

Mandates of the Working Group on Enforced or Involuntary Disappearances; the Special Rapporteur on the independence of judges and lawyers; the Special Rapporteur on the situation of human rights in the Islamic Republic of Iran; the Special Rapporteur on extrajudicial, summary or arbitrary executions; and the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment

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Excellency,

We have the honour to address you in our capacity as Chair-Rapporteur of the Working Group on Enforced or Involuntary Disappearances; Special Rapporteur on the independence of judges and lawyers; Special Rapporteur on the situation of human rights in the Islamic Republic of Iran; Special Rapporteur on extrajudicial, summary or arbitrary executions; and Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment pursuant to Human Rights Council resolutions 27/1, 26/7, 28/21, 26/12, and 25/13.

In this connection, we would like to bring to the attention of your Excellency's Government information we have received concerning the situation of Mr. **Saman Naseem**, a minor at the time of the commission of the alleged crime, who is reportedly at risk of imminent execution and whose location remains undisclosed, and Mr. **Hamid Ahmadi**, another minor at the time of the commission of the alleged crime, who is also reportedly at risk of imminent execution in the Islamic Republic of Iran. Mr. Naseem was the subject of two previous joint urgent appeal dated 14 October 2014 and 12 February 2015 sent by the Special Rapporteur on the situation of human rights in the Islamic Republic of Iran; the Special Rapporteur on extrajudicial, summary or arbitrary executions; and the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment (see cases IRN 23/2014 and IRN 3/2015). We regret that we did not receive a response to these urgent appeals to date.

As reported in our previous letters, on 17 July 2011, Mr. Naseem was arrested for his alleged involvement in an armed confrontation between the Revolutionary Guards and the Party For Free Life of Kurdistan (PJAK), in the city of Sardasht, West Azerbaijan Province. Mr. Naseem, under 18 years of age at the time of the alleged crime, was reportedly subjected to torture, forced to confess, and not allowed access to a lawyer

during initial investigations. In April 2013, Mr. Naseem was convicted of Moharebeh ('enmity against God') and Ifsad fil Arz ('corruption on earth') by the Mahabad Revolutionary Court. His sentence was upheld by the West Azerbaijan Province Appeals Court and confirmed by Branch 32 of the Supreme Court in December 2013.

According to the new information received:

On 18 February 2015, Mr. Naseem was transferred from the Oroumieh Prison to an unknown location, but his family was not informed of his whereabouts or if he was still alive. Mr. Naseem was scheduled to be executed on 19 February 2015. In March 2015, the authorities informed Mr. Naseem's lawyers that the death sentence had not been carried out. It is reported that, to date, Mr. Naseem's whereabouts remain undisclosed.

In 2009, Mr. Ahmadi was reportedly sentenced to death for fatally stabbing a man during a group fight that took place while he was below the age of 18 years. Later that year, the Supreme Court of Iran overturned the sentence and sent the case back for a re-trial due to doubts over the testimony of key witnesses.

During his re-trial, Mr. Ahmadi retracted a "confession" he had made while in police custody, as he reportedly stated that officials threatened to send him back to the Police Investigation Unit if he did not admit to the crime. The court allegedly did not accept the complaint, or investigate the allegations of coercion, including the threat of torture or other ill-treatment. In addition, there were reportedly no concerns raised by the court that a minor had been interrogated without access to a lawyer.

In March 2010, Mr. Ahmadi was sentenced to death by Branch 11 of the Criminal Court of Appeal in Gilan Province. Mr. Ahmadi was allegedly convicted of "intentional murder" on the basis of the principle of "knowledge of the judge". In November 2010, Mr. Ahmadi's sentence was upheld by the Supreme Court.

Mr. Ahmadi's lawyers have reportedly submitted an application for a judicial review based on his young age at the time of the alleged crime. The Supreme Court confirmed that an application for a review of his case is currently being processed.

We express grave concern at the possibility of the imminent secret execution of Mr. Naseem, a minor at the time of the alleged crimes, as well as the high risk of torture and other ill-treatment he is currently facing due to his incommunicado detention in secret location. We are also concerned about the imminent execution of Mr. Ahmadi, a minor at the time of the alleged crime. The execution of juvenile offenders is in contravention of international human rights law, especially the International Covenant on Civil and Political Rights and the Convention of the Rights of Child, both of which prohibit juvenile executions. Furthermore, concern is expressed that these cases are indicative of the ongoing sentencing to death and/or executions of juvenile offenders in the Islamic Republic of Iran.

We would like to remind your Excellency's Government of the absolute and non-derogable prohibition of torture and other ill-treatment as codified, inter alia, in paragraph 1 of General Assembly Resolution 68/156 and in Human Rights Council Resolution 25/13.

In this context, we would like to draw the attention of your Excellency's Government to paragraph 27 of General Assembly Resolution 68/156, which reminds 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.

We would also like to draw attention to the United Nations Declaration on the Protection of All Persons from Enforced Disappearance. In particular, the prohibition to practice, permit or tolerate enforced disappearance (article 2), the obligation to take effective legislative, administrative, judicial or other measures to prevent and terminate acts of enforced disappearance (article 3), the right to be held in an officially recognized place of detention, in conformity with national law and to be brought before a judicial authority promptly after detention and the obligation to make available accurate information on the detention of persons and their place of detention to their family, counsel or other persons with a legitimate interest (article 10), and the obligation to maintain in every place of detention an official up-to-date register of detained persons (article 12).

Moreover, we recall paragraphs 7b and 7c of Human Rights Council Resolution 16/23, which urge States to ensure that no statement established to have been made as a result of torture or as a result of cruel, inhuman or degrading treatment or punishment, is invoked as evidence in any proceedings, and take persistent, determined and effective measures to have all allegations of torture or other cruel, inhuman or degrading treatment or punishment investigated promptly, effectively and impartially by an independent, competent domestic authority, as well as whenever there is reasonable ground to believe that such an act has been committed; to hold persons who encourage, order, tolerate or perpetrate such acts responsible, to have them brought to justice and punished in a manner commensurate with the gravity of the offence.

Finally, we would like to draw your Excellency's Government's attention to the 2012 report of the Special Rapporteur on torture (A/67/279), stating that the state of international law has evolved so as to prohibit, as a *jus cogens* norm, the execution of persons who are under 18 years of age at the time of committal of their crime (para. 62).

The death sentences against Mr. Naseem and Mr. Ahmadi seem to be in contravention of their right to a fair trial and the prohibition of imposing the death penalty on minors, as enshrined in article 14 and 6 of the International Covenant on Civil and Political Rights (ICCPR) and article 40 and 37 of the Convention of the Right of the Child (CRC), respectively.

We would also like to bring to the attention of your Excellency's Government that article 3 of the Universal Declaration of Human Rights (UDHR) guarantees the right of every individual to life, liberty and security. According to article 5 of the United Nations Safeguards Protecting the Rights of those Facing the Death Penalty, capital punishment may only be carried out pursuant to all possible safeguards to ensure a fair trial. Only full respect for stringent due process guarantees distinguishes capital punishment from a summary execution.

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 persons in compliance with international instruments.

Moreover, it is our responsibility under the mandates provided to use by the Human Rights Council, to seek to clarify all cases brought to our attention. Since we are expected to report on these cases to the Human Rights Council, we would be grateful for your cooperation and your observations on the following matters, when relevant to the cases under consideration:

1. Please provide any additional information and any comment you may have on the above mentioned allegations.
2. Please provide information concerning the legal grounds for the arrest and detention, including the incommunicado detention, of Mr. Naseem and Mr. Ahmadi, and explain how these measures are compatible with international norms and standards, in particular those enshrined in the ICCPR and the CRC.
3. Please provide information on each stage of the judicial and post-conviction proceedings against Mr. Naseem and Mr. Ahmadi, and indicate how they comply with the guarantees of fair trial and due process, as enshrined *inter alia*, in article 14 of the ICCPR and article 40 of the CRC.
4. Please provide information concerning the fate and whereabouts of Mr. Naseem.

While awaiting a reply, **we urgently appeal to your Excellency's Government to take all necessary measures to prevent the imminent execution of Mr. Saman Naseem and Mr. Hamid Ahmadi.** On the facts available to us, their executions at this time would constitute a violation of applicable international human rights standards. We appeal to your Excellency's Government to commute their death sentence.

Your Excellency's Government's response will be made available in a report to be presented to the Human Rights Council for its consideration.

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

Ariel Dulitzky
Chair-Rapporteur of the Working Group on Enforced or Involuntary
Disappearances

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