

Mandates of the Working Group on Arbitrary Detention; the Working Group on Enforced or Involuntary Disappearances; the Special Rapporteur on the situation of human rights in the Islamic Republic of Iran and the Special Rapporteur on minority issues

Ref.: AL IRN 28/2022
(Please use this reference in your reply)

19 December 2022

Excellency,

We have the honour to address you in our capacities as Working Group on Arbitrary Detention; Working Group on Enforced or Involuntary Disappearances; Special Rapporteur on the situation of human rights in the Islamic Republic of Iran and Special Rapporteur on minority issues, pursuant to Human Rights Council resolutions 51/8, 45/3, 49/24 and 43/8.

In this connection, we would like to bring to the attention of your Excellency's Government information we have received concerning the alleged arbitrary arrest, continued detention, torture and ill-treatment of Mr. **Maziar Shahbakhsh** and Mr. [REDACTED] belonging to the Baloch minority, who were both children at the time of their arrest. During the first two months of detention of Mr. Maziar Shahbakhsh, he was reportedly subjected to enforced disappearance for four months after his arrest in March 2022.

Concerns at the reported targeting of minority groups, including reports of enforced disappearance were raised by Special Procedures in previous communications, including on 16 August 2021 (ref. no IRN 21/2021), on 22 February 2021 (ref. no IRN 6/2021) and 19 February 2021 (ref. no IRN 7/2021). We thank your Excellency's Government for the response received to IRN 21/2021 and IRN 6/2021, but remain concerned that the violations continue. We regret that no response was received to IRN 7/2021.

According to the information received:

Mr. Maziar Shahbakhsh, 18 years old, and Mr. [REDACTED], 17 years old, are from the Baloch minority.

On 9 March 2022, plain-clothes forces from the Islamic Revolutionary Guards Corps in the city of Zahedan, the Sistan and Baluchistan province, arrested Mr. Maziar Shahbakhsh. He was 17 years old at the time of the arrest.

Mr. Maziar Shahbakhsh was held in prolonged solitary confinement in an undisclosed detention center for four months. During the first two months of his detention, he was reportedly subjected to enforced disappearance as the authorities denied his family any information on his fate and whereabouts. The interrogators reportedly subjected him to torture and other ill-treatment through beatings, threats to kill him, and forcing him to stand for three days and nights. He gave a forced "confession" as a result of the torture and other ill-treatment. Interrogators questioned Mr. Maziar Shahbakhsh about his father and paternal uncle who were killed in reported armed clashes with security forces prior to his arrest. They promised to release Mr. Maziar Shahbakhsh if he acted as an informant against the Baluchi community. According to reports,

intelligence and security forces in many cases attempt to harass and intimidate Baluchi men and boys to become informants in their community.

Four months after his arrest, Mr. Maziar Shahbakhsh was transferred to Zahedan prison. Ten days later, he was transferred to a youth detention facility in the city of Zahedan where he remains. According to reports, every month the Islamic Revolutionary Guard Corps have been periodically transferring him to an unknown location for several days, subjecting him to further interrogations and torture. During one interrogation, security agents told him to call his family and tell them to “prepare the money for the noose to hang him”. Upon his return to the youth detention facility, witnesses have reportedly seen bruises and other visible injuries on his face and hands.

On 3 July 2022, Mr. ██████████ was arrested by uniformed security agents in the village of Kalagan, in the Sistan and Baluchistan province.

He was held in a detention center controlled by the Islamic Revolutionary Guards Corps for one week. He was then transferred to Zahedan prison, where he has been held in prolonged solitary confinement. He was denied all contact with his family until a brief family visit in early November 2022. He was reportedly forced to give “confessions” after being subjected to torture and ill-treatment.

Prior to his arrest, Mr. ██████████ worked as a fuel porter (Soukhtbar) and was the main breadwinner in his family. Fuel porters generally live in poverty in the Sistan and Baluchistan province, mostly populated by members of the Baloch minority, and earn a living by selling fuel in border villages in Pakistan.

Both Mr. Maziar Shahbakhsh and Mr. ██████████ have been denied access to legal representation. For months after their arrest, the authorities refused to provide their families the reasons for their arrest and detention. Recently, a judicial authority at the Islamic Revolution Court told their families that their detention stems from their familial affiliation with the father and paternal uncle of Mr. Maziar Shahbakhsh, who are also relatives of ██████████.

Without prejudice to the accuracy of the abovementioned allegations, we would like to express our serious concern regarding the arrest, and ongoing detention of Mr. Maziar Shahbakhsh and Mr. ██████████. We are concerned that these acts appear to have been carried out in retaliation for their familial affiliation and to the possible targeting of the Baloch minority. Furthermore, we express our serious concerns at the enforced disappearance of Mr. Maziar Shahbakhsh and alleged use of torture and ill-treatment against the two individuals for the purpose of extracting forced confessions. We also express deep alarm about the physical and psychological integrity of Mr. Maziar Shahbakhsh and Mr. ██████████ while in detention, as well as profound concern that Mr. Maziar Shahbakhsh’s whereabouts was uncertain for two months, thus placing him outside the protection of the law.

We are issuing this appeal in order to request that your Excellency’s Government safeguard the rights and in particular the rights to life and personal integrity of the abovementioned individuals from irreparable harm and without

prejudicing any eventual legal determination.

In connection with the above alleged facts and concerns, please refer to the **Annex on Reference to international human rights law** attached to this letter which cites international human rights 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 information on the legal and factual grounds invoked for the arrest and detention of Mr. Maziar Shahbakhsh and Mr. [REDACTED] and explain how these are compatible with international law.
3. Please provide information on whether any formal charges have been pressed against Mr. Maziar Shahbakhsh and Mr. [REDACTED].
4. Please clarify if Mr. Maziar Shahbakhsh and Mr. [REDACTED] had access to a lawyer of their choice from the moment of arrest and provide information on whether any special measures have been undertaken considering their status as minors.
5. Please provide information on the whereabouts of Mr. Maziar Shahbakhsh during the first two months following his arrest and illustrate which measures have been undertaken to ensure that his relatives and any person having legitimate interest have regular access to information concerning his deprivation of liberty and his current fate and whereabouts.
6. Please provide information on whether any investigation has been launched to clarify the circumstances of the reported events and, with regard to the allegations of torture, ill-treatment and enforced disappearance, identify those responsible, prosecute and, where appropriate, sanction them. If no investigation is ongoing, please provide information for the reasons thereof.
7. Please provide information on investigations conducted, or foreseen, into the allegations of forced confessions under torture and any outcome. If no inquiries have taken place or if they have been inconclusive, please explain why.
8. Please provide information on the conditions of detention and elements relating to the state of health of Mr. Maziar Shahbakhsh and Mr. [REDACTED], including their right to regularly communicate with their family and obtain legal assistance.

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.

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.

While awaiting a reply, we urge that all necessary interim measures be taken prevent any irreparable damage to the life and personal integrity of Mr. Maziar Shahbakhsh and Mr. [REDACTED]; 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(s) responsible for the alleged violations.

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

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

Aua Baldé
Chair-Rapporteur of the Working Group on Enforced or Involuntary Disappearances

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

Fernand de Varennes
Special Rapporteur on minority issues

Annex

Reference to international human rights law

In connection with above alleged facts and concerns, we would like to refer your Excellency's Government to the International Covenant on Civil and Political Rights (ICCPR), ratified by Iran on 24 June 1975.

We would like to refer to article 9 ICCPR enshrining the right to liberty and security of person and establishing in particular that no one shall be deprived of his or her liberty except on such grounds and in accordance with such procedure as are established by law as well as the right to legal assistance from the moment of detention. Article 9 (4) also entitles everyone detained to challenge the legality of such detention before a judicial authority. In its General Comment No. 35, the Human Rights Committee has found that arrest or detention as punishment for the legitimate exercise of the rights as guaranteed by the Covenant is arbitrary, including freedom of opinion and expression (art. 19), freedom of assembly (art. 21), freedom of association (art. 22) and freedom of religion (art. 18). It has also stated that arrest or detention on discriminatory grounds in violation of article 2, paragraph 1, article 3 or article 26 is also in principle arbitrary. Furthermore, article 14 upholds the right to a fair trial and equality of all persons before the courts and tribunals.

We would also like to refer your Excellency's Government to article 10 of the ICCPR, which guarantees the right of all persons deprived of their liberty to be treated with humanity and with respect for the inherent dignity of the human person. In this connection, we draw your attention to paragraph 3 of the General Comment No. 21 of the Human Rights Committee, which states that article 10 (1) of the ICCPR imposes on States parties a positive obligation towards persons who are particularly vulnerable because of their status as persons deprived of liberty, and complements for them the ban on torture or other cruel, inhuman or degrading treatment or punishment contained in article 7 of the ICCPR. Thus, not only may persons deprived of their liberty not be subjected to treatment that is contrary to article 7, including medical or scientific experimentation, but neither may they be subjected to any hardship or constraint other than that resulting from the deprivation of liberty; respect for the dignity of such persons must be guaranteed under the same conditions as for that of free persons.

Moreover, 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, and as mirrored, inter alia, in Human Rights Council Resolution 25/13 and General Assembly Resolution 68/156. In this context, we would also like to draw the attention of your Excellency's Government to Article 7 of the International Covenant on Civil and Political Rights, provides that "[n]o one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment.

With regards to the solitary confinement of Mr. Maziar Shahbakhsh, 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, as well as Rule 43 of the United Nations Standard Minimum Rules for the Treatment of Prisoners (the Mandela Rules), expressly prohibiting the prolonged solitary confinement.

We would also like to remind your Excellency's Government of its obligations under Article 12 of the International Covenant on Economic, Social and Cultural Rights (ICESCR), ratified by the Islamic Republic of Iran on 24 June 1975, which guarantees all individuals, including prisoners and detainees, the right to the highest attainable standard of physical and mental health. In addition, we would like to underline the Basic Principles for the Treatment of Prisoners, adopted by the General Assembly in resolution 45/111, according to which prisoners should have access to health services available in the country without discrimination on the grounds of their legal situation (Principle 9). We also recall that States have a duty to protect the health of prisoners and detainees, in accordance with the UN Standard Minimum Rules for the Treatment of Prisoners, (reviewed on 17 December 2015 and renamed the "Mandela Rules"), in particular Rule 24 that establishes that the provision of health care for prisoners is a State responsibility and rule 27(1), which provides that all prisons shall ensure prompt access to medical attention in urgent cases.

We would further like to draw your Excellency's Government's attention to the report of the UN Special Rapporteur on Torture to the 60th session of the General Assembly (2005), in which he concluded, with reference to the jurisprudence of UN treaty bodies, that any form of corporal punishment is contrary to the prohibition of torture and other cruel, inhuman or degrading treatment or punishment. The Rapporteur also noted that States cannot invoke provisions of domestic law to justify violations of their human rights obligations under international law, including the prohibition of corporal punishment and called upon States to abolish all forms of judicial and administrative corporal punishment without delay (para.28, [A/60/316](#), 2005). This position has been reiterated in the 2012 report to the General Assembly of the Special Rapporteur on Torture (para. 28, [A/67/279](#), 2012).

With regard to the absolute prohibition of enforced disappearance, we would like to recall that it has also attained the status of *jus cogens*, along with the corresponding obligation to investigate and sanction those responsible.

We would also like to refer your Excellency's Government to the 1992 Declaration on the Protection of All Persons from Enforced Disappearance, in particular that no State shall practice, permit or tolerate enforced disappearance (art. 2 (1)) 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 (art.7). Also, articles 10, 12, 13, 16, 20 of the Declaration establish that States must ensure access to a prompt and effective judicial remedy; to ensure competent national authorities have access to all places of detention; to ensure persons deprived of liberty be held in an officially recognized place of detention, and to be brought before a judicial authority promptly after detention; to provide accurate information on the detention of persons and their place of detention to their family, counsel or other persons with a legitimate interest; to ensure maintaining of an official up-to-date registers of all detained persons in every

place of detention; and authorities to suspend persons presumed responsible for such acts from any official duties during the investigation and try them only by the competent ordinary courts. Article 19 of the Declaration also provides that victims of acts of enforced disappearance and their families shall obtain redress and shall have the right to adequate compensation, including the means for as complete a rehabilitation as possible. In the event of the death of the victim as a result of an act of enforced disappearance, their dependents shall also be entitled to compensation. Article 20 of the Declaration, which establishes, the need to protect the best interests of children and the specific obligations when enforced disappearance of children is at stake. In this regard, the general comment of the Working Group on Enforced or Involuntary Disappearances on children and enforced disappearances (A/HRC/WGEID/98/1) emphasises that child victims of enforced disappearance suffer particularly severe harm in these situations and the separation of children from their families has specific and especially serious effects on their personal integrity that have a lasting impact, and causes great physical and mental harm (paras. 1 and 6). Moreover, “any custody determination must take into account a child’s best interest, protect the child from discrimination, and respect the child’s views concerning the matter” (para. 21).

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. We reiterate that enforced disappearance is a serious violation of multiple human rights including the prohibition of torture or other cruel, inhuman or degrading treatment or punishment, unequivocally forbidden under international law.¹ 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”.

Furthermore, without expressing at this stage an opinion on the facts of the case and on whether the reported detentions were arbitrary or not, and whether or not they amount to enforced disappearances, we appeal to your Excellency's Government to take all necessary measures to guarantee the right of the 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 and 14 of the ICCPR. We would like to recall that, pursuant to the well-established jurisprudence of the Human Rights Committee, where enforced disappearances are concerned, arts. 6, 7, 9, 10 and 16, read alone and in conjunction with art. 2.3, of the ICCPR are violated. Where minors are involved, also art. 24.1 of the ICCPR is concerned. Moreover, in cases of enforced disappearances, relatives of the disappeared persons are themselves victims of a violation of art. 7, read alone and in conjunction with art. 2.3, of the ICCPR.

We furthermore wish to refer to the international standards regarding the protection of the rights of persons belonging to minorities, in particular article 27 of the ICCPR and 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

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

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).