

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 rights to freedom of peaceful assembly and of association; the Special Rapporteur on the independence of judges and lawyers 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 rights to freedom of peaceful assembly and of association; Special Rapporteur on the independence of judges and lawyers and Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, pursuant to Human Rights Council resolutions 43/24, 42/22, 44/5, 43/4, 41/12, 35/11 and 43/20.

In this connection, we would like to bring to the attention of your Excellency's Government information we have received concerning the arbitrary executions of **Mr. Mostafa Salehi and Mr. Navid Afkari**, following their participation in protests in 2018 and on the basis of unsubstantiated charges of murder; the arrest, detention and sentencing to death of **Messrs. Mehdi Salehi Ghaleh-Shahrokhi, Mohammad Bastami, Abbas Mohammadi, Majid Nazari and Hadi Kiani**, on charges of *moharabeh* (taking up arms to take lives or property and to create fear in the public) and *baghi* (armed rebellion) in connection with their alleged participation in protests that took place in December 2017/January 2018 in Isfahan, Isfahan Province; and the lengthy prison sentences against Navid Afkari's brothers **Messrs. Vahid and Habib Afkari** following their participation in protests. There are serious concerns related to due process, adherence to fair trial guarantees, a lack of evidence and alleged use of torture to extract forced confessions, and failure to respect the rights to freedom of opinion, expression and assembly in all of these cases.

According to the information received:

Execution of Mostafa Salehi

On 5 August 2020, the official news agency of the Iranian judiciary announced that Mostafa Salehi had been executed at Isfahan Central Prison, Isfahan Province. Mr. Salehi had been convicted of murder and sentenced to *qisas* (retribution in kind) for allegedly shooting and killing a member of the Islamic Revolutionary Guard Corps on 1 January 2018. He had been accused of

carrying out the shooting during the protests of December 2017 and January 2018.

On 26 September 2018, the Najafabad county prosecutor announced that Mr. Salehi had been arrested. Mr. Salehi's trial began on 17 February 2019 in Branch 1 of Isfahan's Criminal Court, according to state media. The exact date of Mr. Salehi's conviction is not known, but it is believed to have occurred between 21 January and 19 February 2020. On an unknown date, the Supreme Court reportedly upheld the Criminal Court's verdict.

There is limited information as to whether Mr. Salehi had access to a lawyer during the investigation and judicial process or whether the trial adhered to international fair trial standards. He consistently denied all charges against him and requested that the authorities bring forward a witness or surveillance footage to prove their allegations against him. It is reported that Mr. Salehi was put in solitary confinement in a detention centre of the IRGC's intelligence unit for over a year in an attempt to pressure him into a forced confession. It is alleged that the only evidence against him was the testimony of another detainee who was also forced to make false confessions incriminating other detainees.

Execution of Navid Afkari

On 25 April 2020, Iran's Supreme Court upheld the conviction for murder and accompanying death sentence under *qisas* (retribution in kind) against Mr. Navid Afkari. Navid Afkari had previously received the conviction and sentence after a trial in Criminal Court 1 of Fars Province. He had been accused of killing a security guard at a government building on 2 August 2018 during protests that took place in Shiraz, Fars Province. The Supreme Court refused the request for a retrial despite allegations that he was tortured to confess and a lack of supporting evidence of his guilt.

In a separate trial, Branch 1 of the Revolutionary Court in Shiraz, Fars Province convicted Navid Afkari of *moharebeh* and sentenced him to a second death sentence. He was also convicted by the Revolutionary Court of propaganda activities against the Islamic Republic of Iran; conspiracy and assembly to commit a crime against individuals and private property and making initial and collusive preparations to commit a crime against national security; enticing and inciting people to war and killing each other with the intent to disrupt national security; and insulting the Supreme Leader, the last charge for which he was sentenced to two years' in prison. He was also sentenced to 74 lashes. The conviction and sentences ordered by the Revolutionary Court were still under appeal at the time of Navid Afkari's execution on 12 September 2020.

In his request to the Supreme Court for a retrial, Navid Afkari raised the complaint that he was tortured by his interrogators while in detention. A

forensic pathologist had reportedly confirmed Navid Afkari's arm had been fractured, however since his examination occurred three months after the alleged incident and since Navid Afkari did not have access to a doctor at the time of the fracture, the pathologist could not conclusively link the injury to the alleged torture incident. However, an eye-witness reported seeing Navid Afkari being beaten by two State agents. During the beating, the witness saw Navid Afkari covering his head with his hand. One of the agents was seen beating the hand that he was using to cover his head after which Navid Afkari screamed in pain. He then lost consciousness. Also during the beating, the agents were heard telling him that he must write down everything that they tell him to write down. Navid Afkari also stated that he retracted his forced confession as it was extracted due to the torture he suffered. During a court session on 24 September 2019 before Criminal Court 1, he requested an investigation into the torture allegations. He also reportedly filed a complaint with the judiciary on 13 September 2019 concerning the torture he suffered. In his complaint to the judiciary, Navid Afkari claimed that he was "subjected to the most horrendous physical and psychological tortures" for 50 days in police detention. This included being beaten forcefully on his arms, legs, abdomen and back with sticks and batons. He also detailed that agents covered his head with a plastic bag and suffocated him to the brink of death and also tied him up and poured alcohol into his nose.

The primary basis for his conviction is reportedly a statement made by a friend of Navid Afkari. However, the friend has subsequently stated that what he said is not true and that he only made the statement because he was put under immense pressure and fear by the authorities. The Supreme Court rejected the request for a retrial based on Mr. Navid Afkari's forced confessions in the preliminary investigation. The court also stated that claims of pressure and torture are not based on conclusive evidence.

Other evidence purportedly used to convict Navid Afkari is also disputed. No eye-witnesses reportedly saw the attack on the security guard. A shopkeeper reported seeing two suspicious motorcyclists. However, the shopkeeper said that Navid Afkari did not fully resemble one of the two people he saw. Cell phone tower reports also claims to show that Navid Afkari and his brother, Vahid Afkari, were in the same place together the night of the killing. However, witnesses state that Vahid Afkari was at a family gathering without Navid, and Navid had Vahid's mobile phone at the time. CCTV footage was also put forward to support the accusations against the brothers. However, there is reportedly no CCTV footage from the time of the actual attack on the security guard and the CCTV footage put forward as evidence is from one hour before the attack took place. Other issues with the reliability of the CCTV footage also reportedly render it inconclusive at best. The chosen lawyer of Navid and Vahid Afkari also reportedly resigned from continuing to represent them shortly after accepting the case due to pressure from officials.

On 3 September 2020, Navid Afkari was reportedly transferred to an unknown location. It was later revealed that he had been taken to a ward in Adelabad prison in Shiraz that is reserved for individuals awaiting execution. All his contact with individuals outside the prison was cut off. On 5 September 2020, Iranian state television broadcasted a segment which showed Navid Afkari's forced confession. On 6 September 2020, Navid Afkari reportedly was able to make a telephone call to people outside of the prison and confirmed his whereabouts in Adelabad prison.

On 11 September 2020, Navid Afkari made a telephone call at 11:23pm. In the call, he said he had heard that him and his brothers would be transferred to Tehran the next day, although he did not know the exact location. He also stated that the Chief Justice of Fars Province and forensic doctors came and examined him. They recorded and took pictures of signs of beating in 10 to 15 spots on his body which he said were inflicted when he was transferred on 3 September. Navid Afkari said that the head prison guard and some soldiers he did not know the names of were the individuals who had beaten him. He finished the call by stating he was not worried and in good spirits. There was no indication during this telephone call that his execution was imminent.

On 12 September 2020, Navid Afkari's family had just arrived at the airport in Shiraz for the purpose of meeting with the family of the murder victim to seek pardon when they were informed that the execution had been implemented. Navid Afkari was buried secretly at night under heavy security presence, and the family was only subsequently allowed to see his face. According to statements by Iranian officials, Navid Afkari was executed by hanging. However, according to witness testimonies who saw the body, there were signs Navid's nose was broken. He was not given the opportunity to see his family before the execution, nor was his lawyer informed 48 hours prior to his execution, as stipulated under domestic law.

Prison sentences of Habib and Vahid Afkari

Habib Afkari and Vahid Afkari, brothers of Navid Afkari, were also arrested and are currently in detention in Adelabad prison.

Vahid Afkari was arrested on 17 September 2018, together with his brother Navid Afkari, by plain-clothed security agents. He was convicted by the Criminal Court of Fars Province, as a secondary accomplice in the murder of the security guard, and sentenced to 25 years' imprisonment. In a separate trial, Branch 1 of the Revolutionary Court in Shiraz, Fars Province convicted Vahid Afkari of propaganda activities against the Islamic Republic of Iran; conspiracy and assembly to commit a crime against individuals and private property and making initial and collusive preparations to commit a crime against national security; enticing and inciting people to war and killing each other with the intent to disrupt national security; and insulting the Supreme Leader. He was furthermore convicted of being an accessory to *moharebeh*

and sentenced to 25 years' imprisonment. The convictions and sentences ordered by the Revolutionary Court against Vahid Afkari are currently under appeal.

Habib Afkari was also convicted in Criminal Court 1 on five charges, the harshest of which was assembly and conspiracy to commit a crime against other persons, private property and making initial preparations. He was sentenced to seven and a half years' imprisonment on this charge. His other convictions also carried prison sentences, as well as one sentence of 74 lashes. He was also convicted in Branch 1 of the Revolutionary Court on three charges: propaganda activities against the Islamic Republic of Iran (one year' imprisonment), membership in a group in opposition with the intention of disrupting national security (five years' imprisonment), and insulting the Supreme Leader (two years' imprisonment). The convictions and sentences ordered against Habib Afkari by the Criminal Court and the Revolutionary Court are currently being appealed.

The Supreme Court refused Vahid Afkari's request for a retrial of the conviction by the Criminal Court, despite allegations that he was tortured to confess and a lack of supporting evidence of his guilt. In his request to the Supreme Court for retrial, Vahid Afkari stated that the mental and physical pressure he was put under to confess led him to attempt suicide.

On 3 September 2020, Vahid and Habib Afkari were transferred to a ward reserved for the punishment of prisoners in the same prison. They were reportedly badly beaten during the transfer. It is reported that they, along with Navid Afkari, were taken to these wards in retaliation for the public reports that were released about their sentences and claims of mistreatment in prison. Vahid and Habib Afkari are still detained in Adelabad prison.

Death Sentences against Mehdi Salehi Ghaleh-Shahrokhi, Mohammad Bastami, Abbas Mohammadi, Majid Nazari and Hadi Kiani

On 18 February 2020, Branch 2 of the Revolutionary Court in Isfahan convicted Messrs. Mehdi Salehi Ghaleh-Shahrokhi, Mohammad Bastami, Abbas Mohammadi, Majid Nazari and Hadi Kiani of the crimes of *moharabeh* (taking up arms to take lives or property and to create fear in the public) and *baghi* (armed rebellion) and sentenced them to the death penalty. The Supreme Court reportedly upheld this decision in a written judgment dated 13 May 2020. According to the Supreme Court verdict, Messrs. Ghaleh-Shahrokhi, Bastami, Mohammadi, Nazari and Kiani were put in temporary detention on 3 November, 12 March, 11 April, 14 March, and 10 March 2019 respectively. Other reports suggest that the five men may have previously been arrested in 2018 during the Persian calendar month of *Bahman* (January 21 – February 18) and held incommunicado for 40 days before it was discovered that they were being held by the Islamic Revolutionary Guards Corps' (IRGC) Intelligence Organization.

The five men are accused of participating in protests that occurred during December 2017 and January 2018 across Iran. They were accused by the IRGC and Basij militia of killing an individual during protests in Khomeini Shahr, Isfahan Province who was reportedly shot in the back. No video or eye-witness evidence has been put forward to support the claims that the five men were responsible for this death. Initially, a complaint was brought against the IRGC and Basij militia in the Military Court of Isfahan for the death of this individual but the Military Court claimed it did not have jurisdiction over the matter. On 9 June 2018, Branch 36 of the Supreme Court ruled that the case should proceed in the Revolutionary Court in Isfahan. During the December 2017/January 2018 protests, 22 people were reportedly killed due to force used by Iranian security forces, with videos and photographs showing security forces using firearms against protesters.

During their detention, the five men were allegedly tortured to confess. During their trial, the men reportedly told the judge that they had been tortured into stating that they had killed people and caused anarchy during the protests. Apart from Mr. Kiani, who was reportedly represented by his own lawyer, the other four men were represented by court-appointed lawyers. One of the five individuals, Abbas Mohammadi, was reportedly not in Isfahan when the protests occurred. Messrs. Salehi Ghaleh-Shahrokhi, Bastami, Mohammadi, and Kiani denied participating in the protests.

On 26 July 2020, the Justice Department of Isfahan Province stated that “no confirmation” of the decision had been made as of that date. On 30 July 2020, an article was published quoting the Chief Justice of Isfahan Province, where he denied that there is no finalized verdict in this case.

Without prejudging the accuracy of the received information, we express our alarm at the arbitrary and secret executions of Messrs. Mostafa Salehi and Navid Afkari. We are particularly concerned at the lack of evidence for the murder charges brought against them, trial proceedings that appear not to have upheld international fair trial standards, and the subsequent convictions. We express further serious concern at the death penalty sentences against Messrs. Mehdi Salehi Ghaleh-Shahrokhi, Mohammad Bastami, Abbas Mohammadi, Majid Nazari and Hadi Kiani. We also express concern at the lengthy prison sentences against Mr. Vahid Afkari and Mr. Habib Afkari. The executions, convictions, death penalty and prison sentences in these cases followed deeply flawed judicial processes allegedly based on forced confessions due to torture and other serious violations of due process and of fair trial standards. We deeply regret that the authorities in Iran continue to use torture and other ill-treatment to forcibly extract confessions, including in cases where there is a lack of incriminating evidence, and to broadcast forced confessions on state television. We would like to remind your Excellency’s Government of the absolute and non-derogable prohibition of torture and other cruel, inhuman or degrading treatment or punishment, as an international norm of *jus cogens*. We are also deeply concerned that the convictions and sentences have been imposed on individuals for

their participation or alleged participation in protests during December 2017/January 2018 and August 2018.

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 (ICCPR), ratified by the Islamic Republic of Iran on 24 June 1975, states that the death penalty may not be imposed when doing so would be contrary to the provisions of the ICCPR, and cannot be implemented before a final judgement is rendered by a competent court. In General Comment No. 36 (part IV), the Human Rights Committee has noted that the imposition of the death penalty is lawful only if it is implemented in a non-arbitrary manner. That is, if it is imposed for the most serious crimes, and in accordance with other obligations incumbent on the State under the Covenant.

Importantly, the Human Rights Committee specifies that "under no circumstances can the death penalty ever be applied as a sanction against conduct whose very criminalization violates the Covenant" (para. 36). Thus, if the sanctioning of the conduct would constitute a violation of the fair trial guarantees provided for in article 14 of the ICCPR in proceedings resulting in the imposition of the death penalty, then this would render the sentence arbitrary in nature, and in violation of article 6. Such violations might involve the use of forced confessions (concurrent violation of article 7); lack of effective representation during all stages of the criminal proceedings; failure to respect the presumption of innocence; lack of an effective right of appeal; lack of adequate time and facilities for the preparation of the defence; and general lack of fairness of the criminal process, or lack of independence or impartiality of the trial or appeal court. We also raise the issue that according to the law of the Islamic Republic of Iran, under Article 35 of the 2019 regulation on implementation of *qisas* and *hudud* crimes, an individual should be informed that he is entitled to visit his family before their execution. Article 43 of this same regulation also states that the judge should inform the individual's lawyer 48 hours prior to their execution.

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 the ICCPR.

With regard to the alleged violations of due process and of fair trial guarantees, 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 defence, and the right of accused persons to communicate with counsel of their own choosing. We also refer to 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 counsel without intimidation, hindrance, harassment or improper interference.

Article 7 of the ICCPR prohibits torture and other cruel, inhuman or degrading treatment or punishment. 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.”

We wish also to refer to articles 19 and 21 of the ICCPR which guarantee the right to freedom of opinion and expression and of peaceful assembly. As indicated by the Human Rights Committee, attacks, including through arbitrary detention, torture, inhuman or degrading treatment or punishment, and enforced disappearance, for exercising their right to freedom of expression is incompatible with the ICCPR, see CCPR/C/GC/34 para. 23. In an assembly, individuals who have committed acts of violence, must benefit from a fair trial with all guarantees of due process. Those acts of violence must be duly and impartially investigated. The failure to investigate may constitute a separate violation of the Covenant, see General Comment no 31, para. 15.

With regards to the alleged enforced disappearances, we would like to underline that enforced disappearances constitute an interference in the right to life of individuals for which the State is accountable and also constitute a violation of article 7 (prohibition of torture or cruel, inhuman or degrading treatment or punishment), article 9 (liberty and security of persons), and article 16 (right to recognition of a person before the law) of the ICCPR (Human Rights Committee, General Comment 36, CCPR/C/GC/36). We remind that no State shall practise, permit or tolerate enforced disappearances and no circumstances whatsoever, whether a threat of war, a state of war, internal political instability or any other public emergency, may be invoked to justify enforced disappearances (Declaration on the Protection of all Persons from Enforced Disappearance). States parties must take adequate measures to prevent the enforced disappearance of individuals, bring to justice the perpetrators of such acts and omissions and ensure that victims of enforced disappearance and their relatives are informed about the outcome of the investigation and are provided with full reparation (General Comment 36).

Furthermore, we would like to recall Principle 17 of the United Nations Basic Principles and Guidelines on remedies and procedures on the right of anyone deprived

of their liberty to bring proceedings before a court, which stipulates that the adoption of specific measures are required under international law to ensure meaningful access to the right to bring proceedings before a court to challenge the arbitrariness and lawfulness of detention and receive without delay appropriate remedies by certain groups of detainees. This includes, but is not limited to, persons detained in solitary confinement or other forms of incommunicado detention of restricted regimes of confinement.

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 and gravity of the matter, and of the irreversibility of the punishment of the death penalty, **we call upon your Excellency's Government to immediately halt any steps being taken towards the execution of Mehdi Salehi Ghaleh-Shahrokhi, Mohammad Bastami, Abbas Mohammadi, Majid Nazari and Hadi Kiani**, which, on the basis of the information made available to us would violate international human rights law and standards, and thus constitute an arbitrary execution. We further urge your Excellency's Government to ensure that the death sentences against the aforementioned individuals are annulled and that they are re-tried in full compliance with international human rights law and standards. We would also appreciate a response on the steps taken by your Excellency's Government to safeguard the rights of all 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 the observations of your Excellency's Government on the following matters:

1. Please provide any additional information and any comment you may have on the above-mentioned allegations.
2. Please provide detailed information about the legal and factual basis for the conviction and sentencing to death or imprisonment of the above-mentioned individuals, bearing in mind their incompatibility with international human rights law.
3. Please provide detailed information about the executions of Mostafa Salehi and Navid Afkari. Please provide information about whether any inquiry has been conducted into their arbitrary executions and their incompatibility with the domestic legal framework as well as with the Islamic Republic of Iran's obligations under international human rights law.
4. Please provide detailed information about whether any investigation or inquiry has been conducted in each of the above mentioned cases into the allegations of the use of torture and other cruel, inhuman or

degrading treatment or punishment, as well as allegations of enforced disappearances. If no such investigations have taken place and no-one has been held accountable, please explain why.

5. Please provide detailed information about the criminal investigation and judicial processes in each of the above mentioned cases, including confirmation of the dates on which the individuals were arrested, detained, and charged, as well as the dates of every court decision in their individual cases. Please also confirm the charges, convictions and sentences against each of the individuals as well as details on their access to legal assistance.
6. Please provide the court decisions related to the cases of the above-mentioned individuals, including by the Supreme Court, the Revolutionary Courts and the Criminal Courts. Please also provide information about the justification for using closed and secret trials; as well as the justification to deny the right to present a defence against the evidence presented before the courts and the denial to provide effective access to counsel of their choosing.
7. Please provide information on the conditions in detention for each individual named above, including any 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.

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.

We may publicly express our concerns in the near future as, in our view, the information upon which the press release will be based is sufficiently reliable to indicate a matter warranting immediate attention. We also believe that the wider public should be alerted to the potential implications of the above-mentioned allegations. The press release will indicate that we have been in contact with your Excellency's Government to clarify the issue/s in question.

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 an urgent appeal to the Government, the Working Group on Arbitrary Detention may transmit the case through its regular procedure in order to render an opinion on whether the deprivation of liberty was arbitrary or not. Such appeals in no

way prejudge any opinion the Working Group may render. The Government is required to respond separately for the urgent appeal procedure 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

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