

## **In the Name of God of Freedom and Wisdom**

### **Statement of Defence**

I, the undersigned, Sedigheh Vasmaghi, poet, writer, formerly tenured professor of theology at the University of Tehran and scholar of Islamic studies, hereby declare that I was summoned to the Revolutionary Court on June 24, 2020, as a result of a complaint filed by the Ministry of Intelligence and the Revolutionary Guards' Legal Division for my alleged activities against the regime.

I will not be attending this court hearing for the following reasons:

1. According to Articles 159 and 61 of the Constitution of the Islamic Republic of Iran, as well as articles like 32, 34, 36 and 37, which speak about court jurisdictions and competences, the Revolutionary Court is not competent to deal with legal claims; all such litigation must be dealt with by the General Courts.
2. According to Article 168 of the Constitution, all political litigation must be open to the public and held before a jury. The allegation that a political accusation is directly related to national security concerns does not make it a national security issue. Such an allegation is intended as an excuse for denying the existence of political cases, with the aim of changing the procedure and avoiding a public hearing in the presence of a jury. Even the prosecutorial process, due to national security related issues, must be subject to the law and legal procedure.
3. The Revolutionary Court ignores and disrespects the law and legal procedure in dealing with political accusations.
4. The presidents of the court branches fail to observe neutrality in handling political charges.
5. Some Revolutionary Court judges fail to comply with the minimum requirements of the judicial position.
6. The judiciary lacks independence in handling political charges; I have heard this from a number of revolutionary court officials, in addition to other evidence and testimonies.
7. The plaintiffs, prosecutor and interrogator of the Culture and Media Court branch 4 lack neutrality, as I will explain below.

Why on earth should I attend the court hearing, given that I do not expect the trial to be fair, but rather that it will be based on an indictment prepared according to the reports of influential intelligence agencies, without being legally evaluated by the prosecutor and without proving its neutrality? One may ask why I attended a hearing in 2017 in the first place. My answer is that I wanted to document my own personal experience of a Revolutionary Court trial.

### **The Title of the Indictment and Documentation**

I am accused, through an indictment, of activities against the Regime and of signing a statement under the title, "Respect the People's Demands." This refers to a statement I signed, along with seventy-six other individuals, following the November protests of 2019, when we objected to and protested against the crackdown on demonstrators.

The main documentation of the indictment consists of the following:

- Complaint and declaration of guilt by the Ministry of Intelligence (November 17, 2019) and by the Intelligence Unit of the Revolutionary Guards (November 7, 2019)
- Explicit confession by some of the accused to being fully aware of the text of the statement, and admitting their signature.
- The accused failed to provide any evidence that the victims of the demonstrations were shot by the security forces of the Islamic Republic, whereas the cause of death of some ordinary and innocent people has not yet been ascertained, although it resulted from a killing scenario pre-planned by opportunistic rioters, and according the Leader of the Revolution these victims are considered as martyrs.
- The accused have certain political leanings.

In the report of the Ministry of Intelligence and that of the legal deputy office of the Intelligence Unit of the Revolutionary Guards, there are other matters specifically targeting me:

- An article under the title “What should be done with those who ordered the [November] killings and those who carried out their orders?”
- Signing a statement with a group of religious reformists on March 2, 2019, under the title “We demand the separation of state and religion in Iran.”
- Signing a statement recommending negotiations with the United States government.
- Talking to Persian-language media outlets outside the country.

### **Description of defence:**

Before anything, I need to offer two major and basic objections regarding my case and the complaint filed against me:

- (a) As stated in the indictment, I am accused of activity against the regime through release of a statement after the mass protests in November 2019 against the sudden three-fold increase in the price of gasoline (petrol). This inappropriate action stirred protests during which numerous protestors were killed. As a result, seventy-seven people, including me, signed a statement objecting to the killing and suppression of the demonstrators. One of my main objections is that being signatory to a statement, even in protest, cannot be considered a criminal activity – it is neither a political crime nor an act against national security. However, the chapter in the Constitution of the Islamic Republic that is devoted to the rights of the people provides citizens with freedom of speech; and since no national security crime was committed, intelligence agencies such as the Ministry of Intelligence and the Intelligence Unit of the Revolutionary Guards are not qualified to file a complaint against me and therefore their complaint is to be rejected. The case investigation conducted at the Culture and Media Court speaks for itself, and proves that the accusation is not a national security related crime, contrary to the plaintiff’s and prosecutor’s opinion. Moreover, the above-mentioned statement expresses a general opposition to the suppression of protests of any kind and by any organization. Thereby and according to Articles 10 and 11 of the Criminal Code, specific organizations such as the Ministry of Intelligence and the Intelligence Unit of the Revolutionary Guards are not qualified to file a complaint in this case. If by issuing this

statement a general crime is committed, only the public prosecutor is permitted to advance his case in the court.

- (b) The second basic objection is related to the lack of neutrality on the part of the prosecutor who issued the indictment, and who should, according to his legal position, observe neutrality to the utmost in reviewing the documents related to this case, regardless of any political orientation. However, this neutrality was not maintained even in the preparation of the indictment, and at one point, for instance, it says: “All accused are of one political orientation.” Clearly, political orientations should not be considered in judicial proceedings. Nor should the judicial officers apply their own political orientations; the above-mentioned point suggests the prosecutor’s political bias in issuing the indictment. One significant point is that fifteen of the seventy-seven people who signed the statement have been selected for court trial. Using this method to deal with the signatories to the statement raises many issues, the most important of which is that the institutions involved in litigation were not pursuing legal proceedings, but instead seeking to realize the objectives specified by the intelligence agencies, which are referred to in the reports and which I will explain later. Another important point is that this is the result of the judiciary’s failure to maintain its independence, thus becoming an accessory to those security bodies.

These two objections (a & b) seriously undermine the integrity of the complaints filed by the above two intelligence bodies, and the indictments issued, which are the basis of the investigation by the Revolutionary Court.

However, despite the two major objections, considering the importance of the matter and in order to make readers of my statement of defence aware of the logic behind the complaints against me, I intend to respond to some of the assertions and claims presented in the indictment as well as in the reports of the intelligence bodies. To avoid confusing topics, I will explain them in the following order:

1. According to Article 2 of the Islamic Criminal Code and Article 36 of the Constitution, the crime must have legal standing, in the sense that a criminal act claimed by the plaintiff should be recognized in the law as a crime. (See article related to legality of crime and punishment.) Sharia jurisprudence also acknowledges the legality of crime and punishment. The term ‘propagandistic activity against the regime’ is a general one, and does not count as a criminal offense in the law. This term has been misused by judicial referees, who are supposed to be neutral and to protect people’s rights and liberties, in order to put restrictions on critics as well as on civil and political activists. This term has also been misused against freedom of thought and speech, so much so that civil activities such as opposition to execution orders and to the mandatory veil for women, and criticism of officials, have been deemed propagandistic activity against the regime. While the main target of a legislator – to safeguard the rights of critics and opponents – is overlooked, the fact is that those who advocate the regime’s policies do not usually face any repercussions in this regard. Extending the scope of this term to issues that, according to the law, are not and should not be criminal acts, leave no place either for criticism of public officials’ conduct or for opposition to the use of violence against citizens. Any forms of criticism and protest rallies are part of citizens’ rights, as stipulated in the Constitution of the Islamic Republic, article 9 of which states that

one cannot restrict these freedoms under the pretext of maintaining independence and sovereignty, even by enacting a law. In the present case, issuing or signing a statement is not a crime; the same rule applies to the excerpts from the statement referred to by the honourable prosecutor and intelligence bodies. The following are some of the phrases in the statement that were deemed to be criminal in their view:

- Reckless shooting at civilians with guns procured from the national budget for the use for the defence of the people. This is a crime, and the law and the judiciary should not delay for a moment in pursuing, prosecuting and punishing the perpetrators.
- It is unfortunate that decades after the establishment of a Judiciary, the natural right to protest against government policies is thus violated.
- The authorities' secret decision making, ignoring the rule of law and the Constitution's principles, more than any enemy threatens the foundation of our dear country and the fate of its citizens.
- Forceful treatment of desperate people is not acceptable.
- Avoid violence at any level and recognize the rights enshrined in the Constitution.
- Demand free and fair elections, allowing all political tendencies to participate. (This issue was explicitly challenged by the Ministry of Intelligence.)
- Recommend the normalization of foreign relations in order to have the sanctions lifted.

None of the above statements counts as a crime in law. It is not a criminal act to voice any one of these statements. The contents of these statements are totally acceptable and reasonable to judicious people. But neither plaintiff nor prosecutor made any arguments with respect to the criminal content of the statement. For example, the Ministry of Intelligence objected to our request for free and fair elections. It is no secret that the Guardian Council's supervision of and interference in the election process has been subject to dispute, even crisis, for three decades. According to a wide range of people, experts, political parties and groups, this kind of supervision by any measure would damage the fair and free process of elections. It is astonishing that the Ministry of Intelligence finds our raising of this significant national issue objectionable. It should be emphasized that this issue will not be resolved by denying its existence.

2. Some of the points in the indictment, as well as reports by the intelligence agencies, indicate that the judiciary and the intelligence bodies are used as a tool to suppress critics and opponents and to restrict the freedom and civil rights of citizens. As stated in the indictment:
  - Explicit confession by some of the accused to being fully aware of the text of the statement, and admitting their signature.
  - The report of the Intelligence Unit of the Revolutionary Guards states that they decided to take action against the signatories of said statement in order to prevent any potential alliance between the "*Fitna* movement" [widespread protests in the aftermath of the 2009 presidential election], reformists and the body of demonstrators. According to its declaration on November 15, 2019, this organization also warned and threatened those who authored the statement.

These two points would suffice to illustrate how the power of the judiciary and intelligence organizations was used, improperly and contrary to their true responsibilities, to serve as a means of suppression and restriction of freedom and to apply unlawful punishments to individuals. In the indictment, the prosecutor states that the signatories to the statement were under pressure to deny their signature. My own experience under interrogation testifies to this fact.

3. The judiciary, as well as military and intelligence bodies, should adopt neutrality in order to fulfil their responsibilities. Otherwise, these organizations will become corrupt, and people's rights and freedom will be trampled on. At present, and in this case, neither the prosecutor nor the interrogator representing the Culture and Media Court (branch number 4), nor the plaintiffs (the security and intelligence bodies), acted in a neutral way. All of them, having the same political orientation, seemed to be complicit with each other in punishing those the Ministry of Intelligence thought to be the rioters and instigators of the unrest in 2009. The Ministry of Intelligence's report dated November 17, 2009 and addressed to the prosecutor states: "After the gas rationing, some of the activists of the 2009 unrest, in the form of a statement signed by seventy-seven individuals, bearing the title 'Respect the People's Demands,' stood in defence of the rioters ... They are mainly the offenders, protestors and rioters in the 2009 unrest." The signatories to the statement were referred to as having different political tendencies. The point is that the said organizations, which are supposed to stand for justice and protect the security of the people and the country, without acknowledging the people's right to protest, deem people protesting against rising prices to be rioters. Based on their biased opinion, they made a false judgment about the activities of the critics and signatories of this statement regarding the suppression and killing of the protesters.

During the interrogation, the interrogator of the Culture and Media Court (branch number 4) referred to parts of the statement made by the seventy-seven individuals and accused me of signing the statement in support of "the rioters." He emphasized that the people who opposed the rise in gas prices were rioters. The interrogator then read the following part of the statement: "The reckless shooting at civilians by guns procured from the national budget to use for the defence of the people ...". Then he protested that I accused the regime's forces of killing people, while those were not innocent people but rioters. I told him that anyone who takes to the streets and protests is a citizen of this nation. The police and security forces have no right to arrest people who are in the streets, call them rioters and then and there, condemn them and enforce the punishment. The interrogator maintained: If someone who unloads a dump truck and blocks the road is not a rioter, who is? What to do with him? I said: People were outraged by the increase in gas prices. It is natural that they show their anger in any possible way. The regime needs to show tolerance. The most the police have to do is to arrest those who destroy public property and provide solid evidence to the court. They are not allowed to shoot the protesters. This is not the way to deal with riots, much less with protests. He insisted that the police did not shoot people; the rioters killed each other. And he asked: What evidence do you have to show that the police shot people? I responded to this bizarre logic by saying that, first, we do not have that many armed people. Secondly, why should people kill each other? Third, what were the police forces doing there? Isn't it their job to take care of the people? Why didn't they establish security, rather than leaving people to kill

each other? I insisted that it was his obligation to conduct a neutral investigation, not to consider himself a plaintiff. When mass shootings occur, the police and security forces are present on the streets to confront the protesters; therefore the blame is on the police forces; this is the case all over the world. If they did not shoot, then they must identify the criminal. He said people have guns on them, and then to prove his claim, he turned to my lawyer and asked, “Didn’t Mr. Najafi keep a gun with him? Didn’t he kill his wife?”<sup>1</sup> My lawyer said: “No, I have said many times he did not kill his wife.” The interrogator’s remarks not only indicated his non-neutrality but that of the regime’s prevailing argument about people’s rights, freedom and the right to protest. We need to correct this view and logic. We need to recognize the civil and political rights of the citizens. The police must maintain their neutrality and integrity in order to maintain order. The judicial system, in particular, should refrain from any political partisanship and political bias.

4. In an article published on the Kalemeh News website entitled “What will become of those responsible for the [November] killings and their partners in crime?” I wrote, “now that the government has taken responsibility for the killings, all those responsible including their partners in crime should be identified, discharged from their positions, tried and convicted. Otherwise, they will commit more crimes in the future.” These sentences are reproduced in the Ministry of Intelligence report among the charges against me, but without any legal argument and indeed with no legal evidence that any crime is involved.

Hundreds of citizens were killed during the 2019 protests, let us say two hundred and thirty as the Islamic Republics sources have it, the authorities admit that that some of them were innocent, yet it is us, the critics, who are now accused of a killing setup. Tens of thousands of police and security forces were present on the streets, yet the judiciary asks us to provide proof that these forces shot at the demonstrators. I ask, who are the persons or person that actually shot and killed hundreds of people? Who killed those whom you call innocent victims? In response to this important question, the indictment states that due to the killing scenario created by opportunist rioters, the cause of death of the innocent victims was not determined.

The obvious contradiction in this statement is evident: the killing of the innocents is acknowledged, but at the same time those who talk about it are accused of setting up a killing scenario. Moreover, why should our criticism become an obstacle to the investigation to determine the cause of death of the innocent? With no fair trial, the judiciary and the intelligence agencies achieve nothing by making such claims! A true achievement would be to open themselves to questions and to convince public opinion. To make such claims is of course to avoid a difficult task. But when people like me talk of harsh realities and complain about such conditions, we are required to submit solid evidence to prove them. Meanwhile individuals who have influence within powerful lobbies are not held accountable for their activities, but instead, they use the judiciary as a tool to convict people like me. This, in addition to all the problems involved, reveals the fact that, compared to those who gain

<sup>1</sup> Translators’ note: Refers to the case of the reformist former mayor of Tehran, who confessed to killing his wife with a gun in his possession <<https://theiranproject.com/blog/2019/05/30/iranians-shocked-as-former-tehran-mayor-confesses-to-killing-wife/>>

support through powerful bodies, ordinary citizens are not equal before the law. Whereas, according to article 20 of the Constitution, all should be equal before the law. It is such immunity from the law that has enabled these people to make these irrational claims, which leads to nothing but injustice.

It is my opinion that after any protests and after collecting the dead bodies, the scenario of staged killing is brought onto the stage in order to blame others!

This what the prosecutor in the indictment stated, as evidence of my alleged crime: “The accused failed to submit any proof that the Regime’s forces shot and killed the victims of the November 2019.” Isn’t it the responsibility of the regime’s forces to secure the protection of its citizens? When numerous people are killed on the streets, why shouldn’t the regime identify the killers of those whom the state calls innocent? In my opinion, the heavy presence of armed forces on the streets and a large number of victims is sufficient proof that it was those forces who opened fire on people and shot them. If this is not the case, the relevant officials and organizations should provide reliable proof that they did not commit the killings; otherwise the authority and integrity of the security forces will be undermined, as it is hard to comprehend how, despite the heavy presence of security forces, others were able to commit the killings.

With respect to the contradictory stands of the officials, the judiciary’s conduct and the security agencies’ statements, it must be asked on what criteria the victims were divided into innocents and criminals. Why were some of them called martyrs? And on what basis did some of them receive blood money? In which court has the criminals’ guilt been proven? Again, in my opinion, the statements by officials, the above-mentioned evidence, the failure to identify the perpetrators, and the large number of victims, leave no doubt that the regime is responsible for the killings. Since the officials have admitted the innocence of at least a number of protesters, it is an injustice not to identify the perpetrators and their partners in crime. In every protest, a number of people are killed; this violent and inhumane way of acting must end at some point. There must be a turn toward civility, the rule of law, the recognition of human rights and freedoms and ways of governance that can fulfil people's demands. Otherwise, there will be no peace and stability in our country.

5. According to Article 23 of the Constitution, any attempt to scrutinize an individual’s belief is forbidden. Yet Mr Interrogator lists as one of my crimes, a reference to a statement I had signed with a group of religious reformists, under the title “We request the separation of state and religion in Iran.” He quotes this from the statement: “We, the undersigned, believe that the Islamic Republic and the Guardianship of the Islamic Jurists are a failed experience.” In response, I said that, based on my forty-two years of expertise, knowledge and scholarship in Islamic studies, I believe in the separation of religion and state. The track record of the Islamic Republic and other religious governments has not been great. It has not been able to deliver reform, happiness, prosperity and general satisfaction to the people.

Yes, I regard the experience of the Islamic Republic and rule by the Islamic Jurist (*Vilayat-e Faqih*) in lieu of the rule of law, as a failure. Just look at the status of women and the minorities who have been fighting for their basic human rights but have always faced the

hard barrier of Islamic jurisprudence, removal of which requires amending the Constitution. I believe religion is not a source of legislation, and the era during which the jurists made laws has come to an end. The law is not part of the Shari‘a, and the administration of the country under Islamic jurisprudence, which requires the Rule of the Islamic Jurist, has not brought us happiness. Numerous ulama and Shi‘a jurists were themselves opposed to the rule of jurists. The interrogator then asked me, “So, you don’t believe in *Vilayat-e-Faqih*?” I said, no I don’t. I could have refused to reply, as his question was unlawful and against the Constitution. However, because the *Vilayat-e-Faqih* is among the big political challenges in our society, I responded. Already, in violation of the Constitutional prohibition on inquisition, the Ministry of Intelligence in its report had stressed this issue among my accusations; the exact sentence in that report is as follows: “Vasmaghi on 18/9 [9/Dec/2019], through her approval of the content of the statement, has confessed to her lack of belief in *Vilayat-e Faqih*.”

It seems that in the view of the interrogator, as well as that of the Ministry of Intelligence, not believing in *Vilayat-e Faqih* constitutes a crime. This view stems from the partisanship of those intelligence bodies and their lack of knowledge of legal principles, including what constitutes a crime. *Vilayat-e Faqih* is neither a religious belief and nor does not believing in it constitutes a crime. If judicial officials knew anything about law, they would follow the legal points, at least superficially. I believe the most important means to defend freedom is having freedom of speech and thought. I have always tried to stick to my beliefs. Each and every one of us has a duty to defend our rights and freedoms against any violation. Our freedom is not in the hands of others to offer, it is in our hands and we must protect it.

6. Another accusation against me was that I did interviews with Persian-language media outlets outside Iran. As I said, according to the laws of the Islamic Republic, I have the right to freedom of speech. I am a writer, a scholar and I have the right to talk to any media to express my opinion and thoughts. What is the legal problem here? The interrogator said: There is no legal problem. It is the content that is problematic. In addition, the National Security Council of Iran has issued a directive to ban people from talking to foreign media. I retorted: This is a directive not a law, and its content is in violation of the principles stated in our Constitution and against our civil rights. Article 71 of the Constitution recognizes only the Parliament’s competence to make the law of the land. If there is a legal issue with what I said in those talks, let me know so that I can respond. He didn’t pursue the point. It should be noted that the issue of my interviews with the media, while this act is not legally considered a crime, was also raised in the Ministry of Intelligence’s report. The Islamic Republic itself has dozens of media outlets outside Iran and has spoken with the citizens of other countries. Today’s world is the world of media. To restrict access to the media, censoring people and their opinions, is in violation of freedom of speech and the right of free access to information. The judiciary and security agencies are not legally permitted to enforce such restrictions.
7. Another accusation against me was the statement I had made regarding negotiations with the United States. The interrogator, while insulting the U.S. President Trump and using words that were not worthy of an official of the judiciary, said, “Did you say that we should negotiate with the f\*\*\*ing Trump?” as though he was the one to negotiate with Trump. I said that the government has the right to negotiate or not. We cannot force anyone to do so. As



you are free to express your views, I am also free to express mine. If one day, my like-minded colleagues replace you in your capacity, would it be fair and acceptable to prosecute you because of your opposition and your opinion?

The interrogator continued: “Trump is a fool.” I responded, “But you should not be a fool when dealing with a fool. A wise human being always acts wisely. People are in despair and in hardship. The solution to our problem is eventually negotiation. You say Trump is a fool. What about Obama and Clinton? Were they fools too?” It was quite clear he had entered into this fruitless and useless debate full of bias. Signing this statement is also mentioned in the Ministry of Intelligence’s report, while this argument is not legally considered a crime.

My final word is that I desire to see reforms in our country and wish for the prosperity, freedom and loftiness of my homeland. I will do my utmost in this endeavour. I will continue speaking and writing. In this noble cause, I am not afraid to be tried and sentenced to jail. We are all to blame for the current critical situation. And all of us should try our best to change things for the better.

I find human dignity in freedom. I will not censor myself and will not allow my freedom to be trampled on. I want to live free even in a cell. The high walls and iron gates of prison will not bring me down.

*I shall submit to love’s noose  
I live for the Friend – whatever will be will be  
Shame on whoever accepts the way of bondage  
Honour goes to whoever calls for freedom*

Respectfully,  
Sedigheh Vasmaghi

May 23, 2020