

Mandates of the Special Rapporteur on the situation of human rights in the Islamic Republic of Iran; the Working Group on Enforced or Involuntary Disappearances; the Special Rapporteur on extrajudicial, summary or arbitrary executions; the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression and the Special Rapporteur on the promotion of truth, justice, reparation and guarantees of non-recurrence

REFERENCE:
UA IRN 21/2017

14 June 2017

Excellency,

We have the honour to address you in our capacity as Special Rapporteur on the situation of human rights in the Islamic Republic of Iran; Working Group on Enforced or Involuntary Disappearances; Special Rapporteur on extrajudicial, summary or arbitrary executions; Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression and Special Rapporteur on the promotion of truth, justice, reparation and guarantees of non-recurrence, pursuant to Human Rights Council resolutions 28/21, 27/1, 26/12, 34/18 and 27/3.

In this connection, we would like to bring to the attention of your Excellency's Government information we have received concerning threats of additional prison terms and relocation to remote detention of **Ms. Maryam Akbari Monfared**, imprisoned since December 2009, allegedly to keep her from writing open letters about the fate and whereabouts of several thousands of political prisoners, including her siblings, who were extra-judicially executed in the summer of 1988.

We would similarly like to bring to the attention of your Excellency's Government information we have received concerning the **desecration of mass grave sites in Ahvaz and Mashhad, southern Iran, that contains the remains of at least 184 people and 170 people, respectively, who were allegedly extra judicially executed during the summer of 1988.**

A previous communication concerning reported denial of medical treatment to Ms. Maryam Akbari Monfared during her detention in Evin Prison, as well as cancellation of visit rights as a possible act of retaliation for her complaint lodged on 18 October 2016 seeking an official investigation into the reported 1988 executions of political prisoners, including her siblings, was transmitted to your Excellency's Government on 30 November 2016 (case no. UA IRN 30/2016). We acknowledge receipt of your Excellency's Government's reply dated 8 February 2017 but remain concerned about Ms. Monfared's situation.

According to the information received:

Ms. Maryam Akbari Monfared's case

Ms. Akbari Monfared has been in detention since 31 December 2009, serving a 15-year sentence on charges of “enmity against God”. The alleged irregularities of the judicial process and the dire detention conditions she has been subjected to, including denial of access to medical treatment, have been set out in the above-mentioned communication sent on 30 November 2016 (IRN 30/2016).

On 18 October 2016, Ms. Akbari Monfared filed a formal complaint with the Prosecutor’s Office calling for an investigation into the executions of 1988, when two of her siblings were killed among many other political dissidents. Since then, several open letters asserting these concerns have been leaked from prison and made public. A prison official reportedly told Ms. Monfared’s family that such complaints were of no use and that they would only result in her detention conditions being made increasingly difficult, and impeding her release.

On 13 May 2017, Mr. Hassan Jafari Hatam, Ms. Monfared’s husband, was summoned for interrogation by the Ministry of Intelligence. Mr. Jafari Hatam reported that he was insulted by intelligence officials and threatened that his wife would face an additional three-year prison term and exile to a remote prison in Sistan-Baluchestan province, south-eastern Iran, if she continued to write open letters about the 1988 events.

The 1988 massacre

It is reported that between July and August 1988, the Iranian authorities summarily executed up to 5000 political prisoners pursuant to a *fatwa* issued by the then Supreme Leader Ayatollah Khomeini. Their executions followed summary charges of *moharebeh* (“enmity against God”) and apostasy, in what has been reported to be a systematic procedure conducted in secrecy, aimed at eliminating remaining political opposition.

The victims included political prisoners who had served their sentences but had refused to recant their political beliefs, political prisoners who were serving prison sentences, political opponents who had been detained but not convicted, and former political prisoners who had been re-arrested. Many of those arrested were allegedly children, arrested for distributing political pamphlets.

The *fatwa* ordering the executions set up three-men commissions who questioned prisoners about their political and religious beliefs, and based on their answers decided who should be executed. The questioning by these commissions was brief, not public, without appeals procedure, and the prisoners were executed the same day or soon thereafter.

These events, known as the 1988 massacre, have never been officially acknowledged by the Government of Iran, and thus no official investigation has

ever been conducted to clarify the nature of the crimes, to identify and hold the perpetrators accountable, and to provide redress to the families of the victims. The bodies of the victims were buried in unmarked graves and their families were never informed of their fate.

On 9 August 2016, an audio recording of a 1988 meeting between high level State officials and clerics discussing the executions was made public by Mr. Ahmad Montazeri, a 60 year old Iranian Islamic cleric, son of the deceased Ayatollah Hossein Montazeri, who was one of the founders of the Islamic Republic of Iran. The recording revealed the names of the officials who carried out and defended the executions, including the current Minister of Justice, a current high court judge and the Head of one of the largest religious foundations in the country.

Following the publication of the audio recording, clerical authorities and the chief of the judiciary have reportedly admitted that the executions took place and defended them.

A letter signed by several human rights defenders and academics, including a former Nobel Peace Prize Laureate, was subsequently submitted to the Human Rights Council and to the International Criminal Court asking for the recognition of the 1988 massacre as a crime against humanity. In March 2017, 20 human rights organizations publically called on the Iranian authorities to stop the harassment, intimidation and prosecution of human rights defenders seeking truth and justice on behalf of individuals who were summarily executed or forcibly disappeared during the 1980s and their families.

The desecration of mass graves in Ahvaz and Mashhad

The Ahvaz mass grave is reportedly located on a barren piece of land three kilometers east of Behesht Abad Cemetery. It is believed to contain the remains of at least 44 people who were among several thousands of political prisoners reportedly killed during the wave of extrajudicial executions during the summer of 1988. The prisoners were allegedly rounded up and forcibly disappeared before being killed in secret. Apparently, their bodies were then dumped into freshly dug trenches overnight. Reportedly, authorities poured concrete over the mass grave immediately after the burial in what seems a deliberate attempt to prevent family members from recovering the remains.

Mid-May 2017, bulldozers were reportedly seen working on a construction project directly alongside the mass grave site at Ahvaz, as well as piles of dirt and construction debris surrounding the grave. It is alleged that the plan is to ultimately raze the concrete block marking the grave site and build over the area of the site, and the next phase of works would raze the concrete structure completely to clear the area for a “green space” or a commercial development.

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A second mass grave is located in the city of Mashhad, Khorasan Razavi province, where up to 170 political prisoners are believed to be buried. During the Iranian New Year, in March 2017, bereaved families who visited the site on the edge of Mashhad’s Behesht Reza Cemetery allegedly discovered that the previously flat area had been covered with soil to create a raised mound over the grave.

We would like to express our concern about the above-mentioned allegations, which appear to be a deliberate effort to obstruct the right to truth, justice and reparation for the 1988 massacres. We are particularly concerned that these alleged actions, if confirmed, will interfere with any attempt to conduct investigations into the massacres by eliminating crucial evidence, in clear contravention with international human rights law. We further express serious concern at the conviction and continued detention of Ms. Monfared after a trial that appears not to have met fair trial and due process guarantees, as well as detention conditions, including the reports of threats of isolation. We express concern at the unlawfulness of these measures as they represent restrictions to the right to freedom of expression, including the right to information, which are incompatible with the standards of international human rights law.

Without making any judgment as to the information made available to us, the above allegations in relation to Ms. Monfared appear to be in contravention of article 2, 14, and 19 of the International Covenant on Civil and Political Rights (ICCPR), ratified by Iran on 24 June 1975.

We also wish to draw your Excellency’s Government’s attention to article 6(1) ICCPR, which guarantees the right to life and to not be arbitrarily deprived of one’s life. The Human Rights Committee, in its General Comment No. 31 on article 6, recalled the responsibility of State parties to exercise due diligence to prevent, punish, investigate and bring perpetrators to justice, and stated that a failure to do so could in and of itself give rise to a separate breach of the ICCPR. The Committee stated that “*These obligations arise notably in respect of those violations recognized as criminal under (...) international law, such as (...) summary and arbitrary killing (article 6) and enforced disappearance (articles 7 and 9 and, frequently, 6). (...) When committed as part of a widespread or systematic attack on a civilian population, these violations of the Covenant are crimes against humanity (see Rome Statute of the International Criminal Court, article 7)*” (CCPR /C/21/Rev.1/Add.13, paras. 8 and 18).

Moreover, in the case of *Bautista de Arellana v. Colombia*, the Human Rights Committee stated that the this duty to prevent, punish and investigate violations of the right to life “applies *a fortiori* in cases in which the perpetrators of such violations have been identified”. (Communication No. 563/1993, U.N. Doc. CCPR/C/55/D/563/1993 (1995). para 8.6). Principle 18 of the Principles on the Effective Prevention and Investigation of Extra-legal, Arbitrary and Summary Executions further states that Governments shall either bring persons found to have participated in the execution to justice or cooperate to extradite any such persons to other countries wishing to exercise jurisdiction.

We would also like to refer your Excellency’s Government to article 13 (3) of the Declaration on the Protection of all Persons from Enforced Disappearance, which states that steps shall be taken to ensure that all involved in the investigation of an alleged enforced disappearance, including the complainant, counsel, witnesses and those conducting the investigation, are protected against ill-treatment, intimidation or reprisal.

As regards the allegations of the desecration of mass graves, we wish to bring to the attention of Your Excellency’s Government, the General Allegation transmitted by the Working Group on Enforced or Involuntary Disappearances on 28 February 2017 (A/HRC/WGEID/111/1, Annex II. paras. 17-25). The Working Group reported information on the alleged concealment of evidence linked to the disappearances and killings of the 1980s, through techniques such as: repeatedly bulldozing suspected mass graves; turning the sites of mass graves into stinking and unsightly garbage dumps; hiding the location of mass graves beneath new, individual burial spots; pouring concrete over mass graves; and forbidding families and members of the public from dignifying the sites of mass graves, including through erecting monuments and gravestones or adorning the sites with flowers, pictures, plaques and loving messages.

We further wish to recall international norms and standards on the right to truth, enshrined in a number of international instruments, notably the International Covenant on Civil and Political Rights, the Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law (A/Res/60/147) and the Updated Set of principles for the protection and promotion of human rights through action to combat impunity (E/CN.4/2005/102/Add.1, 2005). In particular, we wish to recall numeral 22 (c) of the Basic Principles (A/Res/60/147) which provides for “(t)he search for the whereabouts of the disappeared, for the identities of the children abducted, and for the bodies of those killed, and assistance in the recovery, identification and reburial of the bodies in accordance with the expressed or presumed wish of the victims, or the cultural practices of the families and communities”. In relation to the right to reparation, specific recommendations are provided in the report A/69/518 of the Special Rapporteur on the promotion of truth, justice, reparation and guarantees of non-recurrence.

The full texts of the human rights instruments and standards recalled above are available on www.ohchr.org or can be provided upon request.

In view of the urgency of the matter, we would appreciate a response on the initial steps taken by your Excellency's Government to safeguard the rights of the above-mentioned persons in compliance with international instruments.

As it is our responsibility, under the mandates provided to us by the Human Rights Council, to seek to clarify all cases brought to our attention, we would be grateful for your observations on the following matters:

1. Please provide any additional information and any comment you may have on the above mentioned allegations.
2. Please provide information concerning the legal grounds for the arrest and detention of Ms. Akbari Monfared, and explain how this is compatible with international human rights law, in particular articles 9, 14 and 19 of the ICCPR.
3. Please provide information regarding steps taken to guarantee the physical and psychological integrity of Ms. Akbari Monfared while in detention.
4. Please provide information about measures taken to investigate the extrajudicial killings of 1988, and to bring perpetrators to justice. If no investigations have taken place, please explain why.
5. Please provide information about the measures taken by your Excellency's Government to guarantee the right to truth, justice and reparation to the families of those extra-judicially executed during the summer of 1988.
6. Please explain if your Excellency's Government is planning to undertake any forensic investigations in the area of Ahvaz and in the city of Mashhad, where the remains of the victims are allegedly buried. If not, please explain why.
7. Please also inform what measures are being taken to search and/or protect potential mass graves.

While awaiting a reply, we urge that all necessary interim measures be taken to halt the alleged violations and prevent their re-occurrence and in the event that the investigations support or suggest the allegations to be correct, to ensure the accountability of any person responsible of the alleged violations.

Your Excellency's Government's response will be made available in a report to be presented to the Human Rights Council for its consideration.

Please accept, Excellency, the assurances of our highest consideration.

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