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**Human Rights Council**  
**Working Group on Arbitrary Detention**

**Opinions adopted by the Working Group on Arbitrary Detention at its 101st session, 11–15 November 2024**

**Opinion No. 53/2024 concerning Toomaj Salehi (Islamic Republic of Iran)\***

1. The Working Group on Arbitrary Detention was established in resolution 1991/42 of the Commission on Human Rights. In its resolution 1997/50, the Commission extended and clarified the mandate of the Working Group. Pursuant to General Assembly resolution 60/251 and Human Rights Council decision 1/102, the Council assumed the mandate of the Commission. The Council most recently extended the mandate of the Working Group for a three-year period in its resolution 51/8.
2. In accordance with its methods of work,<sup>1</sup> on 30 July 2024 the Working Group transmitted to the Government of the Islamic Republic of Iran a communication concerning Toomaj Salehi. The Government submitted a late response on 2 October 2024. 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 or her sentence or despite an amnesty law applicable to him or her) (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 Covenant (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).

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\* Mumba Malila did not participate in the discussion of the case.

<sup>1</sup> [A/HRC/36/38](#).

## 1. Submissions

### (a) Communication from the source

#### (i) Context

4. Toomaj Salehi was born on 3 December 1990 and is a national of the Islamic Republic of Iran. He is a hip-hop artist, a human rights activist and a voice critical of the Government of the Islamic Republic of Iran, with 2.6 million followers on Instagram and 750,000 followers on X (formerly known as Twitter). He was arrested in 2019 and 2021 for his music videos, in which he called for human rights to be upheld and criticized officials. He has won numerous awards, including the Index on Censorship Freedom of Expression Award and the Václav Havel Prize for Creative Dissent.

5. In September 2022, Mr. Salehi released multiple songs about women's rights, including the song "Divination", which became popular among protesters. He also called for justice following the death in custody of Jina Mahsa Amini. On his social media accounts, Mr. Salehi encouraged others to join the nationwide protests.

#### (ii) Arrest and detention

6. On 30 October 2022, days after he gave an interview to a foreign news channel and shortly after the song "Divination" was released, 12 agents of the Ministry of Intelligence reportedly violently arrested Mr. Salehi in the Province of Chaharmahal va Bakhtiari, blindfolded him and took him to Isfahan Central Prison. Moreover, 50 agents raided his home. State media released a photograph of Mr. Salehi in a blindfold, which appeared to be stained with blood.

7. Mr. Salehi was reportedly not presented with an arrest warrant, informed of the reasons for his arrest, informed of his right to a lawyer or brought before a court. He was held in solitary confinement.

8. Mr. Salehi was reportedly tortured: his arm and leg were broken, his ribs were fractured, he was left unconscious for three days and he could not open his eyes for two weeks, and he was given adrenalin to keep him awake during further acts of torture. He was also shot in the foot and sustained serious injuries to his eyes and face.

9. On 27 November 2022, the Chief Justice of Isfahan Province informed the local news outlet Mizan that Mr. Salehi had been charged with the following offences: (a) "corruption on Earth", which carries the death penalty (article 286 of the Islamic Penal Code); (b) "spreading propaganda against the State" (article 500 of the Code); (c) "collaboration with a hostile Government", for the interview with the foreign news channel (article 508); (d) "inciting people to commit murder and rioting";<sup>2</sup> (e) "disseminating false information";<sup>3</sup> (f) "establishing an illegal group with the intent to disrupt national security" (article 498); (g) "insulting the leadership"; and (h) "enmity against God" (article 279).<sup>4</sup>

10. Mr. Salehi was not allowed to contact his family until 38 days after his arrest and was only allowed sporadic, unplanned contact during his detention. He was not allowed to choose or contact a lawyer until 29 December 2022, 60 days after his arrest.

11. From 18 June to 3 July 2023, Mr. Salehi was tried in closed court before Branch 1 of the Revolutionary Court of Isfahan. Mr. Salehi's lawyer was reportedly given only 30 minutes to explain the case to him before the trial began and was given only partial access to Mr. Salehi's case files. The judge who presided over Mr. Salehi's case has reportedly been sanctioned by the European Union and by Canada and the United Kingdom of Great Britain and Northern Ireland for alleged human rights violations, including violations of the right to freedom of expression, the right not to be subjected to cruel, inhuman or degrading treatment or punishment, and the right to a fair trial.

<sup>2</sup> Sometimes referred to as "inciting/inviting chaos/disorder".

<sup>3</sup> Sometimes referred to as "spreading lies through cyberspace".

<sup>4</sup> The offences referred to in subparas. (g) and (h) have not been widely reported, but it is known that, on 21 January 2024, Mr. Salehi was facing 10 charges in total.

12. On 10 July 2023, Branch 1 of the Revolutionary Court of Isfahan convicted Mr. Salehi as charged and sentenced him to six years and three months in prison. He also had his passport cancelled, received a two-year travel ban and was prohibited from making art and music. Mr. Salehi's lawyer appealed the decision.

13. On 18 November 2023, Branch 39 of the Supreme Court overturned the decision of Branch 1 of the Isfahan Revolutionary Court and remanded the case to the lower court, citing procedural errors and flaws in the original sentence. The Supreme Court also stated that the maximum number of charges to be applied to a single case was three. Mr. Salehi was released on bail that same day, after having been detained for 384 days, 252 of which had been spent in solitary confinement.

14. On 27 November 2023, Mr. Salehi posted a YouTube video detailing the torture to which he had been subjected and how he had been forced to confess to his alleged crimes. He rejected the video of his confession, describing it as doctored.

15. On 30 November 2023, in Babol, armed plain-clothed agents stopped a car in which Mr. Salehi was travelling and arrested him. The agents allegedly beat Mr. Salehi, causing severe injuries to his eyes and face. He was taken to an undisclosed location, where he was held incommunicado in solitary confinement. On 2 December 2023, Mr. Salehi was transferred to Isfahan Central Prison.

16. At the time of his arrest, Mr. Salehi was neither presented with an arrest warrant nor informed of the reasons for his arrest. On 4 December 2023, he was finally allowed to contact his family and his lawyer. His lawyer was given access to more of Mr. Salehi's case files but still did not have three of the four volumes on his client's case. He was primarily communicating with Mr. Salehi through prison officials.

17. On 1 January 2024, Branch 1 of the Revolutionary Court of Isfahan reconvicted Mr. Salehi of "spreading propaganda against the State", "disseminating false information" and "inciting people to commit acts of violence" and sentenced him to one year in prison, cancellation of his passport for two years and mandatory participation in a behaviour management course. These charges were in connection with the song "Divination" and the protests and were the three charges that the Supreme Court had remanded to the lower court. This was the first time that Mr. Salehi and his lawyer had been informed of the charges. They were not adequately informed of the time of the trial and were therefore not present at the hearing. Mr. Salehi's lawyer wrote an open letter to the head of the judiciary questioning whether the proceedings had been in conformity with criminal procedure laws.

18. On 21 January 2024, at a hearing at Branch 1 of the Revolutionary Court of Isfahan, Mr. Salehi was charged with the following two additional charges: (a) "armed and group rebellion against the system"; and (b) "conspiracy to commit security-related offences", for the video he had posted in November 2023. After this hearing, Mr. Salehi was facing a total of 10 ongoing charges.

19. On 14 February 2024, the Court of Appeal dismissed Mr. Salehi's appeal of the one-year prison sentence imposed on 1 January 2024. On 18 March 2024, Mr. Salehi was acquitted by Branch 1 of the Criminal Court of Isfahan Province of charges related to "disseminating false information" and "inciting people to commit acts of violence", in connection with the video he published in November 2023.

20. On 18 April 2024, Branch 1 of the Revolutionary Court of Isfahan reasserted its jurisdiction, as is permitted by the parallel judicial system of the Islamic Republic of Iran. On 23 April 2024, it sentenced Mr. Salehi to death on the charges of "participating in rebellion against the State", "assembly and collusion against national security", and "spreading propaganda against the State and incitement of the public to commit murder and acts of violence", all of which amounted to "corruption on Earth". According to Branch 1 of the Revolutionary Court of Isfahan, the decision of the Supreme Court had merely been advisory. After the sentence was handed down, officials immediately confiscated Mr. Salehi's mobile phone and revoked his family visits.

21. On 22 June 2024, the Supreme Court overturned Mr. Salehi's death sentence, stating that the sentence was excessive and in violation of law, and remanded the matter to the Revolutionary Court of Isfahan for redetermination. On 8 July 2024, it was confirmed to

Mr. Salehi's family and his lawyer that the file had been received by Branch 5 of the Revolutionary Court of Isfahan and that the matter was under consideration by a judge, who would need to study the file and deliver a verdict.

22. While awaiting the judge's verdict, on 10 July 2024, Mr. Salehi was interrogated for two hours. He was then informed that two new separate cases had been filed against him, each containing two charges. The first, "spreading propaganda against the State and incitement of the public to commit murder and acts of violence", has been referred to the Revolutionary Court; the second, "insulting sacred values and spreading falsehoods", has been referred to Criminal Court No. II.

23. The above-mentioned fresh charges are related to the song "Typhus" and to content published on Mr. Salehi's personal web page, even though "Typhus" was released while he was in detention.

24. In mid-July 2024, the Revolutionary Court of Isfahan ordered Mr. Salehi's release on bail following the decision of the Supreme Court. However, as fresh charges had been filed against him in the intervening period, he remains in custody on remand.

(iii) *Legal analysis*

25. The source submits that the deprivation of liberty of Mr. Salehi is arbitrary and falls under categories I, II, III and V of the Working Group.

26. In relation to category I, the source recalls that Mr. Salehi was apprehended in a violent manner, without an arrest warrant, and held in detention without charge. It further recalls that in order for an arrest and deprivation of liberty to have a legal basis, it is not sufficient that there is a law that may authorize the arrest. The authorities must invoke that legal basis and, if national law requires it, apply it to the circumstances of the case through an arrest warrant.<sup>5</sup> Article 9 (2) of the Covenant and principle 10 of the Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment provide that an arrested person must be informed, at the time of arrest, of the reason for the arrest and must be promptly informed of any charges. Under article 9 (1) of the Covenant and principle 2 of the Body of Principles, any form of detention must be carried out in accordance with such procedure as is established by law, while principle 4 provides that any detention must be ordered by, or be subject to the effective control of, a judicial or other authority. Moreover, detainees are not considered to have been "promptly" informed of the charges if there is a delay of 36 hours after arrest before doing so.<sup>6</sup>

27. After his arrest on 30 October 2022, Mr. Salehi was not informed of the charges against him until 27 November 2022, almost a month later. On 30 November 2023, Mr. Salehi was reportedly arrested by armed plain-clothed agents. He was informed of the charges against him on 1 January 2024, when he was sentenced to one year in prison.

28. On 10 July 2024, Mr. Salehi was informed that he faces four more charges. These charges relate to the song "Typhus", which was edited and published by other persons in March 2024, during Mr. Salehi's current period of detention. It is argued that these additional charges are groundless and are being used to keep Mr. Salehi in custody.

29. By arresting Mr. Salehi twice without presenting an arrest warrant or identifying some other lawful basis for arrest, without informing him of the reasons for his arrest and without promptly informing him of the charges against him after his arrest on 30 October 2022 and on 30 November 2023, the authorities have violated articles 3 and 9 of the Universal Declaration of Human Rights, article 9 (2) of the Covenant and principles 2, 4 and 10 of the Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment.

30. Furthermore, the source recalls that Mr. Salehi was held incommunicado and is being regularly denied contact with his lawyers and with his family. It recalls that incommunicado detention lacks any valid legal basis and is inherently arbitrary, as it places the victim outside

<sup>5</sup> Opinion No. 46/2018, para. 48.

<sup>6</sup> Opinion No. 30/2017, para. 58.

the protection of the law and deprives them of any legal safeguards.<sup>7</sup> Article 6 of the Universal Declaration of Human Rights and article 16 of the Covenant guarantee that everyone has the right to recognition everywhere as a person before the law. Under principle 16 (1) of the Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment, a detainee's right to notify or to have the authorities promptly notify their family members is protected. Principle 15 provides that the denial of a detainee's communication with the outside world must be limited to "a matter of days". Furthermore, principle 19 requires that the detainee be allowed "adequate opportunity to communicate with the outside world, subject to reasonable conditions and restrictions as specified by law or lawful regulations".

31. The source therefore argues that the authorities have placed Mr. Salehi outside the protection of the law, thus violating article 6 of the Universal Declaration of Human Rights, article 16 of the Covenant and principles 15, 16 (1) and 19 of the Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment.

32. Moreover, the source submits that the authorities have denied Mr. Salehi his right to habeas corpus. It recalls that article 9 (3) of the Covenant states that anyone arrested or detained on a criminal charge must be brought promptly before a judge or other officer authorized by law to exercise judicial power, while article 9 (4) guarantees to a detained person the right to take proceedings before a court to challenge the lawfulness of the detention. These rights are reinforced in principles 11 (1), 32 (1) and 37 of the Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment. Moreover, article 8 of the Universal Declaration of Human Rights and article 2 (3) of the Covenant guarantee the right to an effective remedy. According to the Human Rights Committee, "any delay longer than 48 hours must remain absolutely exceptional and be justified under the circumstances".<sup>8</sup> The Working Group has previously held that a delay of eight days violated article 9 (3) and (4) of the Covenant.<sup>9</sup>

33. The source notes that Mr. Salehi was first arrested on 30 October 2022, but that he did not appear in court until 18 June 2023 – almost eight months later. After his rearrest on 30 November 2023, he appeared before the court for the first time at his trial on 1 January 2024 – more than a month after his arrest. During both periods of detention, Mr. Salehi was not allowed to appear before a court to challenge his detention.

34. Regarding the most recent new charges, it is submitted that Mr. Salehi has again been denied his right to appear promptly before a judicial authority and his right to challenge his detention. He was informed of the charges against him on 10 July 2024 and, to date, has had no opportunity to challenge the lawfulness of his detention before a court. The situation is particularly pressing as the new charges are now the sole reason for his current detention, as his release on bail has been ordered in the primary proceedings.

35. The source therefore concludes that, by depriving Mr. Salehi of his right to a prompt appearance before a judicial authority and his right to challenge his detention, the authorities have violated article 8 of the Universal Declaration of Human Rights, articles 2 (3) and 9 (3) and (4) of the Covenant and principles 11 (1), 32 (1) and 37 of the Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment.

36. Furthermore, the source asserts a breach of the principle of legality, enshrined in article 11 (2) of the Universal Declaration of Human Rights and article 15 (1) of the Covenant, which requires that laws be formulated with sufficient precision so that individuals can gain access to and understand the law and regulate their conduct accordingly.<sup>10</sup>

37. The application of vague and overly broad provisions in Mr. Salehi's case does not provide any legal basis to justify his deprivation of liberty. Firstly, the source recalls that, according to article 286 of the Islamic Penal Code of the Islamic Republic of Iran, the offence of "corruption on Earth" refers to crimes against the physical integrity of the person, crimes against national security, arson or destruction, or promoting corruption or prostitution. Under

<sup>7</sup> Opinions No. 33/2020, para. 58; and No. 86/2020, para. 63.

<sup>8</sup> Human Rights Committee, general comment No. 35 (2014), para. 33.

<sup>9</sup> Opinion No. 52/2015, para. 46.

<sup>10</sup> Opinions No. 37/2020, para 60; and No. 41/2017, paras. 98–101.

that article, it must be established that there was an intention to severely disrupt the public order of the country, cause extensive damage to the physical integrity of individuals or private or public property, or promote corruption or prostitution on a large scale. None of the crimes referred to under article 286 clarify what specific actions would result in the overall charge of “corruption on Earth”. The variety of actions by dissidents who have been charged with this crime shows that it is used to simply silence them.

38. Furthermore, under article 500 of the Islamic Penal Code, on “spreading propaganda against the State”, it is stated that anyone who engages in any type of propaganda against the Islamic Republic of Iran or in support of opposition groups and associations will be sentenced to between three months and one year in prison. It is submitted that this provision is similarly vague, as it does not include a definition of opposition groups or associations and it is unclear what the word “propaganda” covers. The Working Group has previously held that the vague and overly broad provisions relating to “corruption on Earth” and “spreading propaganda against the State” violate the principle of legality.<sup>11</sup>

39. The new charges include two offences of “spreading propaganda against the State and incitement of the public to commit murder and acts of violence”, which have been referred to the Revolutionary Court, and two offences of “insulting sacred values and spreading falsehoods”, which have been referred to Criminal Court No. II. These terms are also vague; a person cannot determine whether his or her conduct falls within the scope of the offences.

40. The source also recalls that Mr. Salehi was charged in November 2022 with a series of offences, including “corruption on Earth”, “spreading propaganda against the State”, “inciting people to commit murder and rioting” and “disseminating false information”. The most recent new charges filed against him, in July 2024, are similarly vague, including “spreading propaganda against the State and incitement of the public to commit murder and acts of violence” and “insulting sacred values and spreading falsehoods”.

41. By prosecuting Mr. Salehi for matters for which he has already been prosecuted, without any clear explanation of the new evidential basis for these fresh charges, the authorities have violated the principle enshrined in article 14 (7) of the Covenant, rendering Mr. Salehi’s continued detention on these new charges arbitrary under category I.

42. In relation to category II, the source argues that Mr. Salehi’s detentions resulted from his legitimate exercise of the right to freedom of expression. Firstly, he released a song in support of protestors, following the death of Ms. Amini. Second, Mr. Salehi encouraged people to join the protests and advocated democracy and human rights. Third, he was interviewed by a foreign media outlet.

43. The source submits that these three actions resulted in Mr. Salehi’s first period of detention, beginning in November 2022, which was clearly linked to his freedom of expression, namely his music and lyrics, spoken words, advocacy and a media interview. Even the act of being interviewed by a media outlet based outside the Islamic Republic of Iran was described in the charges as “collaboration with a hostile Government”.

44. After he was released on bail in November 2023, Mr. Salehi posted a video detailing the torture he had endured, which resulted in his second detention. The charge of “armed and group rebellion against the system” for the video is a particularly egregious one, as Mr. Salehi had no co-defendant for a group rebellion and he did not use any violence. Ultimately, the songs, social media posts and video were forms of Mr. Salehi’s exercise of his freedom of expression.

45. The new charges laid in July 2024 also relate in part to a song, “Typhus”, and in part to Mr. Salehi’s posts on social media.

46. None of the grounds enumerated in article 29 (2) of the Universal Declaration of Human Rights or article 19 (3) of the Covenant justify restrictions on freedom of political opinion. Mr. Salehi’s deprivation of liberty is not proportionate, reasonable or necessary. His deprivation of liberty adds to the chilling effect on dissidents, civil society and artists, posing a severe threat to the peaceful exercise of the right to freedom of expression.

<sup>11</sup> Opinion No. 32/2019, para. 31.

47. The Working Group has stated that it will conduct a “particularly intense review” when known human rights defenders are detained.<sup>12</sup> This approach is particularly important, as Governments may seek to prosecute human rights defenders on the basis of spurious charges in an effort to silence and punish them for exercising their right to freedom of expression.

48. The source reiterates that Mr. Salehi is an artist and a human rights activist. Even before the nationwide protests in 2022, Mr. Salehi had called for democracy, resulting in his arrest and detention in 2019 and 2021. As he is a known human rights activist, a particularly intense review should be undertaken.

49. The source concludes that Mr. Salehi’s deprivation of liberty resulted from the exercise of his right to freedom of expression, in violation of article 19 of the Universal Declaration of Human Rights and article 19 of the Covenant.

50. In relation to category III, the source recalls that, on all three occasions when Mr. Salehi was arrested, he was not presented with a warrant and was not informed at the time of his arrest of the reasons for his arrest. Moreover, the two arrests that were conducted when he was at liberty, namely those of 30 October 2022 and 30 November 2023, were violent and therefore not in accordance with the law. After the first arrest, on 30 October 2022, Mr. Salehi was not informed of the charges against him until 27 November 2022. After the second arrest, on 30 November 2023, Mr. Salehi was not informed of the charges against him until 1 January 2024.

51. Furthermore, the source reiterates that during all arrests and periods of detention, Mr. Salehi was unable to communicate with his family or his lawyer for a prolonged period. During his detention beginning on 30 October 2022, Mr. Salehi was unable to communicate with his family for 38 days and unable to contact a lawyer for 60 days; during the second detention, beginning on 30 November 2023, Mr. Salehi was unable to contact his family or his lawyer until 4 December 2023.

52. The source concludes that the authorities violated article 5 of the Universal Declaration of Human Rights and principles 15, 16 (1) and 19 of the Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment. Mr. Salehi’s right to a fair trial was therefore violated.

53. The source recalls that Mr. Salehi has been denied the right to habeas corpus, in violation of article 8 of the Universal Declaration of Human Rights, articles 2 (3) and 9 (3) and (4) of the Covenant and principles 11 (1), 32 (1) and 37 of the Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment. The generally accepted deadline for prompt appearance before a judge is 48 hours.<sup>13</sup>

54. Mr. Salehi was arrested on 30 October 2022 but did not appear before a court until his trial before the Revolutionary Court of Isfahan, on 18 June 2023. Similarly, Mr. Salehi was rearrested on 30 November 2023 and did not appear before a court until 1 January 2024. On each of these occasions, when Mr. Salehi was detained, he was denied access to his lawyer and, consequently, any opportunity to challenge his detention.

55. According to the source, the third occasion on which he was charged, in July 2024, follows this familiar pattern. Although he was informed of the charges against him on 10 July 2024, at the time of the communication he had reportedly not yet appeared before a judicial authority and had been denied his right to challenge his detention.

56. Mr. Salehi has been denied the right to legal assistance and adequate time and facilities for the preparation of his defence, in violation of article 11 (1) of the Universal Declaration of Human Rights and article 14 (3) (b) of the Covenant, as well as principles 15 and 17 of the Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment and principle 7 of the Basic Principles on the Role of Lawyers.

57. After his arrest on 30 October 2022, Mr. Salehi was not informed of his right to a lawyer and was denied access to a lawyer, which allegedly enabled his torture while detained.

<sup>12</sup> Opinion No. 62/2012, para. 39.

<sup>13</sup> Basic Principles on the Role of Lawyers, principle 7.

Mr. Salehi was given access to his lawyer on 18 June 2023, 30 minutes before his trial before Branch 1 of the Revolutionary Court of Isfahan, leaving no time to prepare for his defence or for his lawyer to explain the charges against him.

58. After his arrest on 30 November 2023, Mr. Salehi was again denied access to his lawyer. While his lawyer has had more access to Mr. Salehi's case files during this second period of detention, his communication with Mr. Salehi is still sporadic. Mr. Salehi and his lawyer were not adequately informed of the trial of 1 January 2024 before Branch 1 of the Revolutionary Court of Isfahan and could not attend the hearing. Mr. Salehi's lawyer still has access to only one of the four volumes of his client's case file. These failures reportedly deprived Mr. Salehi of adequate time and facilities to prepare for his defence.

59. As for the charges laid against Mr. Salehi in July 2024, Mr. Salehi has again been denied effective access to his lawyers. Throughout his time in detention, Mr. Salehi has been unable to communicate directly with his lawyers. He has been able to communicate with them only through telephone calls with his family. Mr. Salehi's communications with his family are subject to regular disruptions, including earlier in July 2024, when he was refused any calls, which has also had an impact on his ability to communicate with his lawyers.

60. The source further notes that Mr. Salehi has been subjected to torture and other cruel, inhuman or degrading treatment, prolonged solitary confinement and inhuman interrogation methods, in violation of article 5 of the Universal Declaration of Human Rights, article 7 of the Covenant, principles 1 and 6 of the Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment and rules 43 and 44 of the United Nations Standard Minimum Rules for the Treatment of Prisoners (the Nelson Mandela Rules).

61. According to the source, Mr. Salehi was held incommunicado for 38 days during his first period of detention. In addition, during his second period of detention Mr. Salehi was held incommunicado for three days, from 30 November to 2 December 2023, when he was transferred to Isfahan Central Prison. During the first period of detention, Mr. Salehi's limbs were broken and he was given adrenalin to keep him awake to sustain more torture.

62. After Mr. Salehi was arrested on 30 October 2022, he was reportedly held incommunicado without the opportunity to communicate with his family for 38 days or his lawyer for 60 days. He was held in solitary confinement for 252 days, greatly exceeding the 15-day limit established by rules 43 and 44 of the Nelson Mandela Rules. During that time, he was subjected to torture designed to elicit a false confession. In a YouTube video he posted online after his release on 18 November 2023, Mr. Salehi described his prolonged torture and how his interrogators had broken his arm and leg. The officials released a video of Mr. Salehi's confession, which arguably had been doctored. Mr. Salehi was also subjected to torture: reports indicate that he was shot in the foot and that his face and eyes were severely damaged.

63. Furthermore, in the context of category III, the source submits that Mr. Salehi has been denied his right to a fair and public trial before an independent court.

64. In relation to his first arrest, Mr. Salehi's trial before Branch 1 of the Revolutionary Court of Isfahan, held from 18 June to 3 July 2023, was conducted behind closed doors. Regarding the second arrest, Mr. Salehi's trial, held on 1 January 2024, was carried out without notifying him or his lawyer.

65. According to the source, the judge who presided over Mr. Salehi's case in Branch 1 of the Revolutionary Court of Isfahan is not impartial. He has reportedly been sanctioned by the European Union and by Canada and the United Kingdom for alleged human rights violations. It is further reported that the judge has been at Branch 1 of the Revolutionary Court of Isfahan since 2011, and that he has previously sentenced to death protestors who participated in the 2022 nationwide protests on charges of "enmity against God". Moreover, in November 2022, United Nations experts stated that the Islamic Revolutionary Courts "have been used for years to sentence political activists, journalists, lawyers and human rights defenders through grossly unfair summary trials".<sup>14</sup> The experts also stated that the judicial

<sup>14</sup> Office of the United Nations High Commissioner for Human Rights, "Iran: stop sentencing peaceful protestors to death, say UN experts", press release, 11 November 2022.

system “relies heavily on forced confessions extracted through torture and other forms of coercion and duress to prove guilt”.<sup>15</sup>

66. The source submits that by trying Mr. Salehi before courts that are not independent and impartial, the authorities have violated article 10 of the Universal Declaration of Human Rights, article 14 (1) of the Covenant and principle 36 (1) of the Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment.

67. In relation to category III, the source maintains that there has been a denial of the right to trial within a reasonable time frame and without undue delay. According to the source, while Mr. Salehi should not have been arrested or charged in the first place, he was detained without trial for 231 days before his first trial began: he was arrested on 30 October 2022 and did not appear before a court until 18 June 2023.

68. By not promptly trying Mr. Salehi after all of his arrests, the authorities have reportedly violated articles 9 (3) and 14 (3) (c) of the Covenant and principle 38 of the Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment. Mr. Salehi is now purportedly being detained on the basis of two new sets of charges. The new charges were contrived following a partially favourable Supreme Court decision and the possibility of Mr. Salehi’s release on bail. If the new charges relate to a song that was released in March 2024, it is unclear to the source why officials waited to act until July 2024, days before the reconsideration of his case by the Revolutionary Court following the Supreme Court decision.

69. Lastly, in relation to category V, the source maintains that Mr. Salehi has been discriminated against because of the political opinions he has expressed through his profession as a rapper. His songs are critical of the authorities and reportedly call for human rights and democracy. In 2021, Mr. Salehi was detained for another song, “Mouse Hole”. During the protests of 2022, he was again detained and since then has allegedly been subjected to judicial harassment. He was targeted because of his political opinions and because he had called for people to join him in the protests. The source submits that the authorities consistently target outspoken human rights defenders and dissidents. This has been noted in previous jurisprudence of the Working Group, wherein the Working Group stated that it had noticed the pattern that had emerged in the treatment by Iranian officials of the subject of the opinion on account of her work as a human rights defender.<sup>16</sup>

70. The source maintains that the reasons for Mr. Salehi’s deprivation of liberty, his treatment and the nature of the courts that convicted him indicate that he was targeted and discriminated against because of his human rights activism. It states that by discriminating against Mr. Salehi, the authorities have violated articles 2 and 7 of the Universal Declaration of Human Rights, articles 2 (1) and 26 of the Covenant and principle 5 (1) of the Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment.

#### **(b) Response from the Government**

71. On 30 July 2024, the Working Group transmitted the allegations from the source to the Government under its regular communications procedure. The Working Group requested the Government to provide, by 30 September 2024, detailed information about the current situation of Mr. Salehi. The Working Group also requested the Government to clarify the legal provisions justifying his detention, as well as their compatibility with the obligations of the Government of the Islamic Republic of Iran under international human rights law and, in particular, with regard to the treaties ratified by the State. Moreover, the Working Group called upon the Government to ensure Mr. Salehi’s physical and mental integrity.

72. The Government submitted its response on 2 October 2024, which was after the deadline. The Government did not request an extension of the time limit for its reply, as is provided for in the Working Group’s methods of work. Consequently, the Working Group cannot accept the reply as if it had been presented within the time limit.

<sup>15</sup> Ibid.

<sup>16</sup> Opinion No. 48/2017, para. 49.

## 2. Discussion

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

74. In determining whether Mr. Salehi's detention is arbitrary, the Working Group has regard to the principles established in its jurisprudence to deal with evidentiary issues. If the source has established a *prima facie* case for breach of international law constituting arbitrary detention, the burden of proof should be understood to rest upon the Government if it wishes to refute the allegations.<sup>17</sup> In the present case, the Government has chosen not to challenge in a timely fashion the *prima facie* credible allegations made by the source.

75. The source has argued that Mr. Salehi's detention is arbitrary and falls under categories I, II, III and V of the Working Group. The Working Group will proceed to examine the submissions under each of the categories in turn.

### (a) Category I

76. According to the information provided by the source, during his arrests on 30 October 2022 and 30 November 2023, Mr. Salehi was not informed of the reasons for his arrest, nor did the authorities present an arrest or search warrant.

77. The Working Group recalls that article 9 (2) of the Covenant provides that anyone who is arrested is to be informed, at the time of arrest, of the reasons for the arrest and is to be promptly informed of any charges against them. The Working Group has previously stated that in order for a deprivation of liberty to have a legal basis, it is not sufficient that there is a law that may authorize the arrest. The authorities must invoke that legal basis and apply it to the circumstances of the case.<sup>18</sup> This is typically done through an arrest warrant or arrest order (or equivalent document).<sup>19</sup> The reasons for arrest must be provided immediately upon arrest and must include not only the general legal basis of the arrest, but also enough factual specifics to indicate the substance of the complaint, such as the wrongful act and the identity of an alleged victim.<sup>20</sup>

78. In the absence of any information to the contrary, the Working Group finds that Mr. Salehi was arrested without a warrant and that no reasons for his detention were given by the detaining authority. The Working Group therefore concludes that there has been a breach of article 9 (1) and (2) of the Covenant.

79. The Working Group further notes the uncontested submissions by the source that Mr. Salehi was held at an unknown location and prevented from any contact with the outside world during at least his first 38 days in detention. He was further held incommunicado for three days after his second arrest. This amounted to enforced disappearance in breach of article 9 (1) of the Covenant. Enforced disappearances are prohibited by international law and constitute a particularly aggravated form of arbitrary detention.<sup>21</sup> Preventing Mr. Salehi from notifying his family of his whereabouts and the authorities' failure to inform his family of his whereabouts is a violation of principle 19 of the Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment.

80. The Working Group further notes that Mr. Salehi was not brought promptly before a judge, within 48 hours of his arrest, in accordance with the international standard, as required

<sup>17</sup> A/HRC/19/57, para. 68.

<sup>18</sup> Opinions No. 9/2019, para. 29; No. 46/2019, para. 51; and No. 59/2019, para. 46.

<sup>19</sup> Human Rights Committee, general comment No. 35 (2014), para. 23; and opinions No. 88/2017, para. 27; No. 3/2018, para. 43; and No. 30/2018, para. 39. See also art. 14 (1) of the Arab Charter on Human Rights. In cases of arrests made in *flagrante delicto*, the opportunity to obtain a warrant will typically not be available.

<sup>20</sup> Human Rights Committee, general comment No. 35 (2014), para. 25; opinion No. 30/2017, paras. 58 and 59; and opinion No. 85/2021, para. 69.

<sup>21</sup> Human Rights Committee, general comment No. 35 (2014), para. 17. See also opinions No. 5/2020, No. 6/2020, No. 11/2020, No. 13/2020, No. 77/2020, No. 25/2021, No. 38/2021, No. 20/2023 and No. 36/2023.

by article 9 (3) of the Covenant.<sup>22</sup> This was not denied by the Government in its late reply. The Working Group thus finds that this provision was violated in the present case.<sup>23</sup>

81. Furthermore, the Working Group considers that Mr. Salehi had the right to appear in person at hearings held to review the legality of his detention. As the Human Rights Committee has stated, the physical presence of detainees at hearings might serve the inquiry into the lawfulness of detention and serves as a safeguard for the right to security of person.<sup>24</sup> This right, as submitted by the source and not refuted by the Government, was denied to Mr. Salehi, in breach of article 9 (4) of the Covenant.

82. Accordingly, the Working Group considers that the arrests and detention of Mr. Salehi were arbitrary under category I.

**(b) Category II**

83. The source argues that Mr. Salehi's deprivation of liberty qualifies as arbitrary under category II because it stems from his legitimate exercise of freedom of expression. Mr. Salehi's activities – releasing music in support of protestors, advocating democracy and human rights on social media, and sharing his experiences of torture after detention – are protected forms of expression. His detentions, according to the source, were in direct response to these acts, through which he criticized government actions and called for reform.

84. In examining the present case, 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.<sup>25</sup> In these cases, findings have been made about the arbitrary deprivation of 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. Furthermore, in his report of February 2024, the Special Rapporteur on the situation of human rights in the Islamic Republic of Iran noted that increasing limitations had been placed upon the rights to freedom of opinion and expression, affecting various groups, including journalists, artists and human rights defenders.<sup>26</sup>

85. The Working Group recalls that, under article 19 (3) of the Covenant, any restriction imposed on the right to freedom of expression must satisfy three requirements, namely the restriction must be provided by law, be designed to achieve a legitimate aim (i.e. the protection of national security, public order, public health or morals) and be imposed in accordance with the requirements of necessity and proportionality.<sup>27</sup>

86. The Working Group considers that Mr. Salehi's prosecution and conviction fail to satisfy the above-mentioned requirements. In order for a legislative provision to be characterized as a "law" within the meaning of article 19 (3) of the Covenant, it must be formulated with sufficient precision to enable an individual to regulate his or her conduct accordingly.<sup>28</sup> It appears that the charges of "propaganda against the State", "insulting sacred values and spreading falsehoods" or "corruption on Earth" are impermissibly vague and

<sup>22</sup> See, for example, opinions No. 57/2016, paras. 110 and 111; No. 1/2018, para. 60; No. 2/2018, para. 49; No. 20/2018, paras. 64 and 69; No. 83/2018, para. 47; No. 11/2019, para. 66; No. 26/2019, para. 89; No. 30/2019, para. 30; No. 36/2019, para. 36; No. 42/2019, para. 49; No. 51/2019, para. 59; No. 56/2019, para. 80; No. 76/2019, para. 38; and No. 82/2019, para. 76. See also Human Rights Committee, general comment No. 35 (2014), para. 33.

<sup>23</sup> Opinions No. 14/2015, para. 28; No. 5/2020, para. 72; No. 41/2020, para. 60; and No. 52/2023, para. 60; and [A/HRC/45/16/Add.1](#), para. 35.

<sup>24</sup> Human Rights Committee, general comment No. 35 (2014), paras. 34 and 42. See also principles 32 (2) and 37 of the Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment.

<sup>25</sup> See, for example, opinions No. 20/2022, No. 46/2022, No. 54/2022, No. 82/2022 and No. 21/2023.

<sup>26</sup> [A/HRC/55/62](#), para. 28.

<sup>27</sup> Human Rights Committee, general comment No. 34 (2011), paras. 21–36.

<sup>28</sup> *Ibid.*, para. 25.

overly broad and thus incompatible with article 19 (3) of the Covenant, as was also noted by the Special Rapporteur.<sup>29</sup>

87. In its late reply, the Government has provided no specific information as to how Mr. Salehi presented a threat to any of the legitimate interests enumerated in article 19 (3) of the Covenant. Concerning the proportionality of interference, the Working Group refers to the findings of the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression in his research report on artistic freedom of expression, in which he recalled that article 19 (2) of the Covenant expressly provides that the right includes expression “in the form of art”, and that, as such, artistic work product should be considered to constitute protected opinion not subject to interference.<sup>30</sup> Mr. Salehi was persecuted primarily for his music, songs and social media posts, as they represent his exercise of free expression in support of human rights, democracy and social justice, and in particular for his song “Divination”, released following Jina Mahsa Amini’s death, his song “Typhus” and further social media posts, in which he challenged systemic issues in the Islamic Republic of Iran. As stipulated by the Human Rights Council in its resolution 12/16, the following types of expression should never be subject to restrictions: (a) discussion of government policies and political debate; (b) reporting on human rights, government activities and corruption in government; (c) engaging in election campaigns, peaceful demonstrations or political activities, including for peace or democracy; and (d) expression of opinion and dissent.<sup>31</sup>

88. The Working Group considers that article 19 of the Covenant encompasses artistic freedom, allowing individuals to engage in the public sharing of cultural, political and social information and ideas of all types. This means that artists – by creating, performing, distributing or displaying their works – play a vital role in the exchange of ideas and viewpoints that underpins a democratic society. Therefore, any restriction on an artist’s, or anyone’s, right to employ this expressive form must be reviewed with particular scrutiny.

89. In the present case, as the source submits, the use of the above-mentioned charges in response to Mr. Salehi’s artistic expressions of dissent underscores the excessive and punitive nature of the Government’s actions. Mr. Salehi’s repeated detentions and prosecutions are disproportionate measures and cannot be justified as the least intrusive means of achieving any legitimate protective purpose. Furthermore, article 19 (3) of the Covenant should not serve as a tool for Governments to silence advocates of democracy and human rights. The Working Group reiterates its stance, as held in numerous similar cases,<sup>32</sup> that any form of retaliation against individuals, including arbitrary detention, for exercising their freedom of opinion or expression is fundamentally incompatible with article 19 of the Covenant.

90. The Working Group concludes that Mr. Salehi’s detention resulted from the peaceful exercise of his right to freedom of opinion and expression and was contrary to article 19 of the Universal Declaration of Human Rights and article 19 of the Covenant. For these reasons, the Working Group finds that it is arbitrary under category II.

### (c) **Category III**

91. The source has alleged that several violations of Mr. Salehi’s right to due process amount to an arbitrary deprivation of liberty that qualifies it as falling under category III. Given its finding that the deprivation of liberty of Mr. Salehi is arbitrary under category II, the Working Group wishes to emphasize that no trial should have been held. Nevertheless, given that a trial was held and that proceedings are still pending, the Working Group will proceed with an examination of the source’s submissions concerning the denial of fair trial rights.

92. Firstly, the source alleges that Mr. Salehi’s right to have access to counsel was violated, as he did not have access to his lawyer for the first 60 days of his detention and his further communications with his lawyer were sporadic and not in person but through telephone conversations. According to principle 2 of the Basic Principles on the Role of

<sup>29</sup> A/HRC/55/62, para. 10.

<sup>30</sup> A/HRC/44/49/Add.2, paras. 4 and 12.

<sup>31</sup> See also A/HRC/14/23, para. 81 (i).

<sup>32</sup> See, among many others, recent opinions No. 78/2022 and No. 22/2023.

Lawyers, a detainee should have effective access to counsel at the earliest appropriate time. The Working Group considers that this principle is fundamentally related to the principle of equality of arms, as enshrined in article 2 of the Universal Declaration of Human Rights. Moreover, non-impeded legal assistance was crucial for Mr. Salehi, who was facing the irreversible sentence of death, in order to ensure that all his rights were respected, every argument was heard and every avenue of fairness was explored in the pursuit of justice. As recalled by the Human Rights Committee in its general comment No. 36 (2019), and in accordance with principle 3 of the United Nations Principles and Guidelines on Access to Legal Aid in Criminal Justice Systems, States should ensure that anyone who is detained, arrested, suspected of or charged with a criminal offence punishable by a term of imprisonment or the death penalty is entitled to legal aid at all stages of the criminal justice process. This principle was not respected in the present case.

93. In addition, the Working Group recalls that article 14 (3) (b) of the Covenant guarantees the right of all persons charged with a criminal offence to have adequate time and facilities for the preparation of their defence and to communicate with counsel of their own choosing. In the present case, the Working Group finds that Mr. Salehi's right to legal counsel at a critical stage of the criminal proceedings was violated. It also finds that the absence of a lawyer at a critical stage of the criminal proceedings exposed Mr. Salehi to a risk of coercion.

94. The Working Group is further concerned that Mr. Salehi, when granted access to his lawyer, communicated with him via telephone, which did not guarantee confidentiality. It reiterates that respect for lawyer-client confidentiality is an important part of the defence rights. The right of a defendant to have private discussions with their legal counsel, without surveillance, constitutes one of the fundamental aspects of a fair trial. If a lawyer is incapable of conferring with his or her client and obtaining confidential instructions, the legal assistance significantly loses its purpose. In this respect, the Human Rights Committee has stressed that counsel should be able to meet their clients in private and to communicate with the accused in conditions that fully respect the confidentiality of their communications, and furthermore, lawyers should be able to advise persons charged with a criminal offence, without restrictions, influence, pressure or undue interference from any quarter.<sup>33</sup> The Working Group therefore concludes that Mr. Salehi's right guaranteed by article 14 (3) (b) of the Covenant was violated.

95. The Working Group expresses its gravest concern about the un rebutted allegations of the torture of Mr. Salehi, which appear to constitute violations of articles 5 and 25 (1) of the Universal Declaration of Human Rights and article 7 and 10 (1) of the Covenant. According to the information from the source, Mr. Salehi was subjected to torture during his arrest and the period of his enforced disappearance. In the Working Group's view, not only is torture a grave violation of human rights per se, but it also undermines the ability of persons to defend themselves and hinders their exercise of the right to a fair trial, especially in the light of the right to be presumed innocent under article 14 (2) of the Covenant. The Working Group further notes that the use of confessions extracted through ill-treatment that is tantamount if not equivalent to torture is a breach of article 14 (3) (g) of the Covenant and may also constitute a violation of the State's obligations under article 15 of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.<sup>34</sup> Furthermore, the Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment specifically prohibits taking undue advantage of the situation of detention to compel confession or incriminating statements.

96. The source submits that the presiding judge in the case against Mr. Salehi had been sanctioned by the European Union and by Canada and the United Kingdom for alleged human rights violations. The Working Group has already found in a different case that this fact in itself creates a strong presumption that an individual has not been tried by an independent and impartial tribunal.<sup>35</sup> In this respect, it notes that Mr. Salehi was tried by a Revolutionary Court, the continuing operation of which was criticized by the Special Rapporteur on the situation of human rights in the Islamic Republic of Iran, who noted that such courts have

<sup>33</sup> Human Rights Committee, general comment No. 32 (2007), para. 34.

<sup>34</sup> Ibid., para. 49.

<sup>35</sup> Opinion No. 3/2024, para. 98.

consistently violated fundamental human rights, including due process rights and the right to a fair trial, and are responsible for issuing the vast majority of death penalty sentences, including thousands of summary and arbitrary executions.<sup>36</sup> Further noting the Special Rapporteur's finding about "the absence of an independent judiciary, its consistent politicization, particularly through the use of the revolutionary courts",<sup>37</sup> given the submissions of the source, and in the absence of any submission by the Government to the contrary, the Working Group concludes that Mr. Salehi was not tried by an independent and impartial tribunal, contrary to article 10 of the Universal Declaration of Human Rights and article 14 (1) of the Covenant.

97. Finally, article 14 (1) of the Covenant provides that, in the determination of any criminal charge, "everyone shall be entitled to a fair and public hearing". Article 10 of the Universal Declaration of Human Rights similarly guarantees the right to a public hearing. As the Human Rights Committee explained in its general comment No. 32 (2007): "The publicity of hearings ensures the transparency of proceedings and thus provides an important safeguard for the interest of the individual and of society at large."<sup>38</sup> Although the right to a public hearing is not absolute, it may be restricted only "for reasons of morals, public order (*ordre public*) or national security in a democratic society, or when the interest of the private lives of the parties so requires, or to the extent strictly necessary in the opinion of the court in special circumstances where publicity would be prejudicial to the interests of justice", and, in the absence of such exceptional circumstances, "a hearing must be open to the general public, including members of the media", without entrance being limited to a select group of people.<sup>39</sup>

98. It is alleged by the source that the authorities closed Mr. Salehi's trial to the public and the media in violation of the above-mentioned provisions. Given that no explanation for these restrictions was provided by the Government in its late response, the Working Group finds that the hearing of Mr. Salehi's case behind closed doors violated his rights under article 10 of the Universal Declaration of Human Rights and article 14 (1) of the Covenant. Accordingly, the Working Group finds that the violations of Mr. Salehi's right to due process were of such gravity as to give his detention an arbitrary character under category III.

**(d) Category V**

99. The source submits that the present case joins a series of cases concerning outspoken human rights defenders and dissidents in the Islamic Republic of Iran and that Mr. Salehi has been discriminated against because of the political opinions that he expressed through his occupation as a rapper, in violation of articles 2 and 7 of the Universal Declaration of Human Rights and articles 2 (1) and 26 of the Covenant.

100. In its findings under category II, the Working Group has concluded that Mr. Salehi's detention resulted from his legitimate exercise of freedom of expression. When a detention results from the active exercise of civil and political rights, there is a strong presumption that the detention also constitutes a violation of international law on the grounds of discrimination on the basis of political or other views. Accordingly, the Working Group will examine the allegations under category V.

101. The Working Group recalls several non-cumulative indicators that serve to establish the discriminatory nature of detention on the basis of actual or perceived political opinion. These include the following: (a) the deprivation of liberty was part of a pattern of persecution against the detained person, including, for example, through previous detention; (b) other persons with similarly distinguishing characteristics have also been persecuted; or (c) the context suggests that the authorities have detained a person on discriminatory grounds or to prevent them from exercising their human rights.<sup>40</sup>

<sup>36</sup> A/HRC/55/62, para. 69.

<sup>37</sup> Ibid., para. 88.

<sup>38</sup> Human Rights Committee, general comment No. 32 (2007), para. 28.

<sup>39</sup> Ibid., para 29.

<sup>40</sup> A/HRC/36/37, para. 48.

102. With regard to the above-mentioned non-cumulative indicators, the Working Group relies on the submissions of the source that the detention of those who criticize the Government constitutes State retaliation against them for their opinions and constitutes politically motivated persecution. In his 2019 report on the situation of human rights in the Islamic Republic of Iran, the Secretary-General urged the Government to ensure that human rights defenders and lawyers, journalists, writers, labour rights activists and environmentalists could perform their roles safely and freely, without fear of harassment, arrest, detention and prosecution; and to release all those detained for legitimately and peacefully exercising their freedoms of opinion and expression.<sup>41</sup> Furthermore, in the 2024 report of the Special Rapporteur on the situation of human rights in the Islamic Republic of Iran, the Special Rapporteur observed that the arrest and detention of human rights defenders was extremely distressing, that the Iranian authorities continued to repress and target human rights defenders and that increasing limitations had been placed upon the rights to freedom of opinion and expression, affecting various groups, including journalists, artists and human rights defenders.<sup>42</sup>

103. The Working Group thus observes a clear, discriminatory pattern of attitude displayed by the Iranian authorities towards Mr. Salehi on the basis of his political opinion and of him acting as an artist expressing opposing views. Noting all of the above and especially its findings under category II, the Working Group finds that the arrest and detention of Mr. Salehi was based on discrimination resulting from his political opinion and his status as a dissenting artist, in violation of article 26 of the Covenant. His detention is therefore arbitrary under category V.

**(e) Concluding remarks**

104. The present case is one of a number of cases brought before the Working Group in recent years concerning arbitrary deprivation of liberty in the Islamic Republic of Iran.<sup>43</sup> The Working Group is concerned that this indicates widespread or systemic arbitrary detention in the country, which amounts to a serious violation of international law. The duty to comply with international human rights standards rests with all State organs, officers and agents. The Working Group recalls that, under certain circumstances, widespread or systematic imprisonment or other severe deprivation of liberty in violation of the rules of international law may constitute crimes against humanity.<sup>44</sup> It refers the present case to the Special Rapporteur on the situation of human rights in the Islamic Republic of Iran, for appropriate action.

105. The Working Group would welcome the opportunity to work constructively with the Government to address arbitrary deprivation of liberty in the Islamic Republic of Iran. Given that a significant period of time has passed since its most recent country visit to the Islamic Republic of Iran, in February 2003, the Working Group considers that it is now an appropriate time to conduct another visit. The Working Group made a request to the Government on 19 July 2019 to conduct a country visit. The Working Group recalls that the Government issued a standing invitation on 24 July 2002 to all thematic special procedure mandate holders and awaits a positive response to its request to visit.

<sup>41</sup> [A/74/273](#), paras. 27, 28 and 79.

<sup>42</sup> [A/HRC/55/62](#), paras. 2, 28 and 47.

<sup>43</sup> See, for example, opinions No. 18/2013, No. 28/2013, No. 52/2013, No. 55/2013, No. 16/2015, No. 44/2015, No. 1/2016, No. 2/2016, No. 25/2016, No. 28/2016, No. 50/2016, No. 7/2017, No. 9/2017, No. 48/2017, No. 49/2017, No. 92/2017, No. 19/2018, No. 52/2018, No. 83/2018, No. 32/2019, No. 33/2019, No. 20/2022, No. 46/2022, No. 54/2022, No. 82/2022, No. 21/2023 and No. 37/2023.

<sup>44</sup> [A/HRC/13/42](#), para. 30. See also opinions No. 1/2011, para. 21; No. 37/2011, para. 15; No. 38/2011, para. 16; No. 39/2011, para. 17; No. 4/2012, para. 26; No. 38/2012, para. 33; No. 47/2012, paras. 19 and 22; No. 50/2012, para. 27; No. 60/2012, para. 21; No. 9/2013, para. 40; No. 34/2013, paras. 31, 33 and 35; No. 35/2013, paras. 33, 35 and 37; No. 36/2013, paras. 32, 34 and 36; No. 48/2013, para. 14; No. 22/2014, para. 25; No. 27/2014, para. 32; No. 34/2014, para. 34; No. 35/2014, para. 19; No. 36/2014, para. 21; No. 44/2016, para. 37; No. 60/2016, para. 27; No. 32/2017, para. 40; No. 33/2017, para. 102; No. 36/2017, para. 110; No. 51/2017, para. 57; and No. 56/2017, para. 72.

### 3. Disposition

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

The deprivation of liberty of Toomaj Salehi, being in contravention of articles 2, 3, 7, 9, 10 and 19 of the Universal Declaration of Human Rights and articles 7, 9, 14, 19 and 26 of the International Covenant on Civil and Political Rights, is arbitrary and falls within categories I, II, III and V.

107. The Working Group requests the Government of the Islamic Republic of Iran to take the steps necessary to remedy the situation of Mr. Salehi without delay and bring it into conformity with the relevant international norms, including those set out in the Universal Declaration of Human Rights and the International Covenant on Civil and Political Rights.

108. The Working Group considers that, taking into account all the circumstances of the case, the appropriate remedy would be to release Mr. Salehi immediately and accord him an enforceable right to compensation and other reparations, in accordance with international law.

109. The Working Group urges the Government to ensure a full and independent investigation of the circumstances surrounding the arbitrary deprivation of liberty of Mr. Salehi and to take appropriate measures against those responsible for the violation of his rights.

110. In accordance with paragraph 33 (a) of its methods of work, the Working Group refers the present case to the Special Rapporteur on the situation of human rights in the Islamic Republic of Iran, for appropriate action.

111. The Working Group requests the Government to disseminate the present opinion through all available means and as widely as possible.

### 4. Follow-up procedure

112. In accordance with paragraph 20 of its methods of work, the Working Group requests the source and the Government to provide it with information on action taken in follow-up to the recommendations made in the present opinion, including:

- (a) Whether Mr. Salehi has been released unconditionally and, if so, on what date;
- (b) Whether compensation or other reparations have been made to Mr. Salehi;
- (c) Whether an investigation has been conducted into the violation of Mr. Salehi's rights and, if so, the outcome of the investigation;
- (d) Whether any legislative amendments or changes in practice have been made to harmonize the laws and practices of the Islamic Republic of Iran with its international obligations in line with the present opinion;
- (e) Whether any other action has been taken to implement the present opinion.

113. The Government is invited to inform the Working Group of any difficulties it may have encountered in implementing the recommendations made in the present opinion and whether further technical assistance is required, for example through a visit by the Working Group.

114. The Working Group requests the source and the Government to provide the above-mentioned information within six months of the date of transmission of the present opinion. However, the Working Group reserves the right to take its own action in follow-up to the opinion if new concerns in relation to the case are brought to its attention. Such action would enable the Working Group to inform the Human Rights Council of progress made in implementing its recommendations, as well as of any failure to take action.

115. The Working Group recalls that the Human Rights Council has encouraged all States to cooperate with the Working Group and has requested them to take account of its views and, where necessary, to take appropriate steps to remedy the situation of persons arbitrarily deprived of their liberty, and to inform the Working Group of the steps they have taken.<sup>45</sup>

*[Adopted on 11 November 2024]*

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<sup>45</sup> Human Rights Council resolution 51/8, paras. 6 and 9.