

**NATIONS UNIES
HAUT COMMISSARIAT DES NATIONS UNIES
AUX DROITS DE L'HOMME**

**PROCEDURES SPECIALES DU
CONSEIL DES DROITS DE L'HOMME**

**UNITED NATIONS
OFFICE OF THE UNITED NATIONS
HIGH COMMISSIONER FOR HUMAN RIGHTS**

**SPECIAL PROCEDURES OF THE
HUMAN RIGHTS COUNCIL**

Mandates of the Special Rapporteur on extrajudicial, summary or arbitrary executions; Special Rapporteur on the independence of judges and lawyers; and Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment; Independent Expert on minority issues

REFERENCE: UA G/SO 214 (3-3-16) Minorities (2005-4) G/SO 214 (33-27) G/SO 214 (53-24)
IRN 18/2011

15 November 2011

Excellency,

We have the honour to address you in our capacity as Special Rapporteur on extrajudicial, summary or arbitrary executions; Special Rapporteur on the independence of judges and lawyers; and Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment; Independent Expert on minority issues pursuant to General Assembly resolution 60/251 and to Human Rights Council resolutions 16/6, 17/5, 17/2 and 16/23.

In this connection we would like to bring to the attention of your Excellency's Government information we have received concerning the imminent execution of **Mr. Lo Zaniar (or Zanyar) Moradi and Mr. Loghman (or Loqman) Moradi**.

We have received the following information;

We are informed that Mr. Zaniar (or Zanyar) Moradi and Mr. Loghman (or Loqman) Moradi, belonging to the Kurdish minority, were convicted of the charges of "enmity against God" (moharebeh) and "corruption on earth" for allegedly murdering the son of a senior cleric in Marivan, Kordestan province, north-eastern Iran, on 4 July 2009. In addition they were also convicted of participating in armed activities of Komala, a Kurdish opposition group. They were sentenced to public hanging on 22 December 2010 by Branch 15 of the Tehran Revolutionary Court. On 12 October 2011, the Supreme Court upheld the convictions.

It is alleged that both men were coerced into confessing to the offense of murder after being tortured for 25 days. It is alleged that during interrogation Mr. Zaniar Moradi was subjected to lashing, vulgar insults and threatened with sexual violence. It is alleged that these individuals have been targeted for arrest and execution on the grounds of their Kurdish ethnicity and political activism conducted by them or their family members.

While we do not wish to prejudge the accuracy of the information provided to us, we would like to bring to the attention of your Excellency's Government our concerns relating to the continued imposition and implementation of the death penalty after trials that do not comply with international obligations undertaken by your Excellency's Government, including fair trial safeguards.

Our mandates have previously engaged with your Excellency's Government on similar concerns in past communications and we wish to reiterate the call for a moratorium we made in two press releases respectively dated 2 February and 22 September 2011. We remain concerned that fair trial guarantees as required under international law are not complied with in death penalty cases. The Special Rapporteur on summary executions has pointed out that any death sentence undertaken in contravention of a Government's international obligations is tantamount to an arbitrary execution. The United Nations Safeguards Protecting the Rights of those Facing the Death Penalty provides under article 5 that "Capital punishment may only be carried out pursuant to a final judgement rendered by a competent court after legal process which gives all possible safeguards to ensure a fair trial, at least equal to those contained in article 14 of the International Covenant on Civil and Political Rights, including the right of anyone suspected of or charged with a crime for which capital punishment may be imposed to adequate legal assistance at all stages of the proceedings." Only full respect for stringent due process guarantees distinguishes capital punishment as possibly permitted under international law from a summary execution, which by definition violates human rights standards.

In this context, we would like to draw the attention of your Excellency's Government to paragraph 1 of Human Rights Council Resolution 16/23 which "Condemns all forms of torture and other cruel, inhuman or degrading treatment or punishment, including through intimidation, which are and shall remain prohibited at any time and in any place whatsoever and can thus never be justified, and calls upon all States to implement fully the absolute and non-derogable prohibition of torture and other cruel, inhuman or degrading treatment or punishment."

We would like to draw the attention of your Excellency's Government to article 15 of the CAT, which provides that, "Each State Party shall ensure that any statement which is established to have been made as a result of torture shall not be invoked as

evidence in any proceedings, except against a person accused of torture as evidence that the statement was made.”

We also recall that 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 wish to draw the attention of your Excellency’s Government to the provisions of the 1992 United Nations Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities. Article 4.1 of the Declaration establishes that: “States shall take measures where required, to ensure that persons belonging to minorities may exercise fully and effectively all their human rights and fundamental freedoms without any discrimination and in full equality before the law.”

We urge your Excellency’s Government to take all necessary measures to ensure that the rights under international law of Mr. Lo Zaniar (or Zanyar) Moradi and Mr. Loghman (or Loqman) Moradi are respected. Considering the irremediable nature of capital punishment we therefore appeal on an urgent basis to your Excellency’s Government not to proceed with the executions, which would, on the facts available to us, constitute a violation of international law for non-compliance with due process safeguards. In light of the above allegations, we believe that serious consideration should be given to commuting their sentence.

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. Since we are expected to report on this case to the Human Rights Council, we would be grateful for your cooperation and your observations on the following matters:

1. Are the facts alleged in the summary of the case accurate?
2. Please indicate what measures are being undertaken to ensure that all death penalty cases comply with fair trial guarantees as required under international law.

We undertake to ensure that your Excellency’s Government’s response to each of these questions is accurately reflected in the report we will submit to the Human Rights Council for its consideration.

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

Christof Heyns
Special Rapporteur on extrajudicial, summary or arbitrary executions

Gabriela Knaul
Special Rapporteur on the independence of judges and lawyers

IZSÁK Rita
Independent Expert on minority issues

Juan E. Méndez
Special Rapporteur on torture and other cruel, inhuman or degrading treatment or
punishment