

PART I: FACT PATTERN/BACKGROUND

Abbas Lesani, 57 years of age, is a Shia Azeri ethnic rights activist currently imprisoned in Ardabil prison in Ardabil province facing a 10 year prison sentence. On 15 January 2019 Lesani was convicted of “propaganda against the system” (Article 500 of the Islamic Penal Code), “founding or leading an illegal organization” (Article 498 of the Islamic Penal Code) and “assembly and collusion against national security” (Article 601 of the Islamic Penal Code) by the Tabriz Revolutionary Court. Lesani -- who is of Turkish/Azeri background -- is a significant figure in the movement for increased rights for the Azeri ethnic minority in Iran and has been arrested and imprisoned several times over the last decade.

BACKGROUND

Lesani was a grocer in the city of Ardabil, 373 miles northwest of Tehran. Lesani’s peaceful activism for Azeri rights and calls for minimum self-determination rights for Azeri-Iranians has made him a target of the security agencies of the Islamic Republic of Iran (IRI), who accuse him of alleged “secessionist” activity.¹ Turkish-speaking Iranians, including Azeris, constitute one of the largest ethnic minority populations in Iran.² Approximately 16-25% of Iran’s population are Turkish speaking and live mostly in East/West Azerbaijan, Ardabil and Zanjan provinces.³ For the past four decades the Iranian government has consistently applied discriminatory policies when it comes to the political, civil, cultural/linguistic rights of ethnic minorities in the country.⁴

In Iran, ethnic Azeris continued to face retaliation for a brief experiment with independence after World War II. Azerbaijani Turkish languages have since been banned in schools and activists persecuted under unfair charges, while being deprived of legal representation.

2011: ARRESTS AND PROSECUTION

Lesani was first arrested and temporarily detained in 2006 for taking part in cultural ceremonies and ethnic rights protests in years prior. He was arrested twice in 2011. After his arrest on 25 May 2011 -- for mounting protests about the drying of Lake Urmia in Azerbaijan province -- Lesani was convicted of three charges including “propagating against the system” and served 55 days in custody. His second 2011 arrest led to one year of imprisonment for “propaganda against the system”, starting on 9 September 2011.

2012: ARRESTS AND PROSECUTION

In 2012 Lesani faced temporary detention (without being charged) after being arrested for taking part in the anniversary marking the death of an Azeri ethnic rights activist.

¹ “Iranian Azeri Rights Activist on Trial for Advocating Mother Language” CENTER FOR HUMAN RIGHTS IN IRAN, (14 April 2017), <https://www.iranhumanrights.org/2017/04/iranian-azeri-rights-activist-on-trial-for-advocating-mother-language/>

² “Iran’s Intelligence Ministry Slaps Azeri Rights Activist With New Charges, Claim He’s Organizing Protests from Prison” CENTER FOR HUMAN RIGHTS IN IRAN, (8 March 2019), <https://iranhumanrights.org/2019/03/irans-intelligence-ministry-slaps-azeri-rights-activist-with-new-charges-claim-hes-organizing-protests-from-prison/>

³ “Iran’s Intelligence Ministry Slaps Azeri Rights Activist With New Charges, Claim He’s Organizing Protests from Prison” CENTER FOR HUMAN RIGHTS IN IRAN, (8 March 2019), <https://iranhumanrights.org/2019/03/irans-intelligence-ministry-slaps-azeri-rights-activist-with-new-charges-claim-hes-organizing-protests-from-prison/>

⁴ UN Human Rights Council, *Report of the Special Rapporteur on the situation of human rights in the Islamic Republic of Iran*, 30 January 2019, A/HRC/40/67, available at: <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G19/021/61/PDF/G1902161.pdf?OpenElement>

2014: ARRESTS AND PROSECUTION

In 2014, Lesani was again imprisoned, this time for two weeks on the charge of “founding or leading an illegal organization”. He was released after posting bond.

2015: TRIAL, FIRST HUNGER STRIKE, EXILE

Beginning on 18 March 2015, Lesani was tried by Branch 1 of Ardabil Revolutionary Court presided over by Judge Asadpour.⁵ Lesani did not participate in any of the three court hearings, and he was sentenced to one year in prison on the charge of “propagating against the system” (Article 500 of the Islamic Penal Code), and given a one year suspended prison term.⁶

Lesani started his first hunger strike in custody on 9 September 2015 to protest inadequate prison resources and abusive prison conditions. At the time, he was serving his one year sentence, which began on 22 July 2015. On 13 November 2015 he was exiled from Ardabil prison to Shiraz prison (the provinces are 1037 kilometers apart) without any prior notice. No such order for exile was present in his file. This transfer meant that Lesani’s family could no longer visit him due to the almost 16 hour drive required.

2016: FAMILY PRESSURE, MORE CHARGES, SECOND HUNGER STRIKE

At the beginning of 2016, Lesani was still in exile in Shiraz prison.⁷

On 3 February 2016, it was reported that Lesani’s wife, Roghie Alizadeh, was summoned to Ardabil Revolutionary Court via telephone.⁸

On 24 February 2016 Lesani began his second hunger strike to protest being transferred to the “Edification Ward” of Shiraz Prison. The Edification Ward is a small ward with harsh conditions for prisoners, including no yard, no telephone and no outside visits -- prisoners are sent here for punishment. He ended his hunger strike on 29 February after being transferred to Ward 2 of Shiraz prison, where he was allowed to call family members.

On 10 May 2016, while still in prison, it was reported that a new case was opened against Lesani on charges of “propaganda against the system”, and bail was set for him in the amount of 15 million tomans. According to HRANA, on 15 May 2016, Lesani’s new case was sent to the First Branch of the Ardabil Revolutionary Court, and Judge Khodadadi refused bail and issued a warrant for him. Because of the new case file, on 18 May 2016, Lesani was not released from prison despite serving his sentence. The next day, 12 other Turkish ethnic activist prisoners went on hunger strike to protest the new case against Lesani and demanded that he be released from prison. On 25 May 2016, Lesani was freed from prison by posting a 15 million toman bail.

According to HRANA, on 3 November 2016, Lesani was summoned to the First Branch of Ardabil Judiciary on behalf of the Meshginshahr Revolutionary court. On 7 November 2016, the

⁵ Iran Prison Atlas, UNITED 4 IRAN, <https://ipa.united4iran.org/en/prisoner/2082/>

⁶ Iran Prison Atlas, UNITED 4 IRAN, <https://ipa.united4iran.org/en/prisoner/2082/>

⁷ Iran Prison Atlas, UNITED 4 IRAN, <https://ipa.united4iran.org/en/prisoner/2082/>

⁸ Iran Prison Atlas, UNITED 4 IRAN, <https://ipa.united4iran.org/en/prisoner/2082/>

Meshginshahr Revolutionary court charged Lesani with "propaganda against the system" for giving a speech at his friend Aydin Zakeri's wedding. Zakir is also an Azeri rights activist. According to Lesani, Lesani was arrested for giving a speech "hoping for an end to discrimination" and "the realization of the rights of all".⁹

Because Lesani refused to post the bail of ten million Tomans, officers arrested him and took him to Meshginshahr prison. According to Guney News, Lesani posted the 10 million toman bail a few days later, on 10 November 2016, and was temporarily released.

2017: TRIAL, NEW CHARGES

From 17 January 2017 to 21 February 2017, Lesani was held in solitary confinement.¹⁰

On 7 March 2017, Lesani had a court hearing in the First Branch of Meshginshahr Revolutionary court.¹¹ According to HRANA, Lesani once again presented his defense in the Turkish language, but unlike the last court session, the judge did not bar him from doing so.¹² According to this report, Aydin Zakeri, the other accused, was cleared of the charges against him. Lesani was eventually acquitted of all charges.¹³

Lesani was given an additional charge on 12 April 2017 of "forming and running opposition groups to disturb national security", to be tried before the Ahar Revolutionary court.¹⁴ The charge was based on Lesani taking part in celebration of International Mother Tongue Day in 2013, which was broken up by the police.¹⁵ The trial was not held due to procedural reasons, on the objection that the investigation was sent to Branch Three of Tabriz Court.¹⁶ Civic activists argued that sending the case to a jurisdiction outside the defendant's residence is illegal, and they will only comply with Ahar court summons.¹⁷

On 29 May 2017, the Meshginshahr Revolutionary court summoned Lesani to court.¹⁸ Lesani refused to comply with the summons, on the reasoning that this did not comply with the law.¹⁹

On 18 July 2017, according to Araznews, the first branch of Ardabil Appeals court, with judicial counselors Mir Farrokh Bashiri and Abolfazl Esmaili, acquitted Lesani of all charges.²⁰

2018: ARRESTS AND PROSECUTION

⁹ "Iranian Azeri Rights Activist on Trial for Advocating Mother Language" CENTER FOR HUMAN RIGHTS IN IRAN, (14 April 2017), <https://www.iranhumanrights.org/2017/04/iranian-azeri-rights-activist-on-trial-for-advocating-mother-language/>

¹⁰ Iran Prison Atlas, UNITED 4 IRAN, <https://ipa.united4iran.org/en/prisoner/2082/>

¹¹ Iran Prison Atlas, UNITED 4 IRAN, <https://ipa.united4iran.org/en/prisoner/2082/>

¹² Iran Prison Atlas, UNITED 4 IRAN, <https://ipa.united4iran.org/en/prisoner/2082/>

¹³ Iran Prison Atlas, UNITED 4 IRAN, <https://ipa.united4iran.org/en/prisoner/2082/>

¹⁴ Iran Prison Atlas, UNITED 4 IRAN, <https://ipa.united4iran.org/en/prisoner/2082/>

¹⁵ Iran Prison Atlas, UNITED 4 IRAN, <https://ipa.united4iran.org/en/prisoner/2082/>

¹⁶ Iran Prison Atlas, UNITED 4 IRAN, <https://ipa.united4iran.org/en/prisoner/2082/>

¹⁷ Iran Prison Atlas, UNITED 4 IRAN, <https://ipa.united4iran.org/en/prisoner/2082/>

¹⁸ Iran Prison Atlas, UNITED 4 IRAN, <https://ipa.united4iran.org/en/prisoner/2082/>

¹⁹ Iran Prison Atlas, UNITED 4 IRAN, <https://ipa.united4iran.org/en/prisoner/2082/>

²⁰ Iran Prison Atlas, UNITED 4 IRAN, <https://ipa.united4iran.org/en/prisoner/2082/>

Lesani was arrested twice in 2018.²¹ He was arrested on 2 July 2018 and released on bail nearly two weeks later on 14 July 2018.²² He was then arrested later in the year for a ten month prison sentence that was given in absentia.²³ The sentence was for “propaganda against the system” (Article 500 of the Islamic Penal Code) and given by Tabriz Revolutionary Court.²⁴

On 11 December 2018, Lesani told HRANA that his family has been facing intimidation as a tactic in pressuring him to stop any activism from within prison.²⁵ Such intimidation included a sealed notice being delivered to his son’s shop and his son-in-law being fired from his job for reasons of “conscience”.²⁶

2019: ARRESTS, PROSECUTION, THIRD HUNGER STRIKE

Lesani was also arrested on 15 January 2019.²⁷ On 8 July 2019 he was sentenced to 10 years imprisonment, with two of those ten years to be served “in exile” -- meaning in a different town than his hometown in Iran.²⁸ He was sentenced by Branch 2 of Tabriz Revolutionary Court and Branch 1 of Ardabil Revolutionary Court.²⁹ The charges included “founding or leading an illegal organization” (Article 498 of the Islamic Penal Code), “propaganda against the system” (Article 500 of the Islamic Penal Code), “assembly and collusion against national security” (Article 610 of the Islamic Penal Code).³⁰ Additional charges included “inciting people to armed struggle”, “forming an illegal organization”, “assembly and collusion against national security” and “propaganda against the state”.³¹

The main reason he was initially charged was based on Lesani speaking at the funeral of a prominent Azeri musician, Hassan Damirchi.³² His arrest by the Iranian authorities then led to public uprisings after his arrest which were attributed to him, leading to additional charges.³³

There were many public protests following Lesani’s 2019 arrest, with the public calling for his freedom.³⁴ Protests mainly occurred in Ardabil and Tabriz provinces, where the majority of the Azeri-Iranian population is located.³⁵ The Intelligence Ministry held Lesani directly responsible for these protests and as a result opened another case against him with several more serious charges.³⁶ On 2 October 2019 Lesani’s sentence was increased to 15 years by the appeals court.³⁷ It should be noted that through the application of Article 134 of the IRI’s Islamic Penal Code --

²¹ Iran Prison Atlas, UNITED 4 IRAN, <https://ipa.united4iran.org/en/prisoner/2082/>

²² Iran Prison Atlas, UNITED 4 IRAN, <https://ipa.united4iran.org/en/prisoner/2082/>

²³ Iran Prison Atlas, UNITED 4 IRAN, <https://ipa.united4iran.org/en/prisoner/2082/>

²⁴ Iran Prison Atlas, UNITED 4 IRAN, <https://ipa.united4iran.org/en/prisoner/2082/>

²⁵ Iran Prison Atlas, UNITED 4 IRAN, <https://ipa.united4iran.org/en/prisoner/2082/>

²⁶ Iran Prison Atlas, UNITED 4 IRAN, <https://ipa.united4iran.org/en/prisoner/2082/>

²⁷ Iran Prison Atlas, UNITED 4 IRAN, <https://ipa.united4iran.org/en/prisoner/2082/>

²⁸ Iran Prison Atlas, UNITED 4 IRAN, <https://ipa.united4iran.org/en/prisoner/2082/>

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³⁰ Iran Prison Atlas, UNITED 4 IRAN, <https://ipa.united4iran.org/en/prisoner/2082/>

³¹ Iran Prison Atlas, UNITED 4 IRAN, <https://ipa.united4iran.org/en/prisoner/2082/>

³² “Iran’s Intelligence Ministry Slaps Azeri Rights Activist With New Charges, Claim He’s Organizing Protests from Prison” CENTER FOR HUMAN RIGHTS IN IRAN, (8 March 2019),

<https://iranhumanrights.org/2019/03/irans-intelligence-ministry-slaps-azeri-rights-activist-with-new-charges-claim-hes-organizing-protests-from-prison/>

³³ Iran Prison Atlas, UNITED 4 IRAN, <https://ipa.united4iran.org/en/prisoner/2082/>

³⁴ Iran Prison Atlas, UNITED 4 IRAN, <https://ipa.united4iran.org/en/prisoner/2082/>

³⁵ Iran Prison Atlas, UNITED 4 IRAN, <https://ipa.united4iran.org/en/prisoner/2082/>

³⁶ Iran Prison Atlas, UNITED 4 IRAN, <https://ipa.united4iran.org/en/prisoner/2082/>

³⁷ Iran Prison Atlas, UNITED 4 IRAN, <https://ipa.united4iran.org/en/prisoner/2082/>

which holds that the charge with the highest penalty will be the operative sentence -- only ten years of Lesani's sentence is enforceable.³⁸

On 27 May 2019, Lesani commenced his third hunger strike, in protest to the authorities' refusal to give him access to his case file summary. After 19 days, he ended up conditionally ending his hunger strike following his second court hearing.

On 15 August 2019 Lesani was transferred to an out-of-prison medical center for treatment for severe stomach pain. The doctor attributed his physical deterioration to repeated hunger strikes.

2020: PANDEMIC, CASE AGAINST LAWYER, CONFIRMATION OF SENTENCE

On 3 March 2020, Lesani's lawyer, Mohammad Reza Faghihi, was acquitted by the Ardabil Appeals Court for a case involving the lawyer's prior publication of the verdict in Lesani's case.³⁹ Faghihi had previously been sentenced to six months in prison by a public court on the charge of "disclosing and publishing classified documents of the judiciary by sharing the contents of the case with Abbas Lesani".⁴⁰

On 29 March 2020, amid the Covid-19 pandemic, Lesani issued a letter from prison asking for the release of all political prisoners, prisoners of conscience and petty criminals.⁴¹ He noted that the authorities would be responsible for any adverse health consequences, if they did not act in time.⁴²

On 4 July 2020, Lesani's ten year prison sentence was confirmed by the Supreme Court.⁴³

PART II: INTERNATIONAL LEGAL ANALYSIS

The Islamic Republic of Iran (IRI) committed multiple violations of international human rights law against Lesani, primarily through its attempt to repress his peaceful expression of his cultural identity and linguistic rights.

Iran's Constitution provides for equality of all Iranians before the law. However, this is not the reality in practice, and was not applied to Lesani as it relates to his legitimate, peaceful expression of his cultural identity and linguistic rights.

The IRI's national security legal framework is used to target lawful activities of Azeri-Iranian cultural activists and other ethnic minority activists. First, the laws are so vague and overbroad, that almost any type of activism or expression can be criminalized. Second, the IRI authorities apply the laws to Azeri-Iranian cultural activists like Lesani and other ethnic minority activists in

³⁸ Iran Prison Atlas, UNITED 4 IRAN, <https://ipa.united4iran.org/en/prisoner/2082/>

³⁹ Iran Prison Atlas, UNITED 4 IRAN, <https://ipa.united4iran.org/en/prisoner/2082/>

⁴⁰ Iran Prison Atlas, UNITED 4 IRAN, <https://ipa.united4iran.org/en/prisoner/2082/>

⁴¹ Iran Prison Atlas, UNITED 4 IRAN, <https://ipa.united4iran.org/en/prisoner/2082/>

⁴² Iran Prison Atlas, UNITED 4 IRAN, <https://ipa.united4iran.org/en/prisoner/2082/>

⁴³ Iran Prison Atlas, UNITED 4 IRAN, <https://ipa.united4iran.org/en/prisoner/2082/>

a way that undermines fundamental rights relating to the freedom of expression, assembly and association, freedom of the press and the umbrella of due process protections, including lawful arrests and detentions, defined charges and access to counsel.

A discussion of violations of Lesani's substantive rights and procedural rights under international human rights law follows below, in particular under the International Covenant on Civil and Political Rights (ICCPR) and International Covenant on Economic, Social and Cultural Rights (ICESCR). Iran is a state party to the ICCPR and ICESCR and bound by its provisions.⁴⁴ Iran is also a state party to the Convention on the Elimination of Racial Discrimination (CERD). In addition, Article 9 of Iran's Civil Code establishes that all international treaties ratified by the country have the same force of law as Parliamentary legislation. The IRI authorities are required to uphold and promote the rights of people belonging to minorities and take steps towards eliminating discrimination.

VIOLATIONS OF SUBSTANTIVE RIGHTS

THE IRANIAN AUTHORITIES' PERSECUTION OF LESANI VIOLATES HIS FUNDAMENTAL RIGHT TO EXERCISE HIS CULTURAL AND LINGUISTIC IDENTITY

Under international human rights law, including the provisions of the ICCPR and ICESCR that Iran is a signatory to, there are strong protections for the rights of cultural and linguistic minorities within a state.

Article 27 of the ICCPR provides:

“In those States in which ethnic, religious or linguistic minorities exist, persons belonging to such minorities shall not be denied the right, in community with the other members of their group, to enjoy their own culture, to profess and practise their own religion, or to use their own language.”⁴⁵

The Human Rights Committee is the body created by the treaty charged with producing authoritative interpretations and explanations of the ICCPR and ICESCR. These interpretations and explanations are called General Comments.

General Comment 23 notes that the minority rights conferred by Article 27 of the ICCPR should be distinguished from other language rights protected under the ICCPR, including the general right to freedom of expression protected under Article 19, which is “available to all persons, irrespective of whether they belong to minorities or not”.⁴⁶ The Committee also distinguishes the

⁴⁴ Iran ratified the ICCPR and ICESCR on 24 June 1975.

⁴⁵ International Covenant on Civil and Political Rights, Art. 27, 16 December 1966, S. Exec. Rep. 102-23, 999 U.N.T.S. 171, available at <http://www.ohchr.org/en/professionalinterest/pages/ccpr.aspx>.

⁴⁶ UN Human Rights Committee (HRC), *CCPR General Comment No. 23: Article 27 (Rights of Minorities)*, paragraph 5.3, 8 April 1994, CCPR/C/21/Rev.1/Add.5, available at: <https://www.refworld.org/docid/453883fc0.html>

right guaranteed by ICCPR Article 14.3(f) which mandates language interpretation for accused persons when they cannot understand or speak the language used in the courts, and clarifies that “Article 14.3 (f) does not, in any other circumstances, confer on accused persons the right to use or speak the language of their choice in court proceedings”.⁴⁷

General Comment 23 further explains that ICCPR Article 27 requires “positive measures of protection” by the state if “necessary” to “protect the identity of a minority and the rights of its members to enjoy and develop their culture and language”.⁴⁸

Article 15.1(a) of the ICESCR provides that the state must “recognize the right of everyone... to take part in cultural life”.⁴⁹

General Comment 21 on Article 15 of the ICESCR provides:

“In the Committee’s view, article 15, paragraph 1 (a) of the Covenant also includes the right of minorities and of persons belonging to minorities to take part in the cultural life of society, and also to conserve, promote and develop their own culture. This right entails the obligation of States parties to recognize, respect and protect minority cultures as an essential component of the identity of the States themselves. Consequently, minorities have the right to their cultural diversity, traditions, customs, religion, forms of education, languages, communication media (press, radio, television, Internet) and other manifestations of their cultural identity and membership.”⁵⁰

General Comment 21 also provides the “core obligations” a state must follow to comply with its duties per ICESCR Article 15. The Committee prescribed that Article 15.1(a), among other duties, creates an obligation of the state to:

- “(a) To take legislative and any other necessary steps to guarantee nondiscrimination and gender equality in the enjoyment of the right of everyone to take part in cultural life;
- (b) To respect the right of everyone to identify or not identify themselves with one or more communities, and the right to change their choice;
- (c) To respect and protect the right of everyone to engage in their own cultural practices, while respecting human rights which entails, in particular, respecting [...] a person’s right to use the language of his or her choice; freedom of association and peaceful assembly

⁴⁷ UN Human Rights Committee (HRC), *CCPR General Comment No. 23: Article 27 (Rights of Minorities)*, paragraph 5.3, 8 April 1994, CCPR/C/21/Rev.1/Add.5, available at: <https://www.refworld.org/docid/453883fc0.html>

⁴⁸ UN Human Rights Committee (HRC), *CCPR General Comment No. 23: Article 27 (Rights of Minorities)*, paragraph 6.1, 8 April 1994, CCPR/C/21/Rev.1/Add.5, available at: <https://www.refworld.org/docid/453883fc0.html>

⁴⁹ International Covenant on Economic, Social and Cultural Rights, Art. 15, 16 December 1966, available at <https://www.ohchr.org/en/professionalinterest/pages/cescr.aspx>

⁵⁰ UN Committee on Economic, Social and Cultural Rights (CESCR), *General comment no. 21, Right of everyone to take part in cultural life (art. 15, para. 1a of the Covenant on Economic, Social and Cultural Rights)*, 21 December 2009, E/C.12/GC/21, available at: <https://www.refworld.org/docid/4ed35bae2.html>

(d) To eliminate any barriers or obstacles that inhibit or restrict a person's access to the person's own culture or to other cultures, without discrimination and without consideration for frontiers of any kind;

(e) To allow and encourage the participation of persons belonging to minority groups, indigenous peoples or to other communities in the design and implementation of laws and policies that affect them..."⁵¹

The IRI authorities' systematic and targeted harassment of Lesani for his efforts to exercise his cultural and linguistic rights as an Azeri-Iranian and to advocate for the rights of others clearly violates Iran's obligations under the ICCPR and ICESCR, stated *supra*.

Under the IRI's own laws, including in its Constitution, the rights of ethnic, cultural and linguistic minorities must be respected.

Article 15 of the IRI's Constitution states: "The official language and script of Iran, the lingua franca of its people, is Persian. Official documents, correspondence, and texts, as well as textbooks, must be in this language and script. However, the use of regional and tribal languages in the press and mass media, as well as for the teaching of their literature in schools, is allowed in addition to Persian." Article 19 of the Constitution ensures equal rights for all citizens regardless of ethnic or linguistic identity.

Despite this, problems remain with enforcement of these linguistic rights. Persian remains the sole legal language of instruction in K-12 and college education -- there is a state-imposed ban on Azeri-Turkish being taught along with the official Persian language in schools. Ethnic minorities, including Azerbaijani Turks and others, face entrenched discrimination.

Lesani is clearly the target of such discrimination, in violation of international human rights law. The IRI authorities have repeatedly brought national security charges against Lesani for more than a decade, primarily for peaceful activities including: 1) challenging the state-imposed ban on Azeri-Turkish being taught in schools, 2) generally advocating for state recognition of the Azeri-Turkish language, 3) marking International Mother Tongue Day with peaceful celebrations and just generally raising awareness of and challenging other discriminatory policies against the Azeri-Iranian population.

General Comment 23 also provides that the cultural rights that ICCPR Article 27 protects can manifest in different ways, including:

"... a particular way of life associated with the use of land resources, especially in the case of indigenous peoples. That right may include such traditional activities as fishing or hunting and the right to live in reserves protected by law. The enjoyment of those rights

⁵¹ UN Committee on Economic, Social and Cultural Rights (CESCR), *General comment no. 21, Right of everyone to take part in cultural life (art. 15, para. 1a of the Covenant on Economic, Social and Cultural Rights)*, paragraph 55, 21 December 2009, E/C.12/GC/21, available at: <https://www.refworld.org/docid/4ed35bae2.html>

may require positive legal measures of protection and measures to ensure the effective participation of members of minority communities in decisions which affect them.”⁵²

Lesani’s 2011 arrest for mounting protests about the drying of Lake Urmia in Azerbaijan province is in clear violation of this guidance from the Committee. Lake Urmia -- a key feature of the landscape for the Azeri-Iranian community living in Azerbaijan province in Iran -- dried up due to water mismanagement by the IRI. Lesani’s organization and participation in peaceful protests concerning the state’s mismanagement in handling of a natural resource key to Lesani’s cultural community is an activity not only protected by the right to freedom of assembly contained in Article 21 of the ICCPR (see below) but it also involved cultural rights protected by ICCPR Article 27.

All of Lesani’s activities to promote his cultural and linguistic identity and to protect the rights of others to enjoy their own culture or use their own language without restriction by the state, is protected by international human rights law as it is entirely peaceful. However, far from protecting this activity as it is required to do, the IRI is actually the main factor in suppression, by characterizing the activities of Lesani and other cultural activists as activities of opposition groups intent on overthrowing the state. The characterization of Lesani’s activities as national security concerns and the criminalization of his advocacy is in clear violation of Article 27 of the ICCPR and Article 15 of the ICESCR, which Iran is bound by.

THE IRANIAN AUTHORITIES’ ARREST, CONVICTION AND IMPRISONMENT OF LESANI VIOLATES HIS FUNDAMENTAL RIGHT TO FREEDOM OF ASSEMBLY AND ASSOCIATION

Lesani’s prosecutions and convictions for “assembly and collusion against national security”, “founding or leading an illegal organization” and “propaganda against the system” are based in part on his association with the National Movement of Azerbaijan and his participation in peaceful protests and other events to challenge discrimination against Azeri-Iranians -- which are activities protected under international human rights law.

Therefore, the IRI authorities violated Lesani’s right to freedom of assembly and association as guaranteed by Article 21 and Article 22 of the ICCPR.

Article 21 of the ICCPR states:

“The right of peaceful assembly shall be recognized. No restrictions may be placed on the exercise of this right other than those imposed in conformity with the law and which are necessary in a democratic society in the interests of national security or public safety, public order (*ordre public*), the protection of public health or morals or the protection of the rights and freedoms of others.”⁵³

⁵² UN Human Rights Committee (HRC), *CCPR General Comment No. 23: Article 27 (Rights of Minorities)*, paragraph 7, 8 April 1994, CCPR/C/21/Rev.1/Add.5, available at: <https://www.refworld.org/docid/453883fc0.html>

⁵³ International Covenant on Civil and Political Rights, Art. 21, Dec. 16, 1966, S. Exec. Rep. 102-23, 999 U.N.T.S. 171, available at <http://www.ohchr.org/en/professionalinterest/pages/ccpr.aspx>.

Article 22.1 of the ICCPR states:

“Everyone shall have the right to freedom of association with others [...]”⁵⁴

Article 22.2 qualifies the rights set forth in Article 22.1 in the following way:

“No restrictions may be placed on the exercise of this right other than those which are prescribed by law and which are necessary in a democratic society in the interests of national security or public safety, public order (*ordre public*), the protection of public health or morals or the protection of the rights and freedoms of others. [...]”⁵⁵

While the rights under Articles 21 and 22 are not absolute, any limitations on those rights must be “prescribed by law” and should be reasonably clear so that an individual understands how their conduct may contravene the limitations imposed by the State.

In general, the statutes passed by the IRI parliament, establish a pattern of disregard for the right to peaceful assembly and freedom of association. The wording of pertinent statutes, such as relevant provisions of the Islamic Penal Code and the 1981 Law on the Activities of Political Parties, Groups, Political and Trade Associations, Islamic Associations and Recognized Religious Minorities, is often too broad. Any action or association, for instance, may be deemed as contrary to the interests of the IRI, or even Islam as a religion. This leads to a lack of clarity for those bound by the IRI’s laws since the resulting restrictions on peaceful assembly and freedom of association are arbitrary and unpredictable, and are subject to varying interpretations by the authorities.

Compounding this problem is the manner in which the IRI’s intelligence apparatus and the IRI judiciary apply the law and treat activists. Not only are the laws themselves in violation of Articles 21 and 22, but the authorities also regularly ride roughshod over any existing protections that could be read into the law. This especially holds true in the treatment of ethnic activists, like Lesani, who are often accused of “secessionist” activities -- even when false.

The case of Lesani follows the same pattern. For example, Lesani’s participation in International Mother Tongue Day in 2013 was the basis on which IRI authorities charged him more than four years later in 2017 with “forming and running opposition groups to disturb national security”. There is no indication that Lesani’s participation to mark the day -- an internationally recognized day -- was in any way a threat to the Iranian state, yet it was criminalized as such. Additionally, in the indictment against him, the charge of “founding or leading an illegal organization” is only supported by the allegations that he was seen with different people -- there is no other proof. The evidence advanced for this charge appears to be criminalizing Lesani’s associations, in violation of ICCPR Article 22.

⁵⁴ International Covenant on Civil and Political Rights, Art. 22.1, Dec. 16, 1966, S. Exec. Rep. 102-23, 999 U.N.T.S. 171, *available at* <http://www.ohchr.org/en/professionalinterest/pages/ccpr.aspx>.

⁵⁵ International Covenant on Civil and Political Rights, Art. 22.2, Dec. 16, 1966, S. Exec. Rep. 102-23, 999 U.N.T.S. 171, *available at* <http://www.ohchr.org/en/professionalinterest/pages/ccpr.aspx>.

THE IRANIAN AUTHORITIES' DETENTION OF LESANI IS ARBITRARY AND VIOLATES IRAN'S INTERNATIONAL LEGAL OBLIGATIONS

ICCPR Article 9.1 prohibits states from engaging in “arbitrary detention”. It provides:

Everyone has the right to liberty and security of person. No one shall be subjected to arbitrary arrest or detention. No one shall be deprived of his liberty except on such grounds and in accordance with such procedure as are established by law.⁵⁶

General Comment 35 to Article 9 prescribes that:

An arrest or detention may be authorized by domestic law and nonetheless be arbitrary. The notion of “arbitrariness” is not to be equated with “against the law”, but must be interpreted more broadly to include elements of inappropriateness, injustice, lack of predictability and due process of law, as well as elements of reasonableness, necessity and proportionality.⁵⁷

General Comment 35 continues to say:

Arrest or detention as punishment for the legitimate exercise of the rights as guaranteed by the Covenant is arbitrary, including freedom of opinion and expression (art. 19), freedom of assembly (art. 21), freedom of association (art. 22), freedom of religion (art. 18) and the right to privacy (art. 17). Imprisonment after a manifestly unfair trial is arbitrary.⁵⁸

In other words, General Comment 35 clarifies that even if a detention is authorized by the law of a state, if that detention is a punishment for a right protected by the ICCPR then that detention is still arbitrary and a violation of the ICCPR. It can also be arbitrary simply because the trial was manifestly unfair.

Since his initial arrest in 2006, Lesani has faced multiple charges in separate case files, with many of the charges vague and ill-defined, and seemingly intended to punish his peaceful exercise of his rights as a cultural and linguistic minority, and his rights to freedom of assembly and association in support of those rights. As discussed *supra*, these activities are protected by Articles 21, 22 and 27 of the ICCPR.

Lesani's detention constitutes criminalization of his activities as an ethnic activist. His deprivation of liberty was carried out with the aim of suppressing and silencing his initiatives to

⁵⁶ International Covenant on Civil and Political Rights, Art. 9.1, Dec. 16, 1966, S. Exec. Rep. 102-23, 999 U.N.T.S. 171, *available at* <http://www.ohchr.org/en/professionalinterest/pages/ccpr.aspx>.

⁵⁷ UN Human Rights Committee (HRC), *General comment no. 35, Article 9 (Liberty and security of person)*, paragraph 12, 16 December 2014, CCPR/C/GC/35, *available at*: <https://www.refworld.org/docid/553e0f984.html>

⁵⁸ UN Human Rights Committee (HRC), *General comment no. 35, Article 9 (Liberty and security of person)*, paragraph 17, 16 December 2014, CCPR/C/GC/35, *available at*: <https://www.refworld.org/docid/553e0f984.html>

advocate for greater rights for Azeri-Iranians in Iran and to combat state-imposed discrimination on the minority group he is part of.

Lesani has been convicted on national security related offences even though he has never been involved in any violent activities and has exercised his freedom of association and assembly to advocate for his rights to enjoy his culture and use his own language in an entirely peaceful manner. Therefore, his arrest and detention were not necessary for the protection of national security or public order. Therefore Lesani's detention and ongoing imprisonment is a form of arbitrary detention in violation of Iran's legal obligations under Article 9 of the ICCPR.

THE IRANIAN AUTHORITIES' TREATMENT OF LESANI VIOLATES THE PROHIBITION AGAINST TORTURE AND OTHER ILL-TREATMENT

While in custody, Lesani has been subjected to both mental and physical torture, in contravention of international human rights law.

ICCPR Article 7 imposes an obligation on State parties, including Iran, to refrain from committing acts amounting to torture or to cruel, inhuman or degrading treatment or punishment against any individual under their jurisdiction. Such prohibition is absolute and does not allow for any exception. Furthermore, Article 10 of the ICCPR clearly states that "all persons deprived of their liberty shall be treated with humanity and with respect for the inherent dignity of the human person."

In General Comment 20, on the Prohibition of Torture, or Other Cruel, Inhuman or Degrading Treatment or Punishment, the Committee states that "prolonged solitary confinement of the detained or imprisoned person may amount to acts prohibited by Article 7."

Furthermore, the UN Standard Minimum Rules for the Treatment of Prisoners (known as the Nelson Mandela Rules) defines prolonged solitary confinement as "solitary confinement for a time period in excess of 15 consecutive days."

From 17 January 2017 to 21 February 2017, Lesani was held in solitary confinement. This is a period clearly in excess of 15 consecutive days and therefore is likely a violation of ICCPR Article 7.

Lesani's family has been targeted by the IRI authorities, in a bid to get him to stop his activities. This includes a summons for Lesani's wife to Ardabil Revolutionary court in 2016, a sealed notice being delivered to his son's shop from the authorities and Lesani's son-in-law being fired from his job for reasons of "conscience".

Per the guidance in ICCPR Article 7 and General Comment 20, this targeting can rise to the level of torture, or other cruel, inhuman or degrading treatment or punishment.

VIOLATIONS OF PROCEDURAL RIGHTS

LESANI WAS DENIED THE RIGHT TO A FAIR TRIAL IN VIOLATION OF IRAN'S OBLIGATIONS UNDER INTERNATIONAL HUMAN RIGHTS LAW

ICCPR Article 14.1 makes clear that “In the determination of any criminal charge against him, or of his rights and obligations in a suit at law, everyone shall be entitled to a fair and public hearing by a competent, independent and impartial tribunal established by law.” ICCPR Article 14.3 sets forth additional minimum requirements for fair proceedings for anyone charged with a crime.

In Lesani's case the following due process rights and guarantees were violated: the right to a public hearing before a competent, independent and impartial tribunal (Article 14.1); the right to adequate time and facilities to prepare a defense, including confidential communication with counsel and disclosure of material information by the prosecution (Article 14.3(b)); the right to a public judgment, including a well-reasoned verdict (Article 14.1); and the right to appeal (Article 14.5).

Lesani's lawyer was arrested and given a six month prison sentence -- seemingly only for making Lesani's verdict public, which should not have been under seal anyhow. This affects all the rights listed above in that Lesani was denied a public verdict, was denied the proper assistance of counsel since his lawyer was targeted for arrest by the state and in general affected his ability to mount a robust defense, on charges that violate his substantive freedoms under the ICCPR and ICESCR.