

Mandates of the Special Rapporteur on the situation of human rights in the Islamic Republic of Iran; the Working Group on Arbitrary Detention; 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; the Special Rapporteur on the independence of judges and lawyers; the Special Rapporteur on minority issues; the Special Rapporteur on freedom of religion or belief; the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism; and the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment

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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 Arbitrary Detention; Special Rapporteur on extrajudicial, summary or arbitrary executions; Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression; Special Rapporteur on the independence of judges and lawyers; Special Rapporteur on minority issues; Special Rapporteur on freedom of religion or belief; Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism; and Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, pursuant to Human Rights Council resolutions 40/18, 42/22, 35/15, 34/18, 35/11, 34/6, 40/10, 40/16 and 34/19.

In this connection, we would like to bring to the attention of your Excellency's Government information we have received concerning **the imposition of the death penalty upon seven individuals, members of the Sunni Kurdish minority in Iran, as a result of legal proceedings, which have been reportedly marked by violations of due process and of fair trial standards.**

According to the information received:

On 3 February 2020, the Branch 41 of the Supreme Court decided to uphold the death sentences against Messrs. Anwar Khezri, Khosrow Besharat, Farhad Salimi, Ayub Karimi, Davoud Abdollahi, Kamran Sheikheh and Ghasem Abesteh, on charges of "acting against national security", "propaganda against the system", "membership in Salafi groups", "corruption on earth" and "*moharebeh*" (enmity against God).

The Supreme Court's decision came more than ten years after the original arrest and detention, in 2009, of these seven individuals, and following a long legal battle with different branches of the Tehran Revolutionary Court and of the Supreme Court.

All seven individuals were arrested on 7 December 2009, in Mahabad, West Azerbaijan Province, for cooperating with groups allegedly supporting "jihad",

and for engaging in violent actions against the State. They were initially detained and placed in solitary confinement for eight months in the Orumiyeh Detention Center of the Ministry of Intelligence. In August 2010, they were transferred to Evin Prison and placed in solitary confinement for another six months, and in April 2012 transferred again to another place of detention, the Rajai Shahr Prison, pending their trial.

It is reported that at the time of their arrest, a number of unresolved cases had been added to their files in order to substantiate their arrest and continued detention, but all those cases were reportedly later resolved and the perpetrators identified and arrested. All this time, the seven individuals have denied the charges brought against them and claimed that they were arrested because of their religious beliefs, as well as for attending religious meetings and distributing Sunni religious material.

On 18 March 2016, after almost seven years of pretrial detention, they were brought for trial before Branch 28 of the Tehran Revolutionary Court, but without being allowed to be represented by lawyers of their own choice, as per Article 48 of the Iranian Code of Criminal Procedures, which stipulates that for crimes punishable by death, the accused can only be represented by lawyers on a list pre-approved by the head of the judiciary. Due also to the limited access to their lawyers, they were not also in a position to sufficiently prepare their defense.

The Court upheld the charges and on 26 May 2016 formally communicated to their lawyers the death sentence imposed on the seven individuals. They filed an appeal to Branch 41 of the Supreme Court and in early March 2017, the Supreme Court decided to reverse the Branch 28 court decision and overturn the death sentence.

Due to the alleged pressure by the Ministry of Intelligence, the case was brought back again to Branch 15 of the Tehran Revolutionary Court for reconsideration. Branch 15 considered the case of all seven individuals between 17 and 19 June 2019, and upheld the death sentence initially imposed on the accused, which was then confirmed by the Supreme Court, on 3 February 2020. During the June 2019 trial at Branch 15, the lawyers representing the seven individuals were reportedly not allowed to take the floor and defend their clients.

In addition to the above-mentioned judicial procedure and charges against the seven individuals, on 30 June 2018, three of them, namely Messrs. Ayub Karimi, Davoud Abdollahi and Ghasem Abesteh were tried and sentenced by Branch 12 of the Orumiyeh Court of Appeal for the alleged killing of a Sunni cleric, perpetrated by unknown gunmen on a motorcycle, in Mahabad, in 2008. It was reported that for this additional case, the prosecution was not in a position to clearly establish the criminal responsibility of the accused with substantive evidence and that the Court based its decision only on the forced confessions extracted from the accused.

Through open letters published in 2019 and 2020, Messrs. Anwar Khezri, Farhad Salimi and Khosrow Besharat have described the physical and psychological torture that they have suffered while in detention, the health consequences of such inhuman treatment, the prohibition of family visits, and the imposed limitations in accessing legal assistance and representation.

Without prejudging the accuracy of the received information, we express serious concern at the arrest and prolonged detention of Messrs. Anwar Khezri, Khosrow Besharat, Farhad Salimi, Ayub Karimi, Davoud Abdollahi, Kamran Sheikheh and Ghasem Abesteh on vague and overly broad national security and *moharebeh* charges, and we deeply regret that the Supreme Court has upheld the death penalty against them, despite the previous reversal of the sentence by the same Supreme Court. We also note with concern the reported irregularities of the legal proceedings and the serious alleged violations of due process, including with regard to access to legal assistance and representation, the reported insufficient time to prepare their defense, the use of statements obtained as a result of torture invoked as evidence in proceedings, and the assigning of other unresolved criminal cases to the files of the above-mentioned individuals in order to substantiate and perpetuate their detention and judicial harassment. Furthermore, we express serious concern at their detention conditions, which reportedly have resulted in the deterioration of health conditions of some of the above-mentioned individuals, the frequent use of prolonged solitary confinement and of physical and psychological torture to extract confessions, and the reported prohibition of family visits.

We would like to remind your Excellency's Government of its obligations under international human rights law. Article 6(2) of the International Covenant on Civil and Political Rights, ratified by the Islamic Republic of Iran on 24 June 1975, states that sentence of death may be imposed only for the most serious crimes, whereas in General Comment No. 36 (para. 35) the Human Rights Committee has noted that the term "most serious crimes" must be read restrictively and appertain only to crimes of extreme gravity, involving intentional killing.

Without expressing at this stage an opinion on the facts of the case and on whether the reported detentions were arbitrary or not, we would like to appeal to your Excellency's Government to take all necessary measures to guarantee the right of all detained persons in this case not to be deprived arbitrarily of their liberty and to fair proceedings before an independent and impartial tribunal, in accordance with articles 9, 10 and 11 of the Universal Declaration of Human Rights (UDHR) and articles 9 and 14 of ICCPR.

With regard to the alleged violations of due process and of fair trial guarantees, including the imposed limitations in the access of legal assistance and representation, the and the allegations of forced confessions and of delays in the judicial proceedings, we would like to recall article 14 of the ICCPR, which provides inter alia for the principle of equality before competent, independent and impartial courts and tribunals, the presumption of innocence, provision of adequate time and facilities for the preparation of

the defense, and the right of accused persons to communicate with counsel of their own choosing. Furthermore, article 15 of the Convention against Torture provides that, “each State Party shall ensure that any statement which is established to have been made as a result of torture shall not be invoked as evidence in any proceedings, except against a person accused of torture as evidence that the statement was made.”

We also refer to the General Comment No. 32 (2007) by the Human Rights Committee (CCPR/C/GC/32), the UN Basic Principles and Guidelines on Remedies and Procedures on the Right of Anyone Deprived of Their Liberty to Bring Proceedings Before a Court (A/HRC/30/37) and the UN Basic Principles on the Role of Lawyers, adopted by the Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders, held in Havana (Cuba) from 27 August to 7 September 1990, which provide for the right to legal assistance, and for the prompt access and consultation with a counsel without intimidation, hindrance, harassment or improper interference.

Article 7 of the ICCPR prohibits torture and other cruel, inhuman or degrading treatment or punishment, whereas paragraph 7c of Human Rights Council Resolution 16/23 urges States “To ensure that no statement established to have been made as a result of torture is invoked as evidence in any proceedings, except against a person accused of torture as evidence that the statement was made, and calls upon States to consider extending that prohibition to statements made as a result of cruel, inhuman or degrading treatment or punishment, recognizing that adequate corroboration of statements, including confessions, used as evidence in any proceedings constitutes one safeguard for the prevention of torture and other cruel, inhuman or degrading treatment or punishment.”

While a number of provisions of the ICCPR enable limitations on the basis of national security (e.g. Article 21) any such limitations must be legally based, necessary, proportionate and non-discriminatory.

Finally, we wish to refer to article 18 of the ICCPR on the right to freedom of thought, conscience and religion or belief, which provides absolute protection to hold any belief whatsoever without any interference. The right to freedom of religion or belief includes also the freedom of choice, and the peaceful manifestation of one’s religion or belief, in observance, worship, practice and teaching, either individually or in community with others and in public or private ; article 19 on the right to freedom of expression; and article 27 on the rights of persons belonging to minorities, which are further enshrined in the 1992 UN Declaration on the Rights of Persons Belonging to National or Ethnic, Religious or Linguistic Minorities.

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 the observations of your Excellency’s Government on the following matters:

1. Please provide any additional information and/or comment(s) you may have on the above-mentioned allegations.

2. Please provide detailed information about the legal and factual basis for the arrest and detention of the above-mentioned individuals and indicate how the charges against them are compatible with international human rights law.
3. Please provide information on measures taken to provide them with guarantees of due process and fair trial, including with regard to the type of incriminating evidence presented before the courts, as well as the effective access to counsel of their choosing as established under international human rights law.
4. Please provide information on the condition of their detention, including details about time spent in solitary confinement, family visits and communication with their lawyers, as well as about the state of their physical and psychological well-being.
5. Please provide details and the results of any investigations and inquiries undertaken in relation to the allegations of torture and other cruel, inhuman or degrading treatment or punishment, while in detention and during interrogation. If no inquiries have taken place, or if they have been inconclusive, please explain the reasons.
6. Please indicate the measures undertaken to ensure that persons belonging to minorities are not discriminated against in Iran's criminal justice system and are not specifically targeted for freely expressing views on their ethnic and religious identity, or for the use and teaching of their minority languages.
7. Please indicate how measures based on national security are proportionate, necessary and non-discriminatory.

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

This communication and any response received from your Excellency's Government will be made public via the communications reporting [website](#) within 60 days. They will also subsequently be made available in the usual report to be presented to the Human Rights Council.

We would like to inform your Excellency's Government that after having transmitted the information contained in the present communication to the Government,

the Working Group on Arbitrary Detention may also transmit the case through its regular procedure in order to render an opinion on whether the deprivation of liberty was arbitrary or not. The present communication in no way prejudices any opinion the Working Group may render. The Government is required to respond separately to the allegation letter and the regular procedure.

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

Javaid Rehman
Special Rapporteur on the situation of human rights in the Islamic Republic of Iran

Leigh Toomey
Vice-Chair of the Working Group on Arbitrary Detention

Agnes Callamard
Special Rapporteur on extrajudicial, summary or arbitrary executions

David Kaye
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