

Mandates of 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 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 in the Islamic Republic of Iran and the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment

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(Please use this reference in your reply)

9 May 2024

Excellency,

We have the honour to address you in our capacity as 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 right of everyone to the enjoyment of the highest attainable standard of physical and mental health; Special Rapporteur on the situation of human rights in the Islamic Republic of Iran and Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, pursuant to Human Rights Council resolutions 53/4, 52/9, 51/21, 49/24 and 52/7.

In this connection, we would like to bring to the attention of your Excellency's Government information we have received concerning **Mr. Mahmoud Mehrabi**, currently held at Dastgerd prison in Isfahan, and who has been accused of "corruption on earth" along with "widespread dissemination of false information". He has now been sentenced to death by Branch 5 of the Isfahan Revolutionary Court.

Concerns on Mr. Mahmoud Mehrabi were raised by Special Procedures in previous communication on 30 June 2023 (IRN 11/2023). In this regard, we regret that your Excellency's Government did not respond to the previous communication, and we remain concerned about the situation of Mr. Mahmoud Mehrabi, given the recent death sentence that has been handed by Branch 5 of the Isfahan Revolutionary Court. We appeal to your Excellency's Government to respond to the letter and the concern raised in this communication.

According to the new information received:

On 16 March 2023, Mr. Mehrabi was arrested due to his political activism – mainly online - on issues related to justice and corruption. He was charged with "corruption on earth" and "widespread dissemination of false information".

Mr. Mehrabi took part in the nationwide protests that started in September 2022. In addition, Mr. Mehrabi is the administrator of an Instagram page called "Kasif News 2" that reports on corruption in the City Council and the Municipality of Mobarakeh. Reportedly, the Instagram page has revealed several corruption cases linked to governmental officials. On this basis, Mr. Mehrabi was arrested and charged of "corruption on earth" along with "widespread dissemination of false information".

In September 2023, Mr. Mehrabi faced a series of additional charges, including propaganda against the state, incitement of police and military forces

to disobedience, incitement to war, crimes against national security, and insulting the founder and Supreme Leader of the Islamic Republic of Iran.

In January 2024, Mr. Mehrabi was further charged with publishing confidential information and committing acts of blasphemy, including insulting Shia Imams. The case was recently referred to Branch 1 of the Criminal Court in the city of Isfahan, but preliminary preparations have not been carried out. This case involves more serious charges as well as the private complaints from individuals.

On 20 April 2024, Mr. Mehrabi's trial related to the first charges linked to "corruption on earth" took place, where the Isfahan Revolutionary Court accused Mr. Mehrabi of 187 charges.

On 5 May 2024, Mr. Mehrabi was handed the death sentence by Branch 5 of the Isfahan Revolutionary Court. He did not receive the ruling in writing but was read to him by the court.

It is reported that during his detention, Mr. Mehrabi was subjected to torture and cruel, inhuman and degrading treatment, which caused visible bruises on his body, difficulties in walking and noticeable weight loss. Previously, we raised serious concerns on Mr. Mehrabi's health. According to the new information we have received, Mr. Mehrabi still suffers from medical issues, especially gastrointestinal problems that have been confirmed by the prison's medical examiner, who recommended treatment by a specialist while in prison. Reportedly Mr. Mehrabi did not receive the necessary medical help inside the prison. Further, it is reported that the case has serious and gross violations of due process and violations of the right to fair trial, including lack of access to medical support and use of solitary confinement.

Without prejudging the accuracy of the received information, we express grave concern about Mr. Mahmoud Mehrabi's imminent risk of execution. Moreover, we are seriously concerned at information which indicates that the judicial proceedings in relation to this case did not fulfil the requirements for due process and fair trial under international human rights law, rendering such sentences unfair.

We would like to draw your Excellency's Government's attention to the United Nations Safeguards guaranteeing protection of the rights of those facing the death penalty, (resolution 1984/50), requiring States that have not abolished the death penalty, to refrain from imposing capital punishment except for the most serious crimes (intentional crimes with lethal or other extremely grave consequences), and only after a legal process which strictly upholds fair-trial guarantees, and allow convicted persons the right to seek pardon or commutation of their sentence. Moreover, the Human Rights Committee also noted that the imposition of the death penalty for crimes that do not result in the loss of life is incompatible with the Covenant (CCPR/C/79/Add.25). Similarly, the Special Rapporteur on extrajudicial, summary or arbitrary executions explained that a death sentence can only be imposed 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, para. 53).

We would like to further refer your Excellency's Government to articles 12 and 2.2 of the International Covenant on Economic, Social and Cultural

Rights (ICESCR), ratified by Iran on 24 June 1975, which establishes that an obligation to respect the right to health by, inter alia, refraining from denying or limiting equal access for all persons, including prisoners or detainees to preventive, curative and palliative health services (Committee on Economic, Social and Cultural Rights (CESCR), general comment no. 14, para. 34). In addition, we would refer to 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 would like to recall that article 19 of the ICCPR guarantees the right to opinion and expression. In the General Comment 34, the Human Rights Committee stated that States parties to the ICCPR are required to guarantee the right to freedom of opinion and expression, including inter alia ‘political discourse, commentary on one’s own and on public affairs, canvassing, discussion of human rights, journalism’, subject only to admissible restrictions as well as the prohibition of propaganda for hatred and incitement to hatred, violence and discrimination.

Restrictions on the right to freedom of expression must be compatible with the requirements set out in article 19 (3), that is, they must be provided by law, pursue a legitimate aim, and be necessary and proportionate. The State has the burden of proof to demonstrate that any such restrictions are compatible with the Covenant. An attack on a person because of the exercise of his or her freedom of opinion or expression, including arbitrary arrest, torture, threats to life and killing, cannot be compatible with Article 19. (GC34 paragraph 23)

Additionally, we would like to refer to the Mandela Rules, adopted unanimously by the UN General Assembly (A/RES/70/175), which recognize the responsibility of States to provide health care for prisoners, free of charge without discrimination (rule 24), paying special attention to those with special healthcare needs or with health issues that hamper their rehabilitation (rule 25) and indicate that prisoners requiring specialized treatment shall be transferred to specialized institutions or to civil hospitals (rule 27). We wish to also recall that rule 46 stresses that health-care personnel shall “pay particular attention to the health of prisoners held under any form of involuntary separation, including by visiting such prisoners on a daily basis and providing prompt medical assistance and treatment at the request of such prisoners or prison staff” and that “[h]ealth-care personnel shall report to the prison director, without delay, any adverse effect of disciplinary sanctions or other restrictive measures on the physical or mental health of a prisoner subjected to such sanctions or measures and shall advise the director if they consider it necessary to terminate or alter them for physical or mental health reasons.”

Moreover, we wish to refer to the report of the former Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health, in which he makes reference to the fact 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”. He also stresses 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”. In addition,

the Special Rapporteur urges States to “[f]ully abide by, and implement, the Nelson Mandela Rules, in particular as regards the provision of health care in prisons”.

We also wish to bring to your Excellency’s Government attention general comment no. 14 adopted by CESCR, which interprets the right to health as “an inclusive with extending not only to timely and appropriate health care but also to the underlying determinants of health, such as access to safe and potable water and adequate sanitation, an adequate supply of safe food [and] nutrition” among others (CESCR, general comment no. 14, para. 11).

We would also like to remind your Excellency’s Government that article 9 of the ICCPR guarantees the right not to be subjected to arbitrary arrest or detention, and that the prohibition of arbitrary detention is absolute. We also recall that the arrest or detention of an individual as punishment for the legitimate exercise of the rights guaranteed by the ICCPR, including the right to freedom of expression and opinion (art. 19), the right of peaceful assembly (art. 20), and the right to freedom of association (art. 21) is arbitrary (see CCPR/C/GC/35, para. 17 and the jurisprudence of the Working Group on Arbitrary Detention). In addition, as reiterated by the Working Group on Arbitrary Detention, a deprivation of liberty is arbitrary when it constitutes a violation of international law on the grounds of discrimination, including discrimination based on gender or political or other opinion.

We would like to remind your Excellency’s Government that restrictions on the right to freedom of expression must be compatible with the requirements set out in article 19(3), that is, they must be provided by law, pursue a legitimate aim, and be necessary and proportionate. The State has the burden of proof to demonstrate that any such restrictions are compatible with the Covenant. The Human rights Committee held in CCPR/C/GC/34 that an attack on a person because of the exercise of his or her freedom of opinion or expression, including arbitrary arrest, torture, threats to life and killing, cannot be compatible with article 19.

We are also gravely concerned that the above information seems to indicate a prima facie violation of the right of every individual to life and security and not to be arbitrarily deprived of his life or liberty, as set forth in articles 6(1) and 9 of the ICCPR. Article 6(2) of ICCPR states that the death penalty may not be imposed when doing so would be contrary to the provisions of the ICCPR and pursuant to a final judgment rendered by a competent court.

The Human Rights Committee specifies that “under no circumstances can the death penalty ever be applied as a sanction against conduct the very criminalization of which violates the Covenant”, (General comment No. 36, para 36). Thus, the violation of the fair trial guarantees provided for in article 14 of the ICCPR resulting in the imposition of the death penalty would render the sentence 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, the right of accused persons to communicate with counsel of their own choosing, and the right not to incriminate oneself. 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.” We would also like to remind your Excellency’s Government that the absolute prohibition of torture is an international norm of jus cogens that is not subject to derogation under any circumstances, as reflected inter alia, in Human Rights Council Resolution 25/13 and General Assembly Resolution 68/156.

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 provide medical access to Mr. Mehrabi. We further urge your Excellency’s Government to ensure that the death sentence against him is annulled and that he is re-tried in compliance with international human rights law and standards.

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

Under these circumstances, we appeal to your Excellency’s Government to immediately halt the imminent execution of Mr. Mehrabi, to re-open his proceedings and permit international observers, and to establish a formal moratorium on implementation of the death penalty in compliance with international standards.

We also reiterate the long standing call on the Government of the Islamic Republic of Iran to adopt all necessary measures to prevent any irreparable harm to the life and personal integrity of persons deprived of their liberty.

In view of the urgency of the matter, we would appreciate a response regarding the initial steps taken by your Excellency’s Government to safeguard the rights of the above-mentioned person in compliance with international instruments.

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

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 information on the factual and legal basis for Mr. Mehrabi arrests and detention and how this is compatible with Iran's obligations under international law as stated, including the international norms and standards on the right to freedom of opinion and expression.
3. Please provide detailed information on the exact charges against Mr. Mehrabi, and the relevant legal provisions under the Iranian Law, and explain how the imposition of the death penalty in the case of Mr. Mehrabi for "corruption on earth" (efsad-e fel arz) is consistent with international human rights law, including the United Nations Safeguards for the Protection of the Rights of Persons Facing the Death Penalty.
4. Please provide detailed information on elements relating to the state of health of Mr. Mehrabi and the measures taken to provide him with medical assistance.
5. Please also provide information as to what measures have been taken to ensure that the rights of Mr. Mehrabi to due process and a fair trial have been respected, and how such measures comply with the obligations of your Excellency's Government under international human rights law.
6. Please provide detailed information on the measures which have been taken, or which are foreseen, to ensure full and impartial investigations, independent medical examinations, and judicial or other inquiries in relation to the allegations of arbitrary arrest and enforced disappearance, torture and other cruel, inhuman, or degrading treatment or punishment. If measures have been undertaken, please make available the results of the investigations. If no such measure has been taken, please explain how this is compatible with the international human rights obligations of Iran.
7. Please also provide information on the measures that have been taken to protect complainants from any form of intimidation or harassment or other violations for having made such allegations.
8. Please provide information on the legal avenues for Mr. Mehrabi to appeal the death penalty or seek his right to request a commuting of his

sentence or pardon, according to international standards.

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 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.

Moreover, 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.

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.

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

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

Tlaleng Mofokeng

Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health

Javaid Rehman

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

Alice Jill Edwards

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