

Mandates of the Special Rapporteur on extrajudicial, summary or arbitrary executions; the Special Rapporteur on the situation of human rights in the Islamic Republic of Iran; the Special Rapporteur on freedom of religion or belief 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 extrajudicial, summary or arbitrary executions; Special Rapporteur on the situation of human rights in the Islamic Republic of Iran; Special Rapporteur on freedom of religion or belief and Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, pursuant to Human Rights Council resolutions 44/5, 46/18, 40/10 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 death sentences against Messrs. Abdolrahman Gargij, Farhad Shakeri, Hakim Azim-Gargij, Hossein Varasteh-Soleimani, Issa Eid-Mohammadi, and Taj Mohammad Khormali, on charge of *baghi* (armed rebellion against the state) and lengthy prison sentences against Messrs. Abdolbaset Orsan, Mohammadreza Sheikh Ahmadi, Morteza Fakouri, Habib Pirmohammadi, and Abdollah Hosseini.** The individuals belong to the Sunni religious minority. There are serious concerns in these cases related to due process, adherence to fair trial guarantees, a lack of evidence and alleged use of torture to extract forced confessions.

According to the information received:

Messrs. Abdolrahman Gargij, Farhad Shakeri, Eid Al-Hakim Azim-Gargij, Hossein Varasteh-Soleimani, Issa Eid-Mohammadi, Taj Mohammad Khormali, Abdolbaset Orsan, Mohammadreza Sheikh Ahmadi, Morteza Fakouri, Habib Pirmohammadi, and Abdollah Hossein are Iranian men and members of the Sunni religious minority. They are all currently held in Vakilabad prison in the city of Mashhad in Khorasan Razavi province.

Messrs. Abdolrahman Gargij, Farhad Shakeri, Eid Al-Hakim Azim-Gargij, Hossein Varasteh-Soleimani, Issa Eid-Mohammadi, Taj Mohammad Khormali, Abdolbaset Orsan, Mohammadreza Sheikh Ahmadi, and Morteza Fakouri, were arrested by security forces in 2015. Following their arrest, they were held in solitary confinement for 10 to 12 months in the detention center of the Intelligence Ministry in Mashhad.

In 2016, Branch one of the Revolution Court in Mashhad sentenced Abdolrahman Gargij, Farhad Shakeri, Eid Al-Hakim Azim-Gargij, Hossein Varasteh-Soleimani, Issa Eid-Mohammadi, and Taj Mohammad Khormali to

death on charges of “*baghi* (armed rebellion against the state) through membership in the Salafi group of Al-Forghan and membership in the National Solidarity Front of Sunnis in Iran”. The Revolution Court sentenced Abdolbaset Orsan, Mohammadreza Sheikh Ahmadi, and Morteza Fakouri to 15 years in prison on the charge of “*baghi* through membership in a Salafi group”.

Mr. Habib Pirmohammadi was arrested in March 2018. In February 2019, Branch 4 of the Revolution Court in city of Mashhad sentenced Mr. Pirmohammadi to 15 years in prison, for charge of “*baghi*”, five years in prison for charge of “assembly and collusion against national security”, one year in prison for charge of “propaganda against the state”, and one year in prison for “membership in a pro Daesh group on cyberspace”. Mr. Pirmohammadi has appealed to the Supreme Court. Despite his enquiries, he has not received information about whether his case is under review by the Supreme Court.

Mr. Abdollah Hosseini is held in Vakilabad Prison in a state of limbo.

The abovementioned individuals were reportedly subjected to torture and ill-treatment with the aim of extracting confessions. They reportedly did not have access to lawyers of their own choice since their arrest and throughout their trial process and were denied contacting their families for two years. A number of their family members have also been subjected to harassment by the authorities in attempt to force the abovementioned individuals to accept the charges.

They have reportedly been subjected to beating and harassment by prison guards and other prisoners in Ward 1.6 of Vakilabad prison.

Without prejudging the accuracy of the received information, we express our alarm that the convictions and death sentences against Messrs. Abdolrahman Gargij, Farhad Shakeri, Hakim Azim-Gargij, Hossein Varasteh-Soleimani, Issa Eid-Mohammadi, and Taj Mohammad Khormali, as well as lengthy prison sentences issued against of Messrs. Messrs. Abdolbaset Orsan, Mohammadreza Sheikh Ahmadi, Morteza Fakouri, Habib Pirmohammadi, and Abdollah Hossein, have been imposed following on the basis of forced confessions extracted through to torture and following other violations of due process and of fair trial standards. We are particularly concerned that the overbroad charge of “*baghi*” continues to be used for the imposition of the death penalty. We are furthermore concerned at the use of overbroad national security charges against members of minority groups. We deeply regret that the authorities in the Islamic Republic of Iran continue to reportedly use torture and other ill-treatment to forcibly extract confessions, and 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 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. 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. The term “the most serious crimes” must be read restrictively and appertain only to crimes of extreme gravity involving intentional killing.

Furthermore, violation of the fair trial guarantees provided for in article 14 of the ICCPR in proceedings resulting in the imposition of the death penalty, would render the award of the death penalty 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.

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.” Furthermore, in article 12 of the Declaration on the Protection of All Persons from Being Subjected to Torture and Other Cruel Inhuman or Degrading Treatment or Punishment (resolution 3452), the General Assembly expressly stated that “any statement which is established to have been made as a result of torture or other cruel, inhuman or degrading treatment or punishment may not be invoked as evidence ... in any proceedings.”

Finally, recognizing that the individuals affected are members of religious minorities in the Islamic Republic of Iran, we would like to bring to your Excellency's Government's attention the international standards guaranteeing the freedom of thought, conscience, religions or belief, as well as the protection of the rights of persons belonging to minorities, provided in articles 18 and 27 of the ICCPR. Furthermore, reference is made to the 1981 United Nations Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief (A/RES/36/55), which in its Article 2 (1): "[n]o one shall be subject to discrimination by any State, institution, group of persons, or person on grounds of religion or other belief." In Article 4 (1), the General Assembly further states that: "All States shall take effective measures to prevent and eliminate discrimination on the grounds of religion or belief in the recognition, exercise and enjoyment of human rights and fundamental freedoms [...]" Furthermore, we would like to refer your Government to Article 4(2) according to which: "All States shall make all efforts to enact or rescind legislation where necessary to prohibit any such discrimination, and to take all appropriate measures to combat intolerance on the grounds of religion or other beliefs in this matter.

The 1992 UN Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities, which refers to the obligation of States to protect the existence and the identity of minorities within their territories and to adopt the 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 and in full equality before the law (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 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 executions of Messrs. Abdolrahman Gargij, Farhad Shakeri, Hakim Azim-Gargij, Hossein Varasteh-Soleimani, Issa Eid-Mohammadi, and Taj Mohammad Khormali** which, on the basis of the information made available to us would violate international human rights law, and thus constitute an arbitrary execution. **We further urge your Excellency's Government to ensure that the death sentences against them are annulled and that all the aforementioned individuals 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 these individuals in compliance with international instruments.

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 person(s) 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 detailed information about the legal and factual basis for the conviction and sentencing to death and prison sentences against each of the abovementioned individuals, and their compatibility with international human rights law. In particular, please provide information about evidence used to convict the individuals on the charge of “baghi”.
3. Please provide information about the age of each of the individuals at the time of their arrest.
4. Please provide detailed information about whether any investigation or inquiry has been conducted into the allegations of the use of torture and other cruel, inhuman or degrading treatment or punishment. If no such investigation has taken place, please explain why.
5. Please provide detailed information about the criminal investigation and judicial processes in these cases, including confirmation of the dates on which abovementioned individuals were arrested, detained, and charged, as well as the dates of every court decision. Please also confirm the charges, convictions and sentences against them as well as details on their access to legal assistance.
6. Please provide the court decisions related to the prosecution of these individuals, including by the Supreme Court and the Revolution Courts. Please also provide information about the justification to deny the right to present a defence and the denial to provide effective access to counsel of their choosing.
7. Please provide information on the conditions in detention abovementioned individuals, 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.

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.

Morris Tidball-Binz

Special Rapporteur on extrajudicial, summary or arbitrary executions

Javaid Rehman

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

Ahmed Shaheed

Special Rapporteur on freedom of religion or belief

Nils Melzer

Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment