to the consideration of cases submitted to the Working Group.

41. Consequent upon the opinion rendered, the Working Group requests the Government to take the necessary steps to remedy the situation of Mr. Rezaian without delay and bring it into conformity with the standards and principles in the Universal Declaration of Human Rights and the Covenant.

42. Taking into account all the circumstances of the case, the Working Group considers that the adequate remedy would be to release Mr. Rezaian immediately and accord him an enforceable right to compensation in accordance with article 9 (5) of the Covenant.

⁶ General Assembly resolution 70/173 called on the Government to uphold procedural guarantees to ensure fair trial standards, and urged it to cease "the widespread and systematic use of arbitrary detention" (para. 9).

⁷ Available from www.unwgadatabase.org/un/. In the past, the Islamic Republic of Iran has provided information to the Working Group on various communications – for example, see opinions No. 58/2011, No. 21/2011, No. 20/2011, No. 4/2008, No. 26/2006, No. 19/2006, No. 14/2006, No. 8/2003 and No. 30/2001 – but has discontinued the provision of information and a response to the Working Group in more recent cases.

43. The Working Group urges the Government to ensure that Mr. Rezaian is not subjected to further ill-treatment. The Working Group also urges the Government to fully investigate the circumstances surrounding his arbitrary detention, and to take appropriate measures against those responsible for the violation of his rights.

44. In accordance with paragraph 33 (a) of its revised methods of work, the Working Group considers it appropriate to refer the allegations of ill-treatment to the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment for appropriate action.

[Adopted on 3 December 2015]
