

Mandates of the Special Rapporteur on extrajudicial, summary or arbitrary executions; the Working Group on Arbitrary Detention; the Special Rapporteur on the rights of persons with disabilities; the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health; the Special Rapporteur on the situation of human rights defenders and the Special Rapporteur on the situation of human rights in the Islamic Republic of Iran

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(Please use this reference in your reply)

27 January 2023

Excellency,

We have the honour to address you in our capacity as Special Rapporteur on extrajudicial, summary or arbitrary executions; Working Group on Arbitrary Detention; Special Rapporteur on the rights of persons with disabilities; Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health; Special Rapporteur on the situation of human rights defenders and Special Rapporteur on the situation of human rights in the Islamic Republic of Iran, pursuant to Human Rights Council resolutions 44/5, 51/8, 44/10, 51/21, 43/16 and 49/24.

In this connection, we would like to bring to the attention of your Excellency's Government information we have received concerning Mr. Mohammad Ghobadlou, a 22-year-old man with a long-term psychosocial disability who has been twice sentenced to death and who may be facing execution imminently.

According to the information received:

Mr. Mohammad Ghobadlou, a 22-year-old with a long-term mental disability, has been under the supervision of a psychiatric hospital for bipolar disorder since the age of 15.

On 22 September 2022, he was arrested in relation to the death of an Iranian official allegedly resulting from Mr. Ghobadlou running over him with a car during a protest in Robat Karim, Tehran province.

Mr. Ghobadlou was first sentenced to death by an Islamic Revolutionary Court for "corruption on earth" on 16 November 2022. This sentence was upheld by the Supreme Court on 24 December 2022. A request for judicial review is currently pending.

A second death sentence was issued on 24 December 2022 by Criminal Court One in Tehran province for "murder" and an appeal is currently pending before the Supreme Court.

Notwithstanding pending proceedings, it is feared that one of the two death sentences could be enforced anytime in the very near future.

According to reports, during the two months before he was arrested, Mr. Ghobadlou had suffered from heightened distress and extreme mood episodes.

Following his arrest, Mr. Ghobadlou was held for several days at a detention centre of the Public Security Police of the Law Enforcement Command (police-e amniat), where he was severely beaten, forced to confess and to read a pre-typed statement in front of a video camera.

Subsequently, and until late October 2022, Mr. Ghobadlou was held at the Greater Tehran Central Penitentiary. There, he was reportedly taken several times before the lead investigator of Branch 1 of the Office of the Prosecutor in Robat Karim, Tehran province, for questioning. During each transfer, officials reportedly tied his hands and feet together, pushed him under the rear seat of a car and beat him.

According to reports, on 11 and 15 October 2022, senior prison officials at the Greater Tehran Central Penitentiary sent the prosecution authorities two official letters warning about Mr. Ghobadlou's mental health and calling for his release on medical grounds.

However, Mr. Ghobadlou was not provided with needed medication throughout the investigation phase and until the first trial session took place in December 2022, which further deteriorated his mental health. He was brought only once before a psychiatrist working for the Legal Medicine Organization of Iran, the state forensic institute operating under the judiciary.

The psychiatrist concluded that Mr. Ghobadlou had acted in a purposeful manner on the occasion of the event of 22 September 2022 and with full understanding of the nature of his conduct. The psychiatrist eventually testified to this effect before Criminal Court One in Tehran province on 10 December 2022.

On 1 November 2022, Mr. Ghobadlou's mother released a video message, saying authorities had prevented her son from receiving visits, were holding him in solitary confinement and denying him his needed medication.

Mr. Ghobadlou was subsequently transferred from the Greater Tehran Central Penitentiary to Rajai' Shahr prison in Karaj, where he is currently held. Once there, he could obtain his medication. However, he continued to be kept in solitary confinement.

The trial of Mr. Ghobadlou before Criminal Court One in Tehran province consisted of two brief sessions held on 4 and 10 December 2022. His lawyer was denied access to material evidence, including the CCTV footage and photographs of the incident on 22 September 2022, the injuries sustained by the deceased at time of the incident or his body after death.

Mr. Ghobadlou's lawyer publicly stated that this lack of transparency, together with discrepancies between police reports prepared shortly after the incident and subsequent statements by the prosecution authorities about the nature of injuries sustained by the deceased, raised serious doubts as to whether his client's conduct was a substantial cause of death.

On 29 December 2022, the psychiatrist who had examined Mr. Ghobadlou and testified in Court about his mental health, reportedly retracted his earlier position and joined other psychiatrists who published an open letter to the Head of the judiciary calling for another examination of Mr. Ghobadlou's mental health and assessment of his effective capacity to exercise judgement.

Without prejudging the accuracy of the above allegations, we wish to emphasize that, if carried out in the circumstances of the present case, the enforcement of any of the two death sentences imposed on Mr. Mohammad Ghobadlou would amount to an arbitrary execution, in violation of article 3 of the Universal Declaration of Human Rights (UDHR); article 6 of the International Covenant on civil and Political Rights (ICCPR), ratified by the Islamic Republic of Iran in 1975; and article 10 of the Convention on Rights of Persons with Disabilities (CRPD), ratified in 2009.

States have an obligation to ensure that persons with psychosocial or intellectual disabilities not sentenced to death. They are legally obliged to develop or amend existing laws and sentencing guidelines to prohibit the imposition of the death sentence on such persons, guarantee equality and non-discrimination in their access to justice and ensure procedural accommodations to them in proceedings.¹

Furthermore, persons with such disabilities are entitled to specific measures of protection so as to ensure their effective enjoyment of the right to life on an equal basis with others. Such measures must include the provision of reasonable accommodation when necessary to ensure the right to life, such as ensuring access of persons with disabilities to essential facilities and services, and specific measures designed to prevent unwarranted use of force by law enforcement agents against persons with disabilities.²

If confirmed, the reported ill-treatment of Mr. Ghobadlou in police custody (beatings; detention in solitary confinement without, initially, medication; forced confession signed on a pre-typed statement) would amount to a violation of the absolute prohibition of torture and other cruel, inhuman or degrading treatment or punishment, set forth in article 5 of the UDHR and article 7 of the ICCPR. Under international human rights law, victims of torture and/or other ill-treatment must be afforded a right to complain about their treatment. Any such allegation must be promptly, impartially and independently investigated and victims should receive adequate reparation, if and as appropriate.

¹ See Human Rights Committee, General Comment n. 36, Article 6: right to life (CCPR/C/GC/36): <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G19/261/15/PDF/G1926115.pdf?OpenElement>; Also see Report of the Secretary General, Question of the Death Penalty, A/HRC/45/20: <https://www.undocs.org/Home/Mobile?FinalSymbol=A%2FHRC%2F45%2F20&Language=E&DeviceType=Desktop&LangRequested=False>
See GC 36, op. cit., footnote 1

It is a further matter of concern that Mr. Ghobadlou may have been sentenced to death without due process and fair trial, including his lawyer's lack of access to evidence necessary to effectively prepare the defence, a circumstance that would contravene articles 10 and 11 of the UDHR, article 14 of the ICCPR, and article 13 of the CRPD. Once again, we stress that, when not legally prohibited, the death penalty should only be imposed for the most serious crimes and pursuant to a final judgment rendered by a competent court, following compliance with a strict set of substantive and procedural requirements and guarantees of a fair trial, including access to adequate legal assistance at all stages of the proceedings.

The International Principles and Guidelines on Access to Justice for Persons with Disabilities emphasizes (Principle 5) that procedural accommodations, when needed, must be available to all persons with disabilities, including suspects and accused persons, who require assistance to participate effectively in investigations and judicial proceedings. The same Principle also provides that suspects or accused persons with disabilities must be provided with accessible and understandable information about their rights, including the right not to incriminate oneself and that the provision of procedural accommodations be made to persons with disabilities at the time of their arrest, including procedural adjustments and communication support.

Insofar as the deprivation of liberty of Mr. Ghobadlou may be related to his participation into a public protest, we remind your Excellency's Government that articles 9 of the UDHR and ICCPR guarantee the right not to be subjected to arbitrary arrest or detention and that arrest or detention as punishment for the legitimate exercise of the rights as guaranteed by the Covenant is arbitrary, including the right to freedom of opinion and expression (article 19) as well as the right to peaceful assembly and association (articles 21 and 22).³

Lastly, Article 12, in conjunction with article 2, of the International Covenant on Economic, Social and Cultural Rights (ICESCR), ratified by the Islamic Republic of Iran in 1975, establishes the obligation for State Parties to respect the right to health without discrimination by, inter alia, refraining from denying or limiting equal access for all persons, including those deprived of their liberty, to preventive, curative and/or palliative health services.⁴ In this respect, we would like to underline the Basic Principles for the Treatment of Prisoners⁵, 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); and the so-called Mandela Rules⁶ which recognize the responsibility of States to provide health care for prisoners, free of

³ See Human Rights Committee, General Comment n. 35, Article 9 (Liberty and security of persons), CCPR/C/GC/35:

<https://docstore.ohchr.org/SelfServices/FilesHandler.ashx?enc=6OkG1d%2FPPrICAqhKb7yhsrdB0H115979OVGB%2BWPAXjdnG1mwFFfPYGIInfb%2F6T%2Fqwtc77%2FKU9JkoeDcTWWPIpCoePGBcMsRmFtoMu58pgnmzjyiyRGkPQekcPKtaaTG>

⁴ See Committee on Economic, Social and Cultural Rights (CESCR), General Comment No. 14, The right to the highest attainable standard of health (article 12 of the International Covenant on Economic, Social and Cultural Rights), E/C.12/2000/4: <https://digitallibrary.un.org/record/425041?ln=en>

⁵ <https://www.ohchr.org/en/instruments-mechanisms/instruments/basic-principles-treatment-prisoners#:~:text=All%20prisoners%20shall%20be%20treated,property%2C%20birth%20or%20other%20status.>

⁶ See United Nations Standard Minimum Rules for the Treatment of Prisoners (A/RES/70/175): <https://www.ohchr.org/sites/default/files/Documents/ProfessionalInterest/NelsonMandelaRules.pdf>

charge without discrimination (rule 24) and based on specific healthcare needs (rule 25), and provide that prisoners requiring specialized treatment shall be transferred to specialized institutions or to civil hospitals (rule 27).

In this regard the former Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health, highlighted that “[i]n contexts of confinement and deprivation of liberty, violations of the right to health interfere with fair trial guarantees, the prohibition of arbitrary detention and of torture and other forms of cruel, inhuman or degrading treatment, and the enjoyment of the right to life” and that [v]iolations of the right to health emerge as both causes and consequences of confinement and deprivation of liberty”. The Special Rapporteur also stressed that “for the right to health to be enjoyed in detention centres, health-care facilities, goods and services must be available, accessible, acceptable and of good quality”; and urged States to “[f]ully abide by, and implement, the Nelson Mandela Rules, in particular as regards the provision of health care in prisons”.⁷

In light of the above, we respectfully call on your Excellency’s Government to **halt any proceeding leading to the execution** of Mr. Mohammad Ghobadlou which, based on the information available to us, would constitute an arbitrary execution; **to annul the death sentences** imposed against him; **to investigate fully the allegations of torture** and other mistreatment that he may have been subjected to; to envisage a **re-trial** in conformity with international human rights norms, including an adequate assessment of his mental health and capacity of understanding his actions; and that he is provided with **access to adequate medical care as necessary**.

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

We also wish to respectfully reiterate our call on Your Excellency’s Government **to consider establishing an official moratorium on all executions** as a first step towards **fully abolishing the death penalty** in the country.

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 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:

⁷ See Report of the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health, A/HRC/38/36, para. 18: <https://undocs.org/Home/Mobile?FinalSymbol=A%2FHRC%2F38%2F36&Language=E&DeviceType=Desktop&LangRequested=False>

1. Please provide any additional information and any comment you may have on the above-mentioned allegations.
2. Please provide detailed information about the factual basis for Mr. Ghobadlou's arrest, detention, charges and trial including evidence that led to his death sentence.
3. Please explain whether Mr. Ghobadlou's arrest and subsequent detention were conducted in compliance with international human rights law and standards; and please explain whether his trial was conducted in a manner consistent with international due process and fair trial norms and standards.
4. Within this context, please provide information on the investigation methodology, conclusion and consequences, into the complaint that Mr. Ghobadlou was tortured or otherwise ill-treated. If no investigation was conducted, please explain why, and how this is consistent with the duty to investigate such allegations under international human rights law.
5. Please provide information on the current conditions of detention of Mr. Ghobadlou, including with regard to his current state of health, measures taken to ensure that he has adequate access to medical care and treatment, as needed, and whether he can have contacts with his family and lawyers.
6. Please explain how these conditions are consistent with the provisions of the Standard Minimum Rules for the Treatment of Prisoners ("The Mandela Rules").

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 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.

We may consider to express publicly our concern in this case. We believe that the issue of the death penalty in any country is of utmost importance as it gives the state the authority to deprive someone of his or her life, and that the general public should be informed given that it concerns everyone's most fundamental right. Any public expression of concern on our part will indicate that we have been in contact with Your Excellency's Government to clarify the matter and share our

recommendations.

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

Mumba Malila

Vice-Chair of the Working Group on Arbitrary Detention

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