

Mandates of 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 situation of human rights defenders; the Special Rapporteur on the situation of human rights in the Islamic Republic of Iran; the Independent Expert on protection against violence and discrimination based on sexual orientation and gender identity; the Special Rapporteur on violence against women and girls, its causes and consequences and the Working Group on discrimination against women and girls

Ref.: UA IRN 21/2022
(Please use this reference in your reply)

20 September 2022

Excellency,

We have the honour to address you in our capacity as 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 situation of human rights defenders; Special Rapporteur on the situation of human rights in the Islamic Republic of Iran; Independent Expert on protection against violence and discrimination based on sexual orientation and gender identity; Special Rapporteur on violence against women and girls, its causes and consequences and Working Group on discrimination against women and girls, pursuant to Human Rights Council resolutions 42/22, 44/5, 43/4, 43/16, 49/24, 41/18, 50/L.7 and 50/18.

In this connection, we would like to bring to the attention of your Excellency's Government information we have received concerning the **alleged denial of the enjoyment of the human rights of Ms. Zahra ("Sareh") Sedighi-Hamadani and Ms. Elham Choubdar, who were recently sentenced to death – including their human rights to life; liberty and security of person, including freedom from arbitrary arrest and detention; freedom from torture or cruel, inhuman, or degrading treatment or punishment; the right to a fair trial; and the right to freedom from discrimination on the basis of political or other opinion, sex, or other status, including sexual orientation and gender identity or expression.**

According to the information we have received:

In January 2022 and September 2022, the aforementioned Special Procedures mandate holders received allegations of abuses experienced by Ms. Sedighi-Hamadani – including her arbitrary arrest and detention from October to December 2021 in a detention centre in Urumieh; torture and other ill-treatment in detention, including prolonged solitary confinement, death threats, homophobic insults in order to compel a forced confession; and discriminatory motives for those treatments – committed by officials of the Islamic Revolutionary Guard Corps and/or the Intelligence Organization of the Revolutionary Guards.

Ms. Sedighi-Hamedani was arrested on 27 October 2021 by the Islamic Revolutionary Guards near the Iranian border with Turkey. Ms. Elham

Choubdar was arrested on an unknown date afterwards. Ms. Sedighi-Hamedani was reportedly forcibly disappeared for 53 days following arrest, and subjected to abuse following her arrest and detention from October to December 2021 in a detention centre in Urumieh.

During the investigation phase, Ms. Sedighi-Hamadani was reportedly told by the authorities that she was accused of “spreading corruption on earth” including through “promoting homosexuality”. Following that reportedly unlawful detention and ill-treatment, Ms. Sedighi-Hamadani and her acquaintance Ms. Choubdar were prosecuted in early August 2022, and notified on 1 September 2022 they had been convicted and sentenced before the Islamic Revolution Court of Urumieh for “corruption on earth” based, *inter alia*, on their activities in the online environment, though the judicial decision and sentencing order have not yet been made public.

As communicated to the mandate holders, and demonstrated by examples available online, the online speech and conduct of Ms. Sedighi-Hamadani included actions to promote and protect human rights through peaceful means – in her case, the human rights of people experiencing discrimination on the basis of their real or perceived sexual orientation or gender identity. As such, she meets the common definition of a human rights defender.

On 18 July 2022, the official media outlet Tasnim affiliated with the Islamic Revolutionary Guards broadcast a video portraying Ms. Sedighi-Hamadani as a criminal for publishing online content that was described as promoting homosexuality, gambling, fraud and illicit sexual relations and challenging the stigma around religiously forbidden sexual relations. The video combined images of Zahra Sedighi-Hamadani’s human rights activism with accusations of “smuggling women and girls” from Iran to Iraq.

On 5 September 2022, the Iranian news agency IRNA and Iran’s Judiciary Media Center confirmed that the Islamic Revolution Court of Urumieh sentenced to death Ms. Sedighi-Hamadani and Ms. Choubdar on charges of corruption and trafficking of persons whom those individuals supposedly sought to assist to leave Iran.

In light of the above information provided to the Special Procedures mandate holders, we convey our deep concerns about the reported discriminatory motives of the arrest, detention, ill-treatment, and prosecution and conviction of the two women. In addition, we are concerned by the severity, finality, and irrevocable nature of the death penalty to which they were sentenced, following a process apparently lacking transparency, due process protections, and presumption of innocence, among other fair trial guarantees, and on the basis of legislation that it not in conformity with international human rights law.

While we do not wish to prejudge the accuracy of these allegations, the facts alleged would be in contravention of the rights of every individual to life, physical integrity, the absolute prohibition of torture and other cruel, inhuman or degrading treatments or punishment, and equal recognition before the law, as laid down, *inter*

alia, in articles 3, 5, 6, and 14 of the Universal Declaration of Human Rights (UDHR), as well as articles 6, 7, 9, and 16 of the International Covenant on Civil and Political Rights (ICCPR), ratified by your Excellency's Government on 24 June 1975. We remind that the prohibition on arbitrary deprivation of the right to life is a *jus cogens*, peremptory norm from which no derogation is permitted. We recall that the ability to determine one's own identity, is central to the right to equal recognition before the law established in article 6 of the UDHR and article 16 of the ICCPR, among other human rights treaties, and is central to the cross-cutting obligation to realize all human rights without discrimination on the basis of political opinion, sex, or any other status, as recognized in articles 1 and 2 of the UDHR and article 2 of the ICCPR.

We express our deep concern also that in the cases of Ms. Sedighi-Hamadani and Ms. Choubdar, their criminal sentencing to death was not imposed for offenses corresponding to the most serious crimes which, under international law, provide for intentional killing. We would like to refer your Excellency's Government to the report of the former Special Rapporteur on extrajudicial, summary or arbitrary executions, indicating that "*the conclusion to be drawn from a thorough and systematic review of the jurisprudence of all of the principal United Nations bodies charged with interpreting these provisions is that the death penalty can only be imposed in such a way that it complies with the stricture that it must be limited to the most serious crimes, in cases where it can be shown that there was an intention to kill which resulted in the loss of life*" ([A/HRC/4/20](#), paragraphs 39-53). **Charges of corruption and trafficking of persons do not meet this internationally recognized threshold (CCPR/C/GC/36, para. 35).**

Apart from the fact that a death sentence in connection with the aforementioned charges constitutes *per se* a violation of international law, we are concerned by the allegations that due process protections have not been respected during the trial proceedings in the cases of Ms. Sedighi-Hamadani and Ms. Choubdar. In this regard, we refer to paragraphs 4 and 5 of the United Nations Safeguards for the Protection of the Rights of Persons Facing the Death Penalty, adopted by the UN Economic and Social Council in 1984, which indicate that in the case of offenses that in fact reach the threshold of the most serious crimes, which does not appear to be the case in this instance, the death penalty can only be carried out after a legal process which gives all possible safeguards to ensure a fair trial, including the right to adequate legal assistance at all stages of the proceedings, and only when the guilt of the person charged is based upon clear and convincing evidence leaving no room for an alternative explanation of the facts. Forced confessions would constitute a flagrant violation of fair trial guarantees as enshrined in Article 14 of the ICCPR.

Furthermore, paragraph 7 of the above-mentioned Safeguards establishes that anyone sentenced to death shall have the right to seek pardon or commutation of the sentence and that pardon or commutation may be granted in all cases of capital punishment.

In the context of repeated reporting on the imposition of the death penalty in Iran, we recall that the General Assembly has consistently called upon all States to establish a moratorium on executions with a view to abolishing the death penalty

since its resolution 62/149 of 18 December 2007 (para.7) and most recently, in its resolution 73/175 of 17 December 2018 (para. 7), called upon all States to respect the safeguards guaranteeing protection of the rights of those facing the death penalty. We call on your Excellency's Government to reconsider its longstanding position on the death penalty, particularly in relation to offenses which do not meet the threshold of most serious crimes and which constitute a *per se* violation of international law.

In view of the urgency of the matter and the irreversibility of the punishment of the death penalty, we call upon the judiciary and all relevant institutions to ensure Zahra ("Sareh") Sedighi-Hamadani and Elham Choubdar are not executed. Their execution, on the facts available to us, would constitute a flagrant violation of applicable international human rights standards and would thus be an arbitrary execution. We urge your Excellency's Government to consider granting clemency and commuting the sentence of Zahra ("Sareh") Sedighi-Hamadani and Elham Choubdar.

We would like to recall your Excellency's Government that the Working Group on Discrimination against Women and Girls, in its report on participation in public life (A/HRC/23/50) expressed in paragraph 65 that women human rights defenders are often target of gender-specific violence such as intimidation, attacks, and death threats which are sometimes condoned or perpetrated by State actors. The Working Group has further called upon States to eliminate all forms of violence against women in order to fulfil women's human rights and to improve the enabling condition for women's participation in political and public life (according to the paragraph 97 (i) of the abovementioned report). In addition to these provisions, we would like to remind your Excellency's Government of the respective resolutions of the General Assembly GA Res 68/181 and of the Human Rights Council HRC Res 31/32, expressing particular concerns about systemic and structural discrimination and violence faced by women human rights defenders. States should take the appropriate measures to ensure their protection and to integrate a gender perspective into their efforts to enable a safe environment for human rights defenders. We would like to further recall your Excellency's Government that the Working Group on Discrimination against Women and Girls, in its report on girls' activism (A/HRC/50/25) expressed that young women are mobilizing worldwide to demand and catalyse change on critical global issues. They are at the forefront of initiatives aimed at transforming societies towards social justice, gender equality and sustainability. The realization of girls' and young women's human right to participate in public and political life, including organizing and engaging actively with a variety of State and non-State actors, is essential for the protection of their human rights. The Working Group has called on States to ensure that mechanisms are in place to solicit the views of girls in all matters of public interest affecting them directly or indirectly and to give due weight to those views.

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

We are issuing this appeal in order to safeguard the rights of abovementioned individuals from irreparable harm and without prejudicing any eventual legal determination.

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/or comment(s) you may have on the above-mentioned cases, including all relevant judicial orders and evidence presented to justify the underlying criminal charges, and the prescribed timelines for implementation of judgments and sentences as well as for appeals.
2. Please explain what measures have been taken to investigate the allegations of torture and other ill-treatment, among any other unlawful activities by authorities, which may have undermined the integrity of the criminal investigations and judicial proceedings.
3. Please explain what humanitarian measures authorities are providing to both women in order to ensure their enjoyment of the highest attainable standard of physical and mental health as they continue to be detained, and as any potential appeals proceed in their cases.
4. Please, provide information on what measures have been taken to ensure that both women have access to a fair trial – with equality of arms and without any form of discrimination that may compromise the integrity of the investigations, prosecution and conviction of the women – and have the opportunity to appeal their convictions and sentences before an independent, impartial, and competent judicial body with adequate legal representation.
5. Please explain what measures have been taken to ensure that all human rights defenders in Iran, in particular those working on issues of sexual orientation and gender identity, can carry out their peaceful and legitimate activities without fear of persecution or other restrictions.
6. Please provide information on any efforts envisaged to remove the death penalty in Iran, at least for offenses which do not meet the threshold of most serious crimes, and/or to reduce the scope of application of the death penalty. 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 for 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's to clarify the issue/s in question.

We would appreciate receiving a response as soon as is possible, in light of the gravity of the convictions and sentences, and the timeline for appeals of the decision. After **60 days**, this communication and any response received from your Excellency's Government will be made public via the communications reporting website. They will also subsequently be made available in the usual report to be presented to the Human Rights Council.

Further, 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.

Mumba Malila
Vice-Chair of the Working Group on Arbitrary Detention

Morris Tidball-Binz
Special Rapporteur on extrajudicial, summary or arbitrary executions

Irene Khan
Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression

Mary Lawlor
Special Rapporteur on the situation of human rights defenders

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

Victor Madrigal-Borloz
Independent Expert on protection against violence and discrimination based on sexual orientation and gender identity

Reem Alsalem
Special Rapporteur on violence against women and girls, its causes and consequences

Melissa Upreti
Chair-Rapporteur of the Working Group on discrimination against women and girls