



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

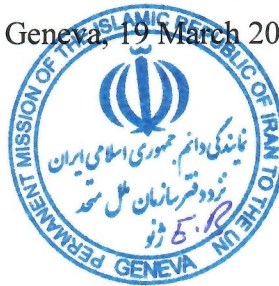
In the Name of God, the Compassionate, the Merciful

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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 latter's Communication No. AL IRN 1/2021 dated 19 January 2021, has the honor to transmit, herewith, the comments of the Judiciary of the Islamic Republic of Iran regarding **Mr. Mohammad Hassan Rezaiee**.

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.

Geneva, 19 March 2021



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High Commissioner for Human Rights
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In the Name of God, the Most Compassionate, the Most Merciful

Comment

By

The High Council for Human Rights

Of

The Islamic Republic of Iran

Regarding Mr. Mohammad Hassan Rezaei

In response to letter received from the Special Procedures Mandate-Holders appertaining to **Mr. Mohammad Hassan Rezaei**, points for further clarifications are provided as hereunder:

The aforesaid – as announced earlier – was arrested in 2007 on charges of murdering Mr. [REDACTED] in the city of Bandar Anzali. The case was examined by provincial Criminal Court, Division 1, which led to pronouncement of the death penalty prescribed in the written judgment No. 650, dated 21 October 2008. Finally, the Supreme Court upheld the verdict as prescribed in the written judgment No. 674, dated 22 July 2009. With regards to allegations raised about the abovenamed, points enumerated hereinunder are provided for further clarification:

First, the aforesaid, during a street brawl, had knifed to death by striking at the thorax and abdominal viscera of the victim with knife and dagger, thereby committing murder. He was pronounced guilty of the *actus reus* with respect to evidence as well as the defendant's express and repeated confessions to judicial authorities at the presence of examining magistrate and judges handling the case without being subject to pressure. The case went through all legal formalities, the defendant and defense attorney thereof were heard in the trial court before the verdict was pronounced – with five judges in attendance.

The verdict was re-examined in the Supreme Court by three judges before being upheld. Therefore, the allegations of torturing to illicit confession result from some insinuations made into the minds of hardened prisoners during detention on the one hand, and the hostility of some soi-disant human rights organisations and broadcasting corporations affiliated with exploiting powers in repeating and propagating the same allegations on the other. They are – by no means and under no circumstances whatsoever – true. Furthermore, pursuant to Article 38 of the Constitution of the Islamic Republic of Iran, applying torture to extract confessions or gain information is forbidden; and, it is not allowed to force one to testify, confess or take an oath, in which case, such testimony, confession and oath would lack any basis and violators of the said Constitutional Article shall face legal punishment. In other rules and regulations, particularly the Law on Respecting Legitimate Freedoms and Protecting Citizens' Rights, enacted in 2004, and executive instruction attached thereto, the legislature has determined the channel of lawsuit and offered protection therefor through application of necessary sanctions.

Second, in response to the question posed by the Special Procedures Mandate-Holders appertaining to why the aforesaid convict had not been granted the chance for retrial in line with Article 91 of Islamic Penal Code, it is hereby noted that upon the request filed by the convict and his defense attorney for the application of Article 91 of Islamic Penal Code, authorising retrial, the Supreme Court referred the case to another division of provincial Criminal Court. The new parallel tribunal examined the file and reviewed the medical examiner's report as well as all solid-based documents, evidence and indications, and finally dismissed the request for retrial in light of the defendant's full age in perceiving the very nature of the conduct and distinguishing the prohibition of the *actus reus* and absence of legal causes for reversing the written judgment and absence of legal causes for retrial. Therefore, the request for retrial requires legal causes, none of which existed in the said file.

Third, as per Islamic Sharia code, murder is punishable under *Qesas*. The State is tasked only with establishing the intentional aspect of the murder whilst enforcement of the verdict depends on the next-of-kin to the victim. Based on existing procedures, even after court verdicts are final following Supreme Court confirmation, extensive efforts are undertaken by the Reconciliation Commission to convince the next-of-kin to the victim to spare the convict and let commutation of capital punishment to blood money compensation, as has been the case in recent years with a significant number of convicted murderers having been reprieved. Unfortunately, in the case in question, notwithstanding serious follow-up efforts by

the Verdict Enforcement Division of the Prosecutor's Office and numerous reconciliatory meetings as well as follow-up by the Human Rights Committee with relevant judicial authorities, the next-of-kin to the victim, particularly [REDACTED], [REDACTED], [REDACTED] sessions. On 7 April 2019, after the request for retrial was dismissed, the [REDACTED], [REDACTED], [REDACTED]. Therefore, since application of capital punishment for murder as one of the most serious crimes has been carried out in respect of the International Covenant on Civil and Political Rights whilst the principled procedure of the Islamic Republic Iran in this regard has been not to put the convicts to death, rather to promote reconciliation even by offering financial aid for paying blood money and this is the common procedure of dealing with this group of criminals, the allegations of violation of international human rights conventions are untrue.

Other allegations suggesting lack of access to legal representation, detention in solitary confinement or lack of access to healthcare services amongst other facilities are devoid of any truth, for the contents and documents in the trial file prove exactly the contrary.

- The convict had access to counsel and benefited from judicial and legal assistance in the trial court (provincial Criminal Court), during appeal (Supreme Court) and during the process of application of Article 91 of Islamic Penal Code.
- Regarding incarceration in solitary confinement, in light of the presence of judicial authorities and continued supervision, no report or record of the convict's imprisonment in solitary cell, save the day before the enforcement of the punishment, was found.
- As for access to healthcare services, it is hereby noted that for the abovenamed, like all other convicts and defendants, regardless of the nature of the charge and category thereof, easy and quick access to healthcare facility and prison's doctor was available round the clock. Furthermore, in case of insufficient specialised equipment and facilities for treatment of patients in

prison, Article 103 of the Executive Bylaw of Prisons and Security and Corrective Measures Organisation, enacted in 2010, any prisoner may be moved out of prison at any time of day and night. The defendant in question had benefited from all such facilities, as recorded in his file.

With all privileges thereto pertaining.