

Mandates of the Special Rapporteur on extrajudicial, summary or arbitrary executions; the Working Group on Enforced or Involuntary Disappearances; 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 the promotion of truth, justice, reparation and guarantees of non-recurrence

Ref.: AL IRN 22/2022
(Please use this reference in your reply)

14 October 2022

Excellency,

We have the honour to address you in our capacities as Special Rapporteur on extrajudicial, summary or arbitrary executions; Working Group on Enforced or Involuntary Disappearances; 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 the promotion of truth, justice, reparation and guarantees of non-recurrence, pursuant to Human Rights Council resolutions 44/5, 45/3, 49/24, 49/5 and 45/10.

In this connection, we would like to bring to the attention of your Excellency's Government information we have received concerning the **alleged failure to comply with your Excellency Government's obligation to ensure locating, protecting, preserving and exhuming mass and unmarked grave sites, their investigation compliant with international standards with a view to identifying those buried therein, and the search for forcibly disappeared persons, in connection with the enforced disappearance and summary execution of political dissidents between July and early September 1988 in 32 cities in Iran.**

A previous communication (ref. no AL IRN 20/2020) by Special Procedures mandate holders, sent on 3 September 2020, raised concerns at allegations of the continued refusal to disclose the circumstances of death and the location of the mortal remains of political dissidents who were forcibly disappeared and summarily executed in 1988 and the refusal to provide families with accurate and complete death certificates. We regret that no response has been received to this communication. In addition, concerns at the enforced disappearances and summary executions of 1988 as well as allegations at the ongoing destruction of evidence related to those events, and targeting and prosecution of family members and others advocating to establish the truth on the fate of their relatives have previously been raised by Special Procedures on several occasions, including on 12 May 2022 (ref. no IRN 9/2022); 31 May 2021 (ref. no IRN 15/2021); and 14 June 2017 (ref. no IRN 21/2017). We remain concerned by the alleged continuing threats and prosecution of family members and other individuals seeking information on the alleged executions and we highlight that the replies received to these communications do not address the issue of the alleged destruction of mass graves or indicate any further steps taken to preserve the mass graves.

The Working Group on Enforced or Involuntary Disappearances has previously raised the alleged disappearance and killings of individuals for their political opinions or religious beliefs and the alleged destruction of mass graves in a General Allegation in 2017 (A/HRC/WGEID/111/1, Annex II, paragraph 17). The Working Group regrets that no reply has been received to the General Allegation to date, despite reminders having been sent.

According to the information received:

Between July and September 1988, thousands of political dissidents affiliated with political opposition groups were forcibly disappeared and summarily executed, and their bodies were secretly buried, mostly in unmarked and mass graves.

No information has been provided to families about the fate and whereabouts of these persons and the circumstances leading to their execution. Families either remained uninformed about the location of the remains of their relatives or learnt about their burial in suspected or known mass grave sites through informal contact with prison guards and officials, cemetery workers or local residents. Many prisoners were secretly transferred to different detention facilities prior to their execution. The authorities excluded the names of most of the victims from publicly available burial registers to conceal the location of the remains.

In Bandar Anzali, Isfahan, Hamden, Masjed Soleiman, Shiraz, Semnan, and Tehran, authorities informed several families of the location of each grave and allowed them to install headstones. However, many of these families fear that the authorities may have deceived them and that some of the graves may be empty.

In Ahvaz, Ardabil, Ilam, Mashhad, and Roudsar, authorities eventually verbally informed some families that their loved ones were buried in mass graves and announced their locations. Publicly, however, authorities never acknowledged these mass graves, some of which may have since been excavated or altered, by bulldozing them to make place for new burial sites, and constructing buildings or roads over them. Furthermore, some sites that are believed to contain mass graves are closely watched and under regular patrolling by security and intelligence officials.

Among the mass graves reported is a grave site in Khavaran cemetery in Tehran. Over several decades, the authorities have attempted to hide or destroy evidence of mass graves at this site, including through destruction of graves, forcing members of the Baha'i religious community to bury their dead at the same grave sites, preventing families from entering and gathering in Khavaran through arrests, threats and harassments.

In June 2022, it was reported that the authorities demolished old walls around Khavaran, erected a high concrete wall and installed cameras around the grave site.

While we do not wish to prejudge the accuracy of these allegations, we are seriously concerned, if they prove to be accurate, about what appears to be a deliberate attempt to conceal the location or destroy mass and unmarked grave sites where thousands of individuals were buried in 1988. We are further troubled by reports of continued threats and harassment against families attempting to clarify the fate and whereabouts of their loved ones. In this regard, we recall the right of families under international law to know the fate and whereabouts of their disappeared loved ones and the fundamental principle that the dead must always be treated with dignity,

must be disposed of in a respectful manner and their graves respected and properly maintained.

We are further alarmed by the reported difficulties faced by families of disappeared individuals to obtain information on investigations, including forensic investigations, and the lack of progress in clarifying their fate and whereabouts to establish facts, such as the circumstances of their death. In this regard, we stress the importance of locating, preserving and protecting these burial sites from any acts or factor that may damage or destroy them, natural or man-made. The impossibility to obtain the mortal remains of a family member and to perform related rituals amounts to a violation of the right to privacy and family life. We also underline that an enforced disappearance continues until the fate and whereabouts of the individual concerned are established with certainty, irrespective of the time that has elapsed since the disappearance. Family members have a right to truth, which encompasses the right to know about the progress and results of an investigation, the fate and the whereabouts of the disappeared persons, and the circumstances of the disappearances, and the identity of the perpetrator(s) (A/HRC/16/48). The failure to provide information on the fate and whereabouts of disappeared persons and the attitude of official indifference of authorities in the face of the relatives' suffering may amount to a form of ill-treatment.

The right to life and the prohibition of torture and enforced disappearance are absolute under international law, along with the obligation to investigate these crimes and hold perpetrators accountable.

Should the facts alleged be accurate, they would amount to a violation of the rights to life, to be protected from torture and ill-treatment, to liberty and security of persons, to recognition as a person before the law, to privacy and family life, to freedom of thought, conscience and religion, to seek information, to equal and effective protection against discrimination on any ground, to remedy and to the rights of minorities guaranteed the International Covenant on Civil and Political Rights (ICCPR), ratified by Iran on 24 June 1975, and to a violation of various provisions of the 1992 Declaration on the Protection of all Persons from Enforced Disappearance.

With regard to the importance of conducting exhumations of mass graves in line with international norms and best practices, we refer to the Revised United Nations Manual on the Effective Prevention and Investigation of Extra-Legal, Arbitrary and Summary Executions (the Minnesota Protocol on the Investigation of a Potentially Unlawful Death (2016))¹. This protocol includes detailed guidelines about the excavation of graves, recovery and identification of remains and crime scene investigation amongst others. Following these guidelines is essential to ensure that human remains are recovered and managed professionally and in a dignified manner, that their identities may be reliably established and that the causes and circumstances of their deaths are accurately determined and documented. In this regard, the report by the Special Rapporteur on extrajudicial, summary or arbitrary executions on mass graves (A/75/384) stresses the obligation to protect, document and investigate with due diligence any grave sites that might contain the remains of victims of enforced disappearance and extrajudicial killing, with a view to recovering the bodies or human remains reportedly buried there, ensuring their dignified management, documentation, identification, determining their cause and manner of death, bringing those responsible to justice and ensuring full reparations for the victims, including their

¹ <https://www.ohchr.org/sites/default/files/Documents/Publications/MinnesotaProtocol.pdf>.

families. We also refer to the Guiding principles for the search for disappeared persons (CED/C/7).

Should your Excellency's Government require forensic expertise to develop its capacity to carry out these investigations, guided by such protocol, we reiterate our readiness to provide technical assistance to help the Government to ensure its compliance with international human rights obligations and applicable standards of forensic best practices.

In light of the above, we respectfully call upon your Excellency's Government to conduct without delay, thorough, effective, independent and impartial investigations into the alleged extrajudicial executions referred to in this communications, and the related enforced disappearances of the victims; to take prompt action to locate, preserve and protect from undue interference or degradation all sites where people may have been buried, individually or in groups, and to identify, respect and return the remains contained therein to the respective families.

We wish to refer to the **Annex on Reference to international human rights law** attached to this letter which cites international instruments and standards relevant to these allegations.

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 allegations.
2. Please provide detailed information about the fate and whereabouts of the estimated 8,000 political prisoners who are alleged to have been summarily executed and forcibly disappeared in 1988, and about the efforts undertaken since by the successive governments to independently and effectively investigate these disappearances to clarify what happen to these persons, inform their families accordingly, including the location of their burial in case of death, and return the remains to them to enable them to close the painful process of grief;
3. Please provide information on the steps taken to guarantee the right to truth in relation to these cases, including the right to impartial, independent, thorough and effective investigation of alleged crimes, and the right to effective remedy for the victims of enforced disappearance and arbitrary killings and/or their families.
4. Please provide information on the steps taken to ensure that families of persons disappeared have a centralized and easily accessible process to request information on search and investigation activities and on how families are informed of any steps taken to locate their relatives. In particular, please provide further information on how the 2019 Guiding Principles on the Search for Disappeared Persons will be considered and implemented, especially taking into account Principles 2.4, 3.3, 6.1, 7.3, 11.2, 11.4, and 12.4.

5. Please provide information on the capacity of your Excellency's Government to conduct prompt, impartial, independent, thorough and effective investigations into potentially unlawful deaths and enforced disappearances in line with international standards. Please include information on the implementation of the *Revised United Nations Manual on the Effective Prevention and Investigation of Extra-Legal, Arbitrary and Summary Executions (the Minnesota Protocol on the Investigation of a Potentially Unlawful Death (2016))*, on forensic capacities and on any needs for technical assistance and capacity building in this regard. In this context, please provide further information on:
 - a) any efforts to locate and exhume mass and unmarked graves, as well as to respect and identify the remains found therein, the extent to which families were consulted and kept informed of the process and the number of individuals identified.
 - b) steps taken to ensure that human remains are returned to the families for dignified burials, with no discrimination on grounds of religion or belief.
 - c) how your Excellency's Government intends to implement the recommendations of the Special Rapporteur on extrajudicial, summary or arbitrary executions in the report on mass graves (A/75/384), in particular the disclosure, preservation and protection of all mass graves from any interference, manipulation of evidence or loss of human remains, and what steps have been taken to date to that end.
6. Please provide any information on steps taken to immediately bring to end, investigate and prevent any acts of retaliation against family members seeking information on the fate and whereabouts of victims of enforced disappearance.
7. Please indicate what measures have been taken or are foreseen to be taken to facilitate the effective participation of family members or other close relatives of deceased or disappeared persons at all stages of the investigations, to keep them informed of any progress, and to ensure the safety of family members wishing to visit any of the located burial sites.

We would appreciate receiving a response within 60 days. Past this delay, 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.

While awaiting a reply, we urge that all necessary measures are taken to ensure that burial sites and mass graves are preserved and not subjected to any alteration or erosion, until the remains contained are properly exhumed and identified, pursuant to international standards; and that prompt, thorough and comprehensive

investigations are conducted into these allegations of summary executions and enforced disappearance in accordance with international standards.

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

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Aua Balde
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Annex

Reference to international human rights law

In connection with the above alleged facts and concerns, and without prejudging the accuracy of these allegations, we would like to draw the attention of your Excellency's Government to the relevant international norms and standards.

We refer to Articles 2, 6, 7, 9, 14, 16, 17, 18, and 19 (2), 26 and 27 of the International Covenant on Civil and Political Rights (ICCPR), ratified by Iran on 24 June 1975, which respectively provides that every individual has the right to an effective remedy, to life, to be protected from torture and ill-treatment, to liberty and security of persons, to recognition as a person before the law, to privacy and family life, to freedom of thought, conscience and religion, to seek information, to equal and effective protection against discrimination on any ground, including religion, and the rights of minorities.

We would like to refer to the obligation to investigate and punish gross human rights violations and to provide redress to victims. Article 2 of the ICCPR establishes that States must adopt measures to ensure that persons whose rights or freedoms are violated have an effective remedy, and that the competent authorities enforce such remedies when granted.

In its General Comment No. 31, the Human Rights Committee established that States have an obligation to investigate and punish serious human rights violations, including summary or arbitrary killings, torture and other cruel, inhuman or degrading treatment, and enforced disappearances (paragraph 18). Failure to investigate and prosecute such violations is in itself a breach of the norms of human rights treaties. Impunity for such violations can be an important element contributing to the recurrence of violations.

The **right to life** constitutes a *jus cogens* and international customary law norm, from which no derogation can be made under any circumstances (CCPR/C/GC/36, para. 2). We would like to remind your Excellency's Government of the duty to investigate, prosecute, and punish all violations of the right to life. We urge your Excellency's Government in line with the *United Nations Principles on the Effective Prevention and Investigation of Extra-legal, Arbitrary and Summary Executions*, adopted by Economic and Social Council resolution 1989/65, in particular principle 9, that there must be thorough, prompt and impartial investigations of all suspected cases of extra-legal, arbitrary and summary executions. We highlight the importance of conducting these investigations into the killing of the abovementioned individuals in accordance with the *Revised United Nations Manual on the Effective Prevention and Investigation of Extra-Legal, Arbitrary and Summary Executions (the Minnesota Protocol on the Investigation of a Potentially Unlawful Death (2016))*. The Minnesota Protocol further highlights that investigations "must be transparent, including through openness to the scrutiny of the general public and of victims' families" who have the right to take part in the investigations, and to obtain available information on the causes of death (paras. 11 and 32). According to the Minnesota Protocol, "investigators and investigative mechanisms must be, and must be seen to be, independent of undue influence" at all stages and must be "independent of any suspected perpetrators and the units, institutions or agencies to which they belong" (para. 28). An autopsy should be performed, and if it is not done, the reason should be

justified in writing and subject to judicial review (para. 25). In performing this autopsy, the Minnesota Protocol's detailed guidelines on autopsies should be followed (paras. 73-250). In addition to an autopsy, an effective and thorough investigation would require the collection of "all testimonial, documentary and physical evidence" (para. 24). Moreover, investigations must "seek to identify not only direct perpetrators but also all others who were responsible for the death, including, for example, officials in the chain of command who were complicit in the death. The investigation should seek to identify any failure to take reasonable measures which could have had a real prospect of preventing the death. It should also seek to identify policies and systemic failures that may have contributed to a death and identify patterns where they exist" (para. 26). In the event that a violation is found, full reparation must be provided, including, in view of the particular circumstances of the case, adequate measures of compensation, rehabilitation and satisfaction. The failure to investigate violations of the Covenant and to bring perpetrators of such violations to justice could in and of itself give rise to a separate breach of the ICCPR (CCPR/C/21/Rev.1/Add.13, para. 15).

In this connection, we would like to refer to the report of the Special Rapporteur on extrajudicial, summary or arbitrary executions, A/75/384, which notes that Governments "should ensure that mass graves are preserved and protected until, based on an inclusive consultative process, decisions have been made as to their treatment and management" and "should provide a list of known locations of mass graves in the country and proactively search for additional sites, including those that may have been desecrated or further concealed. Safe and confidential processes for individuals to report the existence and location of mass graves should be provided (para. 62)." Furthermore, we urge your Excellency's Government to implement the recommendations made in the report, particularly all measures necessary to locate, disclose, protect and preserve all mass gravesites and the development of legal frameworks governing the respectful and lawful management of mass graves. In this context, the Special Rapporteur stressed that "hiding, damaging or destroying mass graves is strictly prohibited, as is the criminalization of those seeking to uncover mass graves. Such acts would constitute a violation of the right of families and society to know the truth about the circumstances behind the existence of the mass graves, including executions and enforced disappearances or failure to protect (para. 88)."

Secrecy surrounding the date of execution, giving little or no prior warning to condemned prisoners and their families as well as the refusal to hand over the body of an executed individual for burial amounts to inhuman treatment of the family in violation of article 7 of the ICCPR (A/67/279, CCPR/C/106/D/2120/2011). The impossibility to obtain the mortal remains of a loved one and to perform the last rituals and mourn and obstructions to seek and receive information amount to a violation of the right to privacy and family life and the right to freedom to seek information enshrined in article 17 and 19 of the ICCPR, respectively.

We also refer to General Comment No. 36, which highlights that "**enforced disappearance** constitutes a unique and integrated series of acts and omissions representing a grave threat to life. States parties must take adequate measures to prevent the enforced disappearance of individuals and conduct an effective and speedy inquiry to establish the fate and whereabouts of persons who may have been subject to enforced disappearance. States parties should also ensure that the enforced disappearance of persons is punished with appropriate criminal sanctions and introduce prompt and effective procedures for cases of disappearance to be

investigated thoroughly by independent and impartial bodies that operate, as a rule, within the ordinary criminal justice system. They should 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” (para. 58). Notably, also the prohibition of enforced disappearance and the corresponding obligation to investigate and prosecute those responsible has attained the status of *jus cogens*.

Reference is also made to the 1992 Declaration on the Protection of All Persons from Enforced Disappearance, in particular Articles 6, 7, 13, 17 and 19 which stipulates that no order or instruction of any public authority, civilian, military or other, may be invoked to justify an enforced disappearance; no circumstances whatsoever may be invoked to justify enforced disappearances; that all involved in the investigation, including the complainant, relatives, counsel, witnesses and those conducting the investigation, should be protected from ill-treatment, intimidation or reprisal; that investigations should be conducted for as long as the fate of the victim remains unclarified; that enforced disappearances shall be considered a continuing offence as long as the perpetrators continue to conceal the fate and the whereabouts of persons who have disappeared, and these facts remain unclarified and that victims of acts of enforced disappearance shall obtain redress and shall have the right to adequate compensation.

We also refer to the Guiding principles for the search for disappeared persons issued by the Committee on Enforced Disappearances in 2019. In particular, we draw your Excellency’s Government’s attention to principle 2.4 indicating that the body or remains of a disappeared person should be handed over to the family members under decent conditions; principle 3.3 outlining that public policy on searches should be built on the basis of States’ obligations to search for, locate, release, identify and return the remains, as appropriate, of all disappeared persons; principle 5 which outlines the right of relatives, their legal representatives, counsel or any person authorized by them, to take part in the search; principle 6. 1 which states that when competent authorities become aware that a person has been subjected to disappearance, they should begin the search immediately and expeditiously; principle 7.3 which states that the search for a disappeared person should continue until his or her fate and/or whereabouts have been determined with certainty; principle 11.2 and 4 indicating that States should establish registers and databases on disappeared persons that cover the entire national territory that include disintegrated data on the reason for the disappearance, location and status of the disappeared person, and in case of death, if the human remains have been identified and handed over to the respective families and that these registers and databases should be maintained even after the search has ended; principle 12.4 indicating that States should take the necessary measures to guarantee the transfer of the knowledge and technology needed for search processes, including those of national and international organizations specialized in searching for disappeared persons and identifying human remains; and principle 13 which stipulates that the search for the disappeared and the criminal investigation of the persons responsible for the disappearance should be mutually reinforcing. The comprehensive search process for disappeared persons should be initiated and conducted with the same effectiveness as the criminal investigation.

In this regard, we refer to the Working Group on Enforced or Involuntary Disappearances’ report on standards and public policies for an effective investigation of enforced disappearances (A/HRC/45/13/Add.3). The Working Group recalls in the

report that completion of the criminal investigation, along with any conviction or acquittal of the persons accused of having committed an offence of enforced disappearance or the declaration of absence by reason of enforced disappearance, should not constitute an obstacle to the continuation of search activities or be invoked to justify their suspension. These activities should be pursued until it has been possible to determine with certainty the circumstances of the disappearance and the fate and whereabouts of the disappeared person or their remains.

Finally, we would further like to refer to the inalienable **right to know the truth** about past events concerning the perpetration of heinous crimes and about the circumstances and reasons that led, through massive or systematic violations, to the perpetration of those crimes, as established in the updated Set of Principles for the Protection and Promotion of Human Rights through Action to Combat Impunity of February 2005 (principle 2). Full and effective exercise of the right to the truth provides a vital safeguard against the recurrence of violations (principle 5). In this context, we recall the General Comment issued by the Working Group on Enforced or Involuntary Disappearances on the right to the truth in relation to enforced disappearance (A/HRC/16/48, para. 39) which indicates that the failure to respect the relatives right to know the truth on the fate and whereabouts of the disappeared person causes anguish and sorrow which may amount to torture. The family of deceased individuals have the right to have the remains of their loved one returned to them, and to dispose of the remains according to their own tradition, religion or culture. The General Comment highlights that the right of the relatives to know the truth of the fate and whereabouts of the disappeared persons is an absolute right, not subject to any limitation or derogation. The State has the obligation to let any interested person know the concrete steps taken to clarify the fate and the whereabouts of the person. Such information must include the steps taken on the basis of the evidence provided by the relatives or other witnesses. The relatives of the victims should be closely associated with an investigation into a case of enforced disappearance. The failure to provide information on the fate and whereabouts of disappeared persons may amount to a form of ill-treatment, in breach of article 7, read alone and in conjunction, with article 2 (3) of the ICCPR.²

² See Human Rights Committee, Communication No. 107/1981, *María del Carmen Almeida de Quinteros et al. v. Uruguay*, 21 July 1983.