

**Mandates of 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 violence against women, its causes and consequences**

REFERENCE: AL  
IRN 19/2015:

16 October 2015

Excellency,

We have the honour to address you in our capacities as 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 violence against women, its causes and consequences pursuant to Human Rights Council resolutions 28/21, 26/12; and 23/25.

In this connection, we would like to bring to the attention of your Excellency's Government information we have received concerning the execution of Ms. **Fatemeh Salbehi** and Mr. **Samad Zahabi**.

According to the communication received:

In May 2010, Ms. Salbehi was sentenced to death for allegedly having killed her husband in 2008, when Ms. Salbehi was still a child of seventeen years old. Ms. Salbehi had been forced to marry her husband who was nearly twice her age, when she was sixteen years old. When her husband was found dead, she was interrogated by police regarding the crime without a lawyer present.

At the time of her trial, an expert opinion from the State Medicine Organization, an authoritative institution, had concluded that Ms. Salbehi was suffering severe depression and suicidal thoughts around the time of her husband's death, was not considered by the court.

In September 2013, the Supreme Court granted a request for a judicial review of her case based on a new provision in Iran's 2013 Penal Code which allows judges to replace the death penalty with an alternative punishment if they determine that the juvenile offender did not comprehend the nature of the crime or its consequences, or where his or her "mental growth and maturity" (roshd va kamal-e aghli) at the time of the alleged crime are in doubt..

Her retrial lasted only around three hours and was reportedly flawed, leading to confirmation of her sentence. At the re-trial, the judges only asked if she had understood the nature of the crime at the time she was alleged to have committed it; if she had studied religious textbooks in school and prayed and read the Quran; and if she understood that killing another human being is “religiously forbidden” (haram). Based on her responses to these questions, the court concluded in May 2014 that Ms. Salbehi was mentally mature and understood the nature of her alleged crime at the time it was committed.

The Supreme Court refused to consider a subsequent request for appeal, and delegated it back to the Provincial Court of Fars Province. In April 2015, the Provincial Court ruled that the sentence was final. Her lawyer attempted to submit a “judicial review” application to the Supreme Court. However, on May 2015 he was informed that the sentence was final and could not be subject to further review.

On 13 October 2015, Ms. Salbehi was executed in Shiraz’s prison.

On 6 October 2015, Mr Samad Zahabi, a juvenile offender was executed in secret in Kermanshah’s Dizel Abad Prison. No notice was provided to his family, nor was the required 48 hour notice provided to his lawyer.

Mr. Zahabi was sentenced to death in March 2013 by the Provincial Criminal Court of Kermanshah Province for the killing of a fellow shepherd. The two had quarrelled over sheep grazing. Mr. Zahabi claimed throughout the investigation and trial that he acted in self-defence. He had been pulled into the fight against his will, and attempted to use the gun as protection. He did not intend to hit the other shepherd. He was only a child of seventeen years of age at the time of the fight and shooting. The Supreme Court upheld the death sentence despite the prosecution’s request that it be quashed, in light of the new 2013 Penal Code provisions related to minors facing the death penalty.

We express grave concern at the execution of Ms. Fatemeh Salbehi and Mr Samad Zahabi who at the time of the alleged crime are believed to have been less than 18 years old, which is in contravention of international human rights law. We are further concerned that Ms. Salbehi’s sentence to death has been upheld following judicial procedures that may not fulfill the most stringent guarantees of fair trial and due process and that she may have not exhausted all of her appeal rights. Furthermore, we reiterate serious concern already expressed in previous communication IRN 11/2014 at the apparent rising number of executions of juvenile offenders in Iran.

Additionally, in relation to Ms. Salbehi, we express our concern at the ongoing practice of child marriage, where girls as young as 14 years old can marry in the Islamic Republic of Iran. As children do not have the capacity to consent to marriage, child marriage is in essence marriage without the right to refuse. Girls who marry young are also more vulnerable to intimate partner violence and sexual abuse than those who marry

later in life. This is especially true when the age gap between the child bride and the spouse is large. The psychological effect that child and forced marriage have on girls and women are also underestimated and not adequately taken into account in the legal court system, if at all.

While we do not wish to prejudge the accuracy of these allegations, they indicate a prima facie violation of the right of every individual to life, security, and not to be arbitrarily deprived of his or her life and the right to physical and mental integrity, as set forth in the International Covenant on Civil and Political Rights (ICCPR), ratified by the Islamic Republic of Iran on 24 June 1975. The allegations may also contravene article 37(a) of the Convention on the Rights of the Child and article 6(5) of the ICCPR, which expressly prohibit the imposition of the death penalty for offences committed by persons below eighteen years of age.

In connection with the above alleged facts and concerns, please refer to the **Reference to international law Annex** attached to this letter which cites additional international human rights instruments and standards relevant to these allegations.

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 therefore be grateful for your observations on the following matters:

1. Please provide any additional information and any comment you may have on the above on the above mentioned allegations.
2. Please provide information regarding Ms. Salbehi's and Mr Zahabi's execution, including whether their family and lawyers were informed of execution.
3. Please provide the procedural history of Ms. Salbehi's and Mr Zahabi's cases, including the dates of trials, appeals and decisions by the courts and the disposition of all relevant courts.
4. Please provide information regarding the interrogation by police of Ms. Salbehi after her arrest and whether Ms. Salbehi was accompanied by a lawyer or a legal guardian during these interrogations sessions.
5. Please explain what steps, if any, were taken to ensure that Ms. Salbehi and Mr Zahabi's would not be sentenced to death because she was allegedly a juvenile offender, including information regarding the criteria and evidence used by the judiciary to determine whether the child offender comprehended the nature of the crime or its consequences
6. Please indicate which measures, legislation, and policies your Excellency's Government has adopted to comply with the UN Convention on the Rights of the Child.

While awaiting a reply, we urge that all necessary interim measures be taken to halt the alleged violations and prevent their re-occurrence and in the event that the investigations support or suggest the allegations to be correct, to ensure the accountability of any person(s) responsible for the alleged violations.

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.

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

Dubravka Šimonović  
Special Rapporteur on violence against women, its causes and consequences

## **Annex**

### **Reference to international human rights law**

In this connection, we wish to draw your Excellency's Government's attention to the fact that any judgments imposing the death sentence and executions of juvenile offenders are incompatible with the international legal obligations undertaken by your Excellency's Government. Article 37(a) of the Convention on the Rights of the Child (CRC), and article 6(5) of the International Covenant on Civil and Political Rights (ICCPR) ratified by Iran, respectively on 13 July 1994 and on 24 June 1975, expressly prohibit the imposition of the death penalty for offences committed by persons below 18 years of age.

We would like also to remind your Excellency's Government that article 6 (4) of the ICCPR provides that anyone sentenced to death shall have the right to seek pardon or commutation of the sentence. Amnesty, pardon or commutation of the sentence of death may be granted in all cases.

We would also like to bring to the attention of your Excellency's Government that 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 a legal process which gives all possible safeguards to ensure a fair trial, 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 from a summary execution. Article 6 of the same instrument provides that anyone sentenced to death shall have the right to appeal to a court of higher jurisdiction, and steps should be taken to ensure that such appeals shall become mandatory.

We would like to stress that the practice of child marriage undermines a number of rights guaranteed under the Convention on the Rights of the Child (CRC), ratified by Iran on 13 July 1994, including the rights to protection from all forms of physical and mental violence, injury or abuse, including sexual abuse (article 19); sexual exploitation (article 34); and exploitation (article 36). With this in mind, we reiterate the recommendation of the 2005 Concluding Observations from the Committee on the Rights of the Child (CRC/C/15/Add.24) to Iran, where the Committee expressed its deep concern at the "very low ages and the related practice of forced, early and temporary marriages" in the State and recommended that Iran "take the necessary steps to prevent and combat forced, early and temporary marriages" (paragraph 23). The same concern was reiterated by the Human Rights Committee (CCPR/C/IRN/Q/CO.3) in its 2011 Concluding Observations to Iran where the Committee noted that the minimum age for marriage differentiates on the basis of sex.

We would also like to reiterate our recommendations your Excellency's Government review its domestic legislation, so that the age of majority is set at 18 years, and that minimum age requirements conform to all the principles and provisions of internationally accepted standards, in particular, the CRC and the ICCPR. We further

encourage your Excellency's Government to ratify the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW