

Mandates of the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression; the Special Rapporteur on freedom of religion or belief; 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

REFERENCE: UA
IRN 19/2014:

2 October 2014

Excellency,

We have the honour to address you in our capacity as Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression; Special Rapporteur on freedom of religion or belief; 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 25/2, 22/20, 25/24, 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 regarding the imminent execution of Mr. **Seyyed Hossein Kazemeyni Boroujerdi** in the Islamic Republic of Iran. This case was already the subject of a joint urgent appeal we sent on 10 July 2013 (IRN 11/2013), to which we regret that no details were provided in relation to the case of Mr. Boroujerdi in the reply provided by your Excellency's Government on 28 February 2014.

Mr. Boroujerdi was sentenced to 11 years in jail in June 2007 for charges including "waging war against God" (Moharebeh) and acting against national security. He suffers from poor health conditions that have allegedly worsened due to poor prison conditions, physical abuse, solitary confinement, and other forms of repeated torture and ill-treatment. During his imprisonment, he has not had any legal representation or proper medical treatment.

According to the additional information received:

On 1 October 2014, the prison authorities had allegedly transferred Mr. Boroujerdi to an unknown location in the morning for an imminent execution.

Besides, his family has not been informed either of his transfer, his current location or the planned execution by the authorities. His family members are reported to have been holding a sit-in in front of Special Clerical Court at Zaferanieh in Tehran and demanding some response from the authorities to no avail.

Mr. Mohammad Movahedi, the Prosecutor of the Special Clerical Court, reportedly paid Mr. Boroujerdi a visit in Evin prison on 23 September 2014 where he referred to the contents of Mr. Boroujerdi's new book as heretical, particularly in relation to his views of the leadership in the current Government. Hence, Mr. Movahedi allegedly threatened that the author of this book and all those who had proceeded to publish and disseminate it would be sentenced for apostasy and executed. It was further alleged that the threat to execute Mr. Boroujerdi may have been triggered by his open letter to UN Secretary General, Mr. Ban Ki Moon that was published on 22 September 2014.

Serious concerns are expressed that Mr. Boroujerdi's execution could be carried out in violation of death penalty safeguards, notably on the basis of charges which do not amount to the "most serious crimes". Concerns are also expressed that the charges brought against him may be related to the legitimate exercise of his right to freedom of religion or belief and freedom of opinion and expression.

While we do not wish to prejudge the accuracy of these allegations, we wish to appeal to your Excellency's Government to seek clarification on the information drawn to our attention and share our concerns in relation to present circumstances in light of the applicable international human rights norms and standards.

As raised in a number of communications sent to your Excellency's Government, in countries which have not abolished the death penalty, capital punishment may be imposed only for the most serious crimes in accordance with article 6(1) of the International Covenant on Civil and Political Rights (ICCPR), which the Islamic Republic of Iran ratified on 24 June 1975. In interpreting the most serious crime provision, the Human Rights Committee and other United Nations bodies held that it requires an intention to kill which resulted in a loss of life (A/HRC/4/20, para. 53; CCPR/C/79/Add.25, para. 25). Yet, in the present case, Mr. Boroujerdi has not been found guilty of a crime which resulted in a loss of life. We are also extremely concerned that the death sentence continues to be handed down in the Islamic Republic of Iran for crimes that do not meet the "most serious crimes" threshold. We reiterate that convicting an individual of such a charge further violates the principle of legality which requires States, under article 6(2) – as implied by the expression "in accordance with the law" – and article 15 of the ICCPR, to define precisely and in a foreseeable manner all criminal offences in their domestic legislation for reasons related to legal certainty.

Moreover, we would like to remind your Excellency's Government of the absolute and non-derogable prohibition of torture and other ill-treatment as well as of paragraph 6 of the General Comment No. 20 of the Human Rights Committee, which states that prolonged solitary confinement of the detained or imprisoned person, may amount to acts prohibited by article 7 of the ICCPR.

Furthermore, we would like to appeal to your Excellency's Government to ensure the rights to freedom of religion or belief and freedom of opinion and expression in accordance with articles 18 and 19 of the Universal Declaration on Human Rights (UDHR) and the ICCPR.

We would also like to refer to the 1981 Declaration of the General Assembly Art. 1 which states that "[E]veryone shall have the right to freedom of thought, conscience and religion. This right shall include freedom to have a religion or whatever belief of his choice, and freedom, either individually or in community with others and in public or private, to manifest his religion or belief in worship, observance, practice and teaching."

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 urge your Excellency's Government **to refrain from executing Mr. Boroujerdi**. We would appreciate a response on the initial steps taken by your Excellency's Government to safeguard the rights of the above-mentioned person in compliance with the above international instruments.

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. Are the facts alleged in the summary of cases accurate?
2. Has a complaint been lodged with regard to the incident mentioned above?
3. Please provide information concerning the legal grounds for any new charges and the imposition of the death penalty against Mr. Boroujerdi, and explain how these measures are compatible with aforementioned international norms and standards.
4. Please indicate if Mr. Boroujerdi has had access to any legal representation.
5. Have the family members of Mr. Boroujerdi been informed of the imminent execution? Please also specify the legislation and measures taken to ensure that families are informed of the execution date, time and venue of death row inmate.

6. Please provide information on the measures taken to ensure the freedom of religion or belief and the freedom of opinion and expression are protected.

While waiting for your response, we again urge your Excellency's Government **to take all necessary measures to prevent the execution of Mr. Boroujerdi**, which would, on the facts available to us, clearly violate applicable international human rights law. We further urge your Excellency's Government to guarantee that the rights and freedoms of the above mentioned person are respected. We also request that your Excellency's Government adopt effective measures to prevent the recurrence of these acts.

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.

David Kaye
Special Rapporteur on the promotion and protection of the right to
freedom of opinion and expression

Heiner Bielefeldt
Special Rapporteur on freedom of religion or belief

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

Christof Heyns
Special Rapporteur on extrajudicial, summary or arbitrary executions

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