



Independent International Fact-Finding Mission on the Islamic Republic of Iran

Terms of Reference

1. The Independent International Fact-Finding Mission on the Islamic Republic of Iran (hereafter “the Fact-Finding Mission”) was created through [resolution S-35/1](#) of the United Nations Human Rights Council, adopted on 24 November 2022.

I. Mandate

2. In Resolution S-35/1, paragraph 7, the Human Rights Council decided “to establish an independent international fact-finding mission, until the end of the fifty-fifth session of the Human Rights Council, to be appointed by the President of the Council”.
3. Resolution S-35/1, paragraph 7, mandates the Fact-Finding Mission to:
 - (a) Thoroughly and independently investigate alleged human rights violations in the Islamic Republic of Iran related to the protests that began on 16 September 2022, especially with respect to women and children;
 - (b) Establish the facts and circumstances surrounding the alleged violations;
 - (c) Collect, consolidate and analyse evidence of such violations and preserve evidence, including in view of cooperation in any legal proceedings;
 - (d) Engage with all relevant stakeholders, including the Government of the Islamic Republic of Iran, the Office of the United Nations High Commissioner for Human Rights, the Special Rapporteur on the situation of human rights in the Islamic Republic of Iran, relevant United Nations entities, human rights organizations and civil society.
4. Further, in paragraph 8 of the resolution, the Human Rights Council “requests the independent international fact-finding mission to present an oral update to the Human Rights Council during an interactive dialogue at its fifty-third session and to present to the Council a comprehensive report on its findings during an interactive dialogue at its fifty-fifth session”.

5. Following consultations, and taking into account, where applicable, the practices of comparable mandates, the members of the Fact-Finding Mission have interpreted the scope and application of their mandate as follows:

A. Temporal scope

6. Resolution S-35/1, paragraph 7 specifies that the Fact-Finding Mission is mandated to investigate alleged human rights violations in the Islamic Republic of Iran “related to the protests that began on 16 September 2022”. The resolution further mandates the Fact-Finding Mission to establish “the facts and circumstances surrounding the alleged violations”. Investigations conducted by the Fact-Finding Mission may thus include any facts and circumstances provided that they relate to the protests that began on 16 September 2022.

B. Geographic scope

7. Resolution S-35/1 lays out the geographic scope of the Fact-Finding Mission to investigate alleged human rights violations “in the Islamic Republic of Iran” related to the protests that began on 16 September 2022. The Fact-Finding Mission thus shall investigate any such alleged human rights violations that occurred in the territory of the Islamic Republic of Iran and establish the facts and circumstances surrounding such allegations.

C. Material scope

8. Resolution S-35/1, paragraph 7 provides for the mandate to investigate “alleged human rights violations” in the Islamic Republic of Iran “related to the protests that began on 16 September 2022, especially with respect to women and children” and “to establish the facts and circumstances surrounding” such alleged violations.
9. The resolution thus refers to all human rights violations by state agents or entities, who are covered by international and national law, including violations that may amount, under certain circumstances, to a crime under international law.
10. Based on Resolution S-35/1, the Fact-Finding Mission may investigate, but is not limited to, allegations regarding human rights violations related to the protest such as unnecessary and disproportionate use of force, extrajudicial killings and other forms of arbitrary deprivation of life, torture and cruel, inhuman and degrading treatment and punishment, sexual and gender-based violence, arbitrary arrest and detention, enforced disappearances, violations of fair trial and due process rights, undue restrictions to the rights to freedom of opinion and expression, to freedom of thought, conscience and religion, of peaceful assembly and to freedom of association, as well as prohibited discrimination under international human rights law. The Fact-Finding Mission may

also examine alleged violations of economic, social and cultural rights, as they pertain to the protests that began on 16 September 2022.

11. As part of its mandate to establish the facts and circumstances surrounding alleged violations of human rights related to the protests, the Fact-Finding Mission may examine, *inter alia*, discriminatory laws, policies and practices that affect all aspects of the lives of women and girls, underpin violations and exacerbate their impact on specific groups in the population. The Fact-Finding Mission shall address the human rights violations perpetrated against, and affecting women and children, conduct a gender and child sensitive analysis of the human rights violations examined and assess the impact on women and children and the gendered dimensions of such violations. Adopting an intersectional approach, it shall pay special attention to discrimination on grounds of age, sex, gender, sexual orientation, gender identity, disability, socio-economic status, religion and ethnicity, as well as against members of minorities. Particular attention shall be given to alleged violations of the rights of groups that have faced discrimination, exclusion and marginalization and the nature and extent of the impact and effect of such violations.
12. When investigating alleged violations and establishing surrounding facts and circumstances, the Fact-Finding Mission may also analyse patterns of impunity, identify individuals and entities responsible for alleged violations and establish facts regarding their responsibility.
13. In fulfilment of this mandate, the Fact-Finding Mission shall collect, consolidate, analyse and preserve information and evidence of violations. It shall do so taking into account a gender and child competent approach, and both a victim-centred and intersectional approach, examining how multiple forms of discrimination affect victims of human rights violations.
14. As part of the mandate on collection, consistent with relevant standards and methodology, the Fact-Finding Mission shall seek access to and collect information and evidence, including interviews, witness testimony, documentation and other relevant material. It shall engage with a range of stakeholders to collect material relevant to its investigations, including the Government of the Islamic Republic of Iran, the Office of the United Nations High Commissioner for Human Rights, the Special Rapporteur on the situation of human rights in the Islamic Republic of Iran and other relevant United Nations mandates, United Nations entities, civil society organizations and other relevant stakeholders. When collecting information and evidence, the Fact-Finding Mission shall obtain and record the informed consent of the provider on use and sharing.
15. As part of the mandate on consolidation, the Fact-Finding Mission shall organize, assess and structure, as applicable, the information and evidence in its possession, including with a view to facilitating cooperation in any legal proceedings consistent with international standards, whether at national, regional or international levels.
16. As part of the mandate on preservation, the Fact-Finding Mission shall apply all due guarantees in preserving, handling and storing information and the evidence it gathers,

including all due guarantees of security and confidentiality and respect for the privileges and immunities of the United Nations, and ensure, to the maximum extent possible, uninterrupted chain of custody, as necessary for the implementation of its mandate.

17. The Fact-Finding Mission shall conduct the collection, consolidation, analysis and preservation of information and evidence in view of possible cooperation with any legal proceedings. Such cooperation may include sharing of relevant information and evidence, in accordance with international law standards, with relevant competent national, regional or international courts, tribunals, or investigative, prosecutorial or judicial authorities, that have or may in the future have jurisdiction over violations within the mandate of the Fact-Finding Mission, along with other legal processes, as appropriate and deemed competent.
18. Such sharing of information and evidence shall take into account United Nations rules, regulations and policies, and relevant international law, as well as good practices of other comparable international mandates.
19. In considering the sharing of information and evidence, the Fact-Finding Mission shall, among other factors, consider and respect the scope of consent expressed by sources, the confidentiality of the information and evidence and the rights of victims and witnesses, alongside other factors applicable to sensitive information held by the United Nations. It will assess any protection and other relevant risks and concerns that may arise from the use of such information and evidence, applying gender and child competent, and victim-centred approaches.
20. Furthermore, information and evidence may be shared only with authorities and bodies, acting in accordance with international law standards, that credibly ensure and demonstrate that any use of the information and evidence will be in accordance with international human rights law and standards, *inter alia*, the right to a fair trial and the rights of victims and witness protection. Consistent with United Nations policy, the Fact-Finding Mission will not share information and evidence for use in criminal proceedings in which capital punishment could be imposed or carried out.
21. In fulfilment of its mandate to engage with all relevant stakeholders, the Fact-Finding Mission shall proactively work with such stakeholders, in particular with victims and survivors, and their representatives and advocates, to enable and facilitate their informed participation in the relevant work of the Fact-Finding Mission, including in relation to developing any recommendations on accountability measures.
22. The Fact-Finding Mission may include in its oral update to the Human Rights Council during an interactive dialogue at its fifty-third session and in the comprehensive report on its findings to the Council during an interactive dialogue at its fifty-fifth session recommendations to the Islamic Republic of Iran on measures for prevention, protection, and reparation and on addressing impunity. These may consist of, *inter alia*, legal and policy measures, and measures ensuring accountability and the victims' right

to justice, truth and reparations. Recommendations may also comprise measures to be taken by other United Nations Member States, international organisations, multilateral institutions, and the private sector to increase the respect and protection of human rights, to promote equality, truth, and justice and to support the design and implementation of reparations.

23. The Fact-Finding Mission may conduct other activities within its mandate, as appropriate, and may determine priorities within the material scope of its mandate, including by taking into account, *inter alia*, the gravity of allegations, and their emblematic nature, as well as investigative opportunities and challenges, new developments, and consultations.

II. Composition

24. On 20 December 2022, the President of the Human Rights Council appointed three independent and impartial experts to guide the implementation of mandate activities: Sara Hossain (Bangladesh), Chair of the Fact-Finding Mission; Shaheen Sardar Ali (Pakistan); and Viviana Krsticevic (Argentina).
25. The Secretariat of the Fact-Finding Mission is composed of personnel with specific expertise in the areas encompassed by the mandate, including with respect to substantive international human rights, in particular victims', gender, women's and child rights, as well as technical investigative experience, along with relevant support staff. Staff of the Fact-Finding Mission shall be recruited with due regard to geographical diversity, gender and regional expertise, in accordance with standards applicable to the United Nations Secretariat. The Secretariat is based in Geneva.

III. Cooperation

26. Resolution S-35/1, Paragraph 9 calls upon the Government of the Islamic Republic of Iran to cooperate fully with the Fact-Finding Mission, to grant unhindered access to the country without any delay and to provide the members of the Fact-Finding Mission with all information necessary to allow for the proper fulfilment of their mandate. The Government of the Islamic Republic of Iran should provide information, including in relation to any alleged violations, on addressing protection concerns, and on ensuring victims' rights to truth, justice and reparations. The Fact-Finding Mission shall engage with the Government of the Islamic Republic of Iran on prevention, protection and accountability. In its reporting to the Human Rights Council, the Fact-Finding Mission shall report on the cooperation received from the Government of the Islamic Republic of Iran.
27. In the delivery of its mandate, the Fact-Finding Mission expects to receive full cooperation of all United Nations Member States, departments, bodies and entities and all other relevant national and international institutions and stakeholders, including, as applicable, with respect to providing information, addressing protection concerns, and

ensuring victims' rights to truth, justice and reparations. The Fact-Finding Mission shall seek to visit any country it believes would be useful for the successful conduct of its investigations.

IV. Applicable law

28. International human rights law will constitute the law applicable to the mandate. In particular, the Islamic Republic of Iran has ratified the International Covenant on Civil and Political Rights; the International Covenant on Economic, Social and Cultural Rights; the Convention on the Rights of the Child; the International Convention on the Elimination of All Forms of Racial Discrimination; and the Convention on the Rights of Persons with Disabilities.
29. Under international human rights law, States have the duty to respect, protect and fulfil human rights in their territory and jurisdiction, and are responsible for any violations committed by their organs or agents. Inherent in these duties is the obligation to prevent, investigate and punish the perpetration of violations, including by non-State actors, and to ensure that victims have accessible and effective remedies. Further, under international law, under certain circumstances, acts by non-State actors are attributable to a State and thus raise the responsibility of the State.
30. The Fact-Finding Mission shall also consider other obligations by the Islamic Republic of Iran and other States under international law where relevant. In doing so, the Fact-Finding Mission shall apply international treaty and customary law, including in relation to crimes under international law, as appropriate.
31. The Fact-Finding Mission will also consider analysis of domestic legislation, where applicable and related to its mandate.

V. Standard of proof

32. Consistent with the general guidance and practice of investigative bodies established by the Human Rights Council, the Fact-Finding Mission shall apply the standard of proof of "reasonable grounds". This means that findings will refer to human rights violations where the "reasonable grounds" standard of proof has been met, namely where, based on a body of verified information, an objective and ordinary prudent observer would have reasonable grounds to conclude that the facts took place as described and, where legal conclusions are drawn, that these facts meet all the elements of a human rights violation and, as applicable, of crimes under international law.

VI. Standards and methods of work

33. In pursuance of this mandate, and consistent with the applicable legal framework, the Fact-Finding Mission shall act with professionalism, independence, integrity and impartiality in considering any allegations of violations of human rights in the Islamic Republic of Iran related to the protests that began on 16 September 2022 against any person and in particular against women and children.
34. Procedures of the Fact-Finding Mission will be based on the highest possible standards, consistent with the Charter of the United Nations, United Nations rules, regulations, policies and good practices, relevant international law and standards, including human rights law. These procedures will be victim-centred, duly sensitive to considerations of sex, gender, age, religion, ethnicity, disability and other grounds of prohibited discrimination under international human rights law, take an intersectional approach and be respectful of the “do no harm” principle. Above all, the working methods and investigations of the Fact-Finding Mission shall be guided by the need to preserve the security and protection of victims, witnesses and other sources of information and evidence.
35. The Fact-Finding Mission shall integrate a gender perspective into all of its working methods and throughout its investigations and ensure that women’s views are reflected in its work and findings. Equally, it shall ensure that its working methods and its investigations integrate the perspective of children, respect their best interests, and aim at upholding their safety, well-being and a comprehensive protection against risks of harm. In furtherance of the particular focus on children, violations that specifically targeted children, and those primarily affecting children will be looked into throughout the investigation. The Fact-Finding Mission shall conduct a gender and child sensitive analysis of the allegations of human rights violations examined and assess the impact on women and children respectively and the gendered dimensions of such violations.
36. The Fact-Finding Mission shall take very seriously any allegations of harassment, intimidation, reprisals or threats against witnesses, victims and other sources or of any interference with the process of investigation. In cases of intimidation and reprisals against those seeking to cooperate or having cooperated with the Fact-Finding Mission, the latter shall actively engage with Member States on such acts, as relevant, and denounce these acts publicly, as well as report them to the Secretary-General within their mandate pursuant to the Human Rights Council Resolution 12/2 and to the Council directly.