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Human rights situations that require the Council's attention

Report of the Special Rapporteur on the situation of human rights in the Islamic Republic of Iran

Addendum

Comments by the State*

* Reproduced in the annex as received

Annex

[English only]

A Brief Reply by the Islamic Republic of Iran to the Draft Report of the Special Rapporteur to the 22nd Session of the Human Rights Council

1. The Islamic Republic of Iran expresses its regrets for limited time and opportunity provided to it to answer the draft report of the Special Rapporteur. The SR had ample time since 19th session of the HRC to prepare the draft while just a few working days (less than 10 days) were given to the concerned country to answer widespread baseless allegations incorporated in the draft report.

2. Based on the Code of Conduct for Special Procedures Mandate Holders of the Human Rights Council, the Mandate Holders are compelled to exercise their functions from a completely impartial, loyal and conscientious standpoint, and truthfully while giving authorities of the concerned government adequate opportunity to react and respond. Unfortunately, the present draft report is produced in violation of Article 5, Article 8d and Article 13c of the Code of Conduct and as such the Special Rapporteur's non-compliance with the Code of Conduct is obvious.

Notwithstanding these shortcomings, the I.R. Iran would like to present the following brief reply to the draft report of the SR to the 22nd session of the HRC:

3. The assessment of the SR on the continuation of widespread systemic and systematic violation of human rights in Iran seems totally flawed since:

- The report which is partial and biased disregards realities on the ground, as well as principles of transparency, fairness and impartiality, and has violated paragraph g of the preamble of the Code of the Conduct (which makes it unfit for appraisal);

- References to allegations of unspecified non-governmental organizations, human rights defenders and individuals as the core sources of the report (against provision of Article 6a and Article 8g of resolution 5/2 on the Code of Conduct) can by no means authenticate its content. Basically, inclusion of disconnected and baseless subjects in a report (in contradiction with the provision of Article 3a of the document 5/2) has led the draft report to lose its credibility. No sound judgment could be made on unverifiable claims.

- Against the allegations made in the introduction of the draft report on the violation of civil, political, economic, social and cultural rights of people in law and in practice, the Islamic Republic of Iran believes in serious cooperation with international bodies and has continuously reported to related committees on international conventions and found itself legally bound to implement its international obligations. In this regard, Iran defended its third periodic report on the Covenant on Civil and Political Rights last year and in May this year will appear before the Committee on Social, Cultural and Economic Rights to defend its report on the Covenant on Social, economic and Cultural Rights. Therefore, claims on the "culture of impunity" and "weakening impact of the human rights instruments" are totally baseless and rejected (claims which are made in disrespect to Articles 6a and 12a of the resolution 5/2).

4. It has to be further emphasized that using expressions such as "widespread systemic and systematic violation of human rights" and "fostering culture of impunity" by the Special Rapporteur are strictly against the Code of Conduct which requires adopting clear and unambiguous language. Besides, such terms are inconsistent with the content of the draft report itself. It seems that the UN human rights mechanism should seriously reconsider recruiting unprofessional Rapporteurs with partial and biased attitudes (the Special Rapporteur has violated Articles 3 and 5 of resolution 5/2)

5. Taking into account the above mentioned considerations, it seems that in preparation of the draft report motivations beyond and above the UN mechanisms were involved.

6. The phrase "cumulative and systematic" (used in paragraph 2 of the report) is not valid and baseless. It is proposed in a non-technical, unprofessional and biased context and disrespects the provisions of Article 3f and Article 5 of resolution 5/2.

7. Undoubtedly, terms such as "systematic, cumulative or widespread" each bear specific connotation. Therefore, it deserves to be asked that why the Rapporteur who according to his mandate should base his work on impartiality and honesty, and should look for facts based on objective and reliable information derived from valid sources, so recklessly and unprofessionally makes in his report unreliable assumptions based on false claims? As a matter of fact, the Special Rapporteur in gathering required information should act under the guidance and observance of such principles as transparency, impartiality and fairness as foreseen in paragraph 8a of resolution 5/2. However, the performance of Rapporteur and making baseless and unreliable claims has deeply undermined the process of confidence-building and cooperation with him.

8. The Rapporteur argues that the scope of the human rights situation prevents him to address all dimensions in the report. The Rapporteur, in disrespect of Article 3e of resolution 5/2, piles up scattered, heterogeneous and undocumented materials to produce a dubious draft and by resorting to such claims tries to cover up serious defects in the draft report or to justify them.

9. The Rapporteur, since his appointment has disrespected several provisions of resolution 5/2. However, in his latest report he has regretfully gone further and predicts the future. He claims about deterioration of the situation based on a possibility in future that is next presidential election in June 2013!

Without doubt, the possibility judgments are futile. Comparing 2009 presidential election with the next one is erroneous and such flawed comparison seriously undermines and questions credibility of draft report altogether.

10. The Rapporteur has made no serious attempt to cooperate with the I.R. of Iran, while his conducts that contradict duties of a mandate holder has caused serious doubts about having a constructive dialogue. The Rapporteur not only took no genuine step to verify claims of human rights violation, but he himself has involved in fabricating claims to mislead public opinion.

11. It should be noticed that just expressing willingness by the Rapporteur to visit the Islamic Republic of Iran would not be sufficient. He was responsible to uphold the principles and standards governing his mandate to prepare a fair draft based on defined methodology. The Islamic Republic of Iran while sustains its serious willingness to cooperate with relevant international institutions and thematic reporters, maintains to consider appointment of the Special Rapporteur be influenced by biased and selective approaches of some countries who wish to misuse human rights apparatus to serve their narrow political interests. Given his unfair and non-methodological performance against defined terms and principles particularly the Mandate-Holders Code of Conduct, the government of IR Iran looks with serious doubt to the work of the Special Rapporteur. By

conducting opinionated interviews with media and being prejudiced about the claims, the Rapporteur has turned himself to a political opponent acting against IR Iran in clear contradiction with paragraph 13a of resolution 5/2. Therefore, it is not expected that he can prepare a report while maintains the principles of impartiality and non-politicization.

12. To justify himself, the Special Rapporteur incorporates his ill performance with the work of Thematic Rapporteurs. It is worth mentioning that Iran's cooperation with relevant international bodies and Thematic Rapporteurs has been in place for several years inter alia through responding their communications. There is a serious intention to maintain such cooperation and to continue being responsive to future communications and correspondences.

13. The Special Rapporteur not only fails to provide credibility to the widespread claims he has made through conducting aforementioned interviews but on the contrary, such unconstructive and opinionated interviews with invalid and suspicious sources, further invalidate the draft report before public opinion. Indeed, he has disregarded clear guidelines of Article 9 of resolution 5/2.

14. The Special Rapporteur, without providing reasonable proves and solely based on media allegations, has (in paragraph 6 of his report) referred to the "reprisal cases" and offers an erroneous interpretation of the facts. Such approach contradicts with the provision of Article 12a of the resolution 5/2 where it stipulates that they "need to ensure that their personal political opinions are without prejudice to the execution of their mission, and base their conclusions and recommendations on objective assessments of human rights situations". He also fails to observe Article 12b of the same document to "show restraint, moderation and discretion so as not to undermine the recognition of the independent nature" of the mandate.

15. Bearing in mind the above mentioned facts, the Rapporteur due to his lack of knowledge about the IR Iran's judicial system and its hearing processes (which is also a disrespect to his solemn declaration based on Article 5 of 5/2) gives a flawed understanding and interpretation on the legal processes which is going through several steps from investigation, issuing indictment, fair and due hearings, establishing the case to issuing verdict and finalizing it. Undertaking due legal processes are not at all reprisal measures. Taking this literature distances the Rapporteur from implementing the Code of Conduct.

16. In a detailed reply which follows this text, all cases mentioned in the Report will be examined. However, it should be clarified that fulfilling relevant regulations and the law of State Prisons and Security and Corrective Measures Organization is indispensable and disrespecting them would bear legal liability. The Rapporteur in this case disrespects IR Iran's laws and regulations while simply repeats fallacious allegations.

17. IR Iran supported and continues to support constructive and true cooperation of NGOs and civil society with the United Nations' mechanisms to promote and protect human rights. Such cooperation has been developed in the past and still continues. However, prejudiced, biased and offensive conducts by anyone even the Special Rapporteur under the disguise of cooperation with UN mechanisms are strongly rejected. This approach clearly contradicts Article 9 a, c and d of resolution 5/2 on the Code of Conduct. IR Iran maintains that it accepts no claim of threat or reprisal, a phrase which is fabricated by the Special Rapporteur.

18. The conclusion made by the special Rapporteur, which is based on a non-professional and unconstructive draft and contains erroneous and invalid allegations, fails to observe even the basics of the resolution 5/2 on the Code of Conduct for Special Procedures Mandate Holders of the HRC, and therefore, is void and unacceptable, since:

- Using phrases as "widespread violation of human rights" in a general and vague manner on the basis of unfounded claims does not manifest the constructive will of the Rapporteur. On the contrary, such an approach runs counter to the ethical and professional behaviors of the UN mandate holders which should be consistent with document 5/2. The replies which are provided by the Islamic Republic of Iran are in line with its continuing cooperation and engagement with the international institutions and should not be interpreted as "a lack of meaningful cooperation". Moreover, phrases such as " intransigent position" and "constrained cooperation" are against provisions of Article 4 (3) of the said document and disrespect laws and regulations of the country, thus ignore provisions of Article 6 (a and b) of the document 5/2.

- The Islamic Republic of Iran has shown its intention during consideration of its UPR to establish a national institution which is now among the recommendations of the draft report.

- The claim on the increase in discrimination on the basis of religion and ethnicity as well as discrimination and persecution of minorities is refuted. Because according to the Iranian constitution and other domestic laws all people of Iran regardless of their religion or ethnicity enjoy equal citizenship rights. Race, religion, ethnicity, language and the like do not bestow any privilege or discrimination. Therefore, in the legal system of Iran issues as religion, ethnicity and race are not considered in the legal proceedings.

22. Insistence of the Special Rapporteur on the release of certain individuals has no legal basis and is a clear intervention in the national sovereignty of the country which is against Article 4 (3) of document 5/2. Since, as mentioned earlier, legal steps from investigation to trial and issuance of verdict or exoneration are based on prevailing legal procedures.

23. The Islamic Republic of Iran in its written and detailed third periodic report on the Covenant on Civil and Political Rights to the Committee on Civil and Political rights proclaimed its commitments to the Covenant including Article 18.

24. The Rapporteur's insistence on review of the domestic laws with claim of their contradictions to international commitments is un-substantive, non-legal and is in disregard of cultural diversity of human rights issues. Undoubtedly, the Islamic Republic of Iran based on experiences and the needs of its society, if there is and requirements, adopts or amends its laws and regulations through national legislation system. It is evident, if there is a need for codification or adoption of any law for promoting of human rights; the Government with due process of law take required action deemed necessary. It is worthy of noting that "the law on safeguarding citizen rights and respect for legitimate freedoms" adopted in 2004 was the result of adopting this approach.

25. The majority of capital punishments cases is connected to drug smugglers committing armed crimes and martyred border guards and law enforcement officials and injured numerous individuals. The verdict for the armed smugglers (members of organized smugglers band) are considered definitive after hearing by competent court and due process of law including legal proceeding and possibility of rehearing and appealing of the case. Likewise, the verdict of criminals committing terrorist acts and take the life of innocent people are among the capital punishment.

26. In spite of Special Rapporteur's inference and general understanding that he doesn't consider such offences among most serious crimes, however, it must be emphasized that these penal crimes are indispensable law and are among the most serious crimes. Thus Special rapporteur's induction is due to his lack of information of current realities including exigencies and necessities of security of citizens and deterrence of committing the crime as well as national law of the country.

27. I.R Iran seriously rejects and denies the prejudiced accusations about widespread use of torture as a means of extracting confession from offenders. The prevailing laws and regulations to be the Constitution or the general laws in particular the law on Civil Rights and Respect for Legitimate Freedoms are strictly prohibiting such acts and anyone who commits them would be accountable before law. Therefore, the issue of impunity taking into account the ongoing applicable laws is out of question.

28. Undoubtedly, sanctions negatively impact on the basic human rights of the citizens of affected countries. On this basis, no sanction is legitimate and justifiable for all of them contradict the international norms of human rights. It is very disappointing that the SR instead of denouncing imposers of the sanctions and calling them as violators of human rights of the Iranian citizens is criticizing the targeted country. What is even more deplorable is that throughout his lengthy report the SR mentions not even once the unilateral sanctions imposed against Iranians by the US and the EU, let alone condemning them. Such sanctions are in clear negation of the principles of international law as well as letter and spirit of the Charter of the UN. The position of the SR on these sanctions and their impacts on daily lives of the Iranians are not clear. While he has access to internet sites, virtual and news media, it is unlikely the he was unaware about the official news concerning imposition of unilateral sanctions against civilian population in Iran or about impact of such sanctions on their human rights. Should not this calculated silence be interpreted as concurrence of the SR with violation of human rights of the whole population of Iran?

29. Ongoing laws and procedures guarantee free participation in elections in a democratic manner. Therefore, the concerns expressed by the SR have no base. Political and civil rights including the freedom of speech, demonstration and association in accordance with relevant regulations are permissible.

30. Taking into consideration the content of the present brief reply, negligence of the SR to the provisions of resolution 5/2 on the Code of Conduct for Special Procedures Mandate Holders of the HRC is crystal clear. Some instances of such carelessness have been presented in the present text.

31. It is highly expected that the SR carefully pays thorough attention to the sound and reasonable comments of IR Iran on his report. He is also expected to avoid employing such flawed and ill-intended terms as “regime”, “enmity of God”,... which have insulting connotations against values of an Islamic society. Such approach runs counter to constructive cooperation.
