



*Mission Permanente
de la République Islamique d'Iran
auprès des Nations Unies
et des autres Organisations Internationales à Genève*

In the name of God, the Compassionate, the Merciful

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The Permanent Mission of the Islamic Republic of Iran to the United Nations Office and other international organizations in Geneva presents its compliments to the Office of the United Nations High Commissioner for Human Rights, and with reference to the communications number UA IRN 3/2015 dated 12 February 2015, UA IRN 7/2015 dated 2 June 2015 and communication by CRC Committee dated 4 Mars 2015, has the honor to submit herewith the reply of the I.R. Iran with regard to Mr. Saman Nasim and Mr. Hamid Ahmadi cases.

The Permanent Mission of the Islamic Republic of Iran avails itself of this opportunity to renew to the Office of the United Nations High Commissioner for Human Rights, the assurances of its highest consideration.



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Mr. Saman Nasim (communications 5848, 6645)

Summary of his dossier: Initially the Islamic Revolutionary Court in city of Mahabad began hearing the charges against Mr. Saman Nasim, son of Faegh and born in 1993, on charges of *moharebeh* and acting against national security with taking armed actions and membership in operational terrorist team of PJAC and was represented by his lawyer Mr. Aziz Mojdehi. He was involved in armed operations along the border region of Sardsh which caused the death of one member of the armed forces and injury of three others. He admitted membership in PJAC and going through different training programs inside operational teams. The records concerning his arrest show that he was arrested in the heat of an armed encounter and one Kalashnikov military rifle taken from him. The

comprehensive report by investigating officers and expert opinions pointed to the fact that Saman began shooting at security officers. The corroborative evidence on the scene fully corresponds to clear admissions by him to the investigating officers. He was sentenced to death on the basis of article 183, paragraph 1 of article 190, article 508 of the Islamic Penal Code and the indictment issued by Prosecutor of Sardasht.

Mr. Saman Nasim and his lawyer Mr. Mojdehi appealed the verdict whereupon the Supreme Court Branch 32 reconsidered the case and ruled that the decision for qualification of death penalty is within the competence of Provincial Criminal Court by referring to his date of birth, ruling 85/3/2-687 on "uniform practice". The Supreme Court overturned the death penalty ruling for the reason of lack of inherent competence of the court that issued the verdict. This decision was on the basis of paragraph B of Article 265b of Criminal Code of Procedures for Public and Revolutionary Courts and for this reason the Supreme Court assigned the case to Criminal Court of West Azerbaijan. The Criminal Court of West Azerbaijan Branch Two, heard the case and tried Mr. Nasim in presence of five judges and his lawyer, Mr. Aziz Mojdehi on charges *moharebeh* (taking armed actions against the State) and membership in and collaboration with PJAC terrorist group and taking part in acts of terrorism and armed encounters with military forces of Sardasht that led to the martyrdom of one officer and wounding of three others. Branch Two concluded that Mr. Nasim was a member of terrorist group and had gone through political and military training programs. He used his military weapon to shoot at military personnel and resisted against all warnings. Moreover, he facilitated escape of other outlaws and even began throwing stones after finishing all his bullets; he was arrested while in possession of a Kalashnikov and an empty magazine. Open admissions by the accused during questioning and other circumstantial evidence and corroborative indications all point to the fact that the accused, after completion of political and indoctrinations programs that are intended to overthrow the Islamic Republic of Iran, became a full-fledged member of PJAC terrorist group and resorted to weapon to resist arrest. The arguments by his lawyers for his defense were all unjustified. The criminal charges against him were proven to be true in accordance with articles 183 and 185 and

paragraph 1 of Article 190 of the Islamic Penal Code and he received the death penalty. Consequently, the Supreme Court Branch 32 heard the appeal filed by Mr. Nasim and his lawyer, Mr. Mojdehi, against the ruling of West Azerbaijan Criminal Court Branch Two; arguing that no justified objection was made by the convict and his lawyer so as to impair the foundations of the court verdict, rejected the appeal and confirmed the issued verdict.

Finally, according to the information received from the Department of Justice (West Azerbaijan) the request of Mr. Nasim and his lawyer for another hearing was accepted by Branch 37 of the Supreme Court on 22 August 2015 and the case has been assigned to parallel branch in provincial criminal court.

Mr. Nasim is presently in Zanjan Prison and as can be seen by these measures, maximum degree of tolerance has been exercised and his case is currently being examined.

Hamid Ahamdi (6645)

The Islamic Republic of Iran exercises a high degree of flexibility and compassion toward offenders under the age of 18 in light of Islamic and humanitarian considerations. There is a special court in the justice system for young offender, who applies alternative, minimum and light punishments. With regard to the homicide committed by mature persons under the age of 18, Provincial Criminal Courts hear cases with the presence of three judges. According to Islamic Sharia and law, the crime of intentional murder qualifies for *Qisas (retribution)*. Execution of the verdict of *qisas* is the prerogative of the family (owners of blood) of the deceased person.

According to current practice, even after the ruling of *Qisas* by courts become final, extensive efforts are made by Reconciliation Commission to obtain the consent of the family of the deceased. Over the recent years, a large number of condemned persons have been saved from this punishment.

Also, The Judiciary has established a new working group for "prevention of the life deprivation punishment". This group is working under the Executive Committee for the Protection of the Rights of Children and Juveniles in the Ministry of Justice in Tehran and has expanded its operations to other provinces. The purpose of this group is to encourage peace and reconciliation and avert execution of *Qisas* verdicts. This group can even assist to obtain reconciliation during the actual trial. Members of this group are: A representative from national authority on the rights of the child, a psychologist from Correctional Institute (kanoon), a social worker from Kanoon, director of Kanoon, a lawyer active in affairs of children and juveniles, secretary of the Executive Committee for the Protection of the Rights of Children and Juveniles, person in charge of soliciting funding. Other persons such as artists, members of community-based organizations, specialists in children affairs, and charitable institutions are invited to help this process.

According to articles 88 and 89 of the Islamic Penal Code, for criminal sentences less than death penalty, if the offender's age is between 9 to 15 years of age at the time of commission of a criminal offence, the court can apply one of the five more lenient punitive measures stated in Article 89. With respect to those between 15 to 18, for criminal punishments less than death penalty, the courts can apply lighter sentences such as commitment to Correctional Institute, light imprisonment or even pecuniary fines. According to Article 91 of the Islamic Penal Code, with respect to offences that qualify for *Had or Qisas*, if a mature person less than 18 years of age does not realize the nature of his/her crime and its consequences, and if there is doubt about their mental development and maturity, punitive measures stated in this chapter shall be applied". These are new developments in the justice system of Iran that are intended to show maximum compassion toward offenders under the age of 18.

Regarding the case of Mr Hamid Ahamdi, son of Hossein, according to information received from Department of Justice of Gilan, he was sentenced to *Qisas*, on the charge of intentionally murdering Soleiman Benooreh in accordance with indictment number 1388.12.3099. After, his defense lawyer protested against the ruling and filed for appeal. Branch 27 of the Supreme Court

heard the case and upheld the preliminary ruling. In two additional phases, his lawyer requested return of the case for more hearing, but these requests were not accepted. Consequently, Mr. Ahamdi and his lawyer requested for the third time for another hearing, and this time Branch 35 of the Supreme Court agreed and the case was sent to another parallel court. The parallel branch of the Supreme Court heard the arguments of the accused and his lawyer, received the opinions of advisors and social workers of Kanoon regarding whether the accused had the mental capacity to discern consequences of his action. After exhaustion of all legal remedies, the case has been assigned for additional hearings.