

Mandates of 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

REFERENCE: UA
IRN 13/2016

13 May 2016

Excellency,

We have the honour to address you in our capacity as 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 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 alleged denial of due process and fair trial to, the infliction of torture and inhuman and degrading treatment on, and the **imposition of the death penalty upon a juvenile, Mr. [REDACTED]**.

According to the information received:

Mr. [REDACTED] was sentenced to death in April 2013 after a criminal court convicted him of the alleged murder and rape of a friend. The police had arrested Mr. [REDACTED] along with several other young men in May 2012. He was fifteen years old at the time of his arrest.

After his arrest in May 2012, the authorities allegedly placed Mr. [REDACTED] in solitary confinement for 15 days and denied him access to a lawyer during the investigation phase. During this time, he was allegedly subjected to torture and other forms of ill-treatment, including beatings, floggings and suspension from his arms and legs, and forced to confess to killing and raping his friend. Despite later

retracting his confession, a criminal court in Fars Province convicted Mr. [REDACTED] of murder and rape and sentenced him to death.

In April 2014, a branch of the Supreme Court quashed the conviction and sentence due to lack of evidence, and ordered the trial court to carry out further investigations. The Supreme Court also ordered the trial court to determine whether Mr. [REDACTED] had the requisite "mental growth and maturity" to understand the consequences of his actions pursuant to Article 91 of the Islamic Penal Code.

In November 2014, the trial court re-sentenced Mr. [REDACTED] to death after relying on the opinion of a medical expert who determined that the defendant had the requisite "mental maturity" during the commission of the crime. In its ruling, the lower court relied, once again, on Mr. [REDACTED]'s alleged forced confessions.

In February 2015, the Supreme Court affirmed the lower court's ruling in a one paragraph decision that relied on the principle of "knowledge of the judge," a discretionary power allowing judges to determine guilt or innocence in the absence of conclusive evidence.

Mr. [REDACTED], who is now 19 years old, is scheduled to be executed in Shiraz's Adel Abad Prison on 15 May 2016.

We express grave concern that the death penalty has been imposed against Mr. [REDACTED], who was less than 18 years old at the time of the alleged crime, which is in contravention of international human rights law, and following judicial proceedings that may not fulfill the most stringent guarantees of fair trial and due process for the imposition of the death penalty. We are further concerned about the allegations that Mr. [REDACTED] has been subjected to torture and other ill-treatment, and forced to sign a confession which was admitted as evidence in his trial.

In view of the urgency of the matter, and of the irreversibility of the punishment of the death penalty, **we call upon your Excellency's Government as a matter of urgency to halt the execution of Mr. [REDACTED]**, which, on the facts available to us may constitute a violation of applicable international human rights standards, and thus an arbitrary execution. We further urge your Excellency's Government to ensure that the death sentence against Mr. [REDACTED] is annulled and that he is re-tried in compliance with international standards.

While we do not wish to prejudice the accuracy of the information made available to us, the above alleged facts indicate a prima facie violation of the right of every individual to life and security and not to be arbitrarily deprived of his life, as set forth in articles 6(1) of the International Covenant on Civil and Political Rights (ICCPR), ratified by the Islamic Republic of Iran on 24 June 1975, and 3 of the Universal Declaration of

Human Rights. These allegations also seem to be in contravention of Articles 6(5) of the ICCPR, and 37(a) of the Convention on the Rights of the Child, ratified by Iran on 13 July 1994, both of which strictly prohibit the issuing of death sentences for offences committed by persons below 18 years of age.

Article 14 of the International Covenant on Civil and Political Rights and article 40 of the Convention on the Rights of the Child, enshrines the right to a fair trial, including the right to access to a lawyer and other essential procedural guarantees. The imposition of a death sentence following a trial in which these provisions have not been respected constitutes a violation of the right to life.

Article 5 of the United Nations Safeguards Protecting the Rights of those facing the Death Penalty provides that capital punishment may only be carried out following a legal process which gives all possible safeguards to ensure a fair trial, including the right 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 an arbitrary execution. Furthermore, article 6.4 of ICCPR establishes that anyone sentenced to death shall have the right to seek pardon or commutation of the sentence and that amnesty, pardon or commutation of the sentence of death may be granted in all cases.

The alleged torture of Mr. [REDACTED] further violates the absolute and non-derogable prohibition of torture and cruel, inhuman or degrading treatment or punishment, as codified, inter alia, in Article 7 of the ICCPR; in the Convention against Torture and Cruel, Inhuman or Degrading Treatment or Punishment, and in Human Rights Council Resolution 25/13 and in paragraph 1 of General Assembly Resolution 68/156. We also recall paragraph 7c of Human Rights Council Resolution 16/23 that urges states to ensure that no confession extracted under torture is invoked as evidence in any proceedings, except against a person accused of torture as evidence that the statement was made.

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 person in compliance with 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. Please provide any additional information or comments you may have on the above mentioned allegations.

2. Please provide the details of the judicial proceedings against Mr. [REDACTED] identified above, and the legal basis and evidence used in court to sentence him to death. In addition, please provide specific information regarding the application in this case of the provisions of the juvenile sentencing guidelines relating to alternative punishments to the death penalty.

3. Please provide any information concerning the treatment of Mr. [REDACTED] in detention, and in particular the allegation that he was subjected to torture during the initial phase of his investigation, which may have led to the confession on the basis of which his death sentence was pronounced. Please provide information about any investigation that may have been carried out into these allegations, and the conclusion of such investigations. If the allegations were proved to be true, what are the measures that were taken to punish the perpetrators, to recant any confessions obtained in these conditions, and to ensure the protection of the human rights to life, to integrity and to fair trial of Mr. [REDACTED].

4. Please provide information concerning any laws or regulations related to the right to a fair trial and imposition of the death penalty, and how these are in conformity with the international norms and standards mentioned above, including those which constitute legal obligations of the Islamic Republic of Iran under the human rights treaties it has signed and/or ratified.

We are considering to publicly express our concerns in the near future as we are of the view that the information upon which the press release is going to be based is sufficiently reliable to indicate a matter warranting immediate attention. The press release would indicate that we have been in contact with your Excellency's Government's to clarify the case in question.

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.

Mónica Pinto
Special Rapporteur on the independence of judges and lawyers

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