

Mandates of the Special Rapporteur on the situation of human rights in the Islamic Republic of Iran; the Special Rapporteur on minority issues; the Special Rapporteur on extrajudicial, summary or arbitrary executions 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; Special Rapporteur on minority issues; Special Rapporteur on extrajudicial, summary or arbitrary executions; and Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, pursuant to Human Rights Council resolutions 43/24, 43/8, 44/5 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 imminent execution of Mr. **Javid Dehghan**, an Iranian man from the Baloch minority, who has reportedly been convicted of mohrabeheh (taking up arms to take lives or property and to create fear in the public). 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 in this case.

According to the information received:

Javid Dehghan, an Iranian from the Baloch minority, was convicted of mohrabeheh by Branch 1 of the Revolutionary Court in Zahedan, Sistan and Baluchistan Province in May 2017 and sentenced to death. Mr. Dehghan was accused of being involved with an armed group known as Jaish ul-Adl and of fatally shooting two Islamic Revolutionary Guards Corps (IRGC) officials on 9 April 2011. It is reported that Mr. Dehghan's conviction and sentence were issued despite the investigation and judicial process into these accusations failing to adhere to fair trial and due process standards, including the reported use of torture against Mr. Dehghan and a failure to provide him with a proper right to appeal.

On 5 June 2015, Mr. Dehghan was arrested in Iranshahr, Sistan and Baluchistan Province. The authorities did not inform his family for three months that he had been arrested or his whereabouts. During this time, his family reportedly requested information on his whereabouts from hospitals, police stations and other government agencies, but they did not receive any information or it was denied by the authorities that he was detained. After his first three months of detention, Mr. Dehghan was allowed to call his family and inform them that he was in the general ward of Zahedan Prison. Prior to his transfer in Zahedan Prison, he had reportedly been held in solitary confinement in an undisclosed

IRGC-run detention centre. For the next approximately 12 months after the telephone call with his family, he was reportedly taken back and forth between Zahedan Prison and an undisclosed detention facility, where he was held in solitary confinement and subjected to torture and other ill-treatment, including beatings, floggings, the extraction of one of his thumb nails, and being stripped naked. It is reported that under torture he made a false self-incriminating confession that he was a member of the armed group, but never confessed that he possessed weapons or was involved in the shooting. He was left by authorities in solitary confinement for months because he did not confess to these aspects of the accusations.

At his trial, Mr. Dehghan informed the court that during his detention IRGC officials repeatedly subjected him to torture in an attempt to force him into a false self-incriminating confession. This confession, which he retracted in court, became the primary source of evidence against him at his trial, alongside statements from five other co-accused. No investigation is known to have been ordered or to have taken place into Mr. Dehghan's allegations of torture and ill-treatment.

Despite Mr. Dehghan's casefile reportedly indicating that he lodged an appeal shortly after his May 2017 conviction, the Supreme Court reportedly made a short ruling on 9 July 2017 stating that it had not received an appeal submission from Mr. Dehghan and is not obligated to examine the case. It is unclear whether a detailed appeal for Mr. Dehghan went missing or whether his court-appointed representative had failed to make a detailed appeal submission on his client's behalf. In December 2020, a new lawyer for Mr. Dehghan made an application for judicial review to the Supreme Court. In this submission, his new lawyer reportedly detailed to the court the serious fair trial and due process violations that had taken place in Mr. Dehghan's case. On 25 January 2021, the Supreme Court denied the judicial review request. On 28 January 2021, the lawyer learned that the authorities have scheduled his execution for 30 January 2021 and had called his family to go to prison for their last visit. Mr. Dehghan has been transferred to solitary confinement in Zahedan Central Prison in preparation for his execution. The lawyer had been planning to make a second judicial review request before learning of his imminent execution. The IRGC have reportedly pressured the prosecution and judicial authorities to ensure the death sentence against Mr. Dehghan is carried out.

Mr. Dehghan's case is one of several cases reported in recent months of individuals on death row from the Balochi minority having their death sentences enforced. According to these reports, it appears there is a disproportionate trend of executing individuals from the Baloch minority. At least 19 Balochis have reportedly been executed in Mashhad and Zahedan Central Prisons since 19 December 2020, with four being executed on political and security charges. In total, it is understood that there are 124 people on death row in Zahedan Central Prison whose death sentences have been upheld on appeal. The majority

are for drug-related charges, while some are considered political prisoners and a few are accused of murder.

Without prejudging the accuracy of the received information, we express our alarm at the reported imminent execution of Mr. Dehghan. We are also highly alarmed that his case is emblematic of a recent increase since December 2020 in the number of individuals from the Balochi minority who have been executed. We are particularly concerned in Mr. Dehghan's case at the alleged torture and ill-treatment in order to extract self-incriminating confessions and the reported use of those forced confessions by the courts as evidence to convict and sentence him to the death penalty, following trial proceedings – both at first instance and on appeal - that appear not to have upheld international fair trial standards. We deeply regret that we continue to receive reports of the authorities in Iran using torture and other ill-treatment to forcibly extract confessions, and the admission of these forced confessions by the courts that use them as the basis for convictions and death sentences. We are further alarmed by the allegations that Mr. Javid Dehghan has been forcibly disappeared for three months. We reiterate that enforced disappearance is a serious violation of human rights and may well amount to the crime of torture or other cruel, inhuman or degrading treatment or punishment, unequivocally prohibited under international law.¹ We would like to remind your Excellency's Government that the freedom from torture and other cruel, inhuman or degrading treatment or punishment is an absolute and non-derogable right under international law that must be respected and protected under all circumstances and with no exception.

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 pursuant to a final judgement rendered by a competent court.

Under international law, the death penalty may be imposed only for the “most serious crimes,” involving intentional killing and only following strict adherence to fair trial and due process guarantees. This is what distinguishes capital punishment from an arbitrary execution.

Importantly, the Human Rights Committee specifies that “under no circumstances can the death penalty ever be applied as a sanction against conduct the very criminalization of which violates the Covenant”, (General comment No. 36, para 36). Thus, the violation of the fair trial guarantees provided for in article 14 of the ICCPR resulting in the imposition of the death penalty 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

¹ See, Communication No. 449/1991, *Mojica v Dominican Republic*, Views adopted by the Human Rights Committee on 15 July 1994, para. 5.7.

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.

Without expressing at this stage an opinion on the facts of the case and on whether the reported detentions were arbitrary or not, we appeal to your Excellency's Government to take all necessary measures to guarantee the right of the detained person in this case not to be deprived arbitrarily of his 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, the right of accused persons to communicate with counsel of their own choosing, and the right not to incriminate oneself. 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."

With regards to the solitary confinement of Mr. Dehghan over several months, we would like to recall the report by the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment (A/66/268), in which he concluded that prolonged or indefinite solitary confinement runs afoul of the absolute prohibition of torture and other cruel, inhuman or degrading treatment or punishment. Furthermore, due to the prisoner's lack of communication, as well as the lack of witnesses inside the prison, solitary confinement may also give rise to other acts of torture or ill-treatment. We would also like to recall paragraph 6 of General Comment No. 20 of the Human Rights Committee (1992), which states that prolonged solitary confinement of the detained or imprisoned person, may amount to acts prohibited by article 7 of the ICCPR.

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 or restricted regimes of confinement.

We also would like to draw the attention of your Excellency's Government that Enforced disappearance violates numerous human rights, among them the right to security of the person and the right to be protected from torture and other ill-treatment. In this respect, the enforced disappearance of Mr. Dehghan, following his arrest, contravened Iran's obligations under the ICCPR, articles 6 and 9. Furthermore, we would like to stress that the failure to acknowledge deprivation of liberty by state agents and refusal to acknowledge detention constitute an enforced disappearance. Paragraph 27 of General Assembly Resolution 68/156 (February 2014), "[r]eminds all States that prolonged incommunicado detention or detention in secret places can facilitate the perpetration of torture and other cruel, inhuman or degrading treatment or punishment and can in itself constitute a form of such treatment, and urges all States to respect the safeguards concerning the liberty, security and dignity of the person and to ensure that secret places of detention and interrogation are abolished".

With regards to the alleged enforced disappearance of Mr. Javid Dehghan, we are further drawing your Excellency's Government's attention to the United Nations Declaration on the Protection of All Persons from Enforced Disappearances, which establishes the prohibition to practice, permit or tolerate enforced disappearances (article 2); the obligation to take effective legislative, administrative, judicial or other measures to prevent and terminate acts of enforced disappearance (article 3) and that 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 (article 7). The Declaration recognizes the right to a prompt and effective judicial remedy as a means of determining the whereabouts or state of health of persons deprived of their liberty (article 9), the right to be held in an officially recognized place of detention, in conformity with national law and to be brought before a judicial authority promptly after detention in order to challenge the legality of the detention (article 10). The same article of the Declaration establishes the obligation of the detaining authorities to make available accurate information on the detention of persons and their place or places of detention, including transfers, to their family, counsel or other persons with a legitimate interest (article 10). The Declaration also establishes the obligation to make the findings of an investigation into the circumstances of the disappearance available upon request to all persons concerned and to ensure that all involved in the investigation are protected against ill-treatment, intimidation or reprisal (article 13).

Finally, we wish to refer to the 1992 United Nations Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities, adopted in General Assembly resolution 47/135, which refers to the obligation of States to protect the existence and the identity of minorities within their territories and to adopt measures to that end (article 1) as well as to adopt the required measures to ensure that persons belonging to minorities can exercise their human rights without discrimination (article 4).

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 Mr. Dehghan, 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 individual is annulled and that he is re-tried in full compliance with international human rights law and standards. We further urge your Excellency's Government to promptly undertake a full and independent investigation into the allegations of torture and ill-treatment against Mr. Dehghan.

We would also appreciate a response on the steps taken by your Excellency's Government to safeguard the rights of the above-mentioned person 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 of the above-mentioned individual, bearing in mind their incompatibility with international human rights law.
3. Please provide detailed information about whether any investigation or inquiry has been conducted in the above mentioned case into the allegations of enforced disappearance, the use of torture and other cruel, inhuman or degrading treatment or punishment. If no such investigations have taken place and no-one has been held accountable, please explain why.
4. Please provide detailed information about the criminal investigation and judicial process in the above mentioned case, including confirmation of

the dates on which the individual was arrested, detained, and charged, as well as the dates of every court decision in his case. Please also confirm the charges, convictions and sentences against the individual as well as details on their access to legal assistance.

5. Please provide all court decisions related to the cases of the above-mentioned individuals. Please also provide information about the justification for denying the right to an appeal and for rejecting the application for judicial review, especially considering the serious fair trial concerns raised, such as the use of torture and the denial to provide effective access to counsel of their choosing.
6. Please provide information on the conditions in detention for the individual, 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.

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

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